

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

**REGULAR SESSION
Monday, February 3, 2020
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: December 2, 2019**
- 3. Approval of Minutes: January 6, 2020**

NEW BUSINESS:

- 1. 2020-02 TXT – TEXT AMENDMENTS**

Hold a public hearing for proposed text amendments to the adopted Development Regulations.

- 2. Election of Officers**

OTHER BUSINESS:

NONE

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, December 2, 2019
6:00 PM

CALL TO ORDER:

Commissioners Present

Jay Byrne
Mike Burke
John Karrasch
Linda Bohnsack
Camalla Leonhard
Claude Wiedower

Commissioners Absent

Sherry Hines Whitson

City Staff Present

Julie Hurley
Michelle Baragary

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

Approval of Minutes: September 9, 2019

Madam Chairman Leonhard asked for comments or a motion on the minutes presented for approval: September 9, 2019. Mr. Byrne moved to accept the minutes as presented, seconded by Ms. Bohnsack. The minutes were approved by a vote of 6-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2019-15 SUP – 729 PENNSYLVANIA

Conduct a public hearing for Case No. 2019-15 SUP – 729 Pennsylvania. The applicant is requesting a Special Use Permit to allow the operation of an adult daycare center at 729 Pennsylvania in an existing building located on the Saint Casmir Church property.

Madam Chairman Leonhard called for the staff report.

Planning Director Julie Hurley the applicant, Elaine Belardo, is requesting a Special Use Permit to allow the operation of an adult daycare center at 729 Pennsylvania Avenue in an existing building located on the Saint Casmir Church Property. The property is currently zoned R1-6, High Density Single Family Residential District. The adopted Development Regulations do not have a definition for "Adult Daycare Center". Therefore, staff evaluated the request in conformance with the closest defined use, that being Child Care Center. Child Care Centers are allowed in the R1-6 zoning district with issuance of a Special Use Permit.

Ms. Belardo represents The Deeper Window Project organization, a 501(c)(3), and is not affiliated with the Roman Catholic Archdiocese of Kansas City or with Saint Casmir Parish. The proposed use involves daytime care and programming for adults living with early to middle stages of dementia. There will be two 16-person groups that meet either Monday/Wednesday or Tuesday/Thursday, with Friday open for socialization at the facility. Participants will meet from 9am to 3pm for art, music, drama, cognitive, stimulation, community projects, and peer support. The proposed use is a nonmedical program, offering respite to the participants' caregivers. The program will be staffed by a primary and assistant facilitator, with additional therapists and volunteers participating for various activities.

The State of Kansas does not require licensure for Adult Daycare facilities.

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 provision of the 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.

There is a current need within the community for Adult Daycare uses. Residents caring for family members with dementia or Alzheimer's have few to no resources for the type of service being proposed. The proposed facility will allow caregivers respire and help to improve the overall wellbeing of both caregivers and participants.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not feel that the proposed use will cause any substantial injury to the value of other property in the neighborhood.

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

No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as it currently does. There was previously a preschool/daycare facility located in the subject property, operated by St. Casmir Parish.

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.

Nationally, there continues to be an increased demand for daycare facilities offering services for adults with dementia/Alzheimer's. As the proposed use is not currently addressed in the adopted Development Regulations, staff intends to add a definition and review criteria for this use during the next update to the Development Regulations to adequately prepare for any future proposals that are similar in nature. Staff

has researched how other municipalities in the metropolitan area handle this type of use and will have draft language ready for review by this body during the annual update to the Development Regulations.

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. The operation shall be limited to a maximum of 16 adult participants.
2. No medical services shall be offered in conjunction with the facility.

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.

Madam Leonhard opened the public hearing.

Elaine Belardo approached the board stating she has some a dispute with the definition being used. She further stated there is a need for services for families living with dementia. Her husband was diagnosed at the age of 50. She can drive up to 40 miles one-way in order to take her husband to a non-medical support group he attends twice a week. This type of service is not available in Leavenworth County. Programs like this can delay placement into a long-term care facility.

Mrs. Belardo and her husband, Jose, started a nonprofit organization called The Deeper Window Association, which is a non-medical dementia education program that engages and empowers people living with dementia while providing respite care for their partners. This is a needed service in Leavenworth County. Mrs. Belardo further stated people in the early to moderate stages of this disease do not need nor are they responsive to the term adult daycare.

Mr. Wiedower stated his mother died of Alzheimer's so he understands the need for a program like this. His concern is with security. He wants to know what controls are in place to contain people so they do not wander off.

Mrs. Belardo stated the program is stage specific. One of the eligibility requirements is that the participant is not an elopement risk; they are not going to wander off. There are many stages to this disease. The proposed program is only for the early onset of the disease. Furthermore, the building has three doors and two providers. The providers are with the participants doing activities together. They will move as a group to the next activity. Restrooms are on the interior of the building not the exterior.

