

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

**REGULAR SESSION  
Monday, October 4, 2021  
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: August 2, 2021**

NEW BUSINESS:

**1. 2021-26 REZ – 520 N. 7<sup>TH</sup> STREET**

Conduct a public hearing for Case No. 2021-26 REZ – 520 N. 7<sup>th</sup> Street. The applicant is requesting a rezoning of the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District.

OTHER BUSINESS:

**None**

ADJOURN

**CITY OF LEAVENWORTH PLANNING COMMISSION**

**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, August 2, 2021**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Claude Wiedower  
Sherry Hines Whitson  
Donald Homan  
Joseph Burks  
Chris Murphy  
James Diggs

**Commissioners Absent**

Bill Waugh

**City Staff Present**

Julie Hurley  
Michelle Baragary

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

**APPROVAL OF MINUTES: June 7, 2021**

Chairman Wiedower asked for comments or a motion on the minutes presented for approval: June 7, 2021. Mr. Burks moved to approve the minutes as presented, seconded by Mr. Murphy and approved by a vote of 6-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2021-21 – 410 S. 2<sup>ND</sup> STREET**

Conduct a public hearing for Case No. 2021-21 REZ – 410 S. 2<sup>nd</sup> Street. The applicant is requesting a rezoning of the property located at 410 S. 2<sup>nd</sup> Street from I-1, Light Industrial District, to CBD, Central Business District.

Chairman Wiedower called for the staff report.

Planning Director Julie Hurley stated the applicant, Richard Cook Jr., is requesting a rezoning of their property located at 410 S. 2<sup>nd</sup> Street from I-1, Light Industrial District, to CBD, Central Business District. The property is currently occupied by C&H Supply, a plumbing supply company.

The property consists of a large warehouse structure with a fenced parking area, as well as a small connected retail space with direct access on 2<sup>nd</sup> Street. The rezoning is being requested to allow for reuse of the building as a mini-storage facility and a cigar lounge. No expansion of the building footprint is proposed.

The applicant intends to convert the warehouse portion of the structure into a mini-storage facility by retrofitting the interior of the building to accommodate individual storage units, while retaining the brick exterior. Windows and doors will be updated and the existing chain link fence will be replaced with black steel fencing and an automatic gate. The adjoining retail space will be converted to a cigar lounge, with no proposed changes to the exterior.

Pending approve of the rezoning request, issuance of a Special Use Permit will be required for operation of a mini-storage facility in the CBD zoning district. Mini-storage is a use permitted by-right in the I-1 zoning district. However, the adjoining retail portion of the building does not allow for most retail-type uses which would be considered appropriate in the downtown area with the current I-1 zoning. CBD is a less intense zoning district than I-1 and will allow for uses that are more appropriate for the location of the property.

### **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 current site of C&H Supply, and is part of the Leavenworth Industrial Historic District. The site is considered to be within Downtown Leavenworth, lying to the southwest of the intersection of 2<sup>nd</sup> and Choctaw Streets, and is part of the Central Business District overlay. Downtown Leavenworth contains a wide variety of uses.***

- b) The zoning and use of properties nearby;

***The properties to the east and north are zoned CBD, and occupied by the Stove Factory Lofts. The property to the west is zoned I-1 and is occupied by the Leavenworth School District maintenance facility. The property to the south, across Three Mile Creek, is zoned OBD, Office Business District, and is occupied by the Leavenworth County Justice Center. The majority of other surrounding properties to the north and west are zoned CBD and are part of Downtown Leavenworth with a broad mix of uses.***

- 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 and has served multiple purposes. The nature of the warehouse portion of the building limits the type of uses which may reasonably be accommodated by the building without significant structural changes, to primarily industrial-type uses. The retail portion of the building is not suitable for industrial uses.***

- 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. CBD is a less intense zoning classification than I-1 and will allow for more appropriate uses for the downtown area.***

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

***The property is not currently vacant.***

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

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

- g) The recommendations of permanent or professional staff;

***Staff recommends approval of the rezoning request.***

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

***The area is identified as appropriate for Mixed Use 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.***

Since the subject property is located in the Industrial Historic District, this does require review by the Leavenworth Preservation Commission, which is scheduled for this Wednesday, August 4, 2021.

