

**CITY OF LEAVENWORTH PLANNING COMMISSION**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, October 4, 2021**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Joseph Burks  
Bill Waugh  
Donald Homan  
James Diggs

**Commissioners Absent**

Claude Wiedower  
Sherry Hines Whitson  
Chris Murphy

**City Staff Present**

Julie Hurley  
Michelle Baragary

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

**APPROVAL OF MINUTES:** August 2, 2021

Vice Chairman Burks asked for comments or a motion on the minutes presented for approval: August 2, 2021. Mr. Waugh moved to approve the minutes as presented, seconded by Mr. Homan and approved by a vote of 4-0.

**OLD BUSINESS:**

**None**

**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.

Vice Chairman Burks called for the staff report.

Planning Director Julie Hurley stated 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 barbershop 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 southeast 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 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.

**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.

Vice Chairman Burks called for questions from commissioners about the staff report.

Mr. Homan asked for clarification that the properties all the way to Dakota are zoned OBD other than June's Northland.

Ms. Hurley responded in the affirmative stating the properties are zoned OBD but there are a good number of nonconforming uses in that area.

Mr. Diggs asked about the tattoo and piercing studio the owner intends to open.

Trent and Diana Allen, 405 E. Connie, Lansing, KS, approached the board. Ms. Allen stated her business is currently located at 402 S. 5<sup>th</sup> Street; however, they intent on purchasing the subject property contingent on the rezoning request.

Mr. Homan asked if the intend to lease the existing barbershop.

Ms. Allen responded in the affirmative.

Mr. Diggs asked staff if there are any restrictions with a tattoo shop at this location. He further stated he knows the people who live in the house behind the subject property and they would have an issue with a tattoo shop at this location.

Ms. Hurley responded there are no restrictions for a tattoo shop at this location. Everyone within 200 feet of the subject property was notified of the rezoning request and staff did not receive any communication from anyone. Ms. Hurley further stated the commission is only looking at the rezoning to NBD and not the specific use of a tattoo and piercing studio.

Mr. Allen stated they are a family friendly business. Mr. Allen further stated he is in law enforcement and knows there is a stigma that comes along with a tattoo studio but they keep negativity out of their shop.

Vice Chairman Burks opened the public hearing.

Mr. Homan asked if it is Kansas statute to send out notifications within 200 feet.

Ms. Hurley responded in the affirmative.

With no one else wishing to speak, Vice Chairman Burks closed the public hearing and called for a motion. Mr. Diggs moved to recommend approval of the rezoning request from OBD to NBD to the City Commission, seconded by Mr. Waugh and approved by a vote of 4-0.

Ms. Hurley stated this item will go to the City Commission for first consideration on October 26, 2021.

Ms. Hurley stated there are no items on the agenda for November.

With no other business, Vice Chairman Burks adjourned the meeting at 6:15 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.