Ms. Jeannie Reader, Licensed Master Social Worker, approached the board stating she created the program 9-years ago. In that time, she has never had anyone elope. After assessment, if a participant is found to be too far along with the disease, they will not be eligible for this particular program that is proposed. A program that keeps the participants active and engaged will delay placement and beyond that, will help them maintain relationships.

Ms. Reader further stated the group of 16 people she worked with in 2018 made 3,997 sandwiches, 1,200 sack lunches for two local food pantries in the Kansas City area, made enough soup to feed 385 people at a food kitchen, they made and sold 120 jars of soup mixes and 60 jars of cookies/brownies to raise money to help fund Christmas gifts. For Christmas they made 70 snuggle packs, which includes a 45"x60" fleece blanket, a children's book and a 12"-16" stuffed animal. With support, these folks can remain active and be engaged with their community.

Mr. Wiedower asked what would happen if an individual progressed to a stage that would make them no longer eligible for this program.

Ms. Reader stated if someone progresses to the point where they can no longer participate in the program, the family is notified. Ms. Reader will assist the family in transitioning to a different facility or program.

Mr. Karrasch asked for clarification if the term "adult daycare" is incorrect.

Mrs. Belardo responded that adult daycare is incorrect and an adult daycare would require a licensure and is more medical. The program proposed is an arts and inspiration program.

Mr. Karrasch stated he wants clarity so moving forward after the beginning of the year this need is properly named/identified.

Mrs. Belardo stated it is "social engagement for people who are living with dementia". It offers participants the opportunity to socially engage with their peers and socially engage with their community. Art and inspiration are the methods used.

Ms. Hurley noted for the commission that when Mrs. Belardo brought the proposal to staff, she reached out to the Mid America Regional Council, who in turn reached out to other communities in the region to see how they address this type of use. Every community calls it something a little different in their definitions and addresses it a little bit differently. As with most uses, staff needs to settle on a word or phrase to call it that may not be 100% representative of what goes on; but we need to be able to cover sort of a range of uses within a phrase or title that we are assigning to something. Most of the other cities in the region do have a variation on a care facility that would provide this type of service.

Mary Vardeman, 1802 Cleveland Ter, approached the board stating she lives in the neighborhood and supports the proposed use.

Rev. Dr. Dave York, Pastor of First United Methodist Church of Leavenworth, believes The Deeper Window Project is a great group to partner with. The church provides respite care for the caregivers once a week for three hours. He believes this program can draw the community together and is an advocate for the project.

Shalay Harris, Program Director for the Heart of America Chapter of the Alzheimer's Association, stated she has been a public health nurse for 15-years and has worked with Jose on many levels. The program will help decrease isolation and keep participants in their homes for as long as possible. She is in support of the project. There are resources and support coming from the Heart of America Association to help The Deeper Window Project.

Joseph Clark lives close to 729 Pennsylvania and is in favor of the project.

Bill MacTomey, member of the finance council for Sacred Heart and St. Casmir and representing the property owner of 729 Pennsylvania. Mr. MacTomey provided some history of the property. They have reviewed The Deeper Window Project proposal and are supportive of the project.

Karen Rim, Board Certified Music Therapist, stated music therapy is beneficial to people with Alzheimer's because music is globally processed, which means it bypasses the language centers and goes to the emotional centers of the brain where memory is stored. Music improves mood states, it activates movement, triggers endorphins to feel good, etc. This disease is very isolating, which is why this program is very important and much needed in Leavenworth.

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

Mr. Wiedower stated he is glad they clarified the point on "adult daycare". He believes "social engagement" or "arts and inspiration" are much more descriptive of the intent. Mr. Wiedower further stated he remembers years ago when Leavenworth started the Shelter of Hope and a daycare center. Hundreds of volunteers worked the Shelter of Hope, which not only helps people in need but it brings dignity to all involved. It is a win-win for everyone. Mr. Wiedower believes the same thing for the proposed Special Use Permit.

Ms. Leonhard agrees that the interaction and engagement people have with each other is a positive experience for everyone. The proposed use allows people to feel safe and not go through this alone.

Mr. Byrne also believes it is a great idea. Mr. Byrne asked staff if the special use is approved then Mrs. Belardo is the special use owner but what happens if Mrs. Belardo leaves.

Ms. Hurley responded the special use is for the Deeper Window Project Organization not Mrs. Belardo specifically.

Mr. Byrne asked if the special use is granted for only one year.

Ms. Hurley responded the special use permit would be granted for this organization, for this use, at this particular location. If the organization wanted to move to a different location, it would need to be re-evaluated at that point.

Mr. Byrne asked if a condition regarding the hours of operation should be included.

Ms. Hurley stated that would be up to the commission if they wanted to add that condition to the special use permit.

Mr. Burke asked if the commission would need to come back to do this process all over again if the name "adult daycare" changed when reviewing the Development Regulations next year.

Ms. Hurley responded this would be issued as it is and then moving forward if the commission adopts different regulations, it would be from that point forward.

Ms. Bohnsack stated this is a much needed service. Ms. Bohnsack is currently her husband's caregiver. When she first started using respite care, she felt guilty but her husband benefited from it as much as she did. This is an absolute need for the community.