After the required public notices were sent to property owners within 200' as required by Kansas State Statute, staff received no communication from any notified parties in regards to the rezoning request.

**ACTION/OPTIONS:**

- Recommend approval of the rezoning request from I-1 to CBD to the City Commission
- Recommend denial of the rezoning request from I-1 to CBD to the City Commission
- Table the issue for additional information/consideration.

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

Mr. Donald Homan asked if the storage would be interior or exterior storage.

Ms. Hurley responded it is proposed to be interior storage units. They would be retrofitting the inside of the building to have the individual storage units.

Chairman Wiedower asked for the applicants to explain their proposed project.

Jake Ross stated he and Josh Magaha, R&M Investment Group, just purchased this property in June 2021. The plan is to have mini-storage units inside the warehouse portion of the building, which is roughly 10,000 sqft. The building has very high ceilings. The retrofits are approximately 10' tall so most of the building will remain historic.

Mr. Ross further stated after they closed on the property they discovered from the previous owner that the smaller storefront was addressed as 410 S. 2<sup>nd</sup> Street and the warehouse portion was 412 S. 2<sup>nd</sup> Street. This did not show up on the title searches.

Mr. Magaha stated their intentions for the smaller storefront to the north is to have a cigar lounge and a walk-in humidor. The humidor would be on the first floor and the lounge would be on the second floor. Mr. Magaha stated the old melting pot used to make tank turrets is still there. They want to put lexan glass on top of it.

Mr. Chris Murphy asked if they have thought about expanding the cigar lounge to serve alcohol too, such as brandy sniffers.

Mr. Magaha stated due to their current liquor license they are unable to obtain a second license for this location.

Mr. Murphy asked how plan intend to control traffic.

Mr. Ross stated that individuals coming to lease a unit could use the on-street parking to enter the office area to speak with someone. Individuals who are leasing a unit would enter through the gate. Currently the gate is two swinging chain-link gates but the idea is to install new fencing and an automatic gate that renters would have access to 24/7. There is plenty of parking to keep people off the street when loading and unloading items in the storage units.

Ms. Sherry Hines Whitson asked what they plan on doing with the parking lot.

Mr. Ross stated for supplemental income they would utilize the large parking area for exterior storage of RV's, boats, etc. A possible phase two in the future would be exterior storage units if permitted in the CBD zoning district.

Ms. Whitson asked what the hours of the cigar lounge would be.

Mr. Magaha stated their planned hours are from noon to 10:00 p.m.

Mr. Homan asked if renters would have 24/7 access to the storage facilities.

Mr. Ross responded currently access is specific hours during the week and on the weekends when the gate is open; but they are looking into a software program that as long as the renter's account is paid and not in default, they would have 24/7 access to their storage unit.

Mr. Homan asked about the outside storage.

Mr. Ross stated the intent is to leave the concrete that is already there and then asphalt the rest of the parking area so they can designate parking stalls. A possible phase 2 would be to concrete the entire parking area for outdoor storage units.

Mr. James Diggs asked if the applicants have checked into state, county and/or city requirements for ventilation, AC system, recirculating air, etc. for smoking inside of a building.

Mr. Ross stated the smaller building for the cigar lounge is separated from the larger warehouse by concrete. They have also spoke with an HVAC company about installing smoke eaters, which will help draw the smoke out.

Ms. Whitson asked when their ETA is and about signage.

Mr. Ross stated due to Covid, the retrofit companies are at least six months out.

Mr. Magaha stated the signage will be First City Storage.

Mr. Ross said it will be a simple wall sign on the front of the building with a nice awning. There will be no neon or lights on the sign. The cigar lounge would have backlighting on the sign to give it the neat industrial rustic look.

Mr. Homan asked if the building is sprinklered and if so, wet or dry.

