

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, May 3, 2021
6:00 PM

CALL TO ORDER:

Commissioners Present

Claude Wiedower
Sherry Hines Whitson
Wes Henning
Joseph Burks
Chris Murphy
Mike Burke

Commissioners Absent

James Diggs

City Staff Present

Julie Hurley
Jackie Porter
Michelle Baragary

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

APPROVAL OF MINUTES: April 5, 2021

Chairman Burke asked for comments or a motion on the minutes presented for approval: April 5, 2021. Mr. Wiedower moved to approve the minutes as presented, seconded by Mr. Murphy and approved by a vote of 5-0. Mr. Henning abstained.

Chairman Burke welcomed new Planning Commission member Wes Henning.

OLD BUSINESS:

None

NEW BUSINESS:

1. LINDA BOHNSACK

Presentation of certificate for outgoing Planning Commission member.

Chairman Burke presented Ms. Bohnsack with a certificate and thanked her for her many years of service on the Planning Commission.

2. 2021-15 SUB – ADAMS VALLEY FINAL PLAT

Consider a final plat for Adams Valley.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the subject property is owned by LD Development, LLC, plat prepared by Atlas Surveyors. The applicant is requesting approval of an 18 lot final plat for the Adams Valley residential development. The property is currently occupied by a single family home. A request to rezone the property from R1-9, Medium Density Single Family Residential District to R1-6, High Density Single Family Residential District, is also on this agenda for consideration.

The subject property is 4.76 acres in size, and is occupied by one single family home. The site consists of the two existing parcels addressed as 1440 and 1460 Quincy Street. The plat consists of 18 residential lots with an average size of 9,647 sq ft.

The preliminary plat was discussed at the December 17, 2020 Development Review Committee meeting. Items related to utilities, drainage, and improvements to Quincy Street were discussed. Utilities are available to the property, and easements will need to be obtained in order to connect to existing utilities to the east. Grading on lots as they are developed will need to direct drainage to the street, instead of away from individual lots and onto adjoining properties, and will be addressed prior to recording the final plat when site improvement plans shall be submitted for review and approval by the Public Works Department.

The Planning Commission approved the preliminary plat at the January 4th, 2021 meeting.

Staff recommends approval of the Adams Valley Final Plat.

ACTION/OPTIONS:

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

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

Mr. Wiedower asked if anything has changed since the preliminary plat.

Planning Director Julie Hurley stated nothing has changed.

With no further questions or discussion, Chairman Burke called for a motion. Mr. Wiedower moved to approve the Adams Valley final plat, seconded by Ms. Whitson and approved by a vote of 6-0.

3. 2021-12 SUP – 2137 BIRCH STREET

Conduct a public hearing for Case No. 2021-12 SUP – 2137 Birch Street. The applicant is requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 2137 Birch Street. The property is current zoned R1-6 (High Density Single Family Residential District). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit.

Chairman Burke took a moment to explain the public hearing process for residents who are participating remotely.

Chairman Burke called for the staff report.

City Planner Jackie Porter stated the applicants, Duane and Kimberly Reece, are requesting a Special Use Permit to allow the operation of Child Care Center in their home located at 2137 Birch Street. The property is currently zoned R1-6, High Density Single Family Residential District. Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit.

The applicant is licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care, and operated a licensed child care facility in her previous home in the City of Leavenworth.

CONDITIONS OF DETERMINATION

In recommending approval of a special use, the Planning Commission may impose such conditions, safeguards and restrictions as may be necessary to carry out the general purpose and intent of the ordinance. The development regulations stipulate specific conditions as a requirement for the approval of Child Care Centers as follows:

1. Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.

The subject property is located along Birch Street, which is classified as a Residential street.

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

The subject property includes a back yard area of approximately 3,050 sqft., enclosed by a 4' wooden fence. The back yard is adjacent to fenced backyards of residential properties.

3. Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.

The subject property does have a driveway or other paved off-street loading area. There is ample on-street parking in front of the subject property as well.

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

The applicants have provided a copy of their Group Day Care Home permit from the Kansas Department of Health and Environment.

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

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

6. Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of two sides or one non-illuminated sign affixed to the main structure with a maximum of the 3 square feet.

The applicant currently is not displaying a sign advertising her business.

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.