With no further discussion, Madam Leonhard called for a motion. Ms. Bohnsack moved to approve a special use permit for an adult daycare center at 729 Pennsylvania Avenue with the following conditions:

1. The operation shall be limited to a maximum of 16 adult participants.
2. No medical services shall be offered in conjunction with the facility.
3. Hours of operation shall be Monday – Friday from 8a.m. – 5p.m.

The motion was seconded by Mr. Burke and approved by a vote of 6-0.

2. 2019-16 REZ – 1101 N. 7TH STREET

Conduct a public hearing for Case No. 2019-16 REZ – 1001 N. 7th Street. The applicant is requesting a rezoning of their property from R1-6, High Density Single Family Residential District to GBD, General Business District. The property used to be a church, Life Connections Ministries, which vacated in the summer of 2019, and has remained vacant to this date.

Madam Chairman Leonhard called for the staff report.

City Planner Jackie Porter stated the applicant, Development Inc., owned by Jeremy Greenamyre, is requesting a rezoning of the property located at 1001 N. 7th Street from R1-6, High Density Single Family Residential District to GBD, General Business District. The property used to be a church, Life Connections Ministries, which vacated in the summer of 2019, and has remained vacant to this date.

The rezoning is being requested by the property owner to allow the zoning to accurately represent the intent of use of the structure, and to correlate with surrounding commercial zoning. Prior uses of the property have been a general business commercial use since 1955. In 1955, the existing building was constructed as an office building, and maintained the use of the building as office space, until the recent use of the building as an assembly hall for the Life Connections Ministries. All prior uses are allowed in GBD zoning.

The applicant suggested that there might be minor changes to the exterior of the structure to maintain the aesthetics of the building.

CONDITIONS OF DETERMINATION

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

- a) The character of the neighborhood;

The subject property is the site of the former Life Connections Ministries building, which is currently vacant. To the south is a multi-story apartment building. To the southeast of the office building is a vacant commercial building. To the east is Excellent Choice, a restaurant. To the north is a

barbershop. The remainder of the neighborhood consists of single-family homes. The subject property is located along North 7th Street, which is classified as a collector street and designed to handle a moderate volume of traffic. To the west of the building is a parking lot that was designed to facilitate the customer base for the building.

- b) The zoning and use of properties nearby;

To the south of the subject property is a multi-story apartment building, zoned OBD, Office Business District. To the southeast of the office building is a vacant commercial building, zoned GBD, General Business District. To the east is Excellent Choice, restaurant, and a vacant building zoned ODB. To the north is a barbershop, zoned OBD. To the west is a single-family resident zoned ODB. The remainder of the neighborhood consist of single-family homes zoned R1-6, High Density Single Family Residential District.

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

The subject property was built in 1955 as an office building. The building has been used as an office building and an assembly hall since construction, and is unsuited for residential use.

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

The proposed rezoning should have little detrimental effect upon surrounding properties. The subject building has been used for general business district qualified uses since its construction in 1955. No significant effect on nearby property is anticipated due to the rezoning.

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

The existing building has consistently operated in a general business district use since construction in 1955. The last remaining tenant vacated the building in the summer of 2019.

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

The proposed rezoning will have a positive effect on public health and welfare by providing a correct zoning to correlate with the surrounding properties along a moderately used collector street, which has been proposed by the 2010 Comprehensive Plan to be zoned commercial.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

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

The area is identified as appropriate for Institutional uses on the Future Land Use map. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.

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

No other factors.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R1-6 to GBD to the City Commission
- Recommend denial of the rezoning request from R1-6 to GBD to the City Commission
- Table the issue for additional information/consideration

Ms. Bohnsack asked if a martial arts school was located there at one time.

Ms. Hurley stated she does not believe so but the owner is present and would be better at answering that question.

Mr. Byrne asked if the property is rezoned to GBD and a church wanted to move there, is that allowed.

Ms. Hurley responded in the affirmative.

Mr. Burke stated the rezoning seems to make sense given the topic in September when the commission talked about the North Gateway project. This seems to be supportive of developing that two block area to the north.

Ms. Hurley stated this is the only residentially zoned property along the whole 7th Street corridor. Ms. Hurley further stated she is not sure why there are these pockets throughout town where the zoning does not correlate to any issue that has ever been there. The building was constructed prior to zoning, which she believes zoning took place around 1964. The current rezoning request is just bringing the zoning to match what the building was constructed for.

Ms. Bohnsack stated she drove by there and there are several businesses in that area already. It is obviously a commercial building and the rezoning request would be a correction to the current zoning.

Ms. Hurley mentioned the zoning of the property to the west of the subject property, which is OBD. Staff looked through old ordinances thinking maybe the subject property had been rezoned at some point but was not showing on the map but staff could not find anything to support that theory.

With no further discussion about the staff report, Madam Leonhard opened the public hearing.