Mr. Magaha stated it is sprinklered with a wet system but is not sure if it is active.

Mr. Ross stated he has been in touch with Chief Building Inspector Hal Burdette on the city's requirements.

With no further questions, Chairman Wiedower closed the public hearing and asked for questions, comments or discussion among the commissioners.

Mr. Homan said he has concern about the parking if the applicants plan on storing RVs, etc. in the parking area.

Mr. Wiedower stated the Planning Commission is strictly dealing with the request for rezoning from I-1 to CBD.

Ms. Hurley stated with a rezoning request, the commission looks at the overall zoning not the specific use. Details of a specific use will go through staff.

With no further questions or discussion, Chairman Wiedower called for a motion. Mr. Diggs moved to approve the rezoning request from I-1, Light Industrial District, to CBD, Central Business District, seconded by Mr. Murphy and approved by roll call 6-0.

Ms. Hurley stated there are no items on the agenda for September and reminded the commissioners of the training session scheduled for August 30, 2021 at 6:00 p.m.

With no other business, Chairman Wiedower adjourned the meeting at 6:32 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.

PLANNING COMMISSION AGENDA ITEM  
2021-26-REZ  
520 N. 7<sup>th</sup> STREET

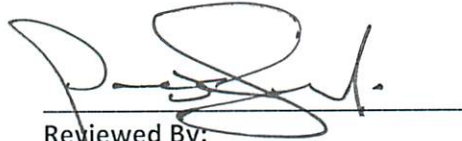
OCTOBER 4, 2021

**SUBJECT:**

A request to rezone the property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District.



Prepared By:  
Julie Hurley,  
Director of Planning and  
Community Development



Reviewed By:  
Paul Kramer,  
City Manager

**ANALYSIS:**

The applicant is requesting a rezoning of their property located at 520 N. 7<sup>th</sup> Street from OBD, Office Business District, to NBD, Neighborhood Business District. The subject property is owned by Robert Hayes and is occupied by an existing one-story commercial building, which currently houses a barber shop with the remainder of the building vacant.

The rezoning is being requested to allow for retail and service establishments appropriate for a neighborhood setting. The owner intends to open a tattoo & piercing studio in the building, which is an allowed use in the NBD zoning district.

The site is located at the northeast corner of 7<sup>th</sup> & Ottawa Streets, directly adjacent to the June's Northland building, which is zoned NBD. There are a number of other commercial uses in close proximity to the site along the 7<sup>th</sup> Street corridor, and the site is identified as appropriate for Commercial Uses on the Future Land Use Plan. There is existing parking on the site, sufficient for any potential use.

**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 .21 acres in size and is located at the northeast corner of 7<sup>th</sup> & Ottawa Streets, along the 7<sup>th</sup> Street corridor. There are a number of commercial uses in close proximity, along with a high concentration of single family residential neighborhoods.*

- b) The zoning and use of properties nearby;

*The properties directly to the north and west are zoned OBD, Office Business District. The property to the west, across 7<sup>th</sup> Street, is occupied by Kids Connection, and the property to the north, across Ottawa Street, is occupied by a single family residence. The property to the south is zoned NBD, Neighborhood Business District and is occupied by June's Northland Restaurant. Properties further to the north along 7<sup>th</sup> Street are zoned OBD and are occupied by a variety of retail, office and residential uses. Properties beyond the 7<sup>th</sup> Street corridor are primarily zoned R1-6, High Density Single Family Residential District, and occupied by single family homes.*

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

*The subject property is occupied by a single-story commercial building which is suitable for either commercial, retail, or office uses.*

- 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. Rezoning of the property to NBD will allow for a more varied mix of business establishments suitable for a neighborhood setting.*

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

*The subject property is not vacant.*

- 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 by allowing for the potential of retail and service establishments which supply commodities or perform services to meet the daily needs of the neighborhood.*

