

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

**REGULAR SESSION  
Monday, January 5, 2026  
6:00 p.m.**

**CALL TO ORDER:**

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: December 1, 2025**

**OLD BUSINESS:**

- 1. ELECTION OF OFFICERS**
- 2. 2025-22 SUP – 1922 5<sup>TH</sup> AVENUE**

Conduct a public hearing for Case No. 2025-22 SUP 1922 5<sup>th</sup> Ave., wherein the applicant is requesting a Special Use Permit to allow the operation of an in-home Child Care Center in the R1-6 (High Density Single Family Residential District) zoning district.

**NEW BUSINESS:**

**None**

**OTHER BUSINESS:**

**None**

**ADJOURN**



**CITY OF LEAVENWORTH PLANNING COMMISSION**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, December 1, 2025**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Brian Stephens  
Ken Bateman  
Bill Waugh  
Don Homan  
Sam Maxwell

**Commissioners Absent**

Dennis Hund  
Sherry Hanson

**City Staff Present**

Kim Portillo  
Michelle Baragary

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

**APPROVAL OF MINUTES – October 6, 2025**

Chairman Bill Waugh asked for questions, comments or a motion on the October 6, 2025 minutes presented for approval. Commissioner Maxwell moved to approve the minutes as presented, seconded by Commissioner Homan and approved by a vote of 5-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2025-22 SUP – 1922 5<sup>TH</sup> AVE.**

Staff recommends tabling this item until applicant submits all requested documentation is submitted for review.

With no further discussion, Chairman Waugh called for a motion. Based on the findings as stated and conditions as presented, Commissioner Maxwell moved to table this item, seconded by Commissioner Stephens, and by a vote of 5-0.

This consideration is moved to January 5, 2026.



## **2. 2025-19 REZ – 220 SENECA ST.**

Conduct a public hearing for Case No. 2025-19 REZ – 220 Seneca St., wherein the applicant is requesting to rezone property from Multiple Family Residential District(R-MF) to Central Business District (CBD). The original petition for rezoning 220 Seneca Street has been formally amended to include the adjacent properties located at 226 Seneca Street and 232 Seneca Street.

Chairman Waugh called for the staff report.

City Planner Michelle Baragary stated that The applicant is requesting a rezoning of their property located at 220, 226 and 232 Seneca Street from R-MF (Multi-Family Residential District) to CBD (Central Business District). The subject properties consists of 3 vacant parcels that lie directly adjacent to the Abernathy Lofts, and are owned by SDF Development, LLC.

The rezoning is being requested to allow for a parking lot use, to clean up spot zoning, and to allow for uses that are more appropriate for the location of the property.

The parcels directly to the north along Miami Street are zoned R1-6 (High Density Single Family Residential District) and consist of single-family homes. To the south is Planters II Apartments (HUD Housing) zoned CBD, and the adjacent property to the east is Abernathy Lofts zoned CBD. The northwest corner of the intersection, west of 3<sup>rd</sup> Street, is also zoned CBD with a single family residential house.

### **220 Seneca Street**

The subject property is currently an existing vacant lot that has been graded in preparation for a parking lot. The rezoning is being requested to allow for a standalone parking lot use to accommodate the Abernathy Lofts located at 200 Seneca St. Plans for the expanded parking lot were reviewed by City Staff, and it was discovered that a parking lot use is not permitted in the R-MF zoning district, as it is on it's own separate parcel. Standalone parking lots are permitted in the CBD zoning district.

The property is designated as multi-family on the Future Land Use Map, and is part of the Redevelopment Overlay District. Multi-family is permitted in the North Neighborhood Overlay District. The rezoning request for 220 Seneca St. will permit the site to be used as a parking lot.

### **226 & 232 Seneca Street**

The subject properties are existing vacant lots and will remain as such at this time. The rezoning is being requested to align 226 & 232 Seneca St. with the remaining parcels on the block and to expand the potential future uses of the parcels for commercial uses.