With no one wishing to speak, Madam Leonhard closed the public hearing and called for a motion. Based on the findings as stated and the information provided, Mr. Byrne moved to recommend approval to the City Commission the rezoning request for property located at 1001 N. 7th Street from R1-6 to GBD; seconded by Mr. Wiedower and approved by a vote of 6-0.

Ms. Hurley stated tonight is Ms. Leonhard's last meeting as a Planning Commissioner as she was elected to the City Commission and presented Ms. Leonhard with a certificate.

Mr. Karrasch asked if the commission needs to vote on a new officer.

Ms. Hurley responded the mayor is responsible for appointing a new member for the Planning Commission. This will take place sometime after the new mayor is elected on December 10th.

Mr. Burke asked if the City Commission chose a consultant for the Comprehensive Plan.

Ms. Hurley stated the City Commission decided to wait until December 10th to discuss and select a consultant.

Ms. Bohnsack asked if staff received her list of items she had questions about or wanted updates to.

Ms. Hurley stated staff received the list on Tuesday; however, with being out of the office for the holidays staff did not have time to get through it. Information/updates will be provided at the next meeting.

Mr. Karrasch asked if there is anything new with the North Gateway.

Ms. Hurley stated the City Commission approved the proposed project plan that went to the Planning Commission. This sets in place the finance mechanism to move forward.

With no further business, the meeting was adjourned at 7:05 p.m.

JH/mb

DRAFT

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

CALL TO ORDER:

Commissioners Present

Mike Burke
Claude Wiedower
Linda Bohnsack
Chris Murphy

Commissioners Absent

Sherry Hines Whitson
Jay Byrne
John Karrasch

City Staff Present

Julie Hurley
Michelle Baragary

Acting Chairman Burke called the meeting to order at 6:12 p.m. and noted a quorum was present.

Approval of Minutes: December 2, 2019

Acting Chairman Burke tabled approval of the December 2, 2019 minutes until February's meeting as there is not a quorum present to vote on the minutes (Mr. Murphy must abstain as he was not on the board in December).

OLD BUSINESS:

None

NEW BUSINESS:

1. 2020-01 SUP – 869 SHERMAN AVENUE

Conduct a public hearing for Case No. 2020-01 SUP – 869 Sherman Avenue. The applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 869 Sherman Avenue. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Acting Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the applicant, Echelon Property Management, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located a 869 Sherman Avenue. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The structure had previously functioned as a two-family dwelling before it was damaged by fire on April 1, 2019. Prior to the fire, the structure had been considered an existing legal nonconforming use. Section 1.05.D of the adopted Development Regulations states:

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.

Per the applicant, the structure sustained damage in excess of 50% of its fair market value. The applicant intends to renovate and restore the structure to its previous use, to include new electrical, plumbing, HVAC, walls, ceilings, doors, windows, fixtures, cabinetry, flooring and appliances in the lower level unit. The upper level unit was not damaged during the fire, and renovation work in that unit will include pain, flooring and appliances. The exterior of the structure will be cleaned and painted, and the driveway will be paved.

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.

Prior to being damaged by fire, the property filled a need in the community by providing a two-family housing option. Restoring the property to its previous use will continue to fill that need.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not feel that the proposed use will cause any substantial injury to the value of other property in the neighborhood.

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

No new structures or building modifications are proposed as part of this special use permit. The property will continue to function as it did prior to being damaged by fire, with the benefit of exterior cosmetic improvements and a driveway and parking area that is brought into conformance with current regulations by being paved.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Acting Chairman Burke opened the public hearing.

Ms. Bohnsack stated the dwelling was functioning as a two-family home and was doing this well enough that the surrounding property owners were not complaining.

With no further questions or discussion, acting Chairman Burke closed the public hearing and called for a motion. Mr. Wiedower moved to approved the special use permit located at 869 Sherman Avenue based upon the findings as stated, seconded by Ms. Bohnsack and approved by a vote of 4-0.

Ms. Bohnsack asked if the entire structure will need to be brought up to code since over 50% was damaged.

Ms. Hurley responded that just the use cannot stay. Any repairs that are being made will be required to meet current code.

With several commissioners absent, acting Chairman Burke stated the election of officers will be held at February's meeting.

Ms. Hurley went over several questions Commissioner Bohnsack emailed to staff:

1. Clearing trees and grading on the north side of Lecompton near 16th Street and what is happening with the two homes built there.
 - There are no building permits for that area. May just be a property owner doing some landscaping or tree clearing which does not require a permit.
2. What is going into the old stain glass shop.
 - The city does not require business licenses so staff is not always aware when a business starts.
3. The Q-trip at Eisenhower and 4th Street.
 - That is in the city limits of Lansing. Should be opening sometime in 2020. There will be improvements made to the intersection as part of the plan.
4. Holes being dug all around Leavenworth. Staff is not sure what holes are being referenced. Ms. Bohnsack asked if there was a waterline upgrade.