- 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*

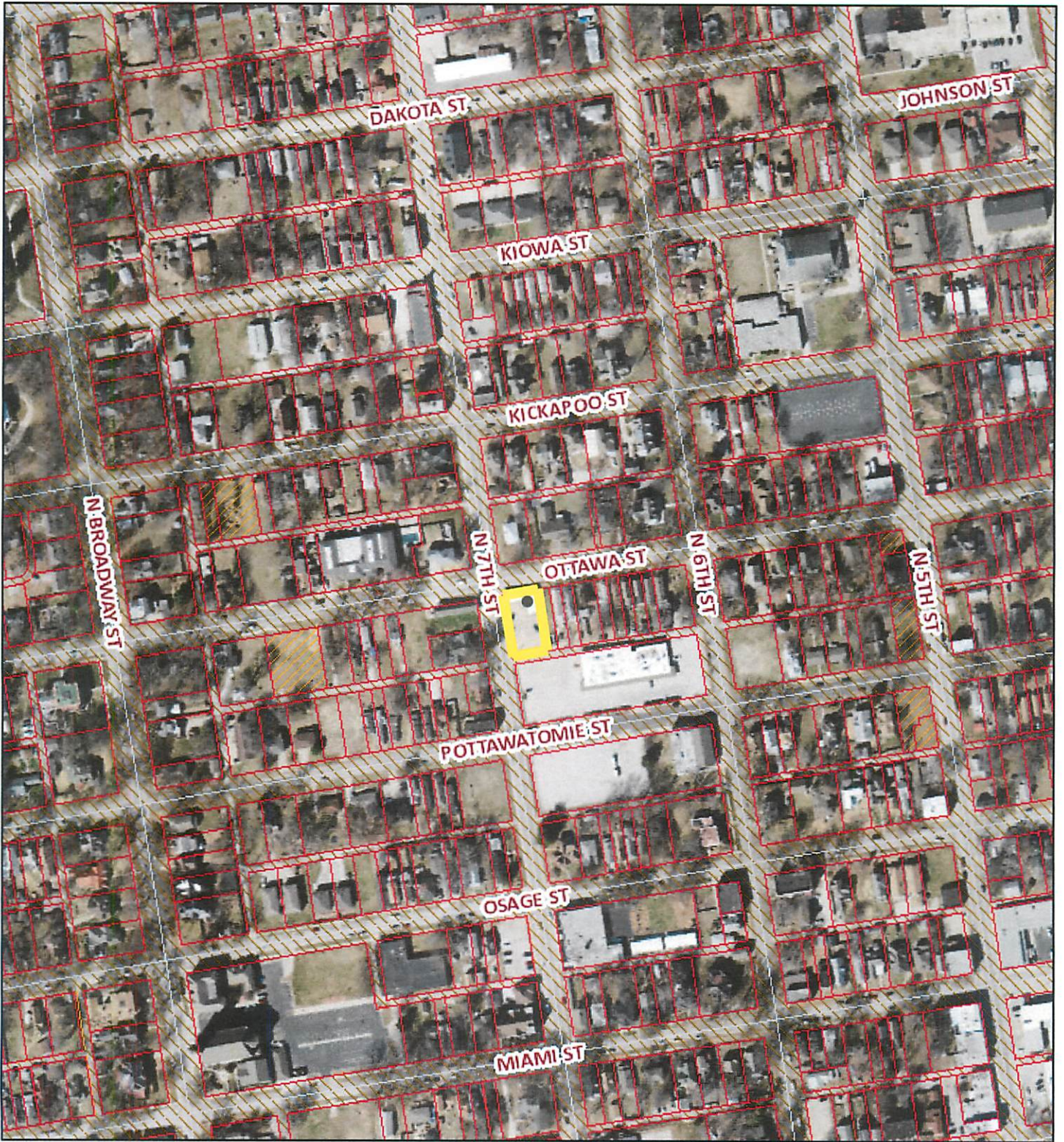
After the required public notices were sent to property owners within 200' as required by Kansas State Statute, staff did not receive any comments from notified property owners.

