

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, June 1, 2020
6:00 PM

CALL TO ORDER:

Commissioners Present

Mike Burke
Sherry Hines Whitson
Linda Bohnsack
Chris Murphy

Commissioners Absent

Claude Wiedower

City Staff Present

Julie Hurley
Michelle Baragary

Mike Burke, Julie Hurley, Jackie Porter and Michelle Baragary were present in the commission chambers. Sherry Hines Whitson, Linda Bohnsack and Chris Murphy participated via GoToMeeting.

Chairman Burke called the meeting to order at 6:04 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: May 4, 2020

Chairman Burke asked for comments or a motion on the minutes presented for approval: May 4, 2020. Mr. Murphy moved to accept the minutes as presented, seconded by Ms. Bohnsack. The minutes were approved by a vote of 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

With several applicants at the meeting, Chairman Burke stated 2020-02 TXT – Text Amendments will be moved to the last item on the agenda.

1. 2020-09 SUP – 1019 OTTAWA

Conduct a public hearing for Case No. 2020-09 SUP – 1019 Ottawa. The applicant, David F. Anaya, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1019 Ottawa. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the applicant, David F. Anaya, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1019 Ottawa. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The current location is an empty lot. The property owner recently purchased the lot, and is requesting a Special Use Permit to allow the development of a two-family (duplex) structure.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

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

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The property fills a need in the community by providing a two-family housing option.

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

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

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

The property currently does not have any structures on it. Any future structure will be required to meet the development regulations of the zoning district.

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

Chairman Burke called for questions from the commissioners about the staff report.

With no questions from the commissioners, Chairman Burke opened the public hearing.

Bob Patzwald, 514 N. 11th Street, stated over the past 15 years, his neighborhood has dealt with issues with rental properties in the area with drugs, shootings, etc. Does not believe the applicant will be able to retain quality tenants. Mr. Patzwald does not feel a duplex would improve the neighborhood but would actually hinder it.

(technical difficulty with remote meeting)

The commissioners had some difficulty hearing Mr. Patzwald so Ms. Hurley reiterated his concerns.

Chairman Burke asked for other public comments. With no one else wishing to speak, Chairman Burke closed the public hearing and opened it up for discussion among the commissioners.

(technical difficulties – cannot hear the applicant. Will table this item for next month’s meeting).

Applicant, David Anaya, reconnected to the meeting. Mr. Anaya stated he plans to build a quality 3 bedroom duplex at 1019 Ottawa, to include a sidewalk, paved driveway and a carport in the rear with paved parking pad. Mr. Anaya stated he has strict rental contract and if any of his tenants bring drugs into the house, they will be evicted immediately. Furthermore, building new construction improves the neighborhood. As the older homes in this area are either demolished or renovated will further improve the neighborhood. Mr. Anaya does not believe other properties that had issues with drugs in the past should prevent him from constructing a new quality duplex.

Ms. Whitson asked the applicant if he owns other properties in this location.

Mr. Anaya responded he owns 1108 Ottawa and 608 11th Street.

Ms. Whitson asked how drugs could be controlled.

Mr. Anaya replied the contract states no drugs at the property and the tenant must obey all city laws and ordinances. If he knows drugs are being used or sold at the property, he will immediately file eviction papers.

Jason Murphy asked Mr. Anaya if he lives in the Ottawa Street area.

Mr. Anaya replied he does not; he has lived in Lansing, KS for the past 30 years.

Mr. Murphy stated when developers come into single-family home neighborhoods and build multi-family unit homes, it ruins the single-family home atmosphere of the neighborhood. Mr. Murphy further stated, he too has a good contract for his rental property, however, the he will never know exactly what goes on inside the rental property. Ever renter is a potential person who could possibly become an issue. Mr. Murphy asked the commissioners to considered only single-family home development in single-family home areas.

Mr. Anaya stated duplexes are currently in the neighborhood. He further stated he regularly drives by his rental properties to monitor them. If he notices issues, such as tall grass, trash, etc., he contacts the tenants immediately.

Ms. Bohnsack stated her concern is with the architecture and façade; that they be similar to other properties in the neighborhood. At a minimum there should be a porch across the front and parking should be in the rear.

Mr. Anaya said his plan was to have a driveway with garage in the front, the duplex will have a porch and a carport in the rear for parking off the alley.

Ms. Bohnsack said in order to rejuvenate this neighborhood, the architecture must be similar to the homes currently in the area.

Mr. Anaya stated he could make the architecture fit the neighborhood and complement it.

Mr. Burke asked if the city looks at the design of the houses.

Ms. Hurley stated yes, when the applicant comes in for a building permit.