- Ms. Hurley stated the water department is not part of the City and we do not always know what they are doing. However, staff is aware there has been a lot of waterline projects going on.
5. What is going in at P.A. Kelly's at Spruce and 5th Street.
 - Again, the City does not require business licenses and staff has not heard about anything.
 6. Asked about the trailers in the Walmart parking lot.
 - Hallmark stored their trailers at the Walmart parking lot while Hallmark's parking lot was being repaved.
 7. Asked about the fire damaged building at Spruce and Broadway.
 - Owner received permits in September to restore power and do interior work. Typically it takes a while to get things sorted through, such as insurance, so the City gives the property owner time to get repairs done.
 8. Grading on vacant lot at 4th Street and Santa Fe (where the pawn shop was)
 - This is where the Kare Pharmacy is going.
 9. Grading on the west side of 20th Street across from New Lawrence.
 - An Evergy substation is going in at this location. Part of the agreement was for Evergy to install a sidewalk. Any work is probably in relation to that.
 10. Why is there no development in Leavenworth.
 - There have been a number of things come through. However, a lot times when developers come through their projects are not public knowledge and staff is not allowed to comment on them. But there have been a number of inquiries. The City has a full incentive package that they offer and the City is being actively marketed.
 11. Asked about the brick building on Spruce, west of 19th Street, where the old photo studio was.
 - The last staff heard was that it was potentially going to be a restaurant.
 12. Mama Mia's under new ownership.
 - It is under new ownership. The owner is a chef looking to open a restaurant.
 13. Where is the co-op relocating.
 - The co-op moved out to the Lansing Industrial Park.

14. The grading at 20th Street and Eisenhower.

- This is part of Reilly's development that has been approved and platted.
- Ms. Bohnsack stated she is inquiring about the grading going on at the NW corner of 20th Street and Eisenhower; not the Reilly development.
- Ms. Hurley responded she is not aware of anything happening on the west side of 20th Street other than the substation she mentioned earlier.

15. Asked about the fence post for the storage facility at 20th Street and Spruce Street.

- The owner obtained a fence permit. As far as staff knows they plan on having some outside storage, which is allowed.

16. Asked if the revised plan development plan for Metropolitan was approved by the City Commission.

- The project plan has been approved but nothing has been submitted officially for approval yet.

17. Ms. Bohnsack asked about a sign she saw on 20th Street about proposed estate lots going up for sale.

- Ms. Hurley responded there is a new owner for the 45.6 acre lot between New Lawrence Rd and 20th Street. The owner is looking to split the lot into nine residential lots to sale. A plat has not been submitted yet. The property owner is working through some utility issues, trying to figure out how to service the property by sewer and work out some issues with the terrain and pond.
- Ms. Bohnsack did not think the pond is permitted in the State of Kansas.
- Ms. Hurley stated it is small enough that the State of Kansas does not regulate it.

Ms. Bohnsack further stated she does not feel like Leavenworth is growing like some of the areas around us.

Ms. Hurley stated there are many factors that play a part in that. A big part of it is that Leavenworth does not have direct access to an interstate and the short drive up Hwy 7 is enough to deter a lot of larger businesses. The Port Authority and the City are still actively marketing the new industrial park. The City has actually had more visits and inquiries for the industrial park than they had anticipated. At some point development will start happening there.

With no further discussion, acting Chairman Burke stated the meeting is adjourned.

JH/mb

PLANNING COMMISSION AGENDA ITEM
Text Amendments
Development Regulations

FEBRUARY 3, 2020

SUBJECT:

Preliminary review of potential amendments to the adopted Development Regulations

Prepared By:

Julie Hurley
Director of Planning and
Community Development

Reviewed By:

Paul Kramer
City Manager

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. The following sections have been identified for update:

- **Section 2.02; Platting**
Language should set forth procedure for "Administrative Plat" process to be used only in applications for simple lot splits or lot combinations. Any other platting activity should follow Minor Subdivision or Major Subdivision procedures.
- **Section 4.03; Property Development Standards**
Commercial and Industrial zoning districts should be allowed higher maximum lot coverage requirement than residential districts, subject to stormwater quality and quantity considerations for each individual project.
- **Section 4.03; Property Development Standards**
Clarify language stipulating that no accessory structures shall be located forward of the main building line or in the required side yard setback.
- **Section 4.04; Use Standards**
Clarify language to specify that accessory structure regulations refer to Amateur Radio Towers, Commercial Radio Towers are addressed in a separate Article of the Development Regulations. Clarify setback requirements for Amateur Radio Towers.
- **Section 4.04; Use Standards**
Update regulations for Agriculture Buildings to allow for larger buildings on larger lot sizes.