In March 2013, the three subject properties were rezoned from CBD to R-MF for a proposed development project of nine townhouses. Since the townhouse project was never developed, staff supports the rezoning of the subject properties back to their original zoning designation, which aligns with the Future Land Use Map and Redevelopment Overlay District.

## **COMMISSION FINDINGS**

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

- a) The character of the neighborhood;

*The character of the surrounding area is a mix of single family, multifamily and commercial. The subject property is located one block north of Shawnee St. near Downtown Leavenworth, lying to the northeast of the intersection of 3<sup>rd</sup> and Seneca Streets, and is part of the North Neighborhood District overlay. Downtown Leavenworth contains a wide variety of uses.*



- b) The zoning and use of properties nearby;

*The general zoning in the area is CBD, except to the north, which is R1-6 (High Density Single Family Residential District) and occupied by single family homes. Currently all surrounding CBD zones are single and multifamily uses with Planters II Apartments to the south, Abernathy Lofts to the east, and a single family dwelling to the west of 3<sup>rd</sup> Street. The CBD zoning will allow for a mix of use types.*

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

*Parking lots are not a permitted use in the R-MF zoning district. Reverting the subject properties back to CDB allows construction of commercial parking lots, and will expand potential future commercial uses of the parcels. Additionally, the subject properties are in the North Neighborhood Overlay District, in which multi-family dwellings are a permitted use, which aligns with the Comprehensive Plan. Staff believes the rezoning in March 2013 from commercial to multi-family was down zoning. Furthermore, townhouses are permitted by-right in the North Neighborhood Overlay District negating the need for the 2013 rezoning.*

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

*Staff's view is that the proposed rezoning should have little detrimental effect upon surrounding properties. Multi-family and Mixed-Use Structures are permitted by-right in the North Neighborhood Overlay District that can be used as a transitional zone from commercial to single family. Additionally, the Development Regulations states that a 25' setback shall be provided on any side of a CBD lot that abuts a residential district.*

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

*The subject properties had been vacant for many years prior to the rezoning from CBD to R-MF in March 2013, and continue to be vacant. The gravel parking lot at 220 Seneca St. was installed during or after 2022 without appropriate permits. The applicant is now working with staff to bring the parking lot into compliance with the Development Regulations.*

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

*The proposed rezoning will have a positive effect on public health, safety and welfare by bringing the property back to the appropriate zoning classification for its location near Downtown Leavenworth, while allowing flexibility for a mix of uses.*

- g) The recommendations of permanent or professional staff;

*Staff recommends approval of the rezoning request.*

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

*The area aligns with the Future Land Use map as multifamily is permitted in the North Neighborhood District overlay. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.*

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

*No other factors*



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 rezoning request based on the analysis and findings included herein.

**ACTION/OPTIONS:**

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

Chairman Waugh asked for questions about the staff report.

Commissioner Maxwell asked if the parking lot is planned for just 220.

Ms. Baragary pulled up the site plan and showed that it is planned for just 220 Seneca.

Commissioner Homan asked if that would be enough parking for the lofts.

Chairman Waugh opened the public hearing.

Jackson Foutch, applicant, stated that he is looking to do a hard surface parking lot and expects it will be enough parking for the tenants.

Commissioner Bateman asked what the plans are for the other two lots, as he would not necessarily want to see them also becoming parking lots, but he recognizes it is the property owners' right to do as they wish.

Mr. Foutch explained that there are currently no plans for those two parcels, but he did not want to leave them leftover as spot-zoned small parcels that would then be difficult to develop.

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

With no further discussion, Chairman Waugh called for a motion. Based on the findings as stated and conditions as presented, Commissioner Homan moved to recommend/deny approval of the rezoning to the City Commission, seconded by Commissioner Maxwell and passed by a vote of 5-0.

First consideration will go to the City Commission on January 13, 2026.

**3. 2025-23 SUB – 4000 NEW LAWRENCE RD.**

Conduct a public hearing for Case No. 2025-23 SUB – 4000 New Lawrence Rd., wherein the applicant is requesting to replat the property to adjust lot lines between two lots.

