

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

**REGULAR SESSION
Monday, February 5, 2024
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: December 4, 2023**

OLD BUSINESS:

None

NEW BUSINESS:

1. ELECTION OF OFFICERS

2. 2024-01 SUP – 300 N. 4TH STREET

Conduct a public hearing for Case No. 2024-01 SUP – 300 N. 4th Street, wherein the applicant is requesting a Special Use Permit allow a gas station use in the North Neighborhood Overlay District. Gas station uses are allowed in the North Neighborhood Redevelopment Overlay District with the issuance of a Special Use Permit.

3. 2024-04 SUP – 920 N 14TH STREET

Conduct a public hearing for Case No. 2024-04 SUP – 920 N 14th Street, wherein the applicant is requesting a Special Use Permit 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 issuance of a Special Use Permit.

4. 2023-26 SUB – LUXURY ADDITION FINAL PLAT

Consider a final plat for Luxury Addition, Case No. 2023-26 SUB.

5. 2023-30 TXT – TEXT AMENDMENTS

Conduct a public hearing for Case No. 2023-30 TXT for proposed text amendments to the adopted 2016 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, December 4, 2023
6:00 PM

CALL TO ORDER:

Commissioners Present

Don Homan
Sherry Hines Whitson
Brian Stephens
Maryann Neeland
Bill Waugh
Kathy Kem

Commissioners Absent

James Diggs

City Staff Present

Julie Hurley
Michelle Baragary
Bethany Falvey

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

APPROVAL OF MINUTES: November 6, 2023

Chairman Homan asked for questions, comments or a motion on the minutes presented for approval: November 6, 2023. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 6-0.

NEW BUSINESS:

1. 2023-34 SUB – DOLLAR TREE – LEAVENWORTH

Consider a final plat for Dollar Tree – Leavenworth, Case No. 2023-34 SUB.

Chairman Homan called for the staff report.

City Planner Bethany Falvey stated the subject property is located at 2017 S 4th Street owned by Great Western Manufacturing Co., Inc., plat prepared by OWN, Inc. The applicant is requesting approval of a one lot final plat for Dollar Tree – Leavenworth subdivision at 2017 S. 4th Street. The subject property is currently an unplatted lot that is approximately 6.87 acres. The proposed plat is a 1.53 acres portion of the entire 6.87 acre lot. The property is zoned GBD, General Business District. The 1.53 acres of this property is currently only used for parking and is otherwise a vacant lot. (The policy report incorrectly noted the size of the proposed plat as 1.53 acres. The actual plat is 1.34 acres).

The plat was reviewed at the November 16, 2023 Development Review Committee. All comments from the committee have been addressed.

Staff recommends approval of the Dollar Tree – Leavenworth Subdivision, Final Plat.

ACTION/OPTIONS:

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

Chairman Homan asked for questions/discussion from the commissioners.

Commissioner Stephens asked if this has already been done, and that the commissioners are just formally approving what has already been done.

Planning Director Julie Hurley responded that the Great Western property is on one lot, and is not currently platted. Dollar Tree is purchasing the unused portion of the Great Western parcel to the north so they are platting that lot so they can move forward with a development.

Chairman Homan asked if the road located behind Great Western is a private road.

Ms. Hurley stated that road is located on city property where the Animal Control building is. The road is not located on the Great Western parcel, and is not right-of-way.

Commissioner Stephens asked if this Dollar Tree will be a new store or if it will be replacing another Dollar Tree.

Ms. Hurley stated this is just a new Dollar Tree building, and will not be replacing another Dollar Tree.

Chairman Homan asked if Dollar Tree and Family Dollar have merged.

Alex Gustafson, engineer for the Dollar Tree project, stated Family Dollar and Dollar Tree are owned by the same entity. The stores that open are different with Family Dollar more like a one stop shop for all your home goods needs, and Dollar Trees are geared more for birthday items and things like that.

Commissioner Stephens asked if this store will carry the fresh vegetables and fruits.

Mr. Gustafson responded in the negative stating this is not one of the Dollar Tree Market places.

Commissioner Whitson asked when they plan to open.

Mr. Gustafson responded that construction would be completed about mid next year, and should be open by June 2024.

Commissioner Stephens asked if there was anything from the city for traffic considerations.

Ms. Hurley stated no traffic study was required. The site plan is completely separate from the plat, and has been reviewed by staff as well.

With no further questions or discussion, Chairman Homan called for a motion. Commissioner Whitson moved to approve the final plat for Dollar Tree – Leavenworth, seconded by Commissioner Kem, and approved by a vote of 5-1 (Commissioner Stephens voted nay).

2. 2023-30 TXT – TEXT AMENDMENTS

Conduct a public hearing for Case No. 2023-30 TXT for proposed text amendments to the adopted 2016 Development Regulations.

Planning Director Julie Hurley stated this item is being continued to the January 8, 2024 Planning Commission meeting at the request of staff to provide additional time to make the amendments.

OLD BUSINESS:

1. 2023-28 SUP – 1913 CHOCTAW STREET

The public hearing for Case No. 2023-28 SUP – 1913 Choctaw Street was conducted at the November 6, 2023 Planning Commission meeting, and the vote was tabled to the December 4, 2023 Planning Commission meeting for requested additional information. The applicants/owners are requesting a Special Use Permit to allow for the operation of a Child Care Center for seven or more children in their home located at 1913 Choctaw Street. The property is currently zoned R1-9, Medium Density Single Family Residential District. Child Care Centers are allowed in the R1-9 zoning district with the issuance of a Special Use Permit.

Chairman Homan called for the staff report.

Planning Director Julie Hurley stated this item was previously considered at the November 6, 2023 Planning Commission meeting and was tabled in order for staff to provide additional information.

The applicants, Gerald and Vanessa Jackson, are requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 1913 Choctaw Street. The property is currently zoned R1-9 (Medium Density Single Family Residential). Child Care Centers are allowed in the R1-9 zoning district with issuance of a Special Use Permit. 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, and has indicated that she currently has a total of 8 children enrolled.

The applicant previously operated a home daycare since 2020 at their prior residence in Leavenworth. There was no Special Use Permit applied for at the previous location, as the applicant has indicated that she was unaware of the City requirement to obtain a Special Use Permit in addition to being licensed by the State. Staff was notified in August by a neighbor that the applicant was operating her daycare at 1913 Choctaw, and contacted the Leavenworth County Health Department to see if the applicant was licensed. County staff contacted the applicant, and she contacted City staff the following day to inquire about steps needed in order to obtain a Special Use Permit, before staff had the opportunity to send a notice of violation.

During the November 6th Planning Commission meeting, staff was asked by the board members to provide data generated by a speed survey that was currently being undertaken by the Leavenworth Police Department, as well as information regarding property values near existing home daycares and potential signage or other traffic calming measures for the area. The request for additional information was made based upon concerns raised by neighbors during the meeting.

SPEED SURVEY

At the request of neighbors, the Leavenworth Policy Department installed a stealth radar device at the intersection of 19th & Choctaw Street to record vehicle count and speed for a two-week period. Data was collected from 11/1/23 through 11/15/23. The results are as follows:

Posted Speed Limit:	30 mph
Vehicles Counted:	2,722
Vehicles Under Speed Limit:	96.88%

Average Speed: 21.46 mph

Average Speed Violation: 33.99 mph

During the speed survey, 1 vehicle was registered going over the designated Excessive Speed threshold of 55 mph. The time of that recording was between 6pm & 7pm. This timeframe falls outside of the normal business hours of the daycare. The owner of the daycare provided sign in/sign out sheets for the duration of the speed survey, which indicated that no children were picked up between the hours of 6pm and 7pm on any day.

Given the lack of data suggesting speeding or traffic volume issues, no traffic calming measures for the area are indicated.

EXISTING HOME DAYCARES/PROPERTY VALUES

There are currently 15 active Special Use Permits for home daycares in the City of Leavenworth. Staff surveyed the 2022-2023 property value increase for the immediately surrounding 8-10 properties of a random sample of 9 of those existing daycares. The average property value increase was 15.36%. The average property value increase for Leavenworth County during the same period was 14.85%, per the Leavenworth County Appraiser's Office.

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 Choctaw 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 back yard area of the property is completely enclosed by an approximately 4' high chain link fence, with a 4' high wooden fence having been installed to divide the yard into two areas, one of which is for exclusive use of the daycare. The portion of the yard established for use by the daycare clients is approximately 2,000 sqft. Upon inspection by staff, portions of the chain link fence, which existed prior to the applicants purchasing the property, appear to be slightly lower than 4' by up to 4". The wooden portion of the fence, which was installed by the applicant, meets or exceeds 4'.

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 includes a driveway capable of accommodating 4 cars.

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 (KDHE). KDHE staff has visited and inspected the daycare for all areas of compliance.

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 two sides or one non-illuminated sign affixed to the main structure of 3 square feet.

No signage is currently displayed on the property. Any signage displayed in the future will conform to this requirement.

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, or will comply, with all provisions of City of Leavenworth Development Regulations, based upon review of all available materials.

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 has no indication that the proposed Child Care Center will cause any substantial injury to the value of other property in the neighborhood, based upon available data.

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. The daycare could account for an increase in up to 48 car trips per day on the street, when at full capacity of 12 children.

Notification was sent to property owners within 200' of the subject property, as required by Kansas Statute. After notifications were mailed, staff received one inquiry from notified property owners, who indicated that they were not in favor of the Special Use Permit. During the November 6th Planning Commission meeting, multiple individuals spoke both in favor of, and opposition of, the Special Use Permit. Since the November 6th Planning Commission meeting, staff has received 4 letters in support of the Special Use Permit.

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 with included conditions
- Motion to recommend denial to the City Commission
- Table the issue for additional information/consideration

Chairman Homan asked for questions from the commissioners about the staff report. With no questions, Chairman Homan asked Police Chief Pat Kitchens to go over the data from the speed study.

Police Chief Pat Kitchens stated from his understanding, the basic question asked of the Police Department related to this item was is there a speeding problem in this particular neighborhood. One particular neighbor has had quite a bit of contact with the Traffic Supervisor Sgt. Brandon Mance about traffic concerns. When this question arises, there is a very specific process used to evaluate it that has 3 components.

Chief Kitchens stated first, there is a Kansas State Statute that requires the Police Department to conduct a traffic investigation and engineering study if they are going to consider making changes to the speed limit. As part of this entire process, the Police Department also has the ability to answer our questions from the community about this because this is a common practice that the Police Department gets so they use their technology to make a decision. One particular part is very important, which is the percentage of people that were measured. 97% of the people that were measured in the speed study were traveling at or below the speed limit. This is important because the criteria established to make any changes would be 85%. That means in order for the Police Department to consider making some kind of change or modification they would need to have less than 85% of the people traveling in that roadway to be speeding. In this case, 97%, almost 100%, of the people are at or below the speed limit, and the people that were above are at a very small range. So this component would not allow the Police Department to move forward with changes or modifications.

Chief Kitchens further stated the second part of that component is traffic accidents. From January 1, 2022 to today, there have been zero traffic accidents in this neighborhood so the second component is not eligible for the Police Department to take action.

Chief Kitchens stated the final component in the State Statute allows the Police Department to make a judgment. Even still, if there is no speeding or not a lot of traffic accidents, can the Police Department still come up with some judgment, and in Chief Kitchen's experience and consultation with Public Works Director Brian Faust, there is nothing that would indicate there is some unique circumstance that exists that would require the police to do that. So the answer to the question is there a speeding problem in that neighborhood that would warrant the Police Department taking action, is no. Chief Kitchens further stated that there are a number of locations that are far worse than this neighborhood in terms of speeding and traffic accidents that take up quite a bit of the Police Department's resources.

Commissioner Stephens asked if the statute or local protocol defines how long the study is to last.

Chief Kitchens responded in the negative stating that in his experience the 14 day window gives them the best sense of what is really going on in that neighborhood. Additionally, the manufacturer of the technology also states that generally speaking this timeframe would give you your best estimation of what is going on.

Commissioner Neeland asked if people in this neighborhood could ask that the traffic study be done again at some time because the fact of the matter is that it was in place, then this board met, and the daycare owners said that they were going to talk to the daycare parents, which they apparently did and they all lowered their speed. The fact of the matter is the daycare parents were warned not to speed anymore but what if that picks back up again.

Chief Kitchen responded in the affirmative that the radar device can be put back out there again. He further stating that his experience with people knowing the radar device is out there is that they may slow down for a few days but after that, they return to their normal routine driving behavior and pattern.

Public Works Director Brian Faust stated he will just echo what the Police Chief said that based on the data he would not be supportive in a change in the speed limit or of speed calming methods.

With no questions for Mr. Faust, Ms. Hurley stated that the public hearing for this item was conducted at the November 6th Planning Commission meeting so tonight is not a public hearing. A number of people in the audience may want to speak to this item so at the board's discretion you may allow public comment if you would like to take that. Ms. Hurley stated that based on the length of public comment at the last meeting, with some fairly long speakers, that staff suggests out of respect for everyone's time that any comments be limited to five minutes, and be limited to any new information or concerns that were not presented at the last meeting, since all of those have been heard and entered into the record. This is standard with City Commission meetings, that actually limit speakers to three minutes. To keep everyone on track, Ms. Hurley will set her timer on her phone for five minutes with any speakers so we can keep things moving along. Before taking any public comments, staff suggests having the applicants provide any information or comment that they would like to.

Commissioner Stephens asked the applicants how the conversation went with the daycare parents about lowering their speed in the neighborhood, and if the applicants have noticed any differences themselves since the last meeting.

Applicants, Vanessa and Gerry Jackson, stated they did speak with the daycare parents, and the parents all understood the concerns of the neighbors, and the parents all respectfully stated they would watch their speed a bit closer.

Commissioner Stephens asked if they have received any more complaints from neighbors about parking, traffic volume, etc.

Mr. Jackson stated the neighbors to the west of them (Ron and LouAnn) spoke to them about a daycare parent who parked a little bit in front of their driveway. The Jackson's spoke with the daycare parent, and also purchased a road cone that they set out and have instructed the daycare parents not to park behind that cone.

Mrs. Jackson stated she puts the cone out in the morning and again in the afternoon and there has not been a problem with parking since.

Chairman Homan stated it concerns him that there is only one bathroom for eight daycare children.

Mrs. Jackson stated they have only one kid who is fully potty-trained and one kid that is in the process of being potty-trained.

Commissioner Stephens asked if they have been inspected by the State of Kansas, and if so, have they passed inspection.

Mrs. Jackson responded in the affirmative.

Chairman Homan asked if they can only watch kids up to a certain age.

Mrs. Jackson responded they are licensed to watch kids from 6 weeks of age to 11 years of age.

Ms. Hurley stated the State License is in the packet and outlines the ratio of kids that are allowed, and that ratio is based on the ages of kids in the daycare.

Mrs. Jackson stated their license allows for up to 12 kids but they will never have 12 kids because they will always have an infant in the daycare.

Mr. Jackson stated if you have an infant in the daycare, it lowers your maximum allowed to nine total children in the daycare. If they have two infants, the maximum number of children allowed will lower to eight.

Chairman Homan asked if anyone else would like to speak, and if so the allotted time to speak will be held to five minutes.

Rebekah Varvel, 1317 9th Avenue, stated she is a parent of a child who attends the daycare, and noticed at the November meeting there was a lot of emphasis on if daycares are needed in Leavenworth (Ms. Varvel provided staff and commissioners a packet of the importance of daycares). Ms. Varvel stated not only is there a need for daycare in Leavenworth but there is a need for daycare in Kansas. Leavenworth is located in what is called a daycare desert. In the packet she provided, there are maps of Leavenworth, as well as a map of the neighborhood where the Jackson's daycare is located. Just this year, the Kansas City Star reported that just in Kansas there is over 84,000 kids in Kansas alone that do not have daycare because there are not enough available slots open. Just in the Jackson's neighborhood, there are 444 children under the age of five that need daycare but there is only 184 slots available so there is definitely a need in this neighborhood for daycare to exist. Ms. Varvel further stated that Child Care Aware of Kansas did a study, which showed a lack of daycare openings. According to this study, there were approximately 1,800 children under the age of six that need daycare and were unable to find a daycare. Ms. Varvel stated she works for the Leavenworth School District and so do several other daycare parents that use the Jackson's daycare. When looking for daycare, Ms. Varvel actually looked at daycare in Platte City and Atchison because there just is not a lot of daycares in this area. She was lucky and fortunate to get into the Jackson's daycare. Ms. Varvel requests the commissioners take this information into account when looking to approve the Special Use Permit request.

Michael Ingram, 1908 Choctaw, stated he has been tracking appraisals within two blocks of Choctaw Street, in fact 30 properties around the city for 15 years, and knows a little bit about appraisals, and how it has worked over that time in the state and in the county. Our two blocks of Choctaw over the time period of 2022 to 2023, they went up 15.17%. It was a 15% standard application across the city; first time ever that has happened, and what would change it would be recent sales. That may have missed the mark as far as what we are doing because it is about our particular neighborhood. Mr. Ingram further stated he is glad Chief Kitchens is here because he could explain what the traffic study

was all about. While looking back at Chief Kitchens, Mr. Ingram stated when he got with Sgt. Mance back on the 5th of September, he took a ride around and sat at our house (inaudible as Mr. Ingram is turned around and not speaking into the microphone)...beautiful job, we appreciated it. Got it hooked up. It took two months to get the equipment up because it is so much in demand.

Mr. Ingram further stated he understood some things and one thing he understood at the end was we may get speed limit reduced, we may not but we would possibly have a stop sign up at the intersection where that T is. That would be helpful. Mr. Ingram turned around again and stated to Chief Kitchens he doesn't know where they are at in this whole process now.

Ms. Hurley requested that Mr. Ingram keep his comments directed into the microphone for the record.

Mr. Ingram continued by stating since the speed study came up, the summary was given the lack of data suggesting speeding or traffic volume issues. Lack of data might have been a Freudian slip. Mr. Ingram directed the commissioners to look at their packet at the speed study to point out something and have it clarified by the Police Chief. The summary page has the inbound and outbound traffic. There is a 310 difference between inbound and outbound. Apparently, there are magical cars that are appearing and go outbound (inaudible as Mr. Ingram keeps turning around directing his comments at Chief Kitchens). I don't know if that is radar beam that does not work or what could be going on but we'll move past that.