- **Article 4.04; Use Standards**
Clarify language regarding Prohibited Accessory Uses, proposed language to be removed creates confusion for residents and staff.
- **Section 4.04; Use Standards**
Remove requirement that no separate outside entrance is allowed for home occupations. Provide provision for accessory structures to be used for home occupations with issuance of a Special Use Permit.
- **Section 6.08; Fences**
Modify setback requirement for solid fences installed on corner lots to allow for the fence to be placed at 50% of the existing setback from the house to the property line.
- **Section 8.11; Signs Permitted in Commercial and Industrial Districts**
Correct maximum size allowance for attached signs in the CBD and OBD zoning districts, numbers were inadvertently transposed in last update.
- **Article 12; Definitions**
Add definitions for “Adult Day Center” and “Agriculture Accessory Building”.
- **Appendix A; Use Table**
 - “Live/Work Dwellings” allowed use in commercial zoning districts
 - Add use type for “Adult Day Center”
 - “Home Day Care, 6 or less children” allowed by-right in all districts
 - “Home Day Care, 7 or more children” allowed with SUP in residential districts
 - Modify use of “Kennel” to be allowed only in GBD, I-1 and I-2 districts

ACTION/OPTIONS:

No formal action required at this time. Upon conclusion of discussion by Planning Commission, a public hearing will be set for the proposed text amendments at the next regularly scheduled Planning Commission meeting, as provided for in section 2.01 of the Development Regulations.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.01 Text Amendments

- c. **Return:** Return such recommendation to the Planning Commission with a statement specifying the basis for the City Commission's failure to approve or disapprove. If the City Commission returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendation, the City Commission by a simple majority thereof may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
6. **Publication.** If the City Commission approves an application, it shall adopt an ordinance to that effect, but the ordinance shall not become effective until its publication in the official newspaper.

2.02 Platting

- A. **Applicability:** Plat applications are required to establish or alter the legal boundaries of property, and may be the owners or agents of any property affected.
- B. **Platting Procedures:** Applications for platting shall be proposed on forms established by the Director of the Planning Department and filed with the City Clerk. Applications shall be processed according to the following specific procedures:
 1. **Types of Plats.** Plat applications are classified and processed as one of the following types:
 - a. **Administrative Plats, which are routine applications such as lot line adjustments, for lot splits or survey plats/lot combinations that do not alter development patterns or impact public services;** or
 - b. Minor Subdivisions, which are platting of five or fewer new lots, including any remainder parcel, that do not alter development patterns or impact public services; or
 - ~~bc.~~ Major Subdivisions, which larger subdivisions are with new ownership and development patterns that impact public services.
 2. **Pre-application Conference.** Prior to the filing of any plat, the applicant shall (preferably with 2 copies of a rough sketch plan of the proposed subdivision) contact the City staff to determine:
 - a. Classification of the plat.
 - b. Procedure for filing plats.
 - c. Availability of City sewers and water, and other major utilities, including a letter or similar proof of availability from any utility.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

-
- d. Comprehensive Land Use Plan requirements for major streets, land use, parks, schools and public open spaces.
 - e. Zoning requirements for the property in question and adjacent property.
 - f. Special setback requirements for arterial, collector and local streets.
3. *Administrative Plat.* Administrative plats shall be processed according to the following criteria and procedures.
- a. Criteria. An application may be classified as an administrative plat if the Director determines that all of the following are met. Any application not classified as an administrative plat shall be processed as a minor or 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) ~~For lot line adjustments, lot splits or lot combinations, the application affects the boundaries of only four or less existing lots, or is finalizing the legal boundaries of previously approved lots which could only be based on a legal survey after construction of improvements~~ a lot split, involves a single split of one lot resulting in two separate lots, or for a lot combination involves the combining of two separate lots into one lot.
 - ~~(4) For minor subdivisions of previously unplatted property, the application results in five or fewer new lots, including any remainder parcel.~~
 - (54) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (65) 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.
 - (76) 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. An administrative plat shall include all applicable information required for final plats.
 - c. Review and Approval. Upon review by the Director, Development Review Committee, or any affected departments or agencies, and within 60 days of filing, the Director shall approve any administrative plats that meet all requirements of these regulations, or deny the application and recommend any further processing as a major subdivision.
 - d. Effect of Decision. Approval of an administrative plat requires the applicant to record the plat with the Leavenworth Register of Deeds. Denial or recommendation of major subdivision shall be processed according to major subdivision review requirements.
-

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	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'	5080% [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'	5080% [8]	25'	0' [5]	25'	25'	45'
ROD	See Section 4.05							
I-1	15,000 s.f.	160'	5080% [8]	30'	10' [6]	20' [6]	25'	50' or 4 stories
I-2	15,000 s.f.	160'	5080% [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.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Property Development Standards

any case. A porch or stoop under this exception shall be no higher than the first-floor elevation of the front entry feature, may include a single-story roof structure integrated with the materials and style of the building, but shall only include support posts or pillars and railings or two walls up to three feet, but no windows, screens or other enclosures in the front-setback encroachment.

3. *Yard Requirements for Open Land.* If a lot is, or will be, occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required for the lots shall be provided and maintained unless some other provision of these regulations requires or permits a different minimum front or side or rear yard setback. The front, side, and rear yards shall not be required on lots used for garden purposes without structures, or lots used for open public recreation areas. If the permitted use is the display of new or used automobiles or other vehicles for sale that display may be allowed in the front yard setback, except the first five feet thereof.