Chairman Waugh called for the staff report.

City Planner Michelle Baragary stated that the subject property is owned by Thomas & Jennie Duncan and Clifton & Rozenda Downing, plat prepared by Hahn Surveying. The applicants are requesting approval of a replat of Lot 9R and Lot 8 in the Moonlight Lake residential subdivision. The plat area is 26.06 acres in size and developed with a single family home on each lot, and is zoned R1-25, Low Density Single Family Residential District.



The applicants are requesting a replat of Moonlight Lake Replat Lots 9R and 8 in the Moonlight Lake subdivision for the purposes of transferring .27 acres from Lot 8 to Lot 9R to allow additional space south of the driveway located on Lot 9R.

The new configuration of both proposed lots are able to meet the Development Regulations for the R1-25 zoning district. The county surveyor has reviewed the proposed plat and has no issues. There are no new easements or dedications proposed. Existing easements and dedications will remain as shown on the plat documents.

The original Moonlight Lake subdivision final plat was reviewed and approved by the Planning Commission in 2020. In 2022, the Planning Commission reviewed and approved the Moonlight Lake Replat.

**STAFF RECOMMENDATION:**

Staff recommends approval of the replat request based on the analysis and findings included herein.

**ACTION/OPTIONS:**

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

Chairman Waugh asked for questions about the staff report.

With no questions, Chairman Waugh opened the public hearing.

Tom Duncan, the applicant, explained the history of the property. He stated that the area is difficult to maintain and the adjacent property owner has agreed to allow him to purchase and maintain it, as it is next to Mr. Duncans driveway.

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

With no further discussion, Chairman Waugh called for a motion. Based on the findings as stated and conditions as presented, Commissioner Maxwell moved to recommend approval of the replat, seconded by Commissioner Stephens, and by a vote of 5-0.

**OTHER BUSINESS:**

1. Sam Maxwell Resignation

Commissioner Maxwell announced his resignation from the Planning Commission, effective December 2, 2025. Commissioner Maxwell has been elected to the City Commission, effective December 9, 2025. The Planning Commission and staff wish him well in his new role.

Commissioner Homan moved to adjourn, seconded by Commissioner Maxwell and approved 5-0.

Meeting adjourned at 6:28 p.m.

Minutes taken by Planning Director Kim Portillo.

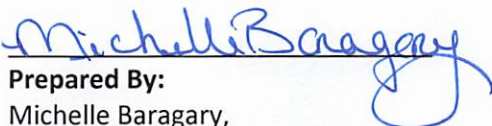


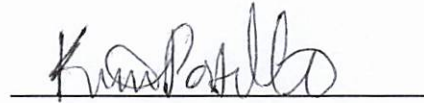
**PLANNING COMMISSION AGENDA ITEM**  
**2025-22 SUP**  
**1922 5<sup>TH</sup> AVENUE**

**JANUARY 5, 2026**

**SUBJECT:**

A request for a Special Use Permit to allow the operation of an in-home Child Care Center at 1922 5<sup>th</sup> Avenue.

  
**Prepared By:**  
Michelle Baragary,  
City Planner

  
**Reviewed By:**  
Kim Portillo, AICP  
Planning & CD Director

**NATURE OF REQUEST**

This item came before the Planning Commission on December 1, 2025, and was tabled for additional information.

The applicant, Savannah Nelson, is requesting a Special Use Permit to allow the operation of Child Care Center in their home located at 1922 5<sup>th</sup> Avenue. The property is currently zoned R1-6 (High Density Single Family Residential District). Child Care Centers are allowed in the R1-6 zoning district with issuance of a Special Use Permit.

The applicant previously received approval of a Special Use Permit in 2018 to operate a Child Care Center at the subject property, 1922 5<sup>th</sup> Ave. That structure was damaged by fire in 2020, and the applicant relocated to 220 Spruce St., and was issued a Special Use Permit to operate a Child Care Center at their new home on Spruce St. The applicant has since relocated back to the subject property (1922 5<sup>th</sup> Ave.) and intends to continue her Child Care operations.

