

**CITY OF LEAVENWORTH PLANNING COMMISSION**

**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, March 7, 2022**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Claude Wiedower  
Sherry Hines Whitson  
Bill Waugh  
Joe Burks

**Commissioners Absent**

James Diggs  
Chris Murphy  
Donald Homan

**City Staff Present**

Julie Hurley  
Michelle Baragary  
Jackie Porter

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

**APPROVAL OF MINUTES:** February 7, 2022

Chairman Wiedower asked for comments or a motion on the minutes presented for approval: February 7, 2022. Commissioner Burks moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 4-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2022-04 REZ – 1830 S. BROADWAY**

Conduct a public hearing for Case No. 2022-04 REZ – 1830 S. Broadway. The applicant/owner is requesting a rezoning of the property located at 1830 S. Broadway from R1-6, High Density Single Family Residential District, to RMX, Residential Mixed Use District.

Chairman Wiedower called for the staff report.

City Planner Jackie Porter stated the applicant and owner, Baljit Baidwan, is requesting a rezoning of the property located at 1830 S. Broadway Street from R1-6, High Density Single Family Residential District, to RMX, Residential Mixed Use District. The subject property is 9.32 acres in size and is occupied by a single building. The existing structure is occupied by the Council on Aging. A

Special Use Permit for a “convalescent nursing or rest home” was approved for the property in 1985. The Council on Aging operates as a legal non-conforming use of an office building and community center for senior citizens programs and events. The Council on Aging is anticipated to vacate the building and relocate to the former Cushing Memorial Hospital by the end of 2022.

The rezoning is being requested by the property owner to allow the zoning to accurately represent the intended use of property. The current owner intends to renovate the building to allow for office space and multifamily residential uses. The owner has not indicated any specific plans in terms of mix of uses, number of residential units, or square footage of office space. The owner has indicated that he has no plans at this time to expand the existing structure or construct additional buildings on 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 site of the Council on Aging facility. The surrounding and adjacent properties are single-family homes, and Saint Casimir Church located at the southeast corner of Pennsylvania Street and S. Broadway Street. The subject property’s access entrance is located along Garland Street, the parcel abuts Pennsylvania Street, South Broadway Street, and Rees Street. Garland Street is classified as a local street and designed to handle a low volume of traffic. Based on 2019 Pavement Condition Index (PCI), the current condition of Garland Street is classified as very poor.***

- b) The zoning and use of properties nearby;

***All adjacent properties are zoned R1-6 (High Density Single Family Residential District), and uses are single-family residential.***

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

***The subject property was built in 1960. There have been improvements on the property in 1960, 1970, 1975 and 1980. The building is currently used as an office space and community center for senior citizens for the Council on Aging.***

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

***The proposed rezoning has potential to impact the surrounding properties by increasing the vehicular and foot traffic flow in the area. The subject building has been used for office space and community center for senior citizens prior to the current owner.***

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

***The existing building has not been vacated by Council on Aging. Council on Aging is still holding programs and events at this location.***

- 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 could have a potential positive effect on public health, safety and welfare by allowing for the reuse of an existing building that is about to become vacant, and by providing for a mix of residential, office and commercial 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 Public/Semi-Public on the Future Land Use map. While the proposed rezoning to RMX is not specifically a public or semi-public use, the designation of Public/Semi-Public does take into account the potential for a more intense use of the property than what currently exists. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.***

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

***No other factors.***

#### **REZONING ACTION/OPTIONS:**

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

Chairman Burke called for questions for staff.

Regarding the intended use, Commissioner Burks asked if they are to go back to 1985 and try to understand what the intended use of this property was for.

Planning Director Julie Hurley responded that as long as the City has had zoning, this property has been zoned R1-6. A Special Use Permit (SUP) was issued in 1985 for a nursing home. Our records do not indicate when the nursing home stopped operating at this location and switched over to the Council on Aging just being the office use. Technically the property is a non-conforming use because the current use does not meet the SUP for a convalescent nursing home. The non-conforming use is allowed to continue unless the use changes. With the Council on Aging leaving, any use on this property would have to be in conformance with the zoning; and in order to do anything other than single-family residential on this particular property, there needs to be a different special use permit issued or a rezoning.

Chairman Wiedower stated to the audience, they will be provided an opportunity to speak on the issue at hand. When at the podium, must state your name and address for the record. Do not address questions to the property owner. All questions shall be directed to the commission.

Chairman Wiedower asked the property to speak about his plans for the subject property.

Baljit Baidwan, applicant and owner of the subject property, stated he purchased the property in July 2021. Wants the best use that will allow him to use the current structure on the property without tearing the building down. The building is over 20,000 sqft. Would use some space for office space and convert the rest of the building into multi-family units.

Chairman Wiedower asked Mr. Baidwan where he lives and if he has other properties that he has converted to apartments.