Mr. Ingram stated if you look at the distribution chart by hours, I'm just going to point to the 07:00 - 07:59 hour. This is the count for the entire 14-day period. The total number of cars coming in and going out is what? It's zero, and that is impossible. When we saw this because I was not being provided this information ahead of you guys. I had to see the packet and try to figure out what is going on so I can do something if necessary about it. There is something wrong about this report. I don't know how the data was logged but I know how this report gets brought off of the stealth equipment, and it could be that something happened as far as the data reporting part of it. I don't know but you cannot have zero as a count in the 07:00 - 07:59 hour, and if you were looking at this one excessive speed at that hour, why did you not notice here when she (Mrs. Jackson) opens up that there are no cars in those two weeks. Impossible. I know it's not true, and even the next hour, 37 total. There is something wrong. We did go to daylight savings time in this period but I don't know how that could affect this coming off of the measured recorded data on the machine and then being downloaded into this report. You can set it up for hours that you do not have it collecting, and there's some discrimination of vehicles and these sorts of things but there is something wrong right there. Turning directly around to face Chief Kitchens, Mr. Ingram stated he doesn't know (inaudible because Mr. Ingram is not speaking into the microphone).

Chairman Homan again requested that Mr. Ingram to speak directly into the microphone.

Mr. Ingram stated Chief I don't know how you get a zero when I saw vehicles in those times. Now turning and directly speaking to Ms. Jackson, Mr. Ingram stated I know you've had people at 7:00am. I mean, we know that so something is not correct about that. I don't know if it's an hour shift that needs to be done.

Commissioner Stephens stated he does not want Mr. Ingram to run out of time, and since he has stated that point about the 07:00 to 07:59 hour, does he have another point to make.

Mr. Ingram stated there is a day-by-day pattern that you can also drop out. There is no day-by-day so we don't see the weekend taken out.

The five minute timer went off.

Mr. Ingram proceeded to state Maryann's (Commissioner Neeland) point exactly though, we don't really see the morning and separate out who's what day. The Monday – Friday is what we were talking about.

Commissioner Stephens asked what story does this data not tell.

Mr. Ingram responded we don't know. There can't be a zero from 7:00 – 8:00am.

Commissioner Stephens asked Mr. Ingram what his subjective experience that is not represented in this data because we have over 95% compliance. We are not looking at a margin of like 40% so that if we missed an entire hour that it would throw off the results. This is a huge sample size.

Mr. Ingram asked what is the difference between the inbound and outbound. That is 310.

Commissioner Stephens asked with the overall results of the data, how is it different than what you experience as a human.

Mr. Ingram responded he experiences the 48 cars every day, or 32 right now, or whatever. I experience all of them passing in front of my face because I'm at the end of the cul-de-sac. So I don't know what this is going to record all the way up and down. It seems like it could be right but not for those hours.

Commissioner Stephens asked with the exception of those zeros, if Mr. Ingram thinks it captured the traffic volume (inaudible – Mr. Ingram started speaking).

Mr. Ingram stated why would I think that's correct though. I see that's not right. So is it a matter of the time, being a shift in the reporting and producing that report.

Ms. Hurley stated that Chief Kitchens can speak to how the data is collected since he is familiar with the equipment.

Looking at the map, Commissioner Stephens asked what if someone parks in front of this center.

Mr. Ingram yelled no, not for two weeks, Brian. No, we're not standing for that. This is not correct right there, and if it's a two hour shift, then we're capturing the wrong picture.

Commissioner Stephens stated the difference is this is not hinging on the traffic study. There is nothing (inaudible – Mr. Ingram interrupted).

Mr. Ingram stated he knows this has nothing to do with you and the Special Use Permit but it's been brought into this, and there is something wrong about it, and it was part of how she's saying (referring to Mrs. Jackson) oh this one out here at that time couldn't have been. Well we don't know what time that is.

Commissioner Stephens stated unless you can present object evidence (inaudible – Mr. Ingram interrupted).

Mr. Ingram stated he couldn't get in contact with them (pointing at Chief Kitchens) to even found out what had happened.

Commissioner Stephens stated if Mr. Ingram cannot present objective evidence then the board will have to go with the evidence that we have. We are only talking about a Special Use Permit. We have no authority to do anything else.

Mr. Ingram stated he was bringing this up because you co-opted this and I want to know you're not seeing at 7:00-8:00am there were no cars counted. That can't be. Something is wrong with the study.

Ms. Hurley stated that point has been made, and Chief Kitchens can speak to how the data is collected.

Commissioner Stephens asked Chief Kitchens if he has anything to add.

Chief Kitchens stated he is not prepared to answer the questions, and stands by the study. If Mr. Ingram has specific questions or he has issues with that, in my opinion it is not relevant to this tonight. I'm telling you in my opinion of 33 years of experience, a review of that data and traffic accidents the question was is there a speeding problem in the neighborhood, and the answer to that question is no, and that is unequivocal.

Mr. Ingram stated he question is why were there zero cars counted from 7:00-8:00am. It casts doubt on what we're looking at. I'm trying to figure it out in my head, and also the 300 car discrepancy between inbound and outbound. How did they magically appear in the neighborhood.

Ms. Hurley stated those concerns have been noted for the record, and staff asks that we move on to try and keep things moving.

Chairman Homan stated he appreciates Mr. Ingram bringing that concern to the board, and suggests that maybe Chief Kitchens could speak with Mr. Ingram to answer some of these questions the best he can. All the board can go by is what has been presented to them.

Mr. Ingram stated I understand. It was hey look, here we go again.

Chairman Homan stated they appreciate what Mr. Ingram has given them. The traffic study did not say anything about stop signs or anything like that. Rather than how many cars came in and out, maybe at the T intersection there should be a yield sign or stop sign. Maybe the neighborhood should go to the city with that.

Mr. Ingram stated that was discussed in the parallel path with Sgt. Mance from the beginning, and that is why I brought it up and told you what we've been doing.

Ms. Hurley stated that is not part of this consideration.

Chairman Homan stated all they can go by is what is provided in the study.

Mr. Ingram stated he did not mean for it to get wrapped into this process but it did because you all go it and put it in and that data cannot be true.

Ms. Hurley stated the traffic results were because of the request of Mr. Ingram at the last meeting. Staff suggests that Mr. Ingram get back in touch with Sgt. Mance, since he was his initial point of contact at the police station, if he has specific questions about the study. The study was requested by the neighbors, Mr. Ingram in particular, and the board at the last meeting that staff provide this data, and that is what staff has done to help the board make their decision. Staff suggests that we move on to the next speaker.

Commissioner Stephens stated he wants to make a point of clarification that this commission did not ask for the traffic study to be done. This commission heard there might be a study, and asked that this item be tabled so the board can have that information; but this data is being presented not as part of this Special Use Permit, but as additional information for the board to consider.

Ms. Hurley responded in the affirmative.

Bonnie Ingram, 1908 Choctaw, stated we noticed immediately when the stealth radar went up that it must have been obvious because it had slowly dropped, but by the time the last Planning Commission Meeting happened the next day it just dropped immediately. It was obvious that Vanessa Jackson spoke with the parents, and that they were coming in much slower, and it has continued. We are grateful for that. It has made it more pleasant to look out our front window and not see them coming in at that speed. The parking has been better, and the cones have really helped. Both my husband and I are data driven so when we see something that doesn't make sense, we can't let it go because if there is bad data then you don't know what you're looking at. We've heard a lot about daycare and I've looked at all the statistics too, and statistics can be tricky because a lot of that is about potential need of daycare. We weren't really here to talk about daycare. We were concerned that there was a business operating in the neighborhood that was causing a difference in traffic, and we wanted to see that addressed. If daycare is an issue here, I would think that in the City Connection that something should be put in there about daycare, and the need for a Special Use Permit. There's lots about massage therapists, and it's in there like every other time, and I don't really think that needs to be in there as much. Perhaps something about daycare can be put in there if we think we need daycare, and let people know what they need to do to provide it. We might get in on the front end of this process instead of the back end, as I had said in the last meeting. We have been more concerned about the process, not the fact that there is a daycare in our neighborhood, and I wanted to make that clear.

Claude Collins, 1920 2nd Avenue, stated he attended the last meeting, and wants to address some items that were mentioned then and at tonight's meeting. All this traffic before the daycare parents, they were going 50 mph. Where did that come from? I have a motorcycle that flies by my house sometimes at 88 mph and sometimes at 92 mph, or that's what it seems like. I was over at Gerry and Vanessa's house Thursday for Thanksgiving, and that night when I was leaving, I was driving south on 19th Street and did get up to 30 mph, and I thought it was too fast. I normally drive about 20 mph. If I'm out on the sidewalk and somebody is driving 30 mph, I'm going to be thinking they need to slow down because they are probably going 50 mph. We are basing 50 mph that everybody is driving based on people's visualization. As far as the daycare, anyone can have a home daycare up to six kids. The Jackson's are licensed for 12 children. For them to have 12 children, three of them have to be over the age of five. They can only have five kids under 5-years of age with a maximum of nine kids. Talking with the Jackson's, they do not watch school aged kids so the maximum they will have is nine kids with the permit. Without the permit they can have six so we are talking about three extra vehicles and 12 extra trips per day going down 19th Street. The other thing is that 19th Street is owned by the public, it is not owned by the residents of that community. They said it tonight, "our community", "my neighborhood". Well that is my street too. If I want to play my saxophone on 19th Street, I can because it's a public sidewalk. As far as walking on the street, that is against the law, and someone said it wasn't at the last meeting. The 2023 Kansas Statute standard traffic ordinance, section 68, paragraph (a) states if there is a sidewalk available, it shall be unlawful to walk in the roadway. They think that should be their private street, and it's not. I used to drive my motorcycle up and down that street every weekend about 11:30pm driving home from work. I had a restricted permit and could only drive to school and work so I would take the scenic route home because I wanted to go cruising, and the chances of a police officer being on a dead-end street is very slim. Next Spring, if the motorcycle club wants to take the scenic route on their way out to Hwy 92, and 50 Harley Davidsons

want to drive up 19th Street and back down, they can. It is a public street and not owned by the neighbors. I do understand where they are coming from. If I bought a house on a dead-end street, I'd be like ah, no traffic or very little traffic. After the last meeting, I looked at realtor.com, and there was a house pending in the 1800 block of Choctaw Street. Who is to say they aren't going to open up a home daycare for six kids. The next house that goes up for sale, I told my wife we are going to buy it and open up a home daycare and no Special Use Permit needed. Then the next house for sale, I'm going to buy it and rent it to someone who is going to open up a home daycare, and there is nothing that "their community" can do about that.

With no one else wishing to speak, Chairman Homan called for discussion among the commissioners.

Commissioner Stephens stated he wants to remind everyone that we are talking about a Special Use Permit to open a home daycare. We are not talking about their operations or if we think it is a good daycare or a bad daycare. He further stated that he agreed with one of the speakers that if we tied it to a tax incentive we would probably get more people to sign up for home daycares. Right now, there is no benefit, and they do the best that they can but it should be advertised more, and maybe we can do that.

Commissioner Stephens further stated that he appreciates the Police Department providing the data, and understands that it may have some holes in it but he also has some subjective data. He had a 15-18 minute conversation with a neighbor in the middle of the intersection of 19th Street and Choctaw. Not once did he fear for his, not once did a car drive by, and this was between 4:00pm and 4:30pm. Asked one neighbor to the north how many times she had somebody block her in, and she said it never happened. Also asked her if she noticed an increase in traffic, and she said not at all, and in fact she really liked what they were doing and thought it ran pretty well. The neighbor directly next door with a three-foot grass separation between the driveways, not enough to park a car, and even this neighbor said that there hasn't been any problems with cars blocking his driveway in the mornings or in the afternoons. A couple different times in the mornings and in the evenings, Commissioner Stephens went and parked in different areas in the neighborhood just to see the traffic for himself, and he did not see anything. Sees things that are a lot more dangerous in his neighborhood behind Henry Leavenworth School.

Chairman Homan stated the only comment he has is about the appraisals and the county's percentage, and it is not always sales that cause the increase. In 2022 and 2023, the interest rates were lower so the values were higher. To factor an appraisal is done 3 ways: 1) cost approach, 2) direct sales approach, and 3) income approach. On the cost approach, you look at 3 different kinds of depreciation: 1) age-life depreciation, 2) functional obsolescence, and 3) economic obsolescence, which is something outside your property causing loss and value to your property.

Commissioner Kem stated that one of the central issues she believes to be a concern of the residents is the traffic issue. Agrees that the traffic study is not valid because there are four hours for two weeks that have absolutely no traffic but there is enough information to be able to make an informed decision. Traffic issues have been mitigated with the things that the owners are doing with the cones and talking to the parents. Suggests to continue to have those conversations periodically, particularly when new parents come in. Other concerns about home values and process believed to have all been addressed so far.

With no further discussion, Chairman Homan called for a motion. Commissioner Stephens moved to recommend approval to the City Commission for the Special Use Permit to allow the operation of a home daycare at 1913 Choctaw, seconded by Commissioner Kem, and approved 5-1.

Ms. Hurley stated this item will go to the January 9, 2024 City Commission for first consideration ordinance.

Commissioner Stephens asked if public comment is allowed during that time.

Ms. Hurley responded that it is not a public hearing at the City Commission meeting. Generally, if the City Commissioners know there are people wishing to speak they will go ahead and take comments but it is not a public hearing.

OTHER BUSINESS:

With no other business, Ms. Hurley stated there will be a meeting on January 8, 2024.

Chairman Homan adjourned the meeting at 7:06 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

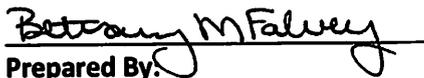
DRAFT

PLANNING COMMISSION AGENDA ITEM
2024-01 SUP
300 N. 4th Street

FEBRUARY 5, 2024

SUBJECT:

A request for a Special Use Permit to allow a Gas Station in the North Neighborhood Overlay District.



Prepared By:

Bethany Falvey
City Planner

NATURE OF REQUEST

The applicant, JK & Sons, LLC, is requesting a Special Use Permit to allow a gas station use in the North Neighborhood Overlay District, located at 300 N. 4th Street. Gas Stations are allowed in the North Neighborhood redevelopment overlay district with the approval of a Special Use Permit.

There is an existing gas station on the property, that is considered a nonconforming use. Per section 1.05 of the adopted Development Regulations:

Any nonconforming use shall not be physically extended, expanded, or enlarged.

The owner has requested a building permit to build an addition on the rear of the structure. The owner is requesting the Special Use Permit to bring the property into conformance in order to enlarge their structure.

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 is currently a gas station and has been since at least the early 2000's in its current configuration. It is one of the few gas stations within the downtown area and continued use will contribute to 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 use will cause any substantial injury to the value of other property in the neighborhood as the property is current existing as a gas station.

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 owner is proposing a 400 square foot addition on the rear. The addition meets the rear setbacks for the North Neighborhood overlay 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 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.



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2024-01 SUP

Application No.	<u>14584</u>
Fee (non-refundable)	\$350.00
Filing Date	<u>11/1/23</u>
Received By	<u>pd online</u>
Hearing Date	<u>1/8/24</u>
Publication Date	<u>12/13/23</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: A 340 SF ADDITION TO EXISTING GAS STATION WITH COMPLETE FACELIFT

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

Subject Property:	<u>300 N 4TH STREET</u>
Legal Description:	<u>(Attach a full legal description provided by the Register of Deeds Office)</u>
Real Estate PID #:	<u>077-25-0-32-13-012.00-0</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>JK & SONS LLC</u>
Owner Address:	<u>300 N 4TH STREET, LEAVENWORTH KANSAS 66048</u>
Contact No.	<u>816-888-9601</u>
Email:	<u>asifjaved2224@gmail.com</u>

Signature of Owner(s): [Signature] (Javed Khan)
 State of MISSOURI
 County of CLAY (SEAL)

HAILEY L. MERCER
 Notary Public-Notary Seal
 STATE OF MISSOURI
 Clay County
 My Commission Expires June 27, 2027
 Commission # 230123046

Signed or attested before me on: 10-18-23

Notary Public: [Signature]

My Appointment Expires: JUNE 27, 2027

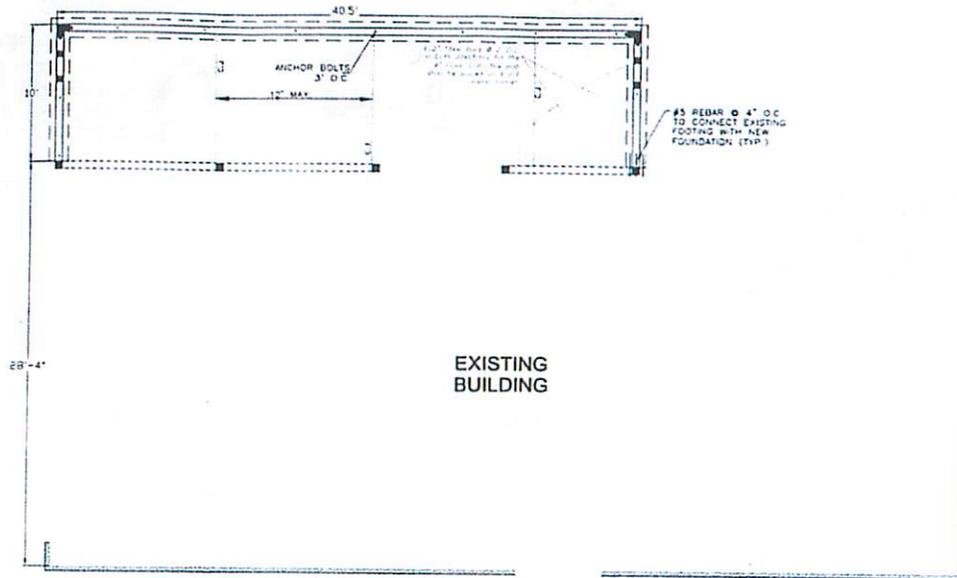
If business is operated by someone other than the owner, provide name and address of operator(s).