**REZONING ACTION/OPTIONS:**

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



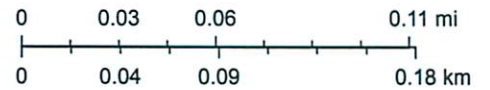
# 2021-26-REZ



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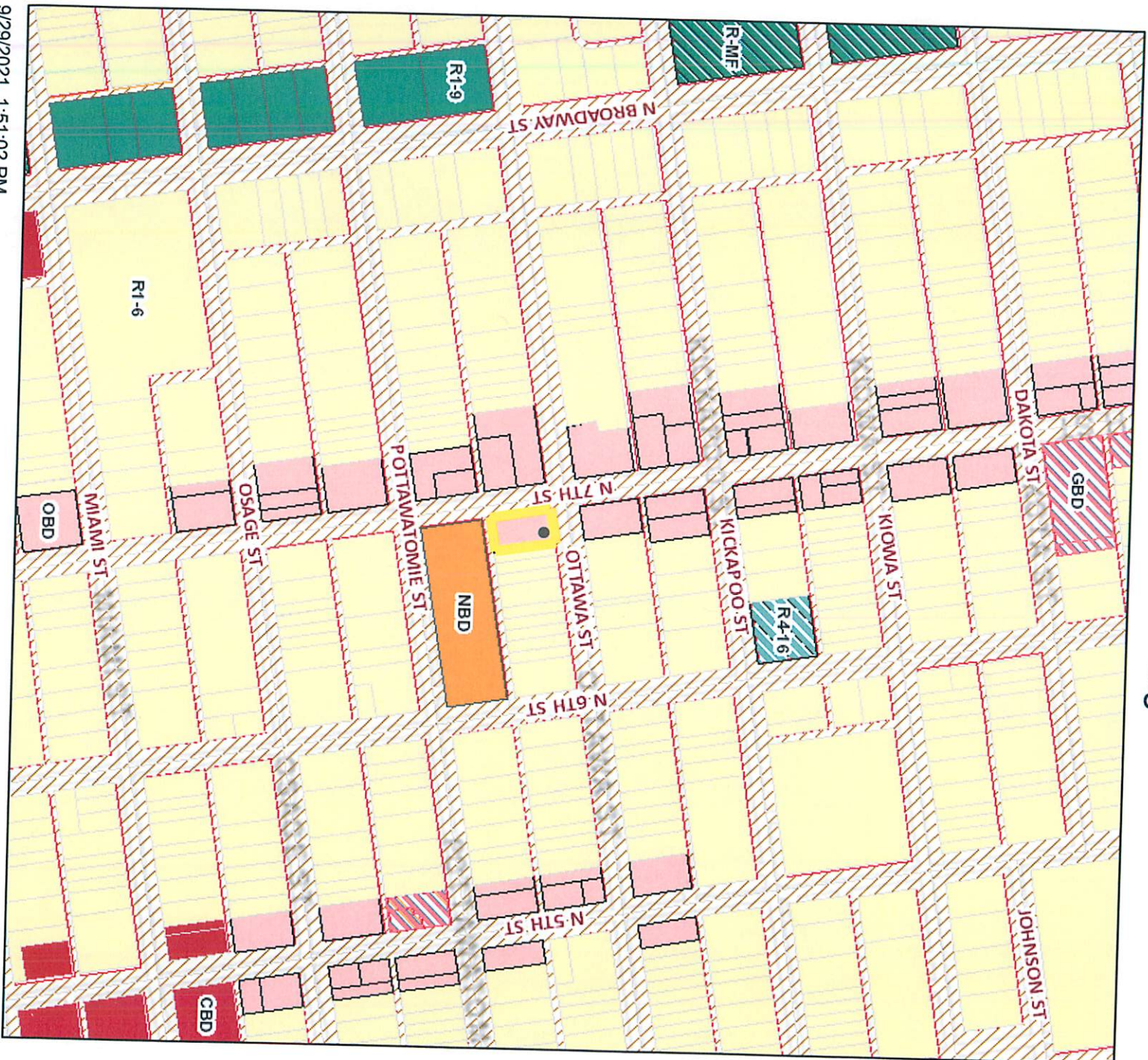
1:4,514