Mr. Baidwan responded he lives in Overland Park, Kansas. He owns two properties in Leavenworth, one is multi-family located on Ottawa and the other building is downtown. He also owns properties outside of Leavenworth.

Chairman Wiedower asked in addition to the proposed office space, how many apartments does the applicant intend to have.

Mr. Baidwan stated the number is not definite but if he goes with a 600-700 sqft one-bedroom apartment it would be about 30 units.

Chairman Wiedower asked if there will be any changes to the available parking at the subject property.

Mr. Baidwan responded City staff will dictate how many parking stalls will be required when he submits his final plan to the City. Believes there is enough parking for the south side of the building but will require parking for the north side of the building. The property is large enough to create another parking lot. People will not be parking on the street.

Other than renovations to the building, Chairman Wiedower asked the property owner what his plans are to keep the property looking professional, i.e. landscaping.

Mr. Baidwan stated his immediate plan for this summer is to renovate the north side of the building into 10 apartments and add a parking lot. The south portion of the building will be renovated after the Council on Aging vacates the property.

With no further questions from the commissioners, Chairman Wiedower opened the public hearing. Those wishing to speak need to stated their name and address for the record.

Betty Smith, 1708 Garland, stated her concerns are with the overgrown bushes and algae in the pond.

Terry Hundley, 1816 Garland, is concerned because there is no drainage or curb on Garland. Additional concern is that Garland is not wide enough for the increased traffic apartments would bring to the area. Concerned with construction equipment driving down Garland.

Chairman Wiedower asked if the applicant would be required to do something about the drainage or curbs.

Ms. Hurley responded with the information we have now, that's correct; and there are no plans to make any improvements to Garland at this time.

Chairman Wiedower asked the applicant if he has considered the traffic impact.

Mr. Baidwan stated it is unlikely traffic will increase from the amount of traffic the Council on Aging currently has.

Commissioner Whitson asked the property owner if he has any concern with additional traffic since, according to the PCI, the conditions on Garland and Rees Streets are poor.

Mr. Baidwan responded he does not know how the City maintains their streets but hopes it is part of the City's ongoing street maintenance/repair. Mr. Baidwan further stated the Council on Aging has enough traffic that he does not expect traffic to increase from what it currently is. Furthermore, not every vehicle will only use the Garland entrance; there is also an entrance on Rees Street.

Commissioner Whitson and Burks asked what the property owner would do with the property and building if the rezoning did not pass.

Mr. Baidwan responded he does not know what he would do if the rezoning did not pass. He is trying to keep the building from being torn down by renovating the structure and at the same time putting the building to the best possible use.

Chairman Wiedower stated his opinion as a commissioner is there is nothing worse than a vacant building; and we all know too well what happens to vacant buildings in the City.

Suzanne Morris, 1708 S. Broadway, stated her first concern is with the quality of applicants who will live in the building because she heard it will be lower income housing apartments. Her second concern is if the pond is drained, it would be drained next to her house.

Ms. Hurley stated income level of multi-family housing is not applicable to a specific use and is not something that can be considered when looking at a rezoning request.

Chairman Wiedower asked the property owner what his price range is to rent an apartment in this building and what are his plans for the pond.

Mr. Baidwan responded rent will be based on a rental market study. He has no history on the pond and does not know if the pond is there for drainage purposes. He would like to keep the pond and is willing to clean it up.

Ron Norman, 1829 S. Broadway, stated he was in the subject building a couple years ago and the north end is in horrendous shape. He has concerns with asbestos, pipes that are missing, ceilings falling in, etc. Also has concerns with increased traffic on Garland and Rees Streets.

Chairman Wiedower asked staff if permits are required for renovations to the building, which would include building inspections to make sure it meets building codes.

Ms. Hurley responded in the affirmative. The City operates under the 2018 IBC. Any work would have to obtain permits and meet the 2018 IBC.

Chairman Wiedower asked the property owner if there will be some sort of recreation area for people living in the apartment complex.

Mr. Baidwan responded he plans to keep the pond and clean it up for people to hang out around.

Judy Johnson, 1816 Garland, stated her concerns are with traffic and parking. Ms. Johnson further asked if the building will be expanded in size.

Mr. Baidwan responded that he is not expanding the building. He further stated, as depicted in the current GIS pictures, there are 20-30 vehicles parked in the west parking lot in front of the building. The traffic for the apartment complex is not going to be concentrated in that one area but rather be spread out using the existing east parking lot and the new parking lot, which will be located to the north.

Ms. Hurley stated even if Mr. Baidwan has no intent of expanding the building or constructing additional buildings, if this property is rezoned to RMX that would allow for the potential for that to happen. RMX allows for a mix of uses from residential, office and commercial that are intended to be appropriate for neighborhood settings. Therefore, if this property is rezoned to RMX there is potential to allow Mr. Baidwan, or a different property owner if Mr. Baidwan sells the property, to expand the current building, construct additional buildings or to replat the property and subdivide it into additional lots.