Name of Lessee:	<u>NOT APPLICABLE</u>
Address:	
Contact No.	
Email:	

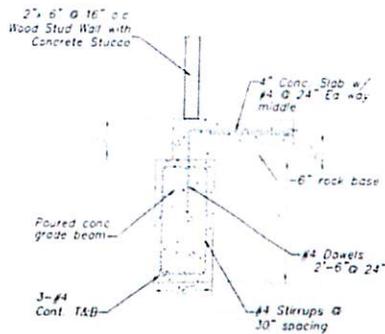
NOTE: All signatures must be in ink. Signature of owner(s) must be secured and notarized.

Check list below...

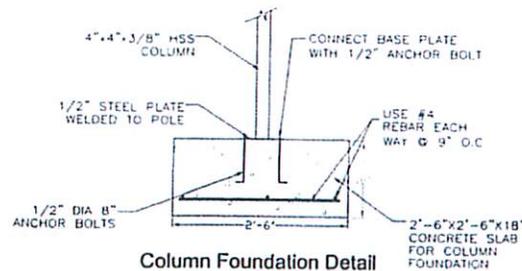
<input checked="" type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input checked="" type="checkbox"/>	Attach full legal description obtained through 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)



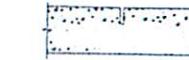
Foundation Plan
Scale 1/4" = 1'



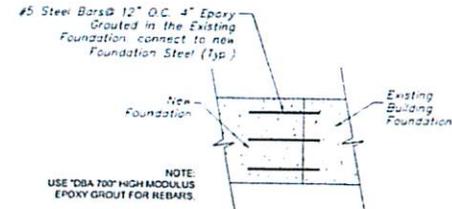
Foundation Elevation
Section A-A
NTS



Column Foundation Detail



CONTROL JOINT DETAIL



NOTE:
USE T8A 700' HIGH MODULUS EPOXY GROUT FOR REBARS.

Foundation Connection Detail
NTS

NOTES:

SEE SHEET 1 FOR STRUCTURAL NOTES
PROVIDE 4" SLAB ON GRADE REINFORCE PER PLAN

NEW FACE WALL SHALL BE CONSTRUCTED OF 2" x 4" #2 OF WOOD STUDS @ 16" ON CENTER AND SHALL BE FASTENED WITH EXISTING WALL WITH 3/8" x 6" TREADED BOLTS EVERY 3'. THE WALL SHALL BE CONSTRUCTED ON THE EXISTING BUILDING FOOTING

MARK THIS 'CJ' INDICATES CONTROL JOINTS FOR TYPICAL CONTROL/CONSTRUCTION JOINTS. SEE DETAIL ON THIS SHEET CENTER UNDER PARTITIONS WHERE POSSIBLE

FOR SLAB ON GRADE RECESSES, SLOPES, FLOOR DRAINS, AND SLAB FINISHES, SEE ARCHITECTURAL DRAWINGS

MARK THIS 'CM' INDICATES COLUMN MARK, SEE SCHEDULE ON SHEET S3

ALL DIMENSIONS ARE TO OUTSIDE FACE OF FOUNDATION WALL, UNLESS NOTED OTHERWISE

MARK THIS 'SW-1' INDICATES SHEAR WALL LOCATION. REFER TO SHEAR WALL SCHEDULE ON SHEET S3 FOR WALL CONSTRUCTION REQUIREMENTS

EXTERIOR WALLS SHALL BE SHEAR WALLS CONSTRUCTED PER THE SHEAR WALL ELEVATION DETAIL AND SCHEDULE SHOWN ON SHEET S3
VERIFY ALL DIMENSIONS WITH ARCHITECTURAL DRAWINGS

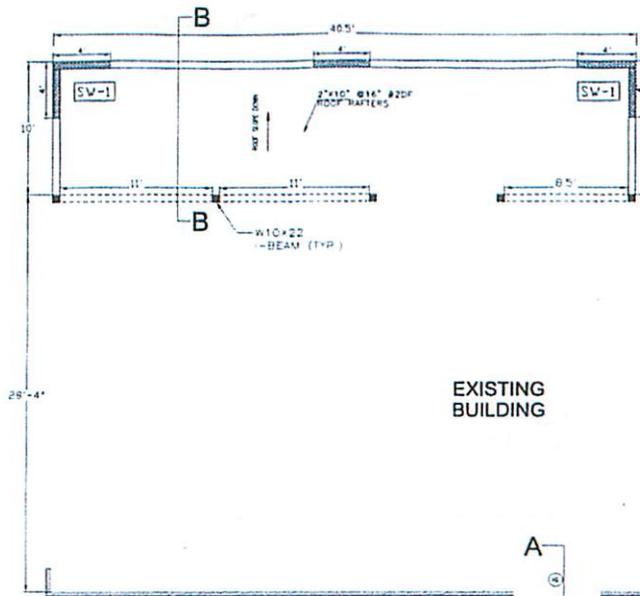


Rev	1	11/1/17
By	KRB	
Check	GWM	



JK MART GAS STATION
 BUILDING ADDITION CONSTRUCTION PLANS
 300 N 4TH STREET,
 LEAVENWORTH, KANSAS

Project Number	20231126
Drawn by	KRB
Checked by	GWM



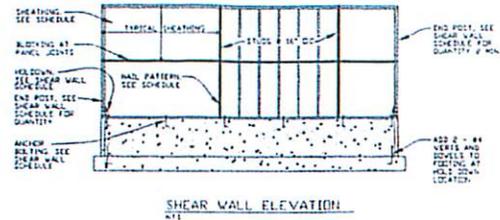
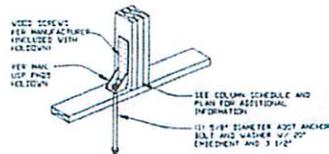
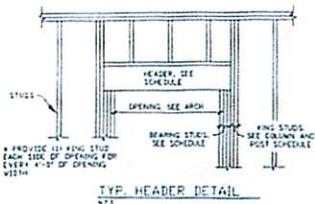
EXISTING BUILDING

Roof Plan
Scale 1/4" = 1'

NOTE: SEE SHEET S4 FOR SECTIONS A-A AND B-B

LEGEND
SHEAR WALL LOCATION

NOTE:
TIE THE RAFTERS WITH USP H2.5 HANGERS.

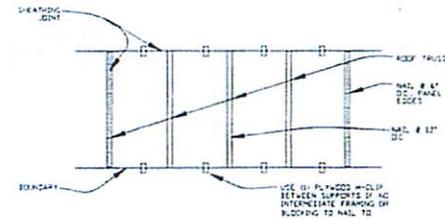


HEADER SCHEDULE		
MARK	SIZE	COMMENTS
(H)	2 - 2 x 10	2 3/4" BEARING
(C)	2 - 2 x 12	2 1/2" BEARING

- ROOF NOTES
1. VERIFY ALL DIMENSIONS AND DETAILS WITH ARCHITECTURAL DRAWINGS.
 2. ALL ROOF JOISTS TO BE MANUFACTURED ROOF TRUSS JOISTS.
 3. REFER TO ARCHITECTURAL DRAWINGS FOR JOIST BEARING ELEVATIONS, ELEVATION OF FRAMING AT CORNERS.
 4. MARK TRUSS = (H) INDICATES HEADER OVER OPENING. REFER TO SCHEDULE ON THIS SHEET.
 5. MARK TRUSS = (C) INDICATES COLUMN. REFER FOR LOCATION ON SHEET S2.
 6. MARK TRUSS = (SW) INDICATES SHEAR WALL TYPE. REFER TO SCHEDULE ON THIS SHEET.
 7. ALL DIMENSIONS ARE TO OUTSIDE FACE OF SHEATHING UNLESS NOTED OTHERWISE.

SHEAR WALL SCHEDULE					
MARK	SHEATHING	NAILS	SPACING	A BOLT SPACING	HOLD-DOWN
(SW)	5/8" X 11" STRUCTURAL 1 PLYWOOD END-FACE	8d	12"	12" PER 4" ON 12"	10d PER PLAN

1. FRAMING FOR SHEAR WALLS SHALL BE 2" x 4" STUDS SPACED AT 16" O.C. PROVIDE 2" x 4" x 4" STUDS RUNNING DEEP TO END OF EACH SHEAR WALL FOR LACE.
2. WALLS NOT A PART OF THE SHEAR WALL CONSTRUCTION SHALL BE ANCHORED TO THE FOUNDATION AS INDICATED IN THE FOUNDATION NOTES AND SCHEDULES.
3. SEE THIS SHEET FOR ANCHOR HOLD-DOWN DETAIL.



JK MART GAS STATION
BUILDING ADDITION CONSTRUCTION PLANS
300 N. 4TH STREET,
LEAVENWORTH, KANSAS

ROOF PLAN AND DETAILS

Project Number: 2023/120
Drawn by: KRB
Checked by: GWM

S3

300 N 4th Street – Street view 10/23/23

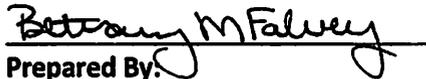


PLANNING COMMISSION AGENDA ITEM
2024-04-SUP
920 N. 14th Street

FEBRUARY 5, 2024

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

NATURE OF REQUEST

The applicant, Stieger Family Trust, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 920 N. 14th Street. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently a quarter acre, vacant lot. A two-story house was on the property previously, but it was demolished in 2009.

The applicant is seeking the Special Use Permit to build a duplex.

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.

If approved, the property will fill a need in the community by adding 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 proposed new structure is a two-story duplex. It was a historically developed lot and this will not dominate the immediate neighborhood.

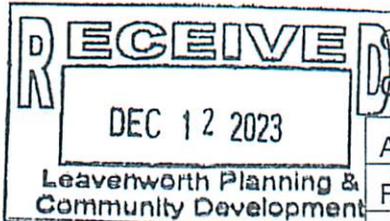
Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Since notifications were mailed, staff has received no comments or inquiries.

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.



OFFICE USE ONLY

CASE NO.: 2024-04 SUP

SPECIAL USE PERMIT CITY OF LEAVENWORTH, KANSAS

Application No.	14771
Fee (non-refundable)	\$350.00
Filing Date	12/12/23
Received By	JK
Hearing Date	2/15/24
Publication Date	1/11/24

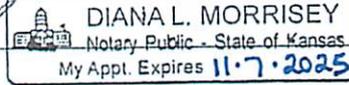
As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: duplex in R1-G zoning district

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

Subject Property: 920 N 14th St. LEAVENWORTH, KS. 66048
 Legal Description: (Attach a full legal description provided by the Register of Deeds Office)
 Real Estate PID #:
 Zoning: R Historic District:

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

Name(s) of Owner (print): Stieger Family Trust, Lee R Stieger, Trustee
 Owner Address: 623 Olive St, Leavenworth, KS 66048
 Contact No. 913-683-0131 Email: lrsstieger@netscope.net
 Signature of Owner(s): Lee R Stieger



State of Kansas)
 County of Leavenworth) (SEAL)

Signed or attested before me on: Diana L. Morrisey
 Notary Public: Diana L. Morrisey
 My Appointment Expires: 11-07-2025

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

Name of Lessee: ERIC JEN ANDERSON
 Address: 1219 EAST 9th ST THE DALLES, OREGON 97058
 Contact No. 503-984-5005 Email: eric_andy_2@gmail.com

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

Check list below...

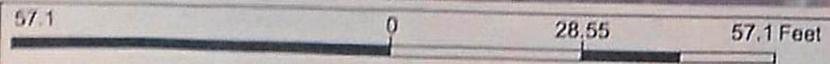
<input type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input type="checkbox"/>	Attach full legal description obtained through the Register of Deeds Office
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

Leavenworth County, KS



- Legend**
- Address Point
 - Parcel Number
 - Lot Line
 - Parcel
 - ⋮ City Limit Line
 - Major Road
 - <all other values>
 - 70
 - Road
 - <all other values>
 - PRIVATE
 - + Railroad
 - Section
 - Section Boundaries
 - County Boundary

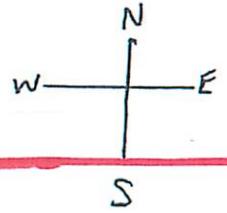
1 in. = 29ft.



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

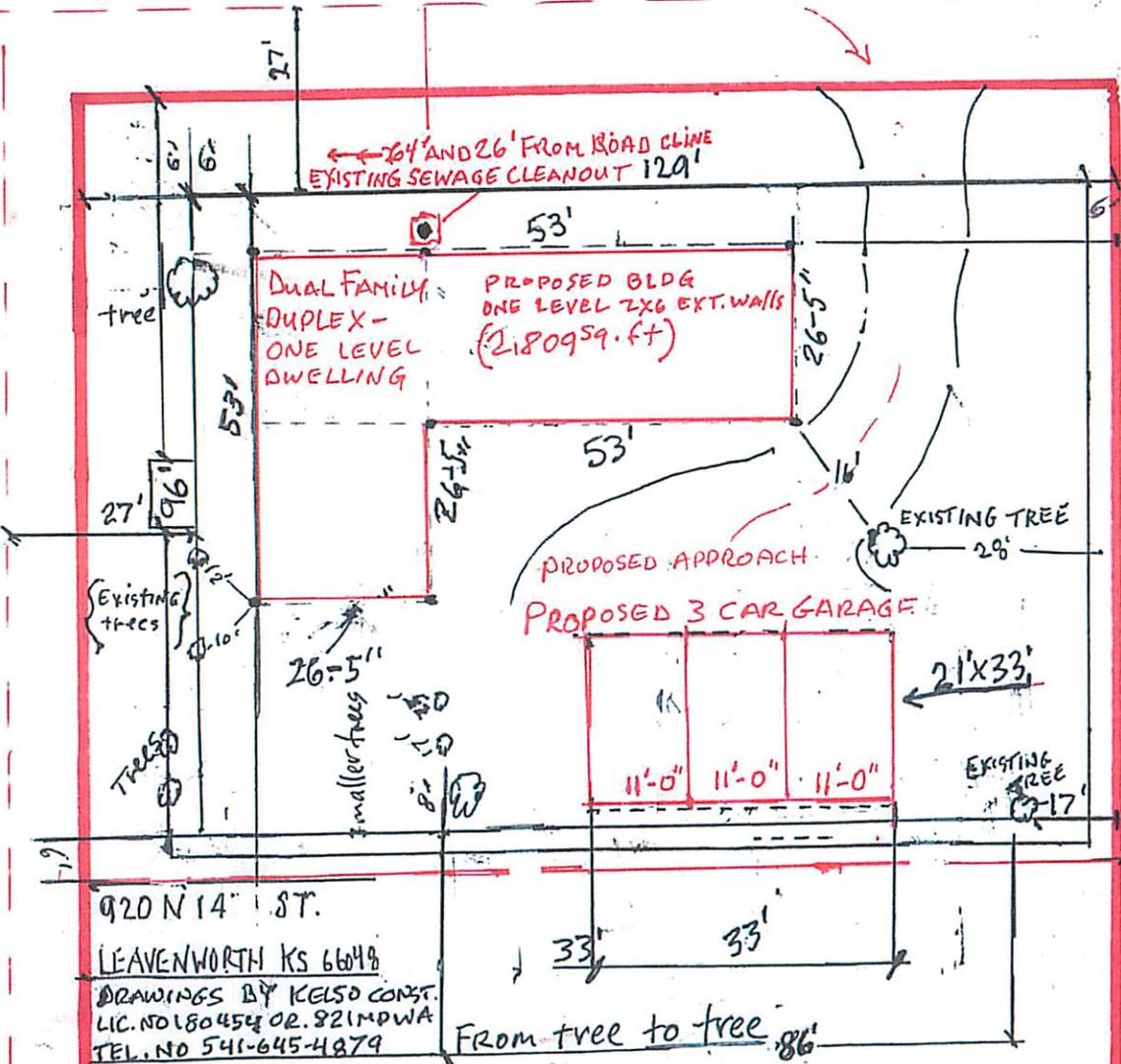
LEAVENWORTH COUNTY, KS.



PAWNEE ST

N. 14TH ST

ALLEY RD.



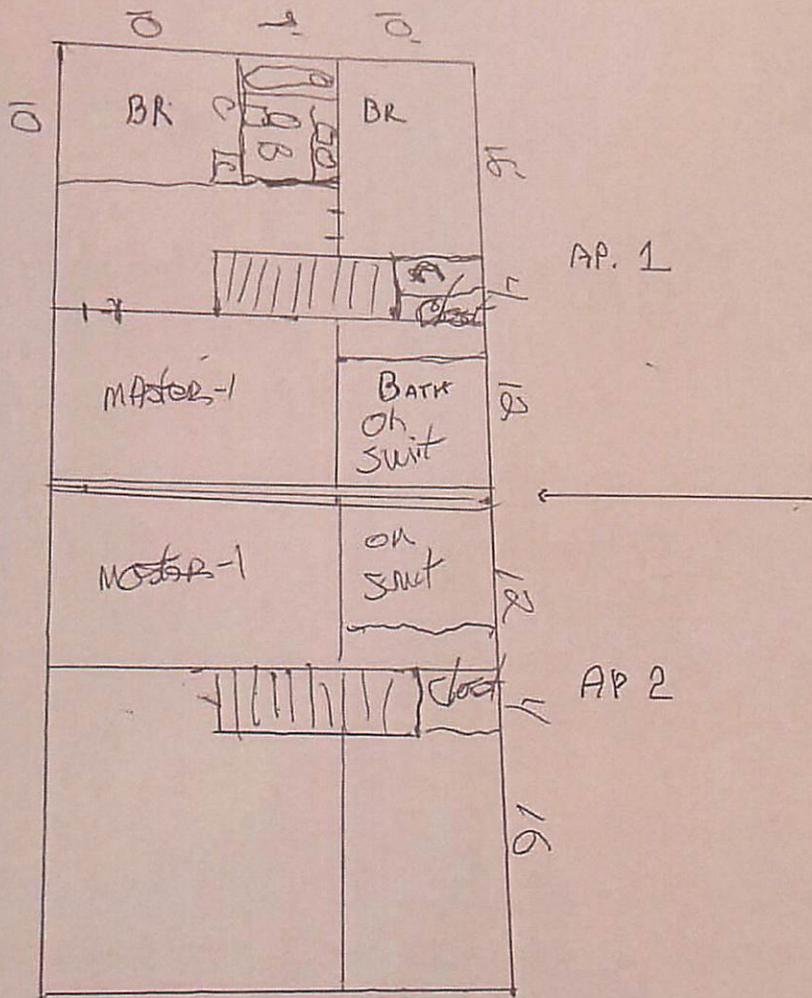
920 N 14TH ST.