The State of Kansas has issued the applicant a temporary permit to care for a maximum of 12 children, dependent upon the ages of the children in care. The temporary permit expires February 28, 2026. The Child Care Center will operate Monday-Friday from 6:00 a.m. to 11:00 p.m. and is housed on the main floor of the home. The space includes a front room, dining area, dedicated daycare play space, main bathroom, kitchen, and a fenced outdoor play area with approximately 4,500 SF of open space. There are designated off-street areas in the front and back of the property for safe drop-off and picking up of passengers.

**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 5<sup>th</sup> Avenue, which is classified as a Secondary Collector street.*

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

*The subject property includes a back yard area of approximately 4,500 SF, enclosed by a 4' high chain link fence.*

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 paved driveway in the front capable of accommodating 2 cars at one time, and a paved driveway in the back accessed off West 7<sup>th</sup> Street capable of accommodating 3 cars at a time, providing an adequate loading zone for the safe picking up and discharge of passengers.*

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

*The applicant has provided a copy of their temporary permit from the Kansas Department of Health and Environment (KDHE), which expires February 28, 2026. The applicant shall provide a copy of their permanent license once obtained.*

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

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

6. Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides or one non-illuminated sign affixed to the main structure 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 in-home Child Care Center will cause any substantial injury to the value of other property in the neighborhood.*



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

*No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as a residential structure. The daycare could account for an increase in up to 24 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 no questions or comments.

**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 Family Child Care Home license shall be provided when issued and again 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.
5. Annual payment of the Special Use Permit.

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.





**SPECIAL USE PERMIT**  
CITY OF LEAVENWORTH, KANSAS

**OFFICE USE ONLY**

CASE NO.: 2025-22 SUP

Application No.	18033
Fee (non-refundable)	\$350.00
Filing Date	9/30/25
Received By	
Hearing Date	12/1/2025
Publication Date	

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: Family Daycare

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

Subject Property:	1922 5th AV Leavenworth KS		
Legal Description:	(Attach a full legal description provided by the Register of Deeds Office)		
Real Estate PID #:	052-101-01-0-20-24-005.00-10		
Zoning:	R1-6	Historic District:	N/A

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

Name(s) of Owner (print):	Savannah Nelson		
Owner Address:	1922 5th AV		
Contact No.		Email:	Savannahsmite2017@gmail.com
Signature of Owner(s):	Savannah Nelson		

State of KS  
County of Leavenworth (SEAL)



Signed or attested before me on: 9/30/2025

Notary Public: Sarah Roll

My Appointment Expires: 3/22/2027

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

Name of Lessee:			
Address:			
Contact No.		Email:	

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

**Check list below...**

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



# Kansas Department of Health and Environment

## Temporary Permit

Family Child Care Home

Temporary Permit No. 0051867-014

Licensee: Savannah Esther Nelson

Facility: Savannah Smile

Located at: 1922 S 5th Ave  
Leavenworth, KS 66048-3332

In the county of: Leavenworth

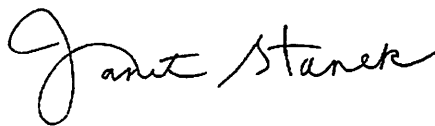
Having filed an application and having agreed to comply with the laws and regulations of the State of Kansas governing Family Child Care Homes, Savannah Esther Nelson is hereby authorized to care for

a maximum of 12 children under the capacities outlined in K.A.R. 28-4-114(e).

This Temporary Permit is effective 11/30/2025 and expires on 02/28/2026.

Smoking is prohibited inside the day care home during hours of operation.