- Override 1
- Parcels (City Owned)
- Parcels\_Current
- Missouri River
- Lansing City Limits
- Ft Leavenworth Military Installation
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline

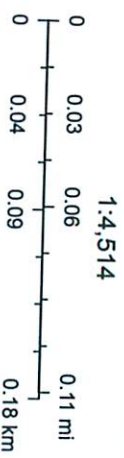
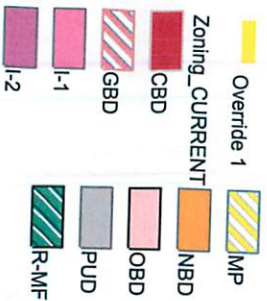


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

# 2021-26-REZ Zoning

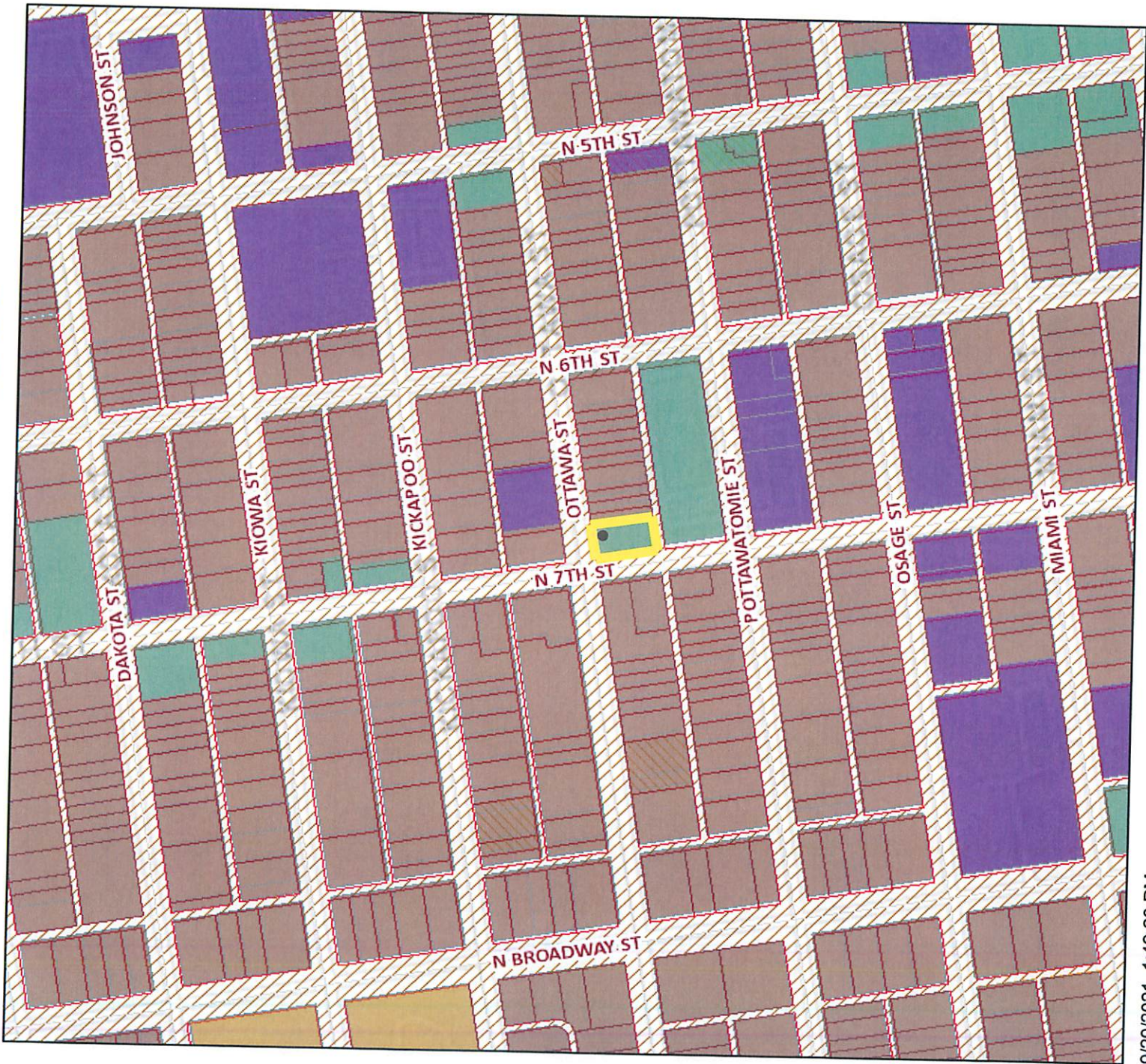


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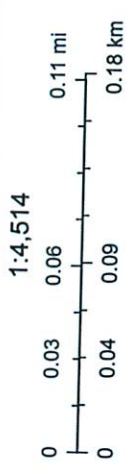


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# 2021-26-REZ Future Land Use



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- Override 1
- Future Land Use (Comp Plan 2030)
- Commercial
- Conservation/Open Space
- Industrial
- Mixed Use
- Multi-Family
- Park
- Public/Semi-Public
- Single-Family
- Parcels (City Owned)
- Parcels\_Current
- Missouri River

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**APPLICATION FOR REZONING**  
CITY OF LEAVENWORTH, KANSAS

**OFFICE USE ONLY**

CASE NO. 2021-26 REZ

Application #	9126
Fee (non-refundable)	\$350.00
Filing Date	8-16-21
Received By	SA
Hearing Date	10-4-21
Publication Date	9-9-21

The undersigned owner(s)/agent for the owner(s) of the property described below, herein petition for a change in the zone of the following legally described property: (agent must have authorization to make application).

Subject Property:	520 N. 7th St Leaw KS		
Rezoning:	Present classification of: CBD	district to: CBD	
Legal Description:	(Attach full legal description provided by the REGISTER OF DEEDS OFFICE)		
Real Estate PID #:		Historic District:	N/A

I/We, Robert Hayes being duly sworn, depose and say that I am the owner/agent for the owner of the property involved in this petition and that the statements and answers herein contained and then information herewith submitted are in all respects true and correct to the best of my knowledge and belief.

Name(s) of Owner (print or type):	Robert Hayes		