Child Care Centers are an essential service to working parents in the community, and promote the economic development, welfare and convenience of the public.

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

Staff does not feel that the proposed Child Care Center will cause any substantial injury to the value of other property in the neighborhood. There are currently a total of 17 Child Care Centers in residential neighborhoods with active Special Use Permits within the City of Leavenworth.

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

No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as a residential structure.

Notification was sent to property owners within 200' of the subject property, as required by Kansas State Statute. Since notifications were mailed, staff received communication from four property owners opposed to the Child Care Center.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. A minimum of 1,200 square feet of open space 100% enclosed by a minimum 4' high fence or wall shall be provided and maintained in good condition.
2. A copy of the permanent Group Day Care Home license shall be provided annually upon renewal by the State of Kansas.
3. The operation shall be limited to a maximum of 12 children.
4. No additional home occupations may be carried out at the residence.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

ACTION/OPTIONS:

- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions.

- Motion, to recommend denial to the City Commission.
- Table the issue for additional information/consideration.

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

Mr. Wiedower asked if staff is aware of any concerns or violations the applicant may have had at her child care center located at her prior location in Leavenworth.

Planning Director Julie Hurley responded staff is unaware of any concerns/violations.

Mr. Burke stated he thought the commission has approved a special use permit for a child care center in this neighborhood in the past.

Ms. Hurley stated she is unaware of a child care center in this particular neighborhood but there are 17 active special use permits for home-based child care centers in the city. If the home-based child care center is for six or fewer children, a special use permit is not required from the city; so it is possible there are other child care centers in this neighborhood who are caring for six or fewer children.

Chairman Burke asked if the applicant would like to speak.

Kimberly Reece, applicant 2137 Birch Street, stated their previous daycare was located on Randolph St. She has been running a child care center since 2012. Since she has moved to Birch Street, she has been contacted by several parents in the neighborhood interested in using her daycare facility.

Mr. Henning asked the applicant if this is increasing her existing child care facility from fewer than 6 children to greater than 6 children but fewer than 12.

Mrs. Reece responded the only reason for the special use permit is because she has moved to a new location and the city requires a new special use permit.

Mr. Wiedower asked the applicant if she knew there was a need for child care in that immediate area before applying for the special use permit and if she intends to care for children in the immediate area.

Mrs. Reece responded she is unable to accept any more children as her daycare currently has a waiting list; however, she has been contacted by several parents in the immediate area about using her daycare.

With no other questions/discussions about the staff report, Chairman Burke opened the public hearing. Chairman Burke reiterated there is a 14-day protest petition period after tonight's meeting, and the Planning Commission only makes a recommendation to the City Commission, who will make the final determination.

Hike Welling, 2133 Birch Street, stated no one living in a residential home wants a commercial child care facility adjacent to or across from them. Stated a child care facility will negatively impact the property value of his home. Mr. Welling further stated he is a disabled veteran and the requested daycare would negatively affect his personal health and well-being with undue stress caused by additional traffic and noise of children playing.

Duane Reece, applicant 2137 Birch Street, stated he too is a disabled veteran who served in three separate conflicts. Mr. Reece stated he has served his country for over 20 years and would like to serve his community through childcare.

Mr. Burke asked the applicants about the parking concerns some neighbors have.

Mr. Reece responded parents pull up to the house and stop in front of the driveway so small children do not have to step onto the curb. Mr. Reece addressed some of the concerns mentioned stating the kids are not running around the neighborhood screaming, although they are allowed outside to play and exercise, and his property value has increased in the six months he has lived there.

Mr. Burke asked the applicant if any of his neighbors approached him with their concerns.

Mr. Reece responded in the negative.

Mr. Burke asked if the applicant informed any neighbors about operating a daycare.

Mr. Reece stated he had not. He does have a sign that reads "Daycare Parents Are Appreciated".

Mrs. Reece stated if the kids start getting rambunctious, they take them to the park to burn off energy. (Inaudible). During the pandemic, the number of children in their daycare increased so parents could work. Mrs. Reece further stated, child care facilities are essential.

Ms. Hurley informed the commissioners the yard sign they currently have is a permitted sign.