LEAVENWORTH KS 66448

DRAWINGS BY KELSO CONST.
LIC. NO 180454 OR 821MPWA
TEL. NO 541-645-4879

From tree to tree 86'

1" = 27'



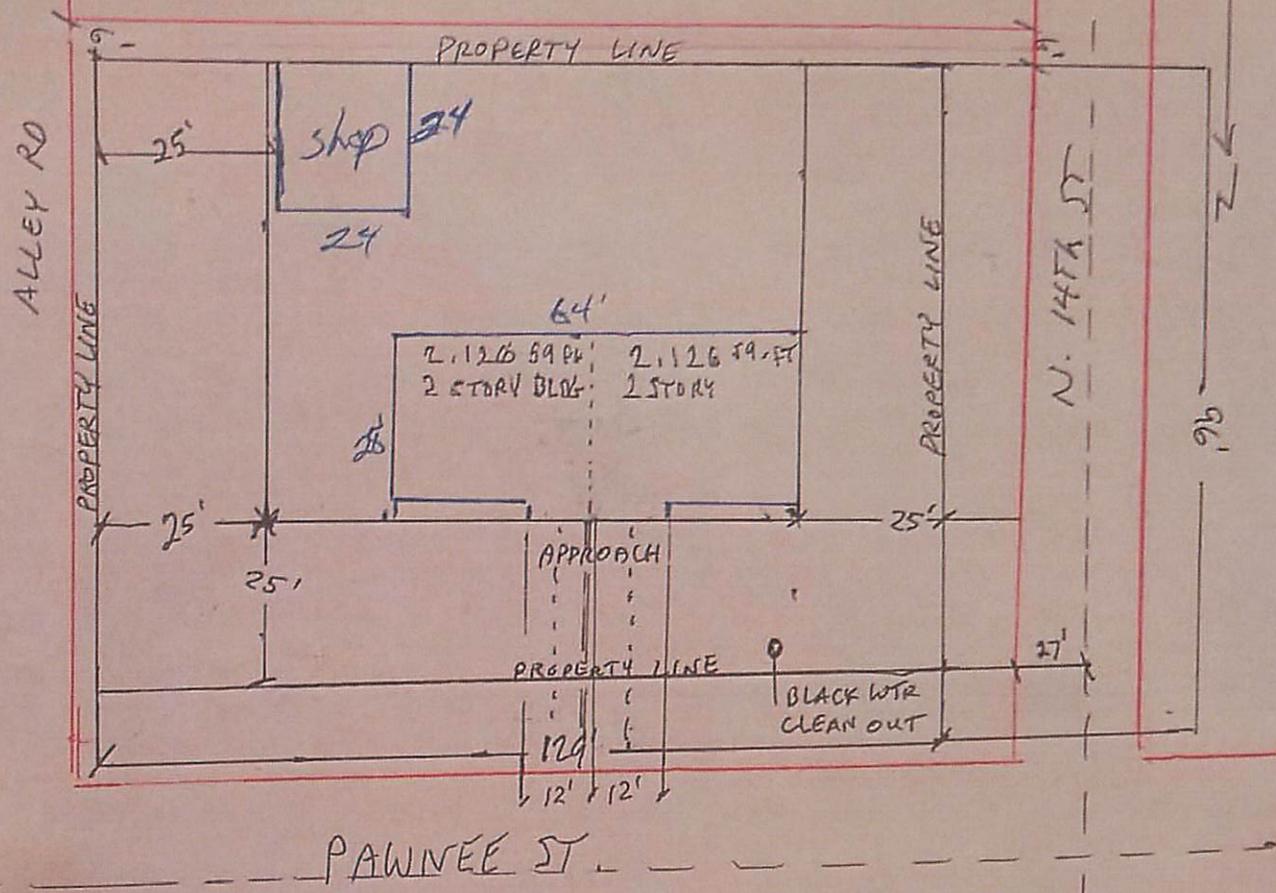
DOWN

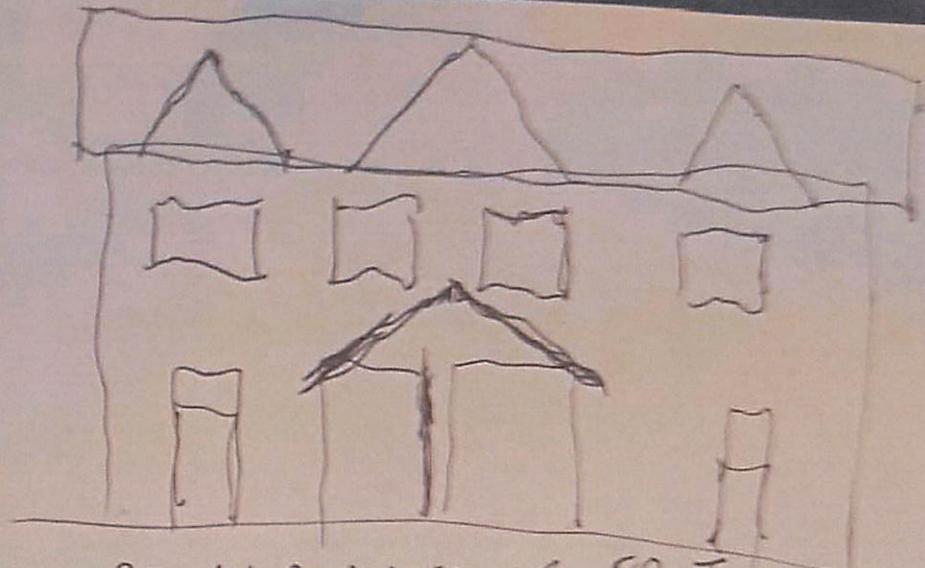
UPSTAIRS

1486 sq ft.

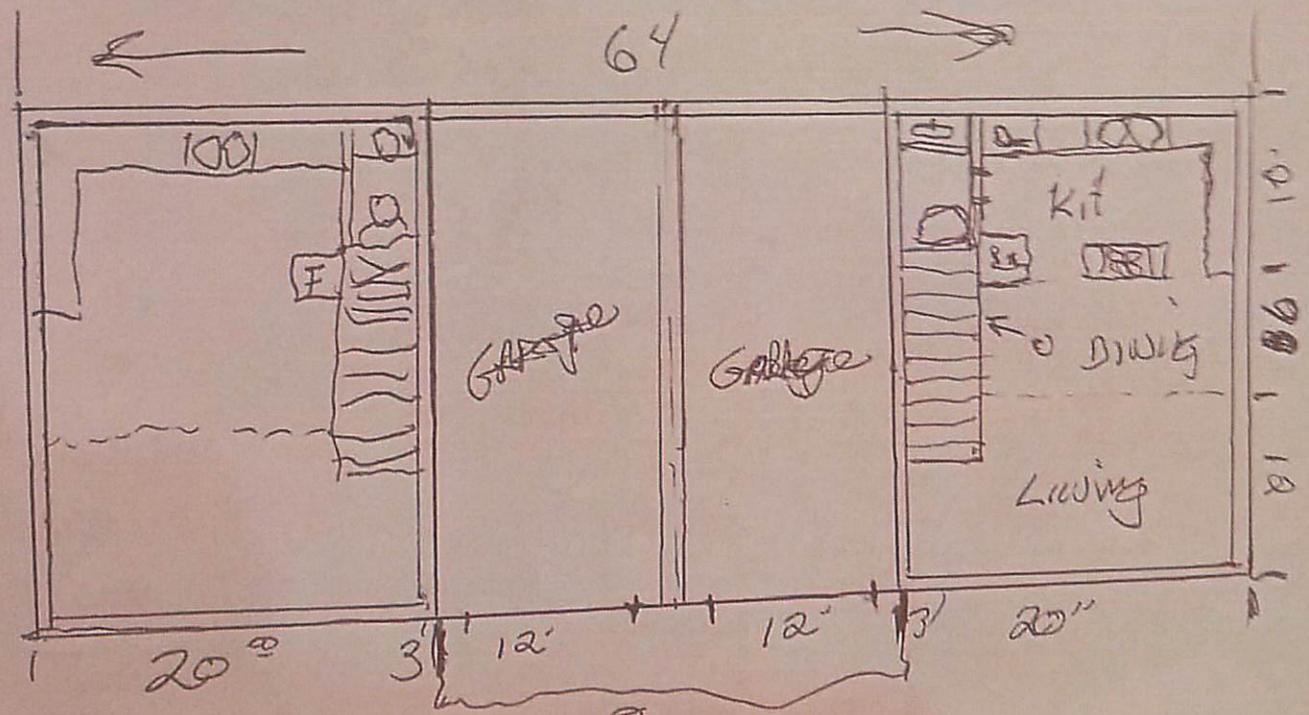
LEAVENWORTH CO., KS., USA
ADDRESS: 920 N. 14TH ST
PROPOSED DUPLEX BLDG
4,252 SQ FT. MAIN BLDG.
480 SQ. FT SHOP BLDG.

1" = 27'





ROUGH DRAWING OF FRONT



DOWNSTAIRS

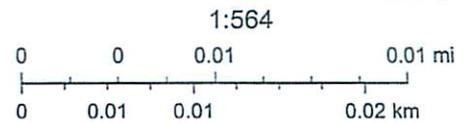
$$3/16 = 1'$$

920 N 14th Street



12/12/2023, 11:30:03 AM

- Override 1
- ▭ Parcels_Current
- Address (Points)
- ▭ Leavenworth City Limits
- ▭ City Right-of-Way
- RoadCenterline



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



* 2016R06818 *

Doc #: 2016R06818

STACY R. DRISCOLL/REGISTER OF DEEDS
LEAVENWORTH COUNTY

RECORDED ON

08/09/2016 02:13PM

RECORDING FEE: 15.00

INDEBTEDNESS: 0.00

PAGES: 1

Entered in the transfer record in my office this

9th day of Aug, 2016
Janet Klansinski by Rachel Hartman
County Clerk



* 2010R10988 *

Doc #: 2010R10988

STACY R. DRISCOLL/REGISTER OF DEEDS
LEAVENWORTH COUNTY

RECORDED ON

12/17/2010 04:32PM

RECORDING FEE: 8.00

INDEBTEDNESS: 0.00

Entered in the transfer record in my office this

17th day of December, 2010
Janet Klansinski by DCA
County Clerk

Being Re-Recorded to add date of Trust.

SHERIFF'S DEED

KNOW ALL MEN BY THESE PRESENTS, THAT a certain action to foreclose tax liens on certain real property in the County of Leavenworth, State of Kansas, has heretofore been filed in the District Court of Leavenworth County, Kansas, and is titled: The Board of County Commissioners of Leavenworth County, Kansas v. Bridges, Allan, et al, Case No. 2010 CV 391; and Judgment was thereafter rendered by said court in the above entitled action on 22 October, 2010.

In compliance with, and pursuant to this Judgment, the Clerk of the District Court of Leavenworth County, Kansas, issued an order to Sheriff David Zoellner, Sheriff of Leavenworth County, Kansas, to advertise and sell tracts of land, lots, or pieces of real estate described below, all according to law.

The Leavenworth County Sheriff gave notice of this sale by advertisement and publication notice of sale in The Tonganoxie Mirror newspaper printed in Leavenworth County, Kansas, and which had been continuously and uninterruptedly published in Leavenworth County, Kansas, not less than fifty (50) weeks for a period of five years prior to the first publication notice, all according to the law. The Leavenworth County Sheriff, David Zoellner, thereafter sold to Stieger Family Trust for the highest and best bid obtainable on 15 December 2010, the following described real property; for the amount shown by each particular tract, lot, or piece of real estate.

DESCRIPTION: LOTS NUMBERED EIGHT (8), NINE (9), TEN (10), AND ELEVEN (11) IN BLOCK NUMBERED FOUR (4) IN FENN'S FAIRGROUND SUBDIVISION OF THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS.

CAMA No. 078-27-0-10-09-006-00-0

Price: \$5500.00

THEREAFTER, on the 15th day of December, 2010, the order of sale and the proceedings of sale were returned to the Leavenworth County District Court and after examination of the proceedings, and finding that the sale was made in all respects in conformity with the law applicable, the District Court of Leavenworth County confirmed the sale, and the proceedings made thereto, on the 17th day of December 2010.

THEREAFTER, and according to law, the Sheriff of Leavenworth County was ordered to execute this good and sufficient deed to the purchaser(s) Stieger Family Trust. *February 16, 1989*

THEREFORE, I, David Zoellner, Sheriff of Leavenworth County, Kansas do hereby, give, grant, sell and convey to Stieger Family Trust, their heirs and assigns forever, all the above-described real estate located in Leavenworth County, Kansas, together with all and singular tenements, hereditaments and appurtenances thereto or in any way appertaining, subject to zoning regulations, easements, restrictions, and mineral interests of record.

TO HAVE AND TO HOLD THE SAME UNTO SAID Stieger Family Trust, their heirs and assigns forever.

IN WITNESS WHEREOF, I, David Zoellner, Sheriff of Leavenworth County, State of Kansas, have hereunto set my hand this 17th day of December, 2010.

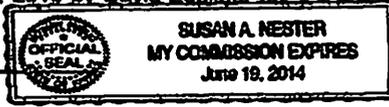


David Zoellner
David Zoellner
Sheriff of Leavenworth County, Kansas

STATE OF KANSAS)
COUNTY OF LEAVENWORTH) SS:

This instrument was acknowledged before me the 17th day of December, 2010 by David Zoellner as Sheriff of Leavenworth County, Kansas.

My Appointment Expires: June 19th, 2014 *Susan A. Nester*
Notary Public

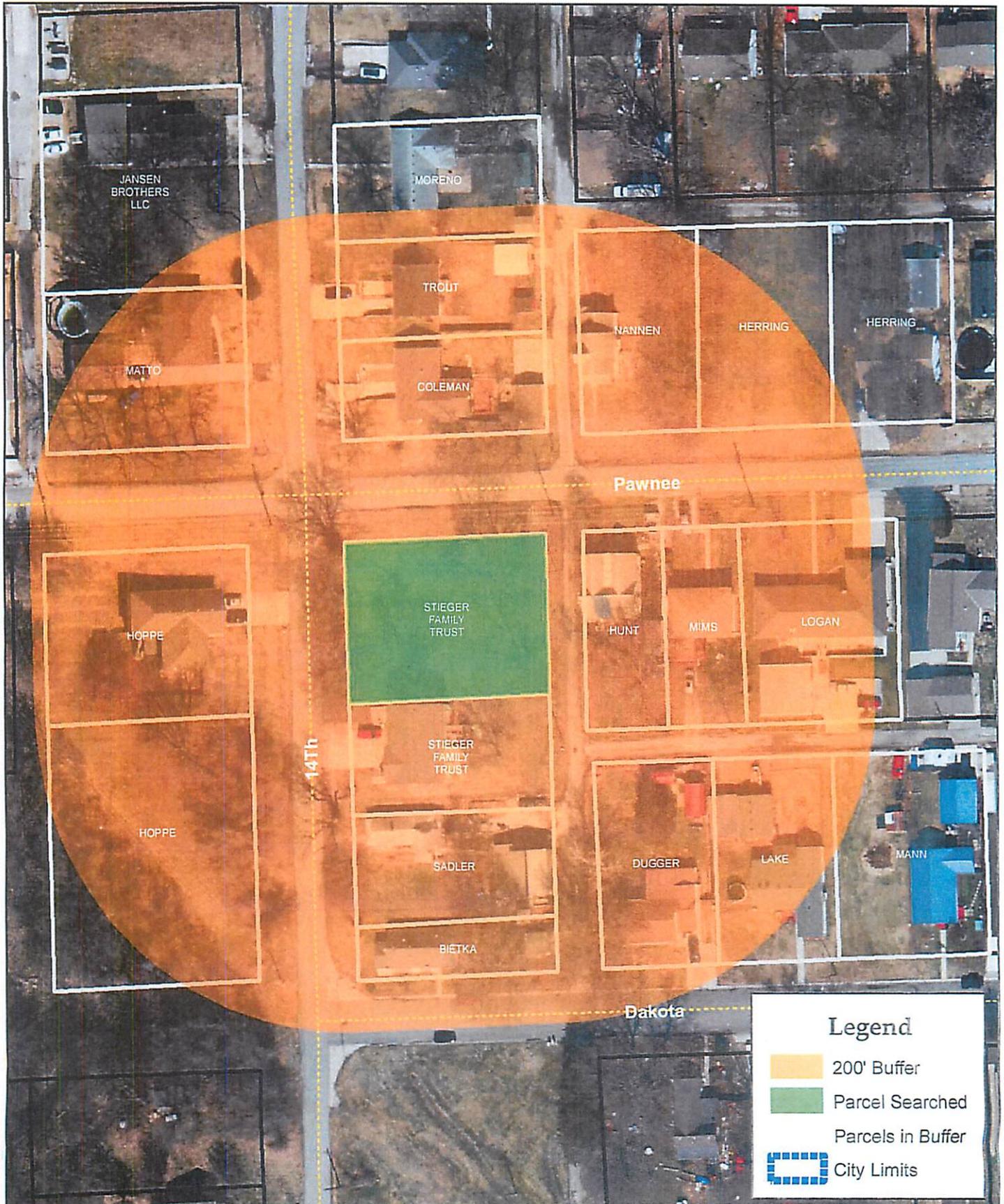


SEND TAX STATEMENTS (AND RETURN) TO: Stieger Family Trust, 623 Olive St, Leavenworth, KS 66048

623 Olive
LVKS 15

1760 "B"
8

City of Leavenworth Property Radius Search



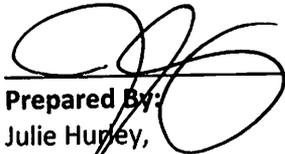
**PLANNING COMMISSION AGENDA ITEM
2023-26-SUB**

**LUXURY ADDITION
FINAL PLAT**

FEBRUARY 5TH, 2024

SUBJECT:

A request for a final plat of Luxury Addition Final Plat



Prepared By:
Julie Hurley,
Director of Planning and
Community Development

ANALYSIS:

The subject property is owned by Rea Holdings, LLC, plat prepared by Atlas Surveying. The applicant is requesting the plat in order to divide their current unplatted property into two lots, as well as incorporate portions of land that were purchased from Citizens Savings & Loan to the west, and K & L Leasing to the north. The plat also includes the dedication of access easements for the use of Citizens Savings & Loan, and K & L Leasing. The plat includes a total of 2.5 acres.