Address:	532 Pine Ridge Ct Lansing KS 66043		
Contact No.	913 549 2996	Email Address:	ducks carpet@gmail.com
Signature of Owner(s):			

State of Kansas ) (SEAL)  
County of Leavenworth )

NOTARY PUBLIC STATE OF KANSAS	DEBORAH F. SMITH My Appt. Exp. <u>2-8-22</u>
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Signed or attested before me on 8-16-2021 by Robert Hayes  
(date) (name(s) of person(s))

Notary Public: Deborah F. Smith My Appointment Expires: 2-8-22

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

If necessary, use additional sheets to respond to the following:

Briefly describe the present use and character of the property and of the surrounding area:

Part of the building is used as a Barber Shop the rest of the building has been vacant for several years. The vacant part of the building is where I would like to locate my business

Briefly describe the intended use and character of the property:

Tattoo + Piercing Studio

Briefly describe why you believe the land use (zoning) being requested is the most appropriate for this property:

Give the reason(s) why you believe this proposal will not be materially detrimental to the public welfare and surrounding properties and/or measures you have taken or intend to take to prevent detrimental impacts:

I have operated the same business in Leavenworth for 3 years. My studio is very family friendly and community oriented

Is the property affected by any easements, deed/plat restrictions or other conditions arising from previous Special Use Permits, Subdivisions, rezoning or variances? If so, briefly explain the origin and effect of such conditions:

No

Check List:	
✓	Non-refundable fee of \$350.00 is due at time of application
✓	Certified list of the property owners within two hundred (200) feet of the subject property
✓	Full legal description obtained through the Register of Deeds Office
✓	Site plan drawn to scale (see General Instructions)
✓	Supporting documentation (see General Instructions)