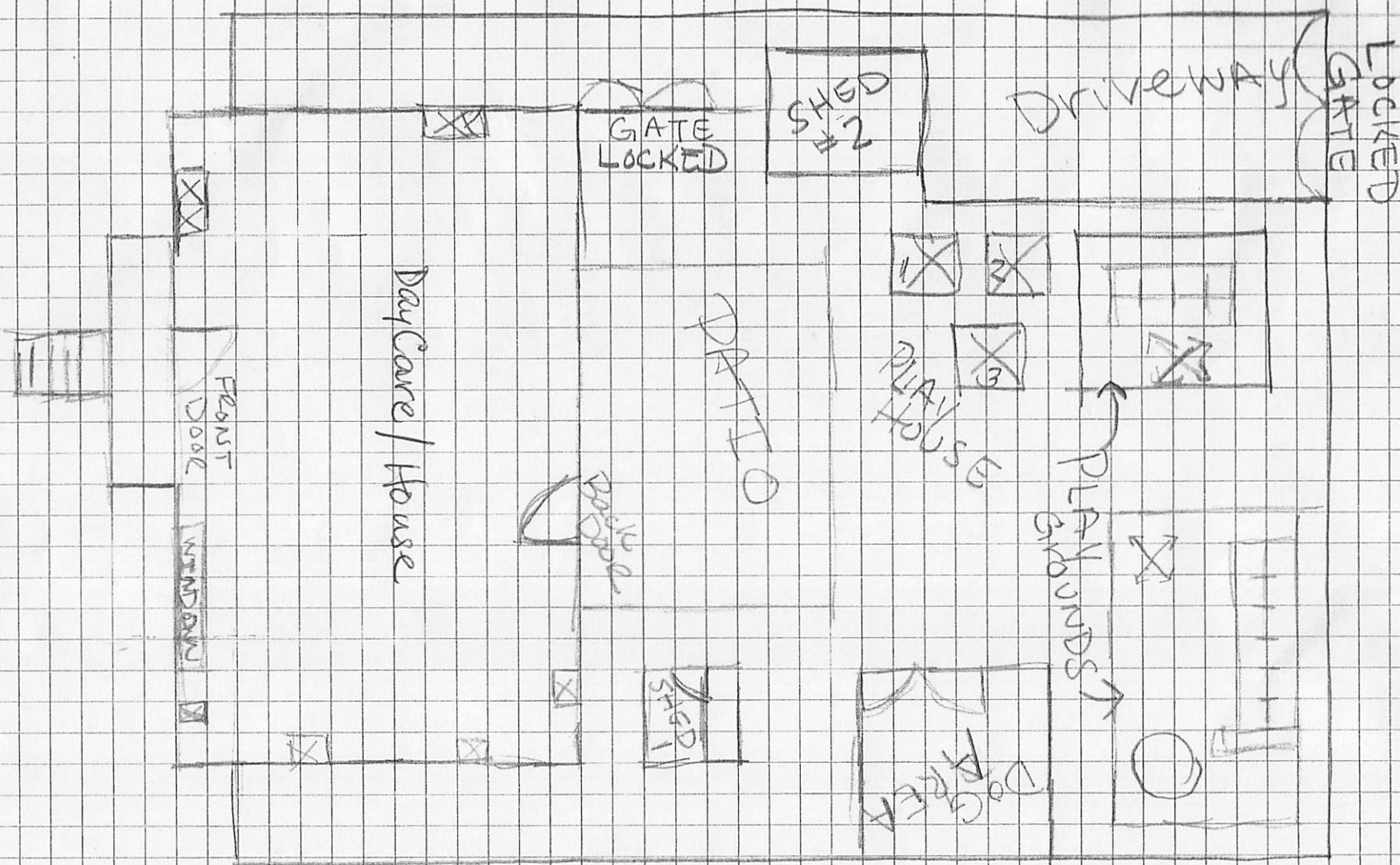
\*\* Local codes and ordinances may prescribe other requirements for the legal operation of this facility.