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

With no further discussion, Chairman Burke called for a motion. Mr. Burks moved to recommend approval of the special use permit for 2137 Birch Street to the City Commission based upon findings as stated and conditions as presented, seconded by Mr. Murphy and approved by a vote of 5-1. Mr. Wiedower voted against the special use permit.

Ms. Hurley stated this will begin the 14-day protest petition period as required by state statute. This item will be heard by the City Commission Tuesday, May 25th at 7:00 p.m. in the Commission Chambers.

4. 2021-08 REZ – 711 MARSHALL STREET (CUSHING MEMORIAL HOSPITAL)

Conduct a public hearing for Case No. 2021-08 REZ – 711 Marshall Street. The applicant is requesting a rezoning of the property located at 711 Marshall Street from R1-6 (High Density Single Family Residential District) to GBD (General Business District).

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the applicant, the Board of County Commissioners of Leavenworth County, is requesting a rezoning of their property located at 711 Marshall from R1-6, High Density Single Family Residential District, to GBD, General Business District. The property is occupied by the former Cushing Memorial Hospital, which closed in October 2020 and is currently vacant.

The rezoning is being requested to allow for reuse of the hospital building with a mix of county offices and private health care providers. The intended use is less intensive than the prior use as a hospital,

and will utilize existing parking facilities. No expansion of the building footprint is proposed. The use of the building will be within traditional business hours with limited use on evenings or weekends.

The existing building was constructed as a hospital in the late 1800's with several additions in the intervening years, and has functioned as a hospital since that time until its recent closure in October 2020. The property is considered legal-nonconforming, as the previous use of the property as a hospital is not in compliance with the current Development Regulations. Any nonconforming use of a structure may be changed to another nonconforming use as an exception granted by the Board of Zoning Appeals. Additionally, when a nonconforming use is abandoned for a period of 24 consecutive months, any subsequent use must comply with the regulations of the zoning district. Given the intended use of multiple occupants, staff advised the applicant that a Rezoning request would be the best option, providing the highest degree of transparency and avoiding potential future legal complications and multiple requests for exceptions.

CONDITIONS OF DETERMINATION

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

- a) The character of the neighborhood;

The subject property is the site of the former Cushing Memorial Hospital, which is currently vacant. To the north is a multi-story medical office building. To the south is the Carroll Mansion, occupied by the Leavenworth County Historic Society. Two blocks to the north is the former Medical Arts building, which was rezoned to GBD, General Business District, in 2017. The remainder of the neighborhood consists of single-family homes.

- b) The zoning and use of properties nearby;

All surrounding properties are zoned R1-6, High Density Single Family Residential District, except for the site of the former Medical Arts building two blocks to the north which is zoned GBD.

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

The subject property was built in the late 1800's as a hospital, and has functioned as such since that time until its recent closure in October 2020. The building has housed medical uses consistently 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 housed medical uses since its construction, and provides adequate parking facilities for such uses. It is anticipated that the neighborhood will experience a decrease in traffic, as the building will not be used on a 24/7 schedule in the same manner that the hospital was. No detrimental effect on nearby property is anticipated due to the rezoning.

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

The building has functioned as a hospital since its construction in the late 1800's, until the hospital's closure in October 2020.

- 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 would have a positive effect on the public health and welfare by providing space for needed health services, while preserving and adaptively reusing a historic building.

- 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.

After the required public notices were sent to property owners within 200' as required by Kansas State Statute, staff received communication from one individual in opposition to the rezoning request.

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.

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

Mr. Wiedower asked for clarification that the rezoning request would not be in conflict with anything in the future for that area.

Ms. Hurley responded in the affirmative stating the rezoning is in conformance with the Future Land Use.

Mr. Burke stated essentially there are two options for the subject building: 1) either use the building as it exists or 2) tear the building down.

Ms. Hurley stated since the property is zoned single family residential, it is limited in the types of uses that can occur in the single family zoning district even with a special use permit. Again, as it stands there is really no productive use of this building with the current zoning. The building needs to be rezoned to allow reuse of the building.

Mr. Murphy stated in full disclosure that his wife is now president of the Leavenworth County Historical Society. Mr. Murphy further stated it seems the city has bad luck with rezoning a building for general use, which allows anybody to use the building for whatever is permitted in that zoning

district, and then you end up with a welding shop or auto repair shop in half the building, which would disrupt the neighborhood.