The property is occupied by Luxury & Imports, and is zoned GBD, General Business District. The existing automotive related use is an allowed in the GBD zoning district.

The subject plat was reviewed by the Development Review Committee on January 4th, 2024. A number of technical items related to the plat were discussed at that time. The plat has also been reviewed by the Leavenworth County Surveyor and Register of Deeds. All items identified by the DRC and Leavenworth County staff have been addressed, or will be addressed, prior to recording of the plat.

Staff recommends approval of Luxury Addition Final Plat.

ACTION/OPTIONS:

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



Project No. 2023-26 SUB

**MINOR SUBDIVISION
FINAL PLAT APPLICATION
CITY OF LEAVENWORTH**

OFFICE USE ONLY
Application No. 14023
Fee: 350.00
(\$350 plus \$10 per lot over 5 lots)
Date Paid 2/10/23
Received By AK
PC Meeting 2/10/23 2/5/24

NAME OF SUBDIVISION/PROJECT: Luxury and Imports

LOCATION OF SUBDIVISION/PROJECT: _____

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

NAME: Rea Holdings LLC

STREET ADDRESS: 5239 S 4th Street

CITY: Leavenworth STATE: KS ZIP: 66048

PHONE: 913-772-7200 EMAIL: _____

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

NAME: Rea Holdings LLC / President Ted Rea

STREET ADDRESS: 5239 S. 4th Street

CITY: Leavenworth STATE: KS ZIP: 66048

PHONE: 913-772-7200 EMAIL: troy.rea@luxuryandimports.com

NAME OF ENGINEER PREPARING PLAT: Cell 913-333-7615

NAME: Andrea Weishaubt / Atlas Surveying

STREET ADDRESS: 2300 Hutton Rd Suite 108

CITY: Kansas City STATE: KS ZIP: 66109

COMPANY: Atlas Surveying

PHONE: 913-702-5073 EMAIL: andrea.weishaubt@atlassurveyors.com

PARCEL NO: 0941802006009000 SEC.TWP.RNG. 18-9-23E

ZONING OF SUBJECT PROPERTY: GBD CURRENT LAND USE: Commercial

TOTAL ACREAGE: 2,5081 NUMBER OF LOTS: 1

LEGAL DESCRIPTION: (Attach full recorded legal description provided by the REGISTER OF DEEDS OFFICE)

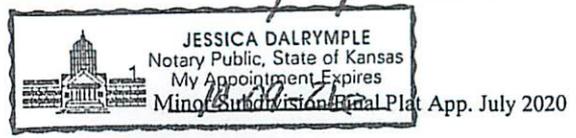
DATE OF FINAL PLAT APPROVAL, IF REPLAT: _____

I/We, the undersigned, certify that I/we am/are the owner of the property described above and that is subject to this request for review of a subdivision under the rules of the Subdivision Regulations of the City of Leavenworth, Kansas.

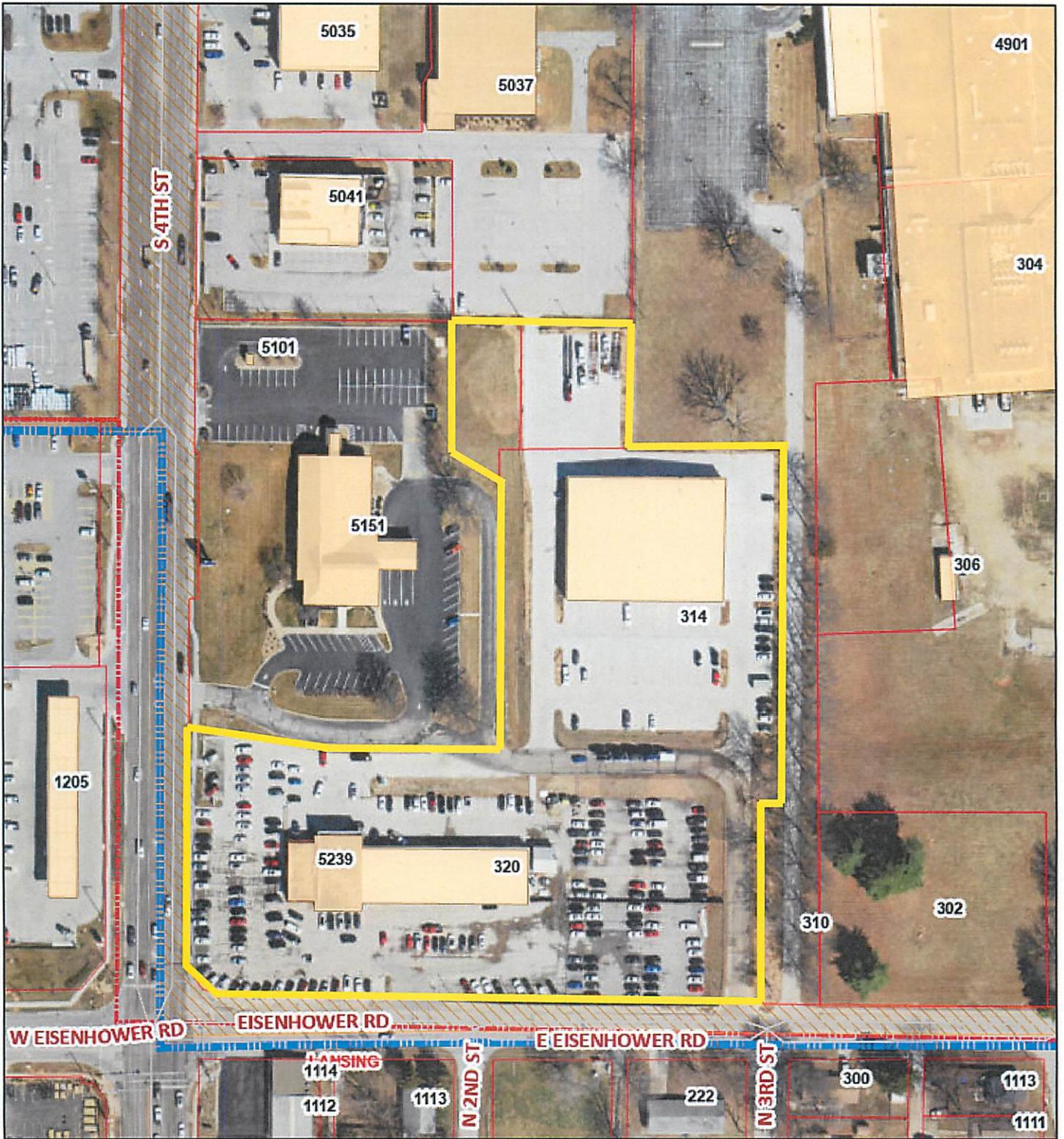
SIGNATURE OF OWNER(S) Rea Date: 8-7-23

State of Kansas, County of Leavenworth SS
Signed or attested before me on 08-09, 2023 by Jessica Dalrymple

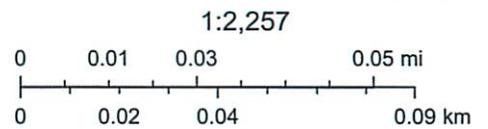
Jessica Dalrymple
Notary Appointment Expires 10-09-26



2023-26-SUB

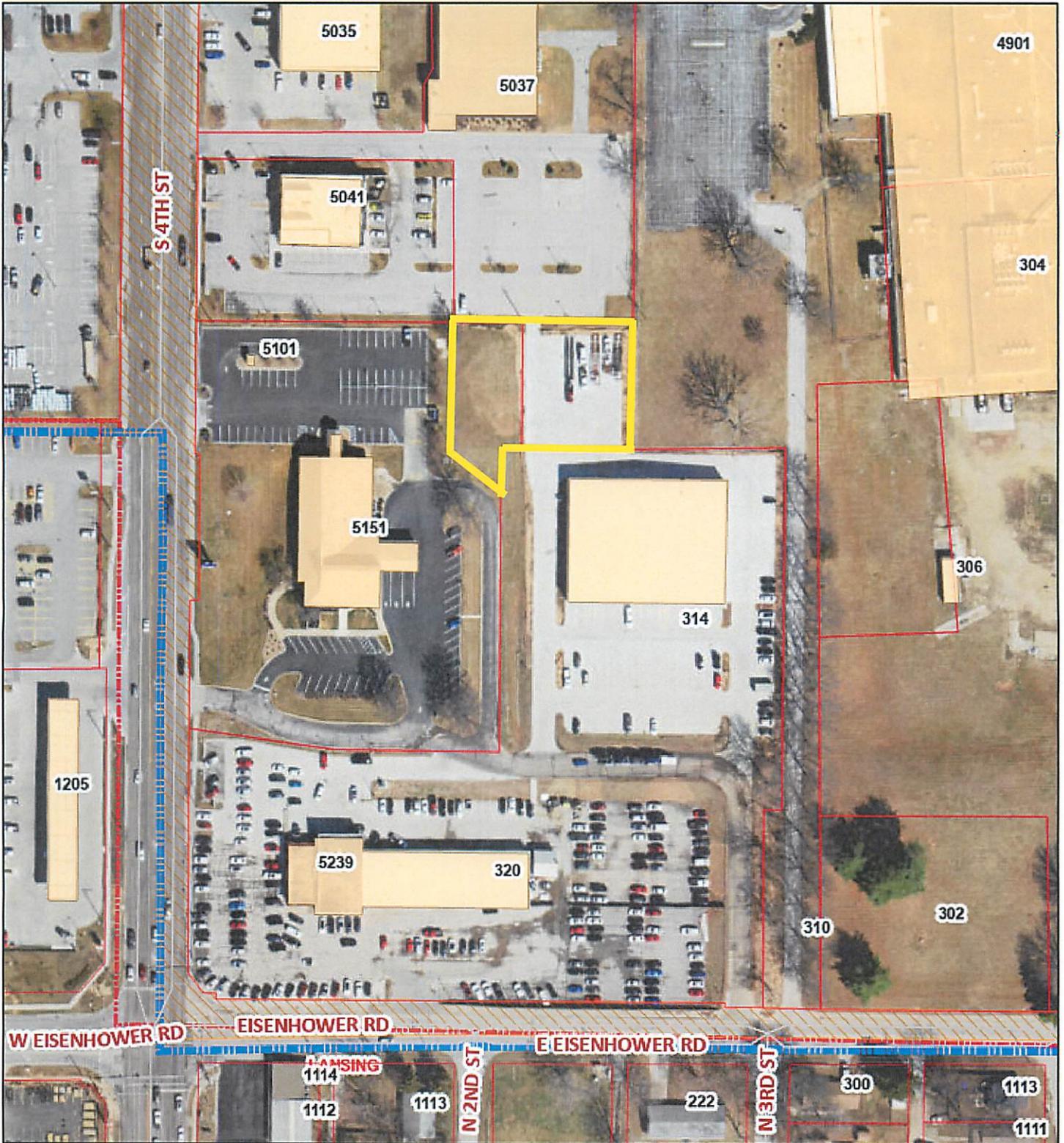


2/1/2024, 11:32:29 AM

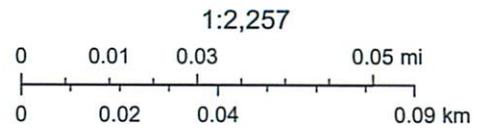


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

2023-26-SUB Area Added to Luxury Property



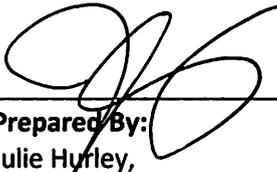
2/1/2024, 11:29:44 AM



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

PLANNING COMMISSION AGENDA ITEM
Text Amendments
Development Regulations

FEBRUARY 5, 2024



Prepared By:
Julie Hurley,
Director of Planning and
Community Development

DISCUSSION:

The Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. Many of the proposed amendments consist of clarifying existing language, with no substantial policy change. The following modifications have been drafted by staff and are now presented for public hearing and vote.

- **Article 1; General Provisions**
 - Remove specific dates by which regulations and updated zoning map must be prepared each year. All documents are updated as changes are made throughout the year.

- **Article 2; Applications & Procedures**
 - Add requirement that applicants provide two full sized copies of all recorded plats.
 - Move Article 6; Landscaping and Article 8; Signs to the jurisdiction of Board of Zoning Appeals for variance requests in lieu of City Commission.

- **Article 4; Zoning Districts & Standards**
 - Add provision that adjacent right-of-way width may not be counted towards the minimum lot width requirement.
 - Add provision to allow three detached accessory structures on parcels two acres or larger.
 - Add specific setback requirements for pools.
 - Add Solar Arrays as permitted accessory use.
 - Remove Solar energy facilities from requirement for Special Use Permit.
 - Change language regarding signage for home occupations to reference regulations in Article 8; Signs.

- **Article 5; Access & Parking**
 - Add provision to allow alternative paving materials as acceptable parking surface for single-family dwellings.

- **Article 6; Landscape & Site Design**
 - Change wording of "areas" or "properties" to "uses" for consistency.
 - Remove minimum height requirement for residential uses abutting a commercial or industrial use.

- Revise language related to fencing around a pool to reference applicable building code.
- Remove specific requirements for decorative fences in the CBD.

- **Article 7; Design Standards**
 - Change language referencing “two feet 18 inches” to “3 feet 6 inches” for clarity.
 - Clarify language regarding maximum driveway width for residential properties.

- **Article 8; Signs**
 - Revise size computation standards for multi-face signs.
 - Correct all references to “free standing” signs to “freestanding”.
 - Refine regulations related to directional signage to include directional wall signs.
 - Refine language related to neighborhood identification signs to include term “development” in order to clarify that regulations also apply to multi-family developments.
 - Refine language related to projecting signs for clarity.
 - Add provision to allow wall signage for businesses without an exterior wall fronting a public ROW.
 - Change language related to variance requests to indicate that such requests be made to the Board of Zoning Appeals.

- **Article 9; Historic Preservation**
 - Remove section related to variances, redundant.

- **Article 10; Supplemental Standards**
 - Refine language related to Solar Arrays for clarity.

- **Article 12; Definitions**
 - Move definitions for Manufactured Home and Mobile Home so that they are with all other definitions for various types of dwellings, for consistency.
 - Add definition for “Shelter Home”.

- **Appendix A; Use Table**
 - Require SUP for Manufactured Dwellings in R1-9, R1-7.5, and R1-6.
 - Add use category of Shelter Home.
 - Require SUP for Private Wind Energy Systems in all zoning districts for consistency with requirements of Article 4.

ACTION/OPTIONS:

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

DEVELOPMENT REGULATIONS
ARTICLE 1. GENERAL PROVISIONS

1.02 Administration

-
5. *Administrative Staff.* The Director is responsible for the enforcement of this Ordinance. Implementation and administration of the provisions of the Development Regulations shall be the responsibility of the administrative officials listed throughout these Development Regulations. Administrative staff duties will include, but are not limited to, the following:
- a. Scheduling and conducting inspections of buildings, structures, and uses of land to determine compliance with the provisions of the Development Regulations.
 - b. Maintaining permanent and current records of the Development Regulations, including, but not limited to, all zoning district maps, amendments, special uses, variances, exceptions, appeals and applications therefore and records of hearings thereon.
 - c. Preparing and having available in book, pamphlet, or map form, ~~on or before March 31 of each year:~~
 - (1) The compiled text of the zoning regulations and amendments thereto, including all amendments adopted ~~through the preceding December 31,~~ and
 - (2) A zoning district map or maps, showing the zoning districts, divisions, and classifications in effect ~~on the preceding December 31.~~
 - d. Maintaining for distribution to the public paper and electronic copies of the zoning district map, the text of the Development Regulations and the bylaws, agendas and meeting minutes of the Planning Commission and the Board of Zoning Appeals.
 - e. Providing such clerical, technical, and consultative assistance as may be required by the City Commission, Planning Commission, Board of Zoning Appeals, Preservation Commission and other boards or commissions in the exercise of their duties relating to these Development Regulations.
 - f. Preparing and distributing hearing notices as required.
 - g. Providing information, clerical, technical, and consultative assistance to developers and property owners with regard to the application process and requirements of this ordinance generally.
6. *Leavenworth Preservation Commission.* The Leavenworth Preservation Commission authority and procedures are established in Article 9.
- B. *Schedule of Fees.* The Schedule of Fees and Charges for any applicable fees shall be on file with the City Clerk according to all city ordinances.

1.03. Interpretation

- A. *Rules of Construction.* In interpreting these regulations, the following rules shall apply:
- 1. Words used in the present tense shall include the future.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

f. Disposition of Final Plats. After the plat has been recorded, the applicant shall provide two full-sized copies of the recorded plat to the Department of Planning and Community Development

4. *Minor Subdivision.* Minor subdivisions shall be processed according to the following criteria and procedures.
- a. Criteria. An application may be classified as minor subdivision if the Director determines that all of the following are met. Any application not classified as a minor subdivision shall be processed as a major subdivision.
 - (1) No new street or alley right-of-way, or other public dedication is needed.
 - (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) The application results in five or fewer new lots, including any remainder parcel.
 - (4) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (5) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
 - (6) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
 - b. Filing Requirement. A minor subdivision shall include all applicable information required for final plats.
 - c. Review and Approval. Within 60 days after submission of a plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the plat. If the Planning Commission approves the plat, the plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.
 - d. The plat shall be recorded with the Register of Deeds within 18 months of approval by the Planning Commission. Plats which are not recorded within said time period shall be deemed null and void.
 - e. Disposition of Final Plats. After the plat has been recorded, the applicant shall provide two full-sized copies of the recorded plat to the Department of Planning and Community Development
5. *Major Subdivision*
- a. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.06 Minor Modifications

-
6. A change to a development feature already modified through a variance or other minor modification; or
 7. Any change in the maximum area of signage.
 8. No more than two standards may be modified on any single development project;
- D. **Criteria.** The review and approval of a minor modification is administrative and shall not require any form of notice or a public hearing prior to determination. The following criteria shall be met for a minor modification:
1. Evidence of substantial compliance with the provisions of the Comprehensive Land Use Plan, any other applicable city plans and the Development Regulations;
 2. Compatibility with surrounding land uses; and
- E. **Appeal.** Appeal of the Director's determination shall be to the Development Review Committee.
- F. **Approval Termination:** An approved minor modification terminates at the same time as the original approval. Minor modification of an approval does not extend the lapse period of the original approval.
- G. **Record of Minor Modifications and Annual Review:** The Director shall keep a record of all minor modifications that includes information about the date of the request, the location of the project, a brief description of the minor modification request, and the Director's action. The Director shall submit the minor modification log to the Planning Commission annually for review. Upon reviewing the record, the Planning Commission may determine whether changes to the Zoning & Development Ordinance of the City of Leavenworth, Kansas are necessary.