D. ***Height Regulations.***

1. In all districts, one additional foot of height above the specified height limitations shall be permitted for commercial or industrial buildings for each one foot of additional setback on all sides provided over the minimum requirements, if no such building exceeds one 100 feet in height.
2. Single family, two family, and multiple family dwellings in the residential districts may be increased in height by one foot for each one foot of additional setback on all sides, provided that no residential building may exceed 50 feet in height.
3. Chimneys, cooling towers, elevator hothouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, may be erected to a height not to exceed 25% above the maximum height for the district in which it is located.

E. ***Accessory Structures.***

1. No accessory buildings shall be erected in any place forward of the main building line or in the required front or side yard setback, or at any other place forward of the main building line.
2. No accessory use except for permitted signs, fences, and permitted off-street parking shall be permitted in any required front or side yard.
3. All accessory buildings in residential districts shall maintain a three-foot side setback and a three-foot rear setback (to the nearest part of the structure, that is no overhang may encroach on the setback).
4. If the accessory structure has a vehicular alley entrance the sum of the right-of-way width and the setback of the structure shall not be less than 20 feet.
5. Accessory structures located elsewhere on the lot shall maintain setbacks applicable to the principal structure.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- 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: A private swimming pool, bathhouse, or tennis court.
 - e. ~~Yardicles~~ Miscellaneous Yard Decor: Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, 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.
 - 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 no taller than 50 feet in residential districts and no closer than 50 feet to a property line is permitted as an allowed accessory use. 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.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- q. ~~Agriculture Buildings: In residential districts an agricultural accessory building not to exceed 1,500 square feet may be permitted~~ two percent of the size of the lot on parcels two acres or larger.
4. *Prohibited Accessory Uses.* None of the following shall be permitted as an accessory use:
- a. ~~Large Vehicles or Trailers.~~—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 ~~12~~10,000 GVW (Gross Vehicle Weight).
- b. ~~Dismantled Objects.~~—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.
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, 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.

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- (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 separate outside entrance is provided for the home occupation;~~
- b. That no one, other than members of the immediate family residing on the premises, be employed;
- c. 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;
- d. ~~That a carport, garage, or any accessory structure may not only be used for home occupations with issuance of a Special Use Permit;~~
- e. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
- f. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than ½ square foot on a vertical wall below the roof soffit.
- g. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
- h. ~~That the home occupation shall be conducted entirely within the principal residential building except with issuance of a Special Use Permit;~~
- i. 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;
- j. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
- k. That two off-street parking spaces are provided; and
- l. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
- m. 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.

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 with a setback of 15 feet from the property line, or 50 percent of the existing setback if the distance from the house to the property line is less than 15 feet.**
 - (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 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 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 and not more than ten feet from the edge of the pool or patio, provided all other requirements of this section are met.

**DEVELOPMENT REGULATIONS
ARTICLE 8. SIGNS**

8.10 Neighborhood Business District

5. No message or identification (i.e., the name of establishment or the services offered) may be displayed more than once within the permitted total sign surface area per each front, side or rear wall.
6. The listing of an establishment's hours of operation shall be exempt from these regulations, provided that the area of the sign containing hours of operation shall be no greater than two square feet.
7. The listing of directional information (i.e., "parking in rear" or "use other door") shall be exempt from these regulations; provided that the area of the sign containing directional information is no greater than three square feet.
8. The use of window framing (i.e., a continuous light source illuminating the perimeter of an individual windowpane or a group of windowpanes) is prohibited.
9. Accessible doors to a business establishment shall be limited to the following types of window signage:
 - (a) Business name;
 - (b) Hours of operation;
 - (c) Phone number;
 - (d) Building or tenant address;
 - (e) Website; and
 - (f) The use of dark, opaque background panels for internally illuminated signs or letter faces is required to reduce the glare or glow of such signs.

8.11. Signs Permitted in Commercial and Industrial Districts (OBD, CBD, GBD, I-1 & I-2)

Table 8-03: OBD, CBD, GBD, I-1 & I-2 Signage Standards									
	Maximum Number			Maximum Size			Maximum Height		
	CBD	OBD	GBD, I-1 & I-2	CBD	OBD	GBD, I-1 & I-2	CBD	OBD	GBD, I-1 & I-2
Attached Signs [1] [2]	1 per side	1 per side	1 per side	150 06 s.f.	96-150 s.f.	500 s.f.	N/A	N/A	N/A
Freestanding Signs [3] [4]	1	1	1	50 s.f.	50 s.f.	100 s.f.	15	15	15
Window Signs	N/A	N/A	N/A	150 s.f. or 33% of window area	150 s.f. or 33% of window area	150 s.f. or 33% of window area	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

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

Adult Day Center: Any place or facility operating less than 24 hours a day providing activities and social engagement opportunities for not more than 15 unrelated adult individuals who, due to functional impairment, require some degree of supervision or assistance with the activities of daily living, with no on-site medical services provided.

Agency: means the Federal Emergency Management Agency (FEMA).

Agent: The legally authorized representative of a landowner

Agriculture Accessory Building: A detached accessory structure used for the shelter of livestock, the storage of agricultural products, or the storage and maintenance of equipment or supplies used for agricultural or property maintenance activities.

