

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL

100 N 5th Street, Leavenworth, Kansas 66048

REGULAR SESSION

Monday, June 1, 2026

6:00 PM

CALL TO ORDER:

Commissioners Present

Ted Davis

Stephen Tennant

Mark Preisinger

Kenneth Bateman

Jason Redmon

Donald Homan

Commissioners Absent

Jon Kesler

City Staff Present

Kim Portillo

Michelle Baragary

Bethany Lasher

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

APPROVAL OF MINUTES – May 4, 2026

Chairman Ken Bateman asked for questions, comments or a motion on the May 4, 2026, minutes presented for approval. Commissioner Davis moved to approve the minutes, seconded by Commissioner Tennant and approved by a vote of 6-0.

OLD BUSINESS:

1. 2026-11 TXT – TEXT AMENDMENTS

Second review of proposed text amendments and recommendation vote to the adopted 2016 Development Regulations

Chairman Bateman called for a staff report.

Planning Director Kim Portillo stated that at the May 4th, 2026 Planning Commission meeting the text amendments were introduced and we are now proceeding with the second step of recommendation of approval or denial of proposed text amendments.

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 conducted 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 anticipated timeline is as follows:

- May 4th Planning Commission initial review and public hearing - Completed
- **June 1st Planning Commission second review and recommendation vote**
- June 23rd City Commission First Consideration
- July 14th City Commission Second Consideration

The following modifications have been drafted by staff and are now presented for public hearing.

- **Article 1; General Provisions**
 - Correct spelling of “Statues” to “Statutes”.
- **Article 2; Applications & Procedures**
 - Correct reference to Section II.F (nonexistent code section, should be 2.06).
- **Article 4; Zoning Districts & Standards**
 - Clarify language, correct “no closer to the property than” to “no closer to the property *line* than”.
 - Update 4.03.E to allow for the accessory use of shipping containers as storage in industrial districts.
- **Article 6; Landscape & Site Design**
 - Update Table 6-04: Buffer Planting Requirements to include requirements for a 20-foot-wide buffer, as referenced in Section 6.04.A
- **Article 8; Signs**
 - Remove restriction that window signs cannot contain message or identification (i.e. name of establishment) more than once within the permitted total sign surface area per each front, side or rear wall.
 - Revise the “Attached Signs” section to exclude awning signs from the total wall sign count and limit them to one sign per awning with a size cap of 15% of the awning area.
 - Revise EMC sign regulations to allow placement within 100 feet of a residence when an intervening building blocks the line of sight and clarify that the required distance is measured from the sign to the residential structure, not the property line.
- **Article 12; Definitions**
 - Add a definition for the use “Heavy Vehicle/Equipment Sales, Rentals and Service” as follows:

Heavy Vehicle/Equipment Sales, Rentals and Service: The sale, rental, leasing, maintenance, and repair of vehicles and equipment designed for commercial or industrial use that exceed a gross vehicle weight rating (GVWR) over 10,000 pounds, such as large trucks and buses or construction, industrial, or agricultural machinery. There may be incidental outdoor storage, display and part sales.

This use is currently listed in the use table but is not defined.

ACTION/OPTIONS:

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

Commissioner Homan asked for clarification of measurements for the correction of “no closer to the property than” in Article 4-5. Ms. Portillo noted that there was an error in the highlighted word and “line” should be highlighted and not “than”. She added that “feet” is in the code but was not included in the agenda item information. The wordage does continue and includes the exact measurements in the code.

Chairman Bateman called for a motion of approval or denial of the text amendments to the City Commission. Commissioner Davis moved to approve the presented text amendments, seconded by Commissioner Redmon and passed by a vote of 6-0.

Ms. Portillo said that this will now go to the City Commission for first and second consideration.

NEW BUSINESS:

1. Introduce new Planning Assistant, Bethany Lasher

Planning Assistant Bethany Lasher shared a brief introduction.