Mr. Burks stated if the building is not rezoned then you are left with a vacant building for the next 40 to 80 years.

To address Mr. Murphy's concern, Ms. Hurley stated unfortunately, there is no medical office zoning so we are limited in our zoning district options. The commercial zoning districts allow for a wide variety of uses by design, and does allow for multiple uses not just medical office.

Chairman Burke asked the applicant to speak.

David Van Parys, County Counselor and representative for the applicant, stated this whole process started when the County discussed with the City the County's plan to use the subject building, which was donated to the County by St. Luke's. Currently there is no plan for any welding shops, retail stores, etc. to go into this facility. The plan is to locate some County offices. There has already been discussions with one healthcare provider that would utilize the entirety of the third floor and possibly the fourth floor. Mr. Van Parys further stated it would be in everyone's interest to find some useful purpose for the building.

With no further questions about the staff report, Chairman Burke opened the public hearing.

Lisa Weakley, representing the Leavenworth County Historical Society located at 1128 5th Avenue, stated the Leavenworth County Historical Society is opposed to the rezoning request. The character of this neighborhood has been predominately single family and townhomes in nature. Rezoning to GBD would allow too much variety of commercial, retail, wholesale, etc. that are normally found in a commercially developed district of the city. These uses are incompatible with the current residential neighborhood.

Ms. Weakley further stated the Historical Society would like the commission to consider the impact this may have on any future development, especially if the County decides to leave this property as they have done in two previous properties.

Ms. Weakley continued by stating the general business district would have a negative impact on property values, commercial traffic would increase in residential neighborhoods and this is a spot zoning request that falls outside of the City's economic development plan. If the County wants government offices, assisted living, nursing homes or senior housing, all of these are compatible uses under its present R1-6 zoning.

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

Mr. Wiedower stated he is in favor of the rezoning.

With no further discussion, Chairman Burke called for a motion. Mr. Wiedower moved to recommend approval of the rezoning request from R1-6 to GBD for 711 Marshall Street to the City Commission, seconded by Ms. Whitson and approved by a vote of 5-1. Mr. Murphy voted against the rezoning request.

Ms. Hurley stated this item will be heard Tuesday, May 25th at the City Commission meeting at 7:00 p.m. This does begin the 14-day protest petition period as required by state statute.

5. 2021-11 REZ – 5136 LAKEVIEW DRIVE

Conduct a public hearing for Case No. 2021-11 REZ – 5136 Lakeview Drive. The applicant is requesting a rezoning of the property located at 5136 Lakeview Drive from R1-9 (Medium Density Single Family Residential District) to GBD (General Business District).

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the applicant is requesting a rezoning of their 11.8 acre property located at 5136 Lakeview Drive from R1-9, Medium Density Single Family Residential District, to GBD, General Business District. The subject property is owned by Sandra Harrison, Donna De Met, Gloria Mercer, and Darlene Lynch, and is under contract to be purchased by 4M Pioneer Holdings, LLC, who is acting as the applicant/agent for the project. The property is currently occupied by one single-family home, which is vacant.

The rezoning is being requested to allow for commercial development of the property, as it is directly adjacent to the Eisenhower Road corridor. A Culver’s restaurant is planned for the southeast portion of the property. At this time, no other users have been identified for the remainder of the development. As future users are identified, any proposed site development plans will be reviewed by City staff.

The site plans were reviewed at the April 15, 2021 Development Review Committee meeting. Several items related to traffic, access, internal circulation, stormwater, and utilities were discussed with the applicant. All of these items will be addressed at or prior to the issuance of any building permits for the site. Improvements to a portion of Lakeview Drive adjoining the proposed development are planned as part of the project. The associated preliminary and final plat applications are also on this agenda.

CONDITIONS OF DETERMINATION

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

a) The character of the neighborhood;

The subject property is 11.8 acres in size and is occupied by a single family home. It is located directly along the Eisenhower corridor. To the east is the Armed Forces Insurance office building, the Leavenworth County Health Department and Hallmark Cards factory. To the west is the Frontier Community Credit Union, Woods Gas Station, and Dillons grocery store. To the north is a 26.6 acre single family residential lot, with additional single family homes further to the north. To the south across Eisenhower is a strip commercial center, in the City of Lansing.

b) The zoning and use of properties nearby;

The properties to the north and immediately across Lakeview Drive to the east are zoned R1-9, Medium Density Single Family Residential. Properties to the west and further east are zoned OBD, Office Business District. Property further to the west is zoned GBD, General Business District. Property to the south is inside the city limits of Lansing and is zoned PUD, Planned Unit Development.