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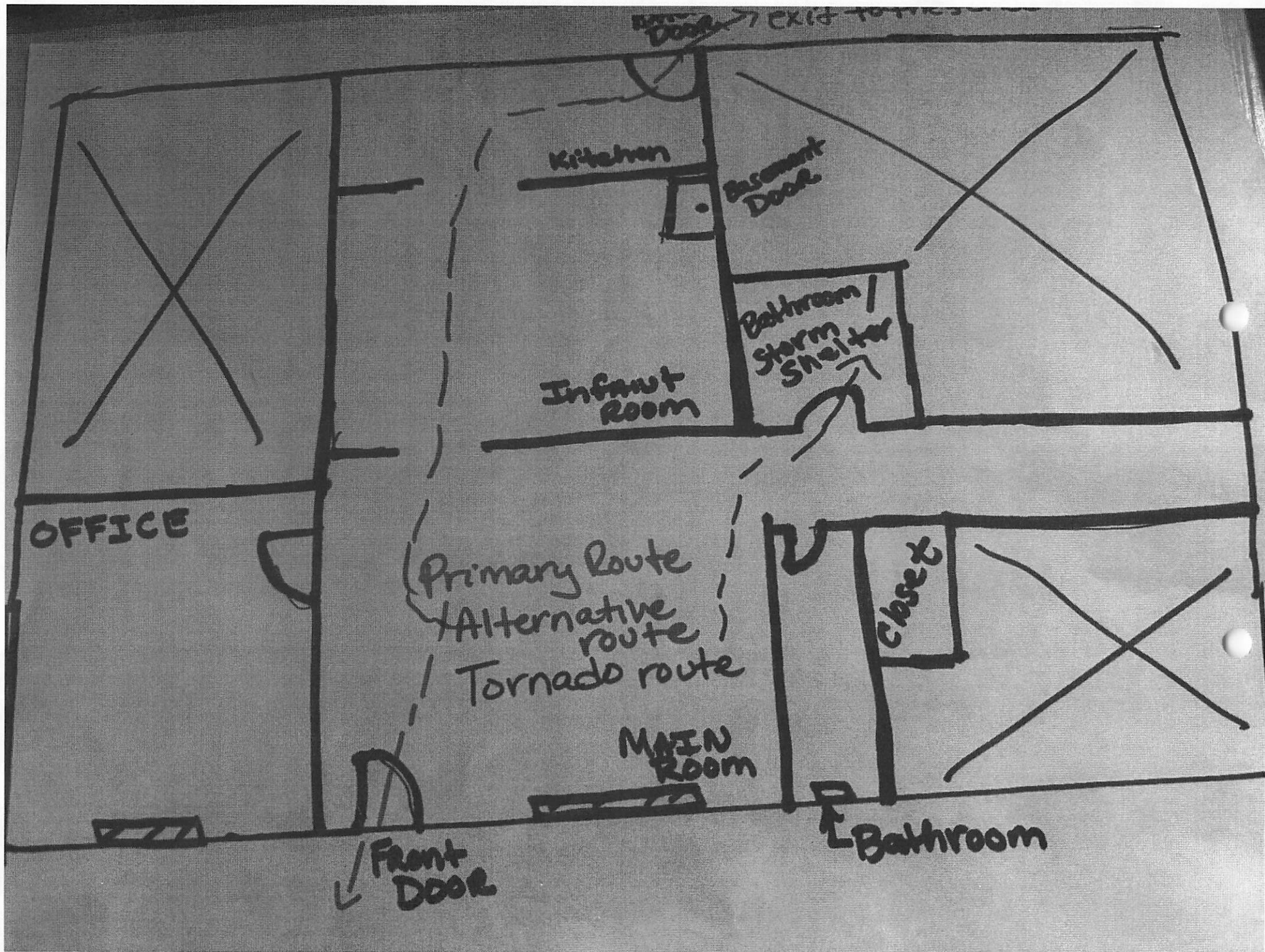
Janet Stanek, Secretary  
Kansas Department of Health and Environment