2. 2026-18 SUP – 1119 & 1121 SHERMAN AVENUE

Conduct a public hearing for a request for a Special Use Permit (SUP) to allow a two-family dwelling in the R1-6, High Density Single Family Residential District, zoning district.

Chairman Bateman called for the staff report.

City Planner Michelle stated the owners and applicants, Chad and Sheila Vester, request approval of a Special Use Permit (SUP) to allow a two-family dwelling in the R1-6 High Density Single Family Residential District located at 1119 & 1121 Sherman Avenue. Two-family dwellings are permitted in the R1-6 zoning district subject to issuance of a Special Use Permit.

Based on staff research, the structure was originally constructed as a duplex in 1966, prior to the adoption of Development Regulations and has continuously operated as a two-family dwelling since that time. As such, the use is considered a legal nonconforming use.

Per section 1.05.D of the adopted Development Regulations:

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

Section 1.05.D further provides:

If a structure devoted to a nonconforming use is damaged or destroyed by more than fifty percent (50%) of its fair market value, such building shall not be restored if the use of such building is not in conformance with the regulations of the zoning district in which it is located.

The applicants are requesting approval of a Special Use Permit in order to bring the property into conformance with current zoning regulations. No structural expansions, site modifications, or changes in intensity of use are proposed.

COMMISSION FINDINGS

In considering this request, the Planning Commission may recommend issuance of a special use permit upon making the following findings:

1. The proposed special use complies with all applicable provisions of this ordinance.

Based on all available information provided and staff review, the application complies with the applicable 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.

This property has functioned as a two-family dwelling since 1966 and contributes to the diversity of housing types available to Leavenworth residents.

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 anticipate that the continued residential use of the property as a two-family dwelling will cause substantial injury to the value of surrounding properties

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 requested special use permit would allow the continued use of an existing duplex originally constructed in 1966 and has continuously operated as such since that time. The request does not involve exterior expansion or an increase in residential intensity. The property is 14,130 SF in size, which substantially exceeds the minimum lot size requirement of 6,000 SF for the R1-6 zoning district. Existing off-street parking is provided, and no significant increase in traffic is anticipated. In addition, several other two-family dwellings are located within a block or two of the subject property, indicating that the use is compatible with the surrounding neighborhood development pattern. Therefore, staff finds the use will not dominate the immediate neighborhood or prevent the development and use of neighboring properties in accordance with the applicable zoning regulations.

Notification was mailed to property owners within 200 feet of the subject property in accordance with Kansas statutory requirements. After notifications were mailed, staff received no public comments regarding the request.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit based on the analysis and findings stated above, subject to the following condition:

1. The property owner shall register the property with the City of Leavenworth as a two-family rental property.

Failure to maintain compliance with the condition of approval may result in revocation of the Special Use Permit.

ACTION/OPTIONS:

- Motion to recommend approval of the Special Use Permit to the City Commission based upon the findings as stated and subject to the listed condition.
- Motion to recommend denial of the Special Use Permit to the City Commission.
- Motion to table the item for additional information or consideration.

Chairman Bateman asked the commissioners for questions about the staff report.

Commissioner Preisinger asked if this was the first application for a special use permit since 1966 and what precipitated the requirement.

Owner Chad Vestor at 8725 Soap Weed Rd., Calhan, CO 80808 explained that without the special use permit for duplex the insurance company would not cover it to be rebuilt as a duplex if more than 50% of the structure was destroyed.

Ms. Baragary clarified the need for a SUP to allow rebuilding a legal non-conforming structure back to its original state if more than 50% of the fair market value of the property is destroyed.

Commissioner Tennant asked staff if a tornado were to strike the property, could they still go through the process of an exception to the existing land use regulations and then file their insurance claim after that and get reimbursed. Ms. Baragary answered that it could be an issue with the insurance company because the ordinance is not created until after it goes to the City Commission twice. She further covered the timing of the approval process. Exceptions are not done preemptively and are processed with the Board of Zoning Appeals.