Mr. Burke asked if the commissioners have any say on the design of the duplex.

Ms. Hurley responded the commissioners can place conditions on the special use permit, such as the house will meet the existing average setback of the homes on the block, that the architectural style will be compatible, that there will not be a driveway in the front, etc.

Mr. Burke and Ms. Hurley asked Ms. Bohnsack if that addressed her concerns.

(technical difficulties – Ms. Bohnsack cannot hear anyone).

Mr. Anaya stated as long as the conditions are reasonable, he is willing to meet them.

With the continuing audio issues, Ms. Hurley suggested to table the issue to July's meeting. This will give the applicant time to come up with a rough conceptual site plan and an example of what the house might look like so the commissioners have a better understanding of the proposed development.

Chairman Burke called for a motion. Mr. Murphy moves to table the issue for the applicant to provide a conceptual site plan, seconded by Ms. Whitson and approved by a vote of 4-0.

2. 2020-10 SUP – 1373 SHERMAN AVE

Conduct a public hearing for Case No. 2020-10 SUP – 1373 Sherman Ave. The applicant, Vail E. and Pamela S. Fruechting, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1373 Sherman Ave. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the applicant, Vail E. and Pamela S. Fruechting, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1373 Sherman Ave. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The structure on the property has been functioning as a two-family dwelling. The property owner is requesting a Special Use Permit to adequately represent the current use of the structure on the property.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

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

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The property fills a need in the community by providing a two-family housing option.

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

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

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

No new structures or building modification are proposed as part of this special use permit. The property will continue to function as it has in previous years.

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

Chairman Burke called for questions from the commissioners about the staff report.

Planning Director Julie Hurley stated we have had a number of requests come in for existing duplex units, which are located in single-family zoned areas. It seems like something may have changed with mortgage lending requirements. Individuals are finding that when they go to sell an existing duplex that is not zoned appropriately they are having trouble with financing. Banks are requesting they get these special use permits to allow a duplex in a single-family district.

The applicant, Vail Fruechting, stated if the buyer is purchasing it as an investment property, the lender will not lend on it because if the property is destroyed by more than 50%, a duplex could not be rebuilt.

Ms. Hurley stated that is correct; the Development Regulations state that if a nonconforming use, which this would be, is destroyed by more than 50% of its fair market value it could not be rebuilt in a nonconforming way; it would need to adhere to the current regulations. Approving a special use permit for this property would carry with the property; therefore, if the property were to burn down, the special use would still be in place allowing the owner to rebuild it as a duplex.

Ms. Bohnsack stated this is an apt use for the special use permit because it is an existing duplex in a cul-de-sac of existing duplexes. Ms. Bohnsack asked if the city should contact property owners of duplexes about a special use permit.

Ms. Hurley stated the city would wait for property owners to contact the city if they need a special use permit. She further stated the zoning regulations could be reviewed by the Planning Commission at a later date to discuss the possibility of allowing duplexes in single-family zoning districts.

With no further questions from the commissioners, Chairman Burke opened the public hearing. With no one wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Murphy moved to recommend approval based on the findings as stated, seconded by Ms. Whitson and approved by a vote of 4-0.

3. 2020-12 SUP – 625 PAWNEE ST

Conduct a public hearing for Case No. 2020-12 SUP – 625 Pawnee St. The applicant, Property Management & Maintenance, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 625 Pawnee St. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the applicant, Property Management & Maintenance, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 625 Pawnee. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The current location is an empty lot. The property owner is requesting a Special Use Permit to allow for the development of a two-family (duplex) structure.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

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

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

The property fills a need in the community by providing a two-family housing option.

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

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

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

The property currently does not have any structures on it. Any future structure will be required to meet the development regulations of the zoning district.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Burke called for questions from the commissioners about the staff report.

Ms. Hurley stated this property is located off 7th Street, along a more commercial corridor. There is a mix of zoning within this area.

Chairman Burke opened the public hearing.

Joe Herring stated he performed the survey and plot plan for this project and is representing the property owner.

Ms. Whitson asked if there is an existing building on the lot.

Ms. Hurley responded it is a vacant lot with no structures.

Ms. Whitson asked if the applicant is proposing to build a two-family dwelling.

Mr. Herring stated the property owner wants to build a duplex with an alley entrance and parking structure in the rear. The property has a three-foot retaining wall in front so the duplex would sit back a little further than neighboring properties and the duplex will meeting current setback regulations.

Mr. Burke asked about the parking.

Mr. Herring stated the parking is designed to come off the alley with four parking spaces on a paved surface area. There is on-street parking available on Pawnee Street but all required parking will be in the rear off the alley.