Agriculture Uses: The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures necessary for carrying out farming operations; provided, however, such agricultural use shall not include the following uses: (1) the maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted; (2) wholesale or retail sales as an accessory use unless the same are specifically permitted in this ordinance; (3) the feeding, grazing, or sheltering of animals or poultry in either penned enclosures or in open pasture within one hundred (100) feet of any lot line. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur-bearing animals as a principal use, or the operation or maintenance of a commercial stockyard, or feed yard.

Airport: Any location where one or more craft capable of containing a human, takes off or lands, and for which ground facilities necessary to these operations are constructed.

Alley: A public thoroughfare, which affords only a secondary means of vehicular access to abutting property, and is not intended for general traffic circulation. An alley line shall mean the centerline of an alley right-of-way.

Alteration: Any change or rearrangement to the structural parts of an existing building or property. Any enlargement, whether by height or dimension, shall be considered an alteration. Any act or process that changes the exterior architectural appearance of a building.

Amendment: A change in the wording, context, or substance of this ordinance, an addition, deletion, or change in the district boundaries or classifications upon the district map, which imposes any regulation not heretofore imposed or removes or modifies any such regulation heretofore imposed.

Amphitheater: Any open-air venue used for entertainment and performances.

Amusement Park: A commercial amusement activity such as a carnival, circus, miniature golf course, or similar establishment, which is not entirely within an enclosed building.

Animal Clinic or Animal Hospital: A place where animals or pets are given medical or surgical treatment in emergency cases and are cared for during the time of such treatment. Use as kennel shall be limited to short-time boarding and shall only be incidental to such hospital use and shall be enclosed in a soundproof structure

Animal Day Care: See Kennel

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			
	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		
RESIDENTIAL USES																				
Household Living																				
Dwelling, Single-Family Detached	P	P	P	P	P	P	S	P	P	P	S					P	S			
Dwelling, Two-Family	S	S	S	S	S			P	P							P	S			
Dwelling, Townhouse				P	P											P	P			
Dwelling, Multi-Family					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, IBC/IRC Modular Home							P									P	P	P		
Manufactured/ Mobile Home Community							P													
Group Living																				
Assisted Living Facility	S	S	S	S	S			S			P	P				S	S	S		
Convent/Monastery	P	P	P	P	P	P	P	P												
Dormitory	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	S		
Nursing Home/Hospice	S	S	S	S	S											S	S	S		
Senior Housing	S	S	S	S	S			S			P	P				S	S	S		
Shelter, Domestic Violence	P	P	P	P	P				P	P	P	P				P	P	P		
Student Housing						P	P	P			P	P								
PUBLIC AND INSTITUTIONAL USES																				
Community Services																				
Adult Day Center	P	P	P	P	P				P	P	P	P				P	P	P		
Cemetery	S	S	S	S	S															
Mausoleum	P	P	P	P	P															
Civic, Social, and Fraternal Organizations	S	S	S	S	S		S		P	P	P	P			P	S	P	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			
	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		
Subcategory																				
Specific Use Type																				
Community Centers	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Government Offices and Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Historic and Monument Sites																				
Jails and Prisons																				
Library	S	S	S	S				S	P	P	P		S							
Post Office Branches								P	P	P	P									
Religious Assembly	P	P	P	P	P	P	P	P	P	P	P									
Safety Services	P	P	P	P				P	P	P	P									
Day Care																				
Day Care Center/Preschool	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Day Care, Home (6 or less children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Day Care, Home (7 or more children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Educational Facilities																				
College or University	S	S	S	S																
School, Elementary and Middle (Public and Private)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
School, Senior High	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
School, Vocational-Technical and Trade																				
Health Care Facilities																				
Hospitals																				
Medical and dental clinics and offices								S	S	P	P							S		
Parks and Open Space																				
Arboretum or botanical garden	S																			
Campground	S																			
Community playfields, playgrounds, and parks	P	P	P	P				P	P	P	P									
Golf course, public	S	S	S	S										S				S		

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			
	R1-25	S 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	S					
Subcategory																								
Specific Use Type																								
Golf course, private																								
Zoo																								
Transportation																								
Airport																								
Bus Garage and Equipment Maintenance																								
Bus Terminal																								
Heliport																								
Railroad Terminal																								
Taxi Dispatch																								
Truck Terminal, Freight, Air Courier Services																								
Utility																								
Private Wind Energy Systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Private Solar Collection Systems	P	P	P	P	P	P	P	P	P	P	P	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	S	S	S				
Commercial Solar Collection Systems	S	S	S	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	S	S				
Communication Tower – Alternative Structure	S	S	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	S	S				
Water Storage	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
COMMERCIAL USES																								
Animal Sales and Service																								
Animal Day Care	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S				
Animal Confinement and Feed Operations	S																							
Kennel	S	S																						
Pet Shops																								
Pet Grooming	S	S	S	S																				
Veterinary Clinic with Boarding																								