2.07 Appeals

Any person wishing to appeal a provision of this document as it has been applied to their case shall make application for appeal to the appropriate entity as listed below.

- A. Zoning Regulations. Zoning regulations shall be appealed to the Board of Zoning Appeals as specified in Article 11. Specifically this shall include:
 1. Article 1. Section 1.05 Non-conformances
 2. Article 2. Section 2.05 Site Development Plans
 3. Article 4. District Regulations
 4. Article 5. Parking
 5. Article 6. Landscaping
 6. Article 8. Signs
 57. Article 10. Supplementary District Regulations
- B. Development Regulations. Development regulations shall be appealed to the City Commission where specified in these regulations. Specifically this shall include:

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.06 Minor Modifications

1. Article 3. Subdivision Standards
- ~~2. Article 4. Section 4.05 Redevelopment Overlay District~~
- ~~3. Article 6. Landscaping~~
4. Article 9. Historic Preservation
- ~~5. Article 8. Signs~~

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Property Development Standards

4.03. Property Development Standards

A. **Dimension Table.** Lot and building dimension standards for zoning districts shall be according to Table 4-01.

Table 4-01: Zoning District Dimension Standards								
	Lot Standards			Minimum Setbacks				Building Height
	Min. Size	Min. Width [9]	Max. Coverage	Front	Interior Side	Corner Side	Rear	
R1-25	25,000 s.f.[1]	160'	50%	25'	10'	25'	25'	35'
R1-9	9,000 s.f.	75'	50%	25'	6'	25'	25'	35'
R1-7.5	7,500 s.f.	75'	50%	25'	6'	15'	10'	35'
R1-6	6,000 s.f.	48'	50%	25'	6'	25'	25'	35'
R-MF	6,000 s.f. [2]	48' (1 to 2 units) 72' (3 units) 96' (4+ units)	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	40'
R4-16	6,000 s.f. [3]	48' (1 to 2 units) 96' (3 -4+ units)	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	40'
RMX	See table 4-2							
MP	10 acres	300'	50%	25'	6'	25'	25'	35'
NBD	6,000 s.f.	48'	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	45'
OBD	6,000 s.f.	48'	80% [8]	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	45'
CBD	2,000 s.f.	48'	100%	0' [4]	0' [4]	0' [4]	0' [4]	none
GBD	6,000 s.f.	48'	80% [8]	25'	0' [5]	25'	25'	45'
ROD	See Section 4.05							
I-1	15,000 s.f.	160'	80% [8]	30'	10' [6]	20' [6]	25'	50' or 4 stories
I-2	15,000 s.f.	160'	80% [8]	30'	10' [7]	20' [7]	25'	none

- [1] only with public water and sewer. See KDHE 4-2 and Leavenworth County Sanitary Code: minimum lot size is 2 acre without public water or sewer.
- [2] lots in the R-MF district shall have 3,000 square feet per dwelling unit.
- [3] lots in the R-4-16 district shall have 4,000 square feet per dwelling unit.
- [4] There are no yard requirements in the CBD except that a 25' setback shall be provided on any side of a lot which abuts a residential district
- [5] There are no interior side yard requirements in the GBD except that a 25' setback shall be provided on any side of a lot which abuts a residential district
- [6] In the I-1 district a 25' setback shall be provided abutting any dedicated street or residential district.
- [7] In the I-2 district a 100' setback shall be provided abutting residential district, unless the use was located and platted prior to adoption of these regulations in which case a 25' setback shall be provided. Setbacks abutting any dedicated street shall be 25'.
- [8] Maximum lot coverage requirements shall be subject to stormwater quality and quantity requirements as determined by the Public Works Department for individual projects.
- [9] Any adjacent right-of-way width may not be counted towards the minimum lot width requirement.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted.
- f. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area. -On parcels two acres or larger, three detached accessory structures shall be allowed. For these purposes, "detached accessory structures" means any detached, garage, storage building, agriculture building, gazebo, or other such similar above-ground structure erected in conformance with these regulations.
3. *Permitted Accessory Uses.* Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
- a. Private garages or carports: Not to exceed the following capacity:
- (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
 - (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
 - (3) Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger may be approved by the Board of Zoning Appeals.
- b. Storage Buildings: A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
- c. Play Structures: A child's playhouse, including tree houses.
- d. Pools & Courts: An ~~private above-ground~~ swimming pool, bathhouse, or tennis court provided it shall be a minimum of ten feet from all property lines, five feet from any primary building on the site, and complies with all applicable building codes contained in the adopted building code.
- e. Miscellaneous Yard Decor: Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, and hedges, ~~and solar collectors.~~
- f. Shelters: Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- g. Signs: Signs, when permitted by Article 8 – Sign Regulations.
- h. Parking: Off-street parking and loading spaces as required by these regulations.
- i. Recreational Vehicles, Campers, Trailers, and Boats: Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these Development Regulations.
- j. Commercial Accessories: Restaurants, drug stores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- k. Supplemental Employee Services: Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
 - l. Office Space: Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
 - m. Retail Sales: Retail sales in conjunction with permitted industrial uses when located on the same site as the industrial use.
 - n. Indoor Retail Storage: The storage of retail merchandise when located within the same building as the principal retail business.
 - o. Auto Sales: The retail sale of automobile parts and used automobiles on a tract of land not to exceed one acre in area when located on the same site as and in conjunction with an automobile race track.
 - p. Amateur Radio Towers: Amateur radio towers and antennae shall not exceed the height of 50 feet in residential districts. A tower and antennae must maintain a setback of one foot per one foot of height from all property lines and must be located in a side or rear yard of the principal structure and the owner of the tower and property maintains and shows proof of a current federal license as an amateur radio operator. The construction of the tower must follow the manufacturer's installation specifications.
 - q. Agriculture Buildings: In residential districts an agricultural accessory building not to exceed two percent of the total square footage of the lot on which is it located on parcels two acres or larger, up to a maximum of 3,400 square feet.
 - r. Apiaries: In residential districts, bee hives or boxes may not be kept within 50 feet of any dwelling (except the dwelling of the owner of such bees), or within 15 feet of any lot line, sidewalk, alley, or other right-of-way. Notwithstanding, bees may be kept within 15 feet of a lot line, sidewalk, alley, or other right-of-way when a barrier at least 6 feet high is placed between the bee hives or boxes and the lot line, alley, or right-of-way which adequately impairs bee flight. No more than 3 hives shall be placed or kept in a location which is less than 200 feet from a house or other building used for residential purposes other than the residence of the keeper of such bees.
 - s. Solar Arrays, subject to the provisions included in Article 10, Supplemental Standards.
4. *Prohibited Accessory Uses.* None of the following shall be permitted as an accessory use:
- a. Outdoor storage or overnight parking in a residential district of commercial trucks or trailers as defined herein, or other on, or off, road items exceeding 10,000 GVW (Gross Vehicle Weight).
 - b. Outdoor storage, of dismantled, inoperative and/or unlicensed motor vehicles; parking and/or storage of construction machinery and equipment, tracked or wheeled; farm machinery and/or equipment except as specifically permitted in district regulations in conjunction with a permitted use.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

5. *Accessory Uses Permitted by Special Use Permit.* The following accessory uses shall only be permitted upon approval of a special use application by the City Commission:
- a. Commercial Communication Towers and Antennae. Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in Article 10, Supplemental Standards.
 - b. ~~Renewable Energy Facilities, including wind or solar energy facilities~~ Wind Energy Systems, subject to the provisions included in Article 10, Supplemental Standards.
 - c. Child Care Centers for 7 or more children:
 - (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.
 - (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100% enclosed by a minimum 4' high fence or wall.
 - (3) Shall provide a loading zone capable of accommodating at least 2 automobiles for the easy picking up and discharging of passengers.
 - (4) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
 - (5) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
 - (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 1 non-illuminated sign affixed to the structure of 3 square feet.
 - d. Accessory Dwelling Units. Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:
 - (1) Shall be compatible with the design of the principal dwelling unit.
 - (2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.
 - (3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.
 - (4) Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.
 - (5) Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.
 - (6) Shall meet all building code requirements for a single family dwelling unit.
 - (7) Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.
 - e. Massage Therapy establishments as a home occupation may be allowed with issuance of a Special Use Permit. Such establishments are subject to all

requirements of Home Occupations as provided in these regulations, as well as all requirements for Massage Establishments as provided in the City of Leavenworth Code of Ordinances, Chapter 26, Article III.

6. *Home Occupations.* A home occupation may be established provided:
- a. That no one, other than members of the immediate family residing on the premises, be employed;
 - b. That no use will occupy more than 25% of the gross floor area on one floor nor more than 400 square feet of gross floor area;
 - c. That a carport, garage, or any accessory structure may only be used for home occupations with issuance of a Special Use Permit;
 - d. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
 - e. Home occupations are allowed to display ~~a single non-illuminated sign affixed to the main structure no larger than 3 square feet on a vertical wall below the roof soffit or placed in the front yard.~~ signage in accordance with section 8.08 of these Development Regulations.
 - f. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
 - g. That the home occupation shall be conducted entirely within the principal residential building except with issuance of a Special Use Permit;
 - h. That no machinery or equipment shall be installed which interferes with radio or television reception, and which is not customarily incidental to the practice of such occupation or profession, but in no case shall any machine exceed one rated horsepower;
 - i. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
 - j. That two off-street parking spaces are provided; and
 - k. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
 - l. Permitted home occupations shall not in any event be deemed to include:
 - (1) Automobile and vehicular repair on any other than the property owner's personally owned and currently registered vehicle(s)
 - (2) Antique sales.
 - (3) Equipment rental business.
 - (4) Stables, kennels, veterinarian services, pet shops, and animal hospitals.
 - (5) Eating or drinking places.
 - (6) Mortuaries and embalming establishments.
 - (7) Private clubs, including fraternity and sorority houses.
 - (8) Retail sales (over the counter).
 - (9) Repair of home appliance and electronic equipment.

- f. A shared parking plan shall be enforced through a written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded at the Register of Deeds, prior to issuance of any building permits.
- g. A shared parking agreement may be revoked by the affected property owners only if all required off-street parking spaces for both parties are provisioned before the agreement is revoked.

C. **Non-Contiguous Off-Street Parking.**

- 1. *Separation Distance:* Off-street parking facilities to fulfill a multiple-family, commercial, industrial or special use permit requirement may be located within 200 feet of the development (measured between property lines) if off-street parking requirements cannot be met on the site.
- 2. *Special Use Permit Required:* Separate off-street parking facilities must meet the following requirements and be approved as a Special Use:
 - a. Screened or enclosed with a fence, wall, or other suitable enclosure having a height of not less than three feet, and maintained in good condition.
 - b. Any lights used to illuminate the parking areas shall be so arranged as to direct the light away from any adjoining residential premises.
 - c. Approval of the site plan, drawn to scale; showing proposed parking lot. The developer will submit a site plan for off-street parking together with his application for a building permit. This parking plan will be reviewed by the DRC for adequacy prior to the issuance of a building permit.

5.03. General

- A. **Use.** Required parking used only for parking operable motor vehicles using the site or use. Any other use of parking areas for outside storage, display or commercial activity shall be permitted by different provisions of these regulations
- B. **Surfaces and Markings.** All off-street parking areas and driveways shall be surfaced and provided with a minimum of:
 - 1. *Residential Parking:* (All dwelling units) Six inches of Portland Cement concrete, or four inches of stone and four inches of asphaltic concrete. Alternative paving materials, such as pavers, may be approved for single-family residences after review by the City Engineer.
 - a. A gravel parking pad in the rear yard may be installed with a border to contain the gravel. Such gravel parking pad must be accessed directly off the alley and may be a maximum depth of 37 feet as measured from the rear property line.

- b. Screening on three sides by a minimum six-foot masonry wall enclosed by an evergreen living screen. Screening shrubs shall be a minimum of four feet in height at installation and shall provide a minimum six-foot high screen when fully grown. An opening shall be situated so that the container is not visible from adjacent properties or public streets and the opening shall be a metal clad opaque gate. Chain-link gates are not permitted. Gates must have tiebacks to secure them in the open position.
6. *Design of Screening.* All screening shall be complementary to the building served in landscaping approach and with similar colors and material palette.

6.08 Fences

A. *Fence Types.*

1. Open fences means those fences constructed of wood, masonry, metal, woven wire, or other material whose surface area is greater than 50 percent open.
2. Solid fences means those fences constructed of wood, masonry, metal, planting, hedge or other material whose surface area is or may become less than 50 percent open.
3. The smooth or most finished side shall be facing outward on all fences.

B. *Permit Required.*

1. It shall be unlawful for any person, property owner or fence construction company to erect or install fencing without first paying the permit fee as set out in Appendix F, Schedule of Fees and Charges, Code of Ordinances, City of Leavenworth, Kansas and obtaining a fence or building permit pursuant to the provisions of these Development Regulations.
2. Masonry fences, or fences which contain a portion of masonry, four feet or more in height, or more than 4 feet above the nearby grade, shall be designed by an Engineer licensed in the State of Kansas and shall require construction documents and a building permit.
3. A survey by a surveyor licensed in the State of Kansas may be required by the Building Official before issuing a permit.

C. *Residential Uses Areas.*

1. *Prohibited Types.*
 - (a) Barbed wire fence prohibited. No person shall construct, keep or maintain any barbed wire fence, or fence any part of which is composed of barbed wire, within a residential area of the city except when permitted as a farm use or as a condition to a special use permit for those uses listed as a special use connected with farming or agricultural activities in the R1-25 single-family residential district.
 - (b) Electric fence prohibited. No person shall construct, keep or maintain an electrically charged fence within a residential area of the city except when permitted as a farm use or as a condition to a special use permit for those uses listed as a special use connected with farming or agricultural activities in the R1-25 single-family residential district of the Development Regulations of the City of

Leavenworth, Kansas. These installations will then only be permitted when the electric fence is installed behind an open fence separated by three feet.

2. *Residential Front Yard.*
 - (a) Open fences and hedges may be installed in all front yards on the property lines but may not exceed 48 inches above the natural contour of the ground.
 - (b) No solid fences shall be constructed or reconstructed closer to the street line than the front wall of the residential structure. The front wall of the residential structure shall be determined by excluding porches, roof overhangs, dormers, or other extensions.
 - (c) Where a residential property abuts a commercial or industrial property or use and where screening has not been installed or is not required, the residential property owner may install a solid or open screening fence on the property line not to exceed 72 inches in height above the natural contour of the ground along the property line that abuts the commercial or industrial property or use.

3. *Residential Side or Rear Yards.*
 - (a) Open fences and hedges may be installed in all side and rear yards on the property line but may not exceed 72 inches above the natural contour of the ground.
 - (b) Solid fences may be installed on the rear property line and on the side property line to a point aligning with the front wall of the residential structure as defined in subsection 2. of this section not exceeding 72 inches in height above the natural contour of the ground; provided that no solid fence greater than 48 inches above the natural contour of the ground shall be built within six feet of a residential structure on adjoining property; provided further, that if any portion of the adjoining structure is closer than six feet, then such solid fence shall not exceed four feet in height for the entire length of the side or rear yard property line.
 - (1) On corner lots, both yards adjacent to streets are considered front yards. In this instance, the fence on the addressed side must be erected in accordance with subsection 2.; on the other side a solid fence not exceeding 72 inches in height above the natural contour of the ground may be built on the property line, provided that the property line is a minimum of 15 feet from the curb or edge of pavement. If the property line is less than 15 feet from the edge of the pavement, the fence shall be installed a minimum of 15 feet from the curb or edge of pavement, or 50 percent of the existing setback from the house to the property line, whichever is less.
 - (2) For the purpose of determining yard requirements on corner lots, the street the property is addressed from shall be considered the frontage and yards shall be provided, as set forth in this section.
 - (c) Where a residential ~~property-use~~ abuts a commercial or industrial property or use, and where screening has not been installed or is not required, the residential property owner may install a solid-type screening fence on the property line ~~no less than six feet nor more than~~ up to eight feet above the contour of the natural ground along the property line that abuts the commercial or industrial property or use.

- (d) A solid fence may be installed around a private swimming pool or patio not to exceed 96 inches above the natural contour of the ground, provided it complies with all applicable building codes contained in the adopted building code. ~~and not more than ten feet from the edge of the pool or patio, provided all other requirements of this section are met.~~

D. **Commercial and industrial ~~areas~~uses—Types permitted.**

1. **Decorative Fences.** Decorative fences shall be permitted in the Central Business District upon approval by the Development Review Committee. ~~Decorative fences shall be designed to contribute to the beauty and principal use of the property and not as a retaining structure.~~
 - ~~(a) Decorative fences shall not exceed four feet in height.~~
 - ~~(b) Decorative fences shall be made of aluminum, steel, wrought iron, masonry, wood, or combinations thereof.~~
 - ~~(c) Decorative fences shall be limited to black, white, and metallic colors.~~
2. Fences in commercial zoned areas of the city shall be either of open or solid type construction.
3. **Height restrictions.**
 - (a) Fences for commercial uses may be up to eight feet above the natural contour of the ground. Fences may be installed on the property line, except that no fence adjacent to the right-of-way may exceed 6 feet in height and no fence may be installed in the vision clearance triangle.
 - (b) Fences for industrial uses shall be no less than six feet or more than eight feet above the natural contour of the ground and may be installed on the property line except in the vision clearance triangle.
4. **Use of barbed wire.**
 - (a) Fencing of the chain-link type for commercial and industrial ~~properties or~~ uses may be topped with barbed wire on slanted arms. When these slanted arms are used, they shall be slanted outward and upward at an angle of not less than 45 degrees. No barbed wire will be permitted on nonconforming business properties in residential zoning districts.
 - (b) When the commercial or industrial property or use abuts a residential ~~property or~~ use, a chain-link fence with the barbed wire topping may be installed along the abutting residential property line provided the lowest point of the barbed wire is at least six feet above the ground.
 - (c) Chain-link fencing with barbed wire topping shall not be installed any closer than five feet to any street, sidewalk, or pedestrian way.