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

The subject property is currently occupied by one single-family home. As this property is immediately adjacent to the Eisenhower Road corridor, which is a major 4 land thoroughfare and experiences a high volume of traffic, and is adjoined by commercial and office uses along this corridor, single family residential is not the most appropriate use of the property.

- 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 property is primarily surrounded by commercial and office uses, with single-family to the north. The existing home to the north is approximately 565 feet from the property line, and screening/buffering would be required at the time of development of the northern portion of the subject property.

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

The subject property has always been single-family residential in nature.

- 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 the economic development of the City and region with added commercial uses, and will increase the value of the subject property through development as a commercial site.

- 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 commercial 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.

After the required public notices were sent to property owners within 200' within city limits and 1,000' outside of city limits as required by Kansas State Statute, staff received communication from one individual in opposition to the rezoning request.

REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R1-9 to GBD to the City Commission
- Recommend denial of the rezoning request from R1-9 to GBD to the City Commission
- Table the issue for additional information/consideration.

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

Mr. Burke asked what the concern was from the individual is opposition of the rezoning request.

Ms. Hurley stated it involves property to the north and some title information that was found during the various title work that was done on the subject property. The City of Leavenworth did speak with the city attorney and the City of Leavenworth is not in the position of enforcing individual title disputes or agreements; that is strictly between two property owners. The city is only to consider the factors that are laid out in state statute and the Development Regulations.

Mr. Burke asked if the applicant would like to speak.

Mark Schuler, 16290 NW 126th Street, Platte City, MO, stated he was born and raised in Leavenworth and is a retired Air Force Colonel. He currently owns two Culvers in Platte City, MO and Lawrence, KS. Mr. Schuler stated he has been working with city staff to help find potential properties for Culvers in Leavenworth. Looking at zoning and the Future Use Map, Eisenhower is an appropriate zoning use and great development opportunity for Leavenworth.

Mr. Burke asked the applicant if there are any recommendations or requirements from the DRC meeting that would present an issue.

Mr. Schuler responded in the negative. He has been working with Public Works and the civil engineering plans are good, further stating they are hopeful to break ground the beginning of June. Marketing for the rest of the subject property has not been done at this point but believes there are good opportunities for further development once they begin to look for additional users.

Mr. Burke asked if a traffic impact study has been launched.

Ms. Hurley responded it is her understanding that it is not needed at this time. A traffic impact study may be needed in the future as the rest of the site develops.

Mr. Schuler stated the traffic impact study brought up while looking at the overall development of the property not just specifically the Culvers piece of it.

With no further questions about the staff report, Chairman Burke opened the public hearing.

Stephen Flanagan, 4700 Lakeview Drive, stated his concerns are turning east from Lakeview Drive onto Eisenhower is difficult due to traffic, improvements need to be made all the way to Muncie Road and stormwater flow. Mr. Flanagan stated vacant commercial space is located across the street in the strip center. Furthermore, what will happen to the property values for the properties to the east of Culvers that are zoned R1-9.

Ms. Hurley stated part of the project will include improving Lakeview Drive, at least the northern boundary adjacent to the subject property. There are no plans to improve Lakeview Drive north of that.

Mr. Murphy also has concerns about traffic.

Mr. Flanagan stated he wants to see an environmental impact plan for this project because he foresees a huge water issue.

Ms. Hurley stated the Public Works Department does not require that type of impact plan. However, any development requires a stormwater design/plan that is reviewed/approved by Public Works. Essentially, the stormwater is not allowed to impact any surrounding property.

Bernie Bristow, 16853 Stranger Road, stated his wife (Linda Bristow) and sister-in-law (Deborah Howard) own the property to the north of the subject property. Referring to the 1949 Agreement, Mr. Bristow stated the deed restricts the use of certain aspects of 4 acres of the subject property, which is part of the 6.38 acre north parcel. In Mr. Jahn's autobiography, completed in 2000, Mr. Jahn stated the importance of maintaining his 4 acre home site as residential.