Chairman Bateman covered the approval process and timing and asked how much of the process could be eliminated if duplexes were allowed by right in this district according to code. Ms. Baragary answered that Planning Director Portillo and herself are discussing this allowance for only the R1-6 district since it's high density. Chairman Bateman shared his thoughts on the process.

Chairman Bateman called for a motion on the approval request for a special use permit. Commissioner Davis moved to recommend approval of the special use permit to the City Commission based on findings as stated and conditions as presented, seconded by Commissioner Homan and passed by a vote of 6-0.

Because the process for a public hearing was not conducted, Ms. Baragary requested to revisit case number 2026-18 SUP – 1119 & 1121 Sherman Avenue to open a public hearing.

Chairman Bateman called for a motion to reopen 2026-18 SUP – 1119 & 1121 Sherman Avenue to open a public hearing. Commissioner Preisinger moved to open a public hearing for 2026-18 SUP – 1119 & 1121 Sherman Avenue, seconded by Commissioner Tennant and passed by a vote of 6-0.

Chairman Bateman called for a motion to close the public hearing for 2026-18 SUP – 1119 & 1121 Sherman Avenue. Commissioner Preisinger moved to close the public hearing for 2026-18 SUP – 1119 & 1121 Sherman Avenue, seconded by Commissioner Homan and passed by a vote of 6-0.

3. 2026-19 SUP – 1125 & 1127 SHERMAN AVENUE

Conduct a public hearing for a request for a Special Use Permit (SUP) to allow a two-family dwelling in the R1-6, High Density Single Family Residential District, zoning district.

Chairman Bateman called for the staff report.

City Planner Michelle Baragary presented the request to the Commission.

The owners and applicants, Chad and Sheila Vester, request approval of a Special Use Permit (SUP) to allow a two-family dwelling in the R1-6 High Density Single Family Residential District located at 1125 & 1127 Sherman Avenue. Two-family dwellings are permitted in the R1-6 zoning district subject to issuance of a Special Use Permit.

Based on staff research, the structure was originally constructed as a duplex in 1966, prior to the adoption of Development Regulations and has continuously operated as a two-family dwelling since that time. As such, the use is considered a legal nonconforming use.

Per section 1.05.D of the adopted Development Regulations:

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

Section 1.05.D further provides:

If a structure devoted to a nonconforming use is damaged or destroyed by more than fifty percent (50%) of its fair market value, such building shall not be restored if the use of such building is not in conformance with the regulations of the zoning district in which it is located.

The applicants are requesting approval of a Special Use Permit in order to bring the property into conformance with current zoning regulations. No structural expansions, site modifications, or changes in intensity of use are proposed.

COMMISSION FINDINGS

In considering this request, the Planning Commission may recommend issuance of a special use permit upon making the following findings:

1. The proposed special use complies with all applicable provisions of this ordinance.

Based on all available information provided and staff review, the application complies with the applicable 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.

This property has functioned as a two-family dwelling since 1966 and contributes to the diversity of housing types available to Leavenworth residents.

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 anticipate that the continued residential use of the property as a two-family dwelling will cause substantial injury to the value of surrounding properties

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 requested special use permit would allow the continued use of an existing duplex originally constructed in 1966 and has continuously operated as such since that time. The request does not involve exterior expansion or an increase in residential intensity. The property is 13,345 SF in size, which substantially exceeds the minimum lot size requirement of 6,000 SF for the R1-6 zoning district. Existing off-street parking is provided, and no significant increase in traffic is anticipated. In addition, several other two-family dwellings are located within a block or two of the subject property, indicating that the use is compatible with the surrounding neighborhood development pattern. Therefore, staff finds the use will not dominate the immediate neighborhood or prevent the development and use of neighboring properties in accordance with the applicable zoning regulations.

Notification was mailed to property owners within 200 feet of the subject property in accordance with Kansas statutory requirements. After notifications were mailed, staff received no public comments regarding the request.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit based on the analysis and findings stated above, subject to the following condition:

1. The property owner shall register the property with the City of Leavenworth as a two-family rental property.

Failure to maintain compliance with the condition of approval may result in revocation of the Special Use Permit.