E. **Agricultural Fence.** The term "agricultural fence" shall apply only to areas conforming to the requirements of the R1-25 District and those activities permitted as a farm use, or as a condition to a special use permit for those uses listed as a special use connected with farming or activities in the R1-25 single-family residential district, Development Regulations of the City of Leavenworth, Kansas.

1. **Permitted types.** Agricultural fences shall be of the open type construction only.

2. *Height restriction.* Agricultural fences shall not exceed four feet in height above the natural contour of the ground.
3. *Use of barbed wire by special permit; prohibited when abutting residential property uses.* The use of barbed wire in the construction, reconstruction or maintenance of agricultural fences shall be by a special permit issued by the city inspector. The permit shall not be given or renewed if the fence forms a boundary with a residential development.
4. *Hedges and evergreens along public ways—Height restricted.* The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall not permit any such hedge or evergreen fence to grow to exceed four feet in height.

F. **General restrictions – all fences.**

1. *Sight Distance.* No fence shall be constructed nor shall a hedge or evergreen fence be planted or allowed to grow in such a manner as to obstruct the vision triangle at intersections.
2. *Exposure of solid fences.* When tight-board fences are constructed, the smooth finished surface shall face the exterior of the property.

G. **Notice to trim.** The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall on 30 days' notice in writing given by the city inspector be required to trim such hedge or evergreen fence to conform to the requirements of the City's property maintenance notice.

H. **Fence maintenance notice.** Any property owner who fails to maintain any fence or screening structure in a clean, sanitary and inoffensive condition and free and clear of all obnoxious substances, rubbish and weeds shall, after 30 days' written notice from the Director or his agent, be deemed guilty of a misdemeanor and subject to the penalty provisions of these Development Regulations and any other applicable City Ordinance.

6.09 Tree Preservation

The purpose of this subsection is to protect the existing tree canopy as well as protect future tree canopies of the city when development or redevelopment occurs. The standards in this subsection are intended to regulate the removal of trees on lots within the city. It is not the intent of this subsection to unduly restrict desirable development and redevelopment that would otherwise be possible without these standards. The standards in this subsection shall be applied during review of any development or building permit application.

- A. **Preservation of Significant Trees.** Significant trees shall be preserved to the maximum extent feasible. For the purposes of this standard, the caliper of a "significant" tree shall be at least 24 inches for a deciduous tree and 18 inches for an evergreen.
- B. **Significant Tree Replacement.** Where significant trees cannot feasibly be preserved, the total caliper inches of the tree(s) that are removed shall be replaced on-site by the same caliper inches of new trees. For example, if a 24-inch caliper sugar maple is removed from the site; new trees with total caliper inches of 24 must be replanted. The new trees shall either be of the same or

-
- (3) Designing the multi-family building so that the massing, arrangement of architectural elements, and use of exterior materials gives the appearance of a large single-family home.
- i. Rooflines longer than 50 feet shall include at least one vertical elevation change of at least two feet.
 - j. The incorporation of a variety of roof forms is strongly encouraged. Upper-level residential floors may be incorporated into the roof form to reduce the apparent height and mass of buildings.
- D. **Orientation and Articulation.** The following orientation and articulation standards require that buildings relate to neighborhood streetscapes and share a pedestrian-oriented details that help reduce the scale of buildings and create a range of compatible but distinct designs and patterns, even when different building mass or forms exist, and particularly when different architectural styles are blended.
1. **Entrances.** To the maximum extent feasible, the primary entrance and façade of individual buildings shall not be oriented towards parking, but shall be oriented towards:
 - a. An abutting public street, or
 - b. Common open space, such as interior courtyards, parks, or on-site natural areas or features with a clearly defined and easily accessible pedestrian circulation system.
 - c. All ground-floor units with frontage along the primary street shall have an entrance that faces the street. Multi-family buildings located with multiple street frontages shall provide entrances to units along each street frontage.
 - d. Exterior entrances from a public sidewalk or common open space are permitted for dwelling units on the ground floor. These entrances shall be raised from the finished ground-floor level of the sidewalk a minimum of ~~two feet 18 inches~~ 3 feet 6 inches.
 - e. Dwelling units above the ground floor shall have interior unit entrances, except that exterior stairs are permitted for access to upper-floor units only if they are oriented towards a central plaza not visible from any street.
 2. **Transparency.** At least 25% of all wall surface area facing a public street shall be windows.
 3. **Vertical Articulation.** Buildings three stories or more shall use the following design details to reduce the scale of the façade:
 - a. The top floor of any building shall contain a distinctive finish, consisting of a cornice, banding, or other architectural termination.
 - b. An expression line shall delineate divisions between floors of all buildings, and a cornice shall delineate the tops of facades for buildings that do not utilize a pitched roof.
 - c. Buildings shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.
- E. **Materials.** The following materials are acceptable for construction:
1. Brick, concrete stucco, stone, stone facing, textured masonry block, wood, glass in combination with metal, or similar, durable architectural materials.
 2. This list may be amended by the addition of other acceptable materials without amending these regulations.
 3. All added acceptable materials shall be approved by the DRC. The Chief Building Official shall maintain the list of additional acceptable materials.
 4. EIFS, or synthetic stucco may be approved on a case-by-case basis.

- F. **Garages, Parking and Access.** The following garage, parking and access standards balance the design of sites and buildings for cars, with impacts on neighborhood streetscapes and pedestrian scale residential design.
1. Front-loaded garage doors shall not comprise more than 45% of the building line on the front façade.
 2. Alternative garage locations such as side- or rear-entry, detached garages, or garages setback at least 12-feet from the front building line are encouraged.
 - a. Any detached garage shall be architecturally compatible, and consistent in materials, design and colors as the main building.
 - b. Any side loaded garage shall have designs on the street-facing wall that are compatible with the house design materials identical to the primary façade, and by incorporating at least two of the following elements:
 - (1) Two or more windows, with a size, orientation and design similar to those on the primary façade;
 - (2) A permanent trellis covering a minimum of 25% of the wall area. One vine for every eight linear feet of trellis shall be planted at its base. Appropriate vine species are approved by the Director; or
 - (3) Garage or living area façade offset from the other a minimum of 4 feet.
 3. Driveway widths within the front yard shall be limited to no more than 30% of the lot frontage width, as measured at the front building line or 30 feet from the front property line, whichever is less. Where this limits access to a lot, alternatives such as single-drives to expanded driveway pads, shared driveways and lanes, or alley-loaded access should be considered.
 4. To the maximum extent feasible, garage entries, carports, parking areas and parking structures shall be internalized in building groupings or internalized into a residential block and oriented away from the streetscape.
 5. Overall, parking areas and freestanding parking structures (detached garages or car ports) shall not occupy more than 30 percent of the perimeter public street frontage for multi-family development.
- G. **Variation of Design.** In order to avoid the monotony of repetitive building design, to encourage diversity and visual interest, and to promote a wide range of distinct details within a narrow range of compatible building types, scale and forms, the following techniques should be used in residential projects affecting multiple adjacent buildings:
1. Variation of building types, models or floor plans that result in distinct but compatible building forms when viewed from the streetscape.
 2. Variation of front entry features, and to design of roof structures associated with front-entry features;
 3. Distinct architectural styles that impact the materials, placement of windows, or level of details and ornamentation while still presenting a compatible design and relationship to the neighborhood streetscape.

7.03 Non-Residential Design

- A. **Design Objective.** The non-residential design standards are intended to protect and preserve the quality and character of the built environment in the city's mixed use, commercial, and industrial districts. More specifically, the purposes of this section are to:
1. Reflect on the impact of various design and development decisions, and how the various styles of within our community can be applied to include a greater degree of interest and diversity, but also a greater degree of compatibility and effective transitions.
 2. Promote a specific an intentional relationship of buildings and sites to streetscapes and public or civic spaces through design.

ARTICLE 8. SIGNS

8.01. Purpose and Intent

- A. The purpose of this Sign Code is to create the framework for a comprehensive and balanced system of content- and viewpoint-neutral regulation of signs to facilitate easy and pleasant communication between people while protecting the First Amendment rights of resident individuals and businesses of the city and preserving and improving the quality of the city's environment by avoiding visual clutter harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance.
- B. This chapter is intended to:
1. Promote public safety, order and cleanliness;
 2. Prevent needless visual cluttering within the city;
 3. Promote aesthetics and the quality of community life;
 4. Reduce distraction of motor vehicle operation by signage;
 5. Provide a means to display signs compatible with their surroundings, and legible to the driving public; and
 6. Impose the least regulation and restriction on the expression of opinions and the conveying of information while accomplishing the above purposes.

8.02. Scope

- A. No sign in the City of Leavenworth shall be permitted in any district except in accordance with the provisions of this sign code.
- B. This sign code does not apply to signs erected in the public right-of-way, which are regulated by other processes and does not apply to signs erected wholly within a building and not visible outside of the building.
- C. All sign permits requested under this Article, if they lie within a historic district, are subject to prior review and approval procedures found in Article 9, Historic Preservation Regulations.

8.03. Computations

The following principles shall control the computation of sign surface, sign face and sign height:

- A. **Computation of Sign Face of Individual Signs:** The entire area within a single continuous ~~perimeter-rectangle~~ enclosing all elements (individual letters and/or logo) of the sign which form an integral part of the display including the perimeter border.
- B. **Computation of Area of Multi-Face Signs:** ~~The sign surface for a sign with more than one sign face shall be computed by adding together the area of all sign faces on the sign. Only one side of a multi-faced sign shall be considered when determining the sign area, provided that the faces are equal in size and the interior angle formed by the faces is less than 45 degrees. When these conditions are not met, all faces of the sign shall be considered in calculating the sign area.~~

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.04 Permits

8. Contractor signs: One ~~free-standing~~freestanding, non-illuminated contractor's sign, not to exceed eight square feet of sign surface, shall be permitted for each contractor if the property is zoned Residential, or not to exceed 32 square feet if the property is zoned other than Residential. The sign shall not be installed before commencing work on the project or the issuance of a building permit for the project and the sign shall be removed upon completion of the project.
9. Public interest signs that do not exceed the size limitations.
10. Address signs.
11. Commercial Real Estate signs not exceeding 32 square feet in area per sign face with two faces permitted. Signs shall not exceed 8 feet in height. Signs are limited to one sign per street frontage, with a maximum of two signs for each project. Signs must be located at least 10 feet from the edge of the curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.
12. Residential Real Estate signs not exceeding 3 square feet in area. Signs are limited to 1 on-premises sign per street frontage, and two off-premises signs permitted only with permission of property owner. Signs must be located at least 10 feet from the edge of the curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.
13. Garage Sale signs may only be placed at the site of the sale. All garage sale signs shall be removed immediately upon completion of the sale. Garage sale signs include sample and yard sale signs. Garage sale signs shall not exceed four square feet per sign, with two faces per sign permitted. A garage sale permit shall be obtained as required by Section 12-541 of the City Code of Ordinances.
14. Signs carried by a person.
15. Costumed people promoting a business or event.
16. Flags, pennants, emblems, memorial tablets, cornerstone etches, monuments and insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device; provided that not more than three flags, pennants or insignia shall be displayed on any building, structure or premises, unless specifically herein provided. Any other provisions as applicable regarding display of the American flag as contained in Title 4, U.S. Code.
17. Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
18. Decorative landscape markers, which may include logos or trademarks.
19. Signs attached to a currently licensed, operational and legally parked or legally moving vehicle.

the sign is one for which no sign permit is required, the message substitution may be made without additional approval. The purpose of this provision is to prevent inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision does not allow for the substitution of an off-premise commercial message in place of an on-premises commercial message.

- F. **Materials.** All attached signs and ~~free-standing~~freestanding signs shall be constructed of materials generally used for permanent signage. A vinyl, fabric, or other similar material banner may not be utilized for a permanent attached or ~~free-standing~~freestanding sign.

8.07. Signs Permitted in All Districts

The following signs shall be permitted in all zoning districts; permits shall be required unless excluded from the permit requirements.

- A. Official governmental jurisdiction flags, including flags indicating weather conditions, and flags that are emblems of religious, charitable, public, and nonprofit organizations. No flag shall exceed 50 square feet in area. Title 4 of the United States Code provides instructions on how to display the Flag of the United States.
- B. One freestanding directional sign shall be permitted at each entrance to a building site and at each entrance to a drive-thru facility when zoned ~~business-commercial, office~~ or industrial. ~~Such signs shall not be located on the right-of-way and shall not block vision to traffic~~ Such signs shall not exceed four feet in height, shall not exceed four square feet of area per sign face, and may be single or double-faced. One directional wall sign shall be permitted for each exterior wall of a business. Such signs shall not exceed 6 square feet in area. Such signs may indicate entrances, exits, addresses, direction of traffic flow, and the location of loading docks, parking areas, delivery doors, drive-thru lanes, and similar facilities. Up to 25% of the area of the sign may be used to display the name or logo of the developer, building or principal tenant. ~~Such signs shall not be located on the right-of-way and shall not block vision to traffic.~~ These signs are not computed as part of allowable ~~free standing~~-signage and will not be subject to spacing restrictions. Directional signs shall not be electronic changeable message signs.
- C. Contractors' remodeling signs identifying the contractor(s) who perform remodeling or property improvement work are permitted. Not more than one sign, not to exceed eight square feet, shall be permitted for each contractor if the property is zoned residential, or not to exceed 32 square feet if the property is zoned other than residential. Said signs shall not be installed before commencing work on the project or the issuance of a building permit for the project and the sign shall be removed within 80 days of completion of the project. Contractor's remodeling signs may be a non-affixed sign, but shall not be an illuminated sign or an electronic changeable message sign.
- D. Address signs that do not exceed two square feet in areas zoned residential and three square feet in areas not zoned residential and may include the name of a legal home occupation. Address signs shall not be an illuminated signs or electronic changeable message sign.

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.07 Signs Permitted in All Districts

8.08. Signs Permitted in Residential Districts (R1-25, R1-9, R1-6, R1-7.5, R4-16, R-MF)

Table 8-01: Residential Signage Standards			
	Maximum Number	Height	Area
Home Based Business Signs	1	N/A	6 s.f.
Temporary Signs	3	N/A	3 s.f.
Real Estate Signs	1	6'	6 s.f.
For Sale Signs (undeveloped land over 5 acres)	2	10'	40 s.f.
Open House Signs	1	6'	6 s.f.
Neighborhood/Development Identification Signs	1 per entrance	8'	50 s.f.
Public & Semi-Public Buildings	See Table 8-02		

The following types of signs are permitted in residential districts, in accordance with the requirements set forth or referred to herein:

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.
- B. A 6 square foot home based business sign.
- C. Temporary signs, not specifically otherwise identified by sign type, conforming to the restrictions set forth herein are allowed as follows;
 - 1. Three temporary signs are permitted on any lot.
 - 2. These temporary signs may be double faced, and have a sign face no larger than 3 square feet
- D. In lieu of the temporary signs permitted herein a real estate sign not exceeding six square feet per sign face, with two faces per sign are permitted. The maximum height of the sign shall not exceed six feet. A maximum of one sign per street frontage shall be permitted.
- E. Undeveloped land over five acres in size shall be allowed two "For Sale" signs not to exceed 40 square feet in area per sign face, with two sign faces permitted. No sign shall exceed 10 feet in height.
- F. In lieu of the temporary signs permitted a sign designating an open house may be erected at the site of an open house. No open house sign shall exceed six square feet per sign face with two faces per sign permitted. One sign face shall be allowed in lieu of each one of the temporary signs permitted by subsection (B) above. The maximum height of the sign shall not exceed six

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.08 Residential Districts

feet. Open house signs shall be removed immediately upon completion of the open house. Such signs shall comply with the real estate sign restrictions except as specifically restricted herein.

- G. Permanent property identification signs may be permitted at each entrance to a neighborhood, subdivision, or residential development in accordance with subdivision plat approval.
- H. **Public and Semi-Public Buildings.** Churches, schools, libraries, community centers, hospitals, or other public/semi-public facilities located in a residentially zoned district shall be allowed signage as regulated and permitted in Section 8.10, Signs Permitted in the Neighborhood Business District (NBD).

8.09. Signs Permitted in the MP (Mobile Home Park)

The following signs shall be permitted in the MP Zoning District as set forth herein:

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.
- B. For rental and/or management offices, one identification sign not exceeding 12 square feet in sign surface, attached flat against the wall is allowed.
- C. Other signs as reviewed and approved as part of a rezoning request may be allowed.

8.10. Signs Permitted in the Neighborhood Business Districts (NBD) and Residential Mixed Use District (RMX)

Table 8-02: NBD Signage Standards			
	Maximum Number	Maximum Size	Maximum Height
Attached Signs	1 per side	96 s.f. or 10% of wall surface [1]	N/A
Free Standing Freestanding Signs	1	32 s.f.	15
Sandwich Board (A-frame) Signs	1	6 s.f.	N/A
Window Signs	N/A	32 s.f. or 33% of window area	N/A

[1] Projecting signs are allowed as regulated by Section 8.10.B.2

The following signs shall be permitted in the Neighborhood Business District and Residential Mixed Use District:

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.
- B. Signs attached to a building shall be allowed as follows:
 - 1. One wall sign shall be allowed for each side of the structure. A structure with multiple businesses may have one sign for each separate business. Each separate business shall have clearly defined exterior wall space and the size of that wall

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.10 Neighborhood Business District

space shall be the determining factor on sign size allowance. The sign Surface shall not exceed 96 square feet or 10% of the wall surface, whichever is less. This wall sign may be an electronic changeable message sign, provided it complies with the applicable standards for same.

2. A projecting sign that does not project from a building greater than a distance of six feet, does not encroach in the public right-of-way, and maintains eight feet of clearance from grade is permitted. In computing the square foot allowance for a projecting sign, the total area of the sign surface shall be included in the total area allowed for all wall signs, but shall not be larger than 24 square feet. Projecting signs do not reduce the number of wall signs as regulated by the zoning district, however, only one projecting sign shall be allowed per business.