Mr. Bristow further stated he is not adverse to the applicant's changing opportunities. However, the current deed restrictions afford him the opportunity to protect the utility and the aesthetic integrity of his property now and in the future. Mr. Bristow requests the 6.3 acre parcel to be excluded from rezoning at this time. Furthermore, increased traffic can negatively impact the safety and character of the neighborhood.

Elsa Surber, 4900 Lakeview Drive, stated she agrees with the statements provided by Mr. Flanagan and Mr. Bristow. Ms. Surber foresees accidents occurring on Eisenhower.

Henry Green, 4818 Lakeview Drive, stated the rezoning would be a great disadvantage to the neighborhood

(Technical Difficulties)

Michelle Burns, 4630 W. 137th Street Leawood KS, stated she is the attorney for Mr. Jahn's daughters who now own the property at 5136 Lakeview Drive. The property has been vacant since 2007. The rezoning of the property to GBD meets all the golden criteria that is required by state statute and state laws. Ms. Burns further stated the property to the north, being the first residential property, is 565' from the subject property line. The existing restriction agreement should not be taken into account for this rezoning request and will be dealt with if and when a development plan is submitted for that portion of the property. Based on the criteria, surrounding uses and what the Development Review Committee has set forth from previous meetings that will require the developer to do traffic impact and stormwater plans; the city will make sure these are done appropriately but really are not a factor to be taking into account with this rezoning.

Ms. Burns ended by stating the owners of the subject property, Ms. Mercer, Ms. Lynch, Ms. Harrison and Ms. De Met, all support the rezoning of their family property.

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

Mr. Murphy stated he is thinking future development for that area. Traffic may become a concern but will be addressed at that time.

Mr. Burks stated Eisenhower is one of the highest traffic volume streets already. He does not see a near-term increase in traffic issues just because of a rezoning. Mr. Burks does hear the concern about turning onto Eisenhower from Lakeview Drive and would assume that would be looked at and addressed at some point.

Mr. Burke stated he sees growth with these undeveloped areas along Eisenhower and all traffic on Eisenhower will need to be reviewed at some point.

Ms. Whitson mentioned a concern about the strip mall on the south side of Eisenhower and the many vacancies they have.

Ms. Hurley stated that is located in Lansing, not Leavenworth.

Mr. Henning stated because there is not much room for growth along 4th Street Leavenworth grows by developing on Eisenhower. He understands the concerns from the neighboring properties but from the city's standpoint believes this is a great move for Leavenworth.

With no further discussion, Chairman Burke called for a motion. Mr. Murphy moved to recommend approval of the rezoning request for 5136 Lakeview Drive from R1-9 to GBD to the City Commission, seconded by Mr. Burks and approved by a vote of 6-0.

Ms. Hurley stated this begins the 14-day protest petition period. This item will be heard by the City Commission Tuesday, May 25th at 7:00 p.m. in the Commission Chambers.

6. 2021-18 SUB – EISENHOWER MARKETPLACE PRELIMINARY PLAT

Consider a preliminary plat for Eisenhower Marketplace.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the subject property is owned by Sandra Harrison, Donna DeMet, Gloria Mercer, and Darlene Lynch, plat prepared by Herring Survey Company. The property is under contract to be purchased by 4M Pioneer Holdings, LLC, who is acting as the applicant/agent for the project.

The applicant is requesting approval of a 11.8 acre, 2 lot preliminary plat for the Eisenhower Marketplace, located at the northwest corner of Eisenhower Road and Lakeview Drive. The property is currently zoned R1-9, Medium Density Single Family Residential District. An accompanying request to rezone the property to GBD, General Business District, is also on this agenda. The property is currently occupied by one single-family home, which is vacant.

The plat was reviewed at the April 15, 2021 Development Review Committee meeting. No issues of note were identified with the plat.

The associated final plat for the development is also on this agenda.

Staff recommends approval of the Eisenhower Marketplace, Preliminary Plat.

ACTION/OPTIONS:

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

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

With no comments/questions, Chairman Burke called for a motion. Mr. Henning moved to approve the Eisenhower Marketplace preliminary plat, seconded by Mr. Murphy and approved by a vote of 6-0.