ACTION/OPTIONS:

- Motion to recommend approval of the Special Use Permit to the City Commission based upon the findings as stated and subject to the listed condition.
- Motion to recommend denial of the Special Use Permit to the City Commission.
- Motion to table the item for additional information or consideration.

Chairman Bateman opened the public hearing.

The Commission asked owner Chad Vestor about the size of the building and Mr. Vestor said they are the same other than the number of garages.

With no one else wishing to speak, Chairman Bateman closed the public hearing, and called for a motion.

Commissioner Davis moved to recommend approval of the special use permit to the City Commission based on findings as stated and conditions as presented, seconded by Commissioner Redmon and passed by a vote of 6-0.

OTHER BUSINESS:

Commissioner Preisinger expressed his frustration with unkempt grass on the frontage of Fourth Street at the old Leavenworth Plaza, and its unfairness of enforcing others to keep their grass mowed but this one isn't. Ms. Baragary asked Commissioner Preisinger if he had a chance to reach out to City Manager Scott Peterson regarding this and Commissioner Preisinger said he had not. Ms. Baragary encouraged Commissioner Preisinger to reach out to City Manager Peterson regarding this matter.

Commissioner Homan commented on his approval of the City's repair of curbs and placing new sidewalks on Vilas Street.

Chairman Bateman shared they had their first Developmental Regulations Review Meeting before this Planning Commission meeting. He covered the topics discussed and asked for discussion on whether in the future or now, to investigate the bylaws for the number of people needed on a committee. The concern is three people are on the committee, and two people constitute a majority which doesn't allow discussion amongst one another without running a foul against the Open Meetings Act. He gave the option of changing the bylaws to five Commission members and then put five people on the subcommittee. This would allow the subcommittee to discuss changes with each other.

Ms. Baragary asked what they would be voting on. Chairman Bateman said that the Developmental Review Committee subcommittee would vote on proposed changes sent to this body and then would go to the City Commission. Our current bylaws only allow establishing a committee consisting of four people.

The Planning Commission and city staff discussed the bylaws regarding the number of committee members and the process of proposing changes to it. Article 8 of the bylaws, regarding the rules for proposing an amendment, was discussed, including the requirement that proposed amendments be submitted at least three days in advance. Discussion was held regarding the rationale for having five members on a committee. It was noted that a five-member committee would allow two members to discuss committee matters outside of a meeting without constituting a quorum and would provide broader input.

Director Portillo advised consulting the city attorney on this matter to see what his thoughts are.

Planning Commissioners discussed the possibility of having three commissioners on the subcommittee and adding individuals who are not commissioners, which could include business owners and home owners who could make recommendations to the Planning Commission. Suggestions included seeking input from the Planning and Zoning staff regarding citizens who could recommend or serve as strong candidates for committee membership. A concern was raised regarding whether the proposed changes would apply only to the Development Regulations Subcommittee or to any issue that might arise. After discussion, it was decided that the changes would apply only for the Development Regulations Subcommittee to review and update outdated regulations.

Ms. Baragary said that staff will reach out to the city attorney via email on guidelines on what to do next and are legally allowed to do. She also added that the possible changes to the bylaws and change in the number of members for a committee can be added to the agenda for the next meeting.

Chairman Bateman proposed at the next meeting we have bylaws that can be looked over. Commissioner Tennant proposed giving recommended changes to staff who would consolidate them and bring them for discussion to the meeting and make decisions on which to adopt. Chairman Bateman asked Ms. Baragary to contact the city attorney regarding this and if he approves, to email the commissioners for their input who will individually reply with their comments.

Chairman Bateman called for a motion to adjourn the meeting, motion made by Commissioner Homan and seconded by Commissioner Davis and passed by a vote of 6-0.

Meeting adjourned at 7:01 pm.

Minutes taken by Planning Assistant, Bethany Lasher.