Ms. Bohnsack stated she is concerned about the façade. This is in an older neighborhood and the design of this duplex does not go with the style of the neighborhood (inaudible). The duplex needs to have an overhang of some kind (inaudible).

Mr. Burke stated they may want to add a condition to the special use permit.

Ms. Hurley stated a condition can be made for the applicant to provide more architectural detail and relief on the elevations.

Ms. Bohnsack moves to recommend approval with the stipulation a covered porch is added to the front of the duplex, seconded by Mr. Murphy and approved by a vote of 4-0.

4. 2020-21 SUB – MURPHY’S REPLAT

Consider a final plat for the Murphy’s Replat subdivision.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the subject property is owned by Jason and Sashaa Murphy, plat prepared by Joe Herring. The applicant is requesting approval of a 1.74 acre, 1 lot final plat. The property is zoned R1-9, Medium Density Single Family Residential District, and is currently occupied by a single family home.

The replat of this property is being done in order to combine two existing lots, vacate unused utility easements and modify existing platted setbacks to conform with current setback requirements. The existing single family home is located on the .51 acre lot addressed as 601 Topeka Avenue. The vacant 1.23 acre lot directly behind 601 Topeka Avenue, addressed as 514 S. 17th Street, is under the same ownership, this plat combines the two lots. The lot addressed as 514 S. 17th Street is undevelopable as a single-family lot.

The plat has been reviewed by the Public Works Department, no major issues were identified.

Staff recommends approval of Murphy's Replat.

ACTION/OPTIONS:

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

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

With no questions from the commissioners, Chairman Burke asked if the applicant would like to speak.

Jason Murphy, applicant, stated the property was purchased in 2012, the back lot cannot really be developed, is heavily wooded and covered by two converging creeks. The reason for combining the two lots is to install on the rear lot an outbuilding with a mother-in-law suite above it and a woodshop below. Mr. Murphy also plans on installing a fence on the north side of 514 S. 17th Street lot to stop the dumping that has been going on.

With no questions from the commissioners, Chairman Burke called for a motion. Mr. Murphy moved to approve Murphy's Replat final plat, seconded by Ms. Whitson and approved by a vote of 4-0.

5. 2020-02 TXT – TEXT AMENDMENTS

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

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated 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. On March 2, 2020, the Planning Commission reviewed proposed text amendments, which are now presented for public hearing and vote.

- **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 2.02; Platting**

Add language providing for 18 month time period in which final plats shall be recorded with the Register of Deeds after final approval by the City Commission.

- **Section 4.03; Property Development Standards**

Commercial and Industrial zoning district 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.

During the March 2, 2020 Planning Commission meeting, Planning Commissioners indicated that they would like a maximum allowable size implemented for Agriculture Buildings. Staff recommends a maximum size of 3,400 square feet. With the suggested allowable size of 2% of the size of the lot on which the Agriculture Building is located, up to a maximum of 3,400 square feet, this would allow for the following sizes of Agriculture Buildings:

- On a 2 acre lot: 1,742 sqft
- On a 3 acre lot: 2,613 sqft
- On a 4+ acre lot: 3,400 sqft

- **Section 4.04; Use Standards**

Per direction of the City Commission, add language to allow for keeping of Apiaries in residential districts.

During the March 2, 2020 Planning Commission meeting, Planning Commission discussed the possibility of requiring property owners to obtain a Special Use Permit in order to keep an Apiary on their property, or to notify neighboring property owners of their intent to keep an Apiary. Based on a survey of other local communities with regulations that allow the keeping of Apiaries in residential districts, staff recommends adoption of the language as presented. However, if the Planning Commission elects to implement a notification measure for adjoining properties, staff would recommend that the keeping of Apiaries in residential districts be allowed only with the issuance of a Special Use Permit, as notification requirement for a use allowed by-right would be problematic and difficult to enforce.

- **Section 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 15 feet from the curb or edge of pavement, instead of 15 feet from 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.

- **Section 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
- “Apiaries” allowed in all residential zoning districts

ACTION/OPTIONS:

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

Chairman Burke called for questions from the commissioners about the staff report.

With no questions from the commissioners, Chairman Burke opened the public hearing. With no one wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Murphy moves to recommend approval of the proposed text amendments to the City Commission, seconded by Ms. Bohnsack and approved by a vote of 4-0.

Ms. Hurley stated the meeting in July will take place July 13th due to the Fourth of July holiday.

With no further business, Chairman Burke adjourned the meeting.

The meeting adjourned at 7:35 p.m.

JH/mb