7. 2021-17 SUB – EISENHOWER MARKETPLACE FINAL PLAT

Consider a final plat for Eisenhower Marketplace.

Chairman Burke called for the staff report.

Planning Director Julie Hurley stated the subject property is owned by Sandra Harrison, Donna DeMet, Gloria Mercer, and Darlene Lynch, plat prepared by Herring Survey Company. The property is under contract to be purchased by 4M Pioneer Holdings, LLC, who is acting as the applicant/agent for the project.

The applicant is requesting approval of an 11.8 acre, 2 lot final plat for the Eisenhower Marketplace, located at the northwest corner of Eisenhower Road and Lakeview Drive. The property is currently zoned R1-9, Medium Density Single Family Residential District. An accompanying request to rezone the property to GBD, General Business District, is also on this agenda. The property is currently occupied by one single-family home, which is vacant.

The plat was reviewed at the April 15, 2021 Development Review Committee meeting. No issues of note were identified with the plat.

The associated preliminary plat for the development is also on this agenda.

Staff recommends approval of the Eisenhower Marketplace, Final Plat.

ACTION/OPTIONS:

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

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

With no comments/questions, Chairman Burke called for a motion. Mr. Henning moved to approve the Eisenhower Marketplace final plat, seconded by Mr. Murphy and approved by a vote of 6-0.

8. 2021-14 TXT – TEXT AMENDMENTS

Conduct a public hearing for proposed text amendments to the adopted 2016 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, minor items arise 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 modifications have been drafted by staff and are now presented for public hearing and vote.

- **Section 2.02; Platting**
 - Add criteria for Administrative Plats that all property involved must have been previously platted.
 - Add requirement that Administrative Plats be recorded within 18 months of approval.
 - Add requirement that Minor Subdivision Plat be recorded within 18 months of approval.
- **Section 4.03; Property Development Standards**
 - Clarify language regarding side and rear setback requirements for accessory structures.
- **Section 4.04; Use Standards**
 - Clarify language regarding calculation of accessory structures to include any second story of such structures.
- **Section 5.03; General Parking Requirements**
 - Add allowance for partial gravel driveways on residential lots over 2 acres in size.
- **Section 8.04.C; Signs Excluded From Permit**
 - Correct reference related to garage sale permits in City Ordinance.
 - Add language to allow temporary signs without permit for “Public Service Organizations”.
 - Revise language related to Political Signs, addressed more specifically in later section of chapter.
- **Section 8.08; Signs Permitted in Residential Districts**
 - Remove RMX and MP zoning districts from section, addressed in later sections of chapter.
 - Increase allowable sign area for Home Based Business Signs from ½ sqft to 6 sqft.
 - Increase allowable sign area for Open House Signs from 4 sqft to 6 sqft.
 - Correct inconsistencies to clarify that 3 temporary signs, 3 sqft in size, are allowed on any lot.
- **Section 8.10; Signs Permitted in the Neighborhood Business District (NBD)**
 - Add Residential Mixed Use District to this section.
- **Section 8.12; Temporary Signs**
 - Add language and specific requirements regarding temporary signs allowed in the right-of-way for 45 days preceding any election, as required in Kansas State Statute.
- **Section 8.15; Nonconforming, Hazardous, Dangerous, Illegal and Prohibited Signs**
 - Add language to allow issuance of sign permits for nonconforming uses.
- **Section 11.03; BZA Powers and Jurisdiction**
 - Add language referencing State Statute authorizing such powers and duties.
 - Remove criteria for Exceptions, such criteria not required by State Statute.
- **Appendix A; Use Table**
 - Complete update to uses allowed By Right and by Special Use. Please see attached Appendix A.

ACTION/OPTIONS:

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

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

With no comments/questions about the staff report, Chairman Burke opened the public hearing.

With no one wishing to speak, Chairman Burke closed the public hearing and called for a motion. Mr. Wiedower moved to recommend approval of the proposed text amendments to the adopted Development Regulations to the City Commission, seconded by Mr. Murphy and approved by a vote of 6-0.

Ms. Hurley stated there are two items for the June 7th Planning Commission meeting.

With no other business, Chairman Burke adjourned the meeting.

The meeting adjourned at 7:56 p.m.

Some technical issues occurred during the recording of this meeting.

Minutes taken by Administrative Assistant Michelle Baragary.