Chairman Wiedower asked staff if Mr. Baidwan decides to expand the building in the future, would that require him to come back before this board.

Ms. Hurley responded in the negative. Once the property is rezoned to RMX, the property owner would need to meet the requirements of that zoning district, which is a staff level approval, and would need to get building permits. However, if the property were to be subdivided at some point in the future, that would require a plat, which would come before this board.

Ms. Porter further stated when the owner starts renovations on the building and construction of the parking lot, this also will go through staff review, which will include engineering for drainage and for traffic impact on the streets.

Kathy Price, 1825 S. Broadway, asked how a determination is made on approving a zoning request when the plans are so vague. Concern with upkeep of the property, such as overgrown grass. When the building was a nursing home, there were always issues with the sewer. Would sewer problems be an issue for the City to handle or the property owner. Ms. Price also asked if the property owner has an interest in the community and what size are the other apartment complexes he owns.

Chairman Wiedower stated the role of this board is to either recommend approval or denial to the City Commission or table the issue for additional information/consideration. Final approval lies with the City Commission. There is also a protest period for anyone who wishes to protest the Planning Commission's recommendation. Chairman Wiedower further stated, this board cannot make a determination based on where the property owner lives or how many other properties the owner owns. However, the Mr. Baidwan did state he lives in Overland Park and owns several other

properties in this area. Should an issue arise, the owner could be in Leavenworth within an hour, if need be.

Chairman Wiedower asked Mr. Baidwan to address Ms. Price's other concerns about property maintenance and sewer issues.

Mr. Baidwan stated his intent is to keep the property well maintained and looking nice. He does have a contractor who maintains the property. Mr. Baidwan further states he does not know of any sewer problems. However, if there is a problem on the property, he will deal with it. If there is a sewer problem on the City's side, then the City will deal with it.

Chairman Wiedower asked if there will be a property manager onsite.

Mr. Baidwan responded in the affirmative.

Mr. Hundley stated when the Davis's owned this property, they had the pond locked up for liability purposes so no one would drown in the pond. Mr. Hundley asked if the current property owner knows what the insurance is going to cost to have the pond on this property.

Mr. Baidwan stated he has insurance and the insurance company has not said anything about the pond being a problem. He intends to keep it locked until the apartment complex is ready, at which time he will reconnect with his insurance company.

Ms. Price stated her concern with the pond is people going to the pond at night to party. Asked if the onsite manager will be a resident at the apartment complex.

Mr. Baidwan responded in the affirmative. He further stated he has a resident manager at his apartment complex in St. Joe and it works out well as the manager is there to deal with any issues.

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

Commissioner Whitson stated she does have some concern in regards to what may happen in the future if the zoning request is approved. However, we cannot control the future nor do we know what type of changes may occur in that community. Other concerns are the traffic and sewer issue.

Ms. Hurley stated the current zoning for the subject property is R1-6, High Density Single Family Residential District. The only thing the property could be used for once it is vacated by the Council of Aging would be single-family residential. Therefore, as it stands, this property could be replatted into a single-family subdivision with lots the same size as what is surrounding it; and you're potentially looking at more than the 25 or 30 lots that could fit on this roughly 10 acre parcel. Additionally, a replat would not require a public hearing.

Commissioner Burks stated they cannot work off assumptions or what-ifs. Never met an investor who did not want a profit and does not believe Mr. Baidwan would step into this with any thought of anything less than profit. Commissioner Burks further stated he appreciates everyone's concerns but this is a rezone request and this board only has a responsibility to talk about rezoning and provide our recommendation to the City Commission.

Commissioner Waugh stated he appreciates everyone's concerns but he is in agreement with Commissioner Burks; we cannot make decisions based on assumptions. He believes the development of this particular property will be a challenge going forward regardless of how it is zoned and will be dealt with through the mechanisms the City already has in place.

Commissioner Burks further stated if nothing happens to the building and it becomes vacant, he fears a negative impact on the community. A vacant building of this nature will attract criminal activity, drugs, etc.

Chairman Wiedower also stated he does not want to see this building vacant as it will attract homeless people, drugs and partying into this neighborhood. He reiterated this board's role is to recommend approval or denial to the City Commission for the rezoning request only.

With no further questions/discussion, Chairman Wiedower called for a motion. Commissioner Whitson moved to recommend for approval to the City Commission the rezoning request from R1-6 to RMX for Case No. 2022-04 REZ – 1830 S. Broadway based upon all information presented, seconded by Commissioner Waugh and passed by a roll call vote 4-0.

Ms. Hurley stated this rezoning request goes to the City Commission on March 22, 2022. Tomorrow does being the 14-day protest period.

With no other business, Chairman Wiedower adjourned the meeting at 7:09 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.