C. One ~~free-standing~~freestanding sign shall be allowed per parcel, regulated as follows:

1. ~~Free-standing~~Freestanding signs shall not exceed 15 feet in height.
2. No part of a ~~free-standing~~freestanding sign face, frame, or base shall be closer than five feet to the public right-of-way or side or rear property line and shall not obstruct traffic vision.
3. ~~Free-standing~~Freestanding signs may have two faces and shall not exceed 32 square feet per face, or one square foot of sign per lineal foot of lot frontage, whichever is less.
4. No ~~free-standing~~freestanding sign face, frame or base shall be closer than 50 feet to another ~~free-standing~~freestanding sign.
5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on the street frontage that is used for computation. (No accumulation is allowed for unused street frontages.)
6. The allowed ~~free-standing~~freestanding signs may be electronic changeable message signs, provided they comply with all other standards in this article addressing lighting, safety, and electronic changeable messages.

D. One sandwich board (A-frame) sign that meets the following requirements per street frontage is allowed as follows:

1. A permit shall be required for sandwich board signs. Permits are good for the life of the sign.
2. Sandwich boards signs shall be on-premises signs.
3. The sign may be located on the public sidewalk or the planting strip adjacent to the edge of the street on which it fronts. Signs shall not be placed in any raised streetscape or publicly owned planters.
4. The sign may not exceed six square feet in area per side and may have no more than two sides for the display of messages.
5. The spread of the "A" at the open end shall be sufficient to insure stability and no wider.
6. Signs shall be adequately weighted to resist wind gusts.

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.11 Commercial & Industrial

				150 s.f. or 33% of window area	150 s.f. or 33% of window area	150 s.f. or 33% of window area			
Window Signs	N/A	N/A	N/A				N/A	N/A	N/A

[1] Maximum 10% of wall surface to which signs are attached

[2] Projecting signs are allowed as regulated by section 8.11.C.5

[3] When located across street from commercial or industrial use, height may be increased per section 8.11.D.1

[4] Size may not exceed 1 s.f. per lineal foot of frontage in OBD or CBD, and 2 s.f. per lineal foot of frontage in GBD, I-1 & I-2

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.
- B. Signs as regulated and permitted in the NBD.
- C. Signs attached to a building shall be allowed as follows:
 - 1. One sign shall be allowed for each side of a structure or part of a structure clearly defined as an individual storefront. An individual storefront shall have an exterior wall clearly related to the interior space of that storefront and may or may not have windows or an entrance door to the inside of the building.
 - 2. The sign surface area shall not exceed ninety-six (96) square feet in Office Business District (OBD), 150 square feet in Central Business District (CBD) and 500 square feet in General Business District (GBD) and Light and Heavy Industrial Districts (I-1 & I-2) or 10% of the wall surface to which the sign(s) are attached, whichever is less.
 - 3. The permitted signs may be wall signs, projecting signs, mansard signs, roof signs, or marquee signs. A roof sign shall not exceed the highest point of the roof of the structure. A marquee sign may be an electronic changeable message sign.
 - 4. The signage permitted herein may be an electronic changeable message sign, provided it complies with all applicable standards.
 - 5. Projecting signs shall not project from the wall greater than a distance of six feet or encroach in a public right-of-way in OBD, GBD, I-1 or I-2 and shall maintain eight feet of clearance from grade. Projecting signs in the CBD may encroach in the right-of-way, but shall be constructed of approved nonflammable, safety material, shall maintain eight feet of clearance to grade, and shall not be closer than five feet to a curb line.
 - 6. ~~In computing the square foot allowance for a projecting sign, the total area of the sign shall be included in the total sign surface area allowed, but shall~~ Projecting signs shall not exceed 24 square feet, unless an exception is granted by the City Commission a variance is approved by the Board of Zoning Appeals, provided that no projecting sign shall exceed 48 square feet under any conditions. Projecting signs shall not reduce the number of signs allowed per wall as otherwise allowed by this code.

7. For any business or tenant that does not adjoin an exterior wall of the building in which they are located, or does not adjoin an exterior wall that directly fronts a public street, one wall sign shall be allowed on another exterior wall of the same building.

- D. One ~~free-standing~~freestanding sign shall be permitted per parcel and regulated as follows:
1. ~~Free-standing~~Freestanding signs shall not exceed 15 feet in height. Where a sign is located across the street from a property zoned for commercial or industrial uses, the height of the sign may be increased to a height of 25 feet, provided that the nearest edge of the sign is setback from the property line 2 feet for each additional 1 foot in height.
 2. No part of a ~~free-standing~~freestanding sign face or sign structure shall be closer than five feet to any property line and shall not obstruct traffic vision.
 3. ~~Free-standing~~Freestanding signs may have two faces and shall not exceed 50 square feet per face or one square foot of sign per lineal foot of lot frontage, whichever is less, in OBD or CBD, and 100 square feet per face or two square feet of sign per lineal foot of lot frontage, whichever is less, in GBD, I-1 or I-2.
 4. No ~~free-standing~~freestanding sign face, frame or base shall be closer than 50 feet to another ~~free-standing~~freestanding sign.
 5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on that street frontage which is used for computation (No accumulation is allowed for unused street frontage.)
 6. The ~~free-standing~~freestanding signs may be electronic changeable message signs, provided they comply with all applicable standards.
- E. Window signs, as otherwise restricted and permitted herein shall be allowed provided that:
1. The total window sign area in a tenant space shall not exceed 33% of the window area, for each front, side or rear wall, provided that, the total sign surface shall not exceed 150 square feet per side of the building. For the purposes of this subsection, the term "window area" includes the non-opaque parts of any doors or other fenestrations.
 2. The allowable window sign area as defined herein may be illuminated and may be an electronic changeable message sign.

8.12. Temporary Signs

- A. The following restrictions, in addition to any other restriction set forth in this sign code, shall apply to any permitted temporary sign.
1. All temporary signs shall obtain a permit before placement except as otherwise specifically stated in this sign code.
 2. Application for a permit after placement shall cause the permit fee to triple.

DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS

8.15 Nonconforming, Hazardous, Dangerous, Illegal, and Prohibited Signs

3. *Emergency Abatement by City:* When, in the opinion of the City Engineer, there is actual or immediate danger to the public caused by a hazardous or dangerous sign, the City shall cause the same to be abated with no written notice or hearing. Costs for such emergency abatement shall be assessed to the property owner.
- C. *Vacated and Abandoned Signs:* Within 6 months following discontinuance of the business or usage to which the sign relates, the sign face and structure shall be removed in entirety.
- D. *Reuse:* Reuse of a vacated, nonconforming sign, or any of its appurtenances shall require altering the sign to comply with this sign code. A new business use intending to reuse a conforming sign base or pole properly capped and vacated shall obtain a sign permit in accordance with this sign code.
- E. *Signs for Nonconforming Uses:* Nonconforming uses which are otherwise permitted by these regulations may obtain permits for signage in conformance with the least intensive zoning district in which the use is permitted by right.

8.16. AppealsVariances

~~Any person who has been denied a permit under the provisions of this sign code or disagrees with a decision of the City Administrator with respect to an interpretation of any provision of the sign code has the right to appeal that decision to the City Commission. All appeals must be filed within 10 days from the decision of the Director. The City Commission shall render a finding regarding an appeal based upon the intent of the sign code.~~

A request for a variance to any provision of this Article must be made through application to the Board of Zoning Appeals, as further defined in Article 11.

- 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 for Rehabilitation 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, 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 as set and amended by the Secretary of Interior's Standards for Rehabilitation. 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.~~

9.089. 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.

9.910. 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.

9.104. 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.

9.112. 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

ARTICLE 10. SUPPLEMENTAL STANDARDS

10.01 Solar Energy

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

- A. **Solar Array Defined:** A "solar array" shall mean a freestanding, ground-mounted solar collection device system consisting of a linked series of photovoltaic modules, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. Solar Arrays may be considered either a primary or accessory use.
- B. **Solar Array Standards:** All solar arrays shall comply with the following requirements:
1. **Setbacks, Location, and Height:**
 - a. Solar array shall not be located in the front yard between the principal structure and the public right-of-way.
 - b. A solar array shall be located a minimum of six feet from all property lines and other structures.
 - c. An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and nonresidential districts shall not exceed one-half of the footprint of the principal structure. Any proposed solar array in excess of the stated size limits shall require approval of a Special Use Permit.
 - d. There shall be no size limits on solar arrays as a primary use on a site. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
 - e. A solar array shall not exceed 20 feet in height and shall not create any solar reflectivity that measurably impacts surrounding properties.
 2. **Code Compliance:** Solar arrays shall comply with all applicable building and electrical codes contained in the adopted building code. The solar collection system shall be maintained and in productive use or removed within 90 days of notice from the city that the system is not in compliance with city regulations.

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

Driveway, Customary: A private lane which leads from a street or an alley to a garage, carport, rear yard parking area, a parking space established in accordance with the provisions of this ordinance, or to another street or alley. Such driveway may extend in front of, alongside of, or in the rear of a principal structure either planned for or erected upon a building site.

Duly Authorized Representative: Any individual or person or any section, division or department of the city administration or any individual or person within the designated section, division or department of the city administration who has been designated by the Director to implement, administer, and enforce the provisions of these Development Regulations. Generally, references are to the City Planner and his/her designee, assignee, agent, or designated person as used in the text of the ordinance.

Dwell Time: The length of time during which each frame is displayed on any sign that is capable of sequentially displaying more than one message on its sign face.

Dwelling in Mixed-Use Structure: A dwelling unit within a larger structure, which is used in whole or in part as a commercial establishment. The dwelling unit(s) need not be the principal residence of the business operator.

Dwelling, Attached: A dwelling where at least one wall is shared, in common, with another dwelling.

Dwelling, Detached: A dwelling which is separated from any other principal structure

Dwelling, Earth Sheltered: A single family dwelling unit which incorporates the use of earthen materials to insulate not more than three sides of the structure, but which incorporates a conventional mansard, hip, gable, or gambrel roof, all built to the specifications of the local building code. For the purposes of administering this ordinance, an earth sheltered dwelling is NOT a basement dwelling.

Dwelling, Elderly or Retirement Home: A dwelling unit or high-rise apartment building specifically designed to be occupied by residents who are at least sixty-two (62) years of age, and who are ambulatory and able to take care of themselves.

Dwelling, IBC/IRC Modular Home: Sectional prefabricated buildings or houses that meet local building codes and consist of multiple modules or sections, which are manufactured in a remote facility and then delivered to their intended site of use. The modules are assembled into a single residential building using either a crane or trucks.

Dwelling, Live/Work: A dwelling unit, part of which may be used as a business establishment and the dwelling unit is the principal residence of the business operator.

Dwelling, Manufactured Home: Those structures, which are built to standards pursuant to the Federal Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5401, et seq. Usually these are a dwelling unit that is mass produced in a factory, is designed for long term residency and is constructed for transportation to a site for installation and use on a permanent foundation when connected to required utilities, and is either an independent, individual building or a module for combination with other elements to form a building. The term "manufactured home" does not include a "recreational vehicle."

Dwelling, Mobile Home: A movable dwelling over thirty-two (32) feet in length or over eight (8) feet wide, constructed to be towed on its own chassis and designed to be installed with or without a

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

permanent foundation for human occupancy as a residence when connected to utilities. The term shall not include travel trailers, campers or self-contained motor homes or camper buses.

Dwelling, Multi-Family: A building or portion thereof, designed for occupancy by three (3) or more families.

Dwelling, Single Family: A building designed for occupancy by one (1) family.

Dwelling, Single-Family Detached: A building designed for occupancy by one (1) family, which has required yards and setbacks from other residential structures.

Dwelling, Townhouse: A building designed for occupancy by one (1) family in a style of medium-density housing that originated in Europe in the late 17th century, where a row of identical or mirror-image houses share side walls.

Dwelling, Two-Family: A building designed for occupancy by two (2) families

Dwelling: A dwelling is any building or portion thereof not including mobile homes, which is designed or used exclusively for residential purposes including an attached garage, provided the attached garage is subordinate in area to the living portion of the structure. An attached garage shall have a common wall with a main structure for a distance of at least 25% of the length of the longest dimension of the garage. An attached garage not meeting this test may qualify as a detached garage, which need not comply with the five (5) foot setback requirement between buildings but shall meet all setback requirements of the principal structure.

Easement: A right of the owner of one (1) parcel of land by reason of such ownership, or a right of the public, to use the land of another for a special purpose as designated.

Educational and Scientific Research, Development, and Testing Services:

Element: An individual defining feature of a building, structure, site, or district.

Elevated Building: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Community or Participating Community: A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Environmental Officer: The Director of Planning & Community Development.

Environs: The area immediately surrounding a property listed upon the National Register of Historic Places (hereafter, "registered"). The Historic Preservation regulations shall apply to all structures which are within 300 feet of a registered property and to all structures intervisible with the registered property up to, but not farther than, 500 feet. Intervisibility is further defined as "the condition of being able to see one point from another without physical, permanent obstruction." Intervisibility shall be determined by standing at the main entrance of the registered property and looking in all directions for a distance of up to 500 feet. All references to "within 500 feet of a landmark or historic district" as used throughout this code shall use the intervisibility standard for determining changes to the environs of a registered property.

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

Secretary: Secretary of the Planning Commission.

Semi-Permanent Structures: Structures that have a general lifespan less than that of the primary structure. Examples include both above and below grounds swimming pools, storage sheds, play structures, and gazebos.

Senior Housing: Housing for people over 55 and their immediate family members, which may include some limited on-site care.

Service Station, Automobile: A retail business engaged primarily in the sale of motor fuels; but also in supplying goods and services generally required in the operation and maintenance of automobiles.

Setback Line or Building Line: A line fixed parallel to the lot line beyond which a building cannot extend under the terms of the Development Regulations. It is equivalent to the yard requirement.

Set-Back: The required distance between each structure located on a building lot and the property lines of the lot. **Setting:** The immediate physical environment of a building, structure, site, or district.

Sexually Oriented Business: A business establishment open to the public, or to members, that offers for sale any or all of the following: nude or semi-nude entertainment, sexually oriented outcall services, sexually oriented retail sales of products, seminude dancing, and seminude dancing agencies. These include any facility or establishment which offers for sale, loan or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually oriented paraphernalia or aid, if a substantial portion (over 25%) of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities. This may also involve employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or to persons involved in such display.

Shape: Surfaces and edges of a building and individual elements.

Shelter Home: Shelter Home means an enclosed building, or portion thereof, operated by a nonprofit entity for the purpose of providing shelter, bathing and restroom facilities, a secure place for belongings, and sleeping accommodations for people at no charge. A homeless shelter shelter home may should include related support such as meals, medical services, social services, counseling, and training. A dwelling unit in which 15 or fewer adults and children are temporarily housed for receiving services to assist with the problem of domestic violence.

Shelter, Domestic Violence: A place of temporary refuge and support for people escaping violent or abusive situations.

Shrub: Any self-supporting, woody plant of a species, which normally grows to an overall height of less than fifteen (15) feet in this region.

Sidewalk: A paved walk for pedestrians along and at the side of a street.

Sign Alteration: The replacement, enlargement, reduction, reshaping, changing, or adding to a sign, sign structure or other supporting members.

Sign Face: The entire area within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

Table A1-1, TABLE OF PERMITTED USES P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential						Overlay			
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
RESIDENTIAL USES																		
Household Living																		
Dwelling, Single-Family Detached	P	P	P	P		P	S	P	P		S						P	S
Dwelling, Two-Family	S	S	S	S	P	P		P	P								P	S
Dwelling, Townhouse				S	P	P		P	P								P	P
Dwelling, Multi-Family					P	P		P									P	P
Dwelling in Mixed-Use Structure Note [1]								P	P	P	P	P					P	P
Dwelling, Live/Work								P	P	P	P	P					P	P
Dwelling, Manufactured	P	<u>P</u> <u>S</u>	<u>P</u> <u>S</u>	<u>P</u> <u>S</u>				P										
Dwelling, Mobile Home							P											
Group Living																		
Assisted Living Facility	S	S	S	S	S	S		S			P	P					S	S
Convent/Monastery	P	P	P	P	P	P	P	P										
Dormitory	S	S	S	S	S	S		S										
Fraternity/Sorority Home	S	S	S	S	S													
Group Home: Disabled (K.S.A. 12-736)	P	P	P	P	P	P	P	P									S	S
Nursing Home/Hospice	S	S	S	S	P	S						P					S	S
Senior Housing	S	S	S	S	P	P		S			P	P					S	S
Shelter, Domestic Violence	P	P	P	P	P	P	P	P	P	P	P	P					P	P
<u>Shelter Home</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>				<u>S</u>	<u>P</u>	
Student Housing	S	S	S	S	P	P		P			P	P						
PUBLIC AND INSTITUTIONAL USES																		
Community Services																		
Adult Day Center	S	S	S	S						P	P	P	P				S	P

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

Table A1-1, TABLE OF PERMITTED USES P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential							Overlay		
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Campground	S																	
Community playfields, playgrounds, and parks	P	P	P	P				P	P	P	P	P				P	P	P
Golf course, public	S	S	S	S											S			S
Golf course, private	S	S	S	S											S			S
Zoo												P						
Transportation																		
Airport												S	S	S				S
Bus Garage and Equipment Maintenance												P	P	P				
Bus Terminal									S	S	P	P	P	P	P			
Heliport											S	S	S	S				
Railroad Terminal												P						
Taxi Dispatch									S	S	P	P						
Truck Terminal, Freight, Air Courier Services													P	P				
Utility																		
Private Wind Energy Systems	P S	P S	P S	P S	P S	P S	P S	P S	P S	P S		P S	P S	P S		P S	P S	P S
Private Solar Collection Systems	P	P	P	P	P	P	P	SP	P	P	P	P	P	P		P	P	P
Commercial Wind Energy Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Commercial Solar Collection Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Tower – Alternative Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Facility on Existing Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water Storage	P	S	S	S	S	S	S	S	S	S	P	P			S	S	S	
COMMERCIAL USES																		
Animal Sales and Service																		
Kennel												P	P	P				