Savannah Smile  
1922 5<sup>th</sup> Ave.  
Leavenworth, KS 66048

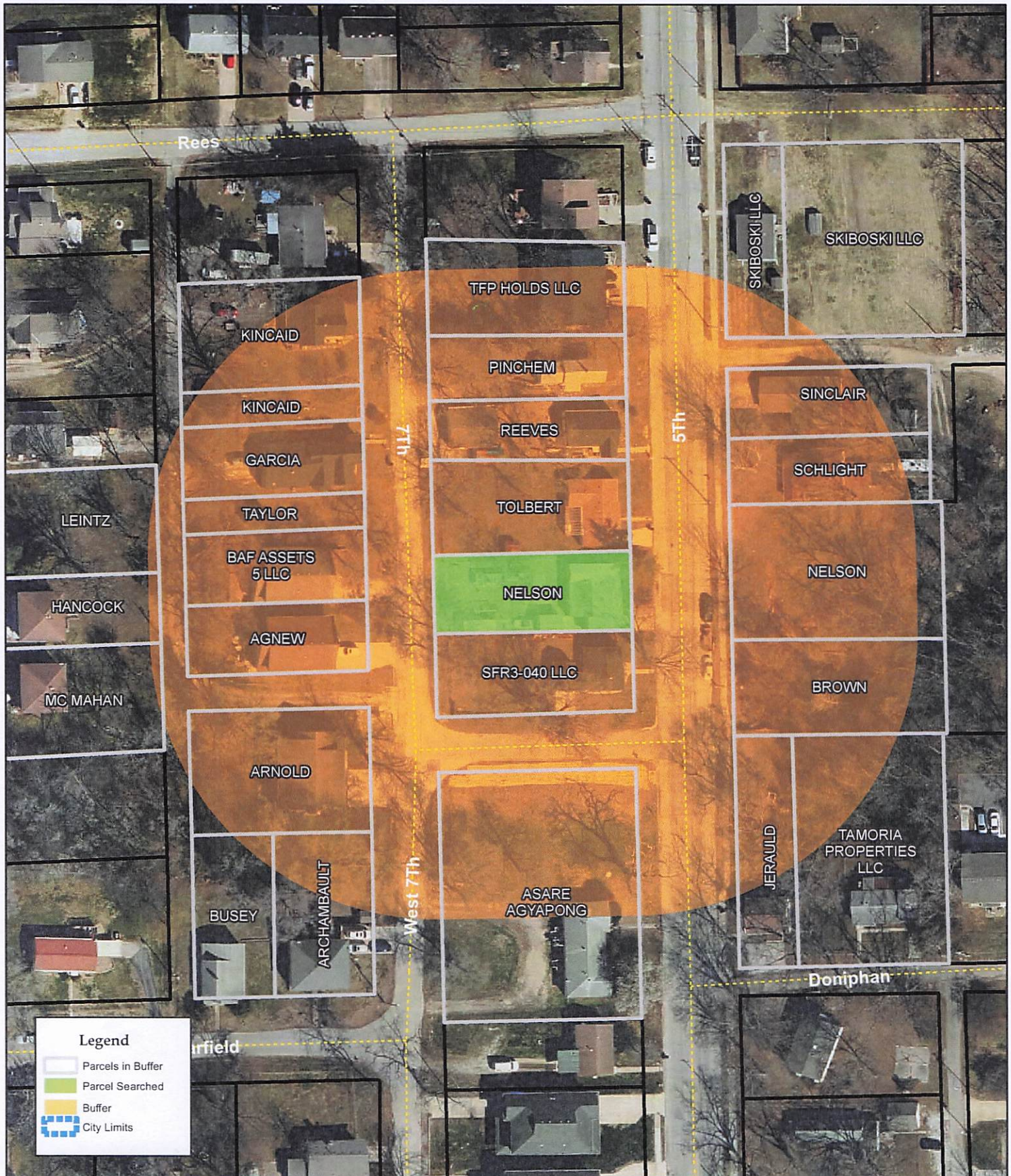






# City of Leavenworth

## Property Radius Search



NELSON, JIMMY R & SAVANNAH E  
 1922 5TH AVE, Leavenworth, KS 66048  
 052-101-01-0-20-24-005.00-0

0 50 100  
 Feet

