

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

**REGULAR SESSION
Monday, March 4, 2024
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: February 5, 2024**

OLD BUSINESS:

None

NEW BUSINESS:

1. 2024-05 REZ – 46 LIMIT STREET

Conduct a public hearing for Case No. 2024-05 REZ – 46 Limit Street, wherein the applicant is requesting a rezoning of their property located at 46 Limit Street from R1-9, Medium Density Single Family Residential District, to R1-6, High Density Single Family Residential District.

2. 2024-06 SUB – LIMIT PARK ADDITION

Consider a final plat for Limit Park Addition, Case No. 2024-06 SUB.

OTHER BUSINESS:

None

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, February 5, 2024
6:00 PM

CALL TO ORDER:

Commissioners Present

Don Homan
Sherry Whitson
Brian Stephens
Maryann Neeland
Bill Waugh

Commissioners Absent

James Diggs
Kathy Kem

City Staff Present

Julie Hurley
Michelle Baragary
Bethany Falvey

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

APPROVAL OF MINUTES: December 4, 2023

Chairman Homan asked for questions, comments or a motion on the minutes presented for approval: December 4, 2023. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 5-0.

OLD BUSINESS

None

NEW BUSINESS:

1. ELECTION OF OFFICERS

Commissioner Whitson moved that Commissioner Stephens be Chairperson and Commissioner Kem Vice Chairperson, seconded by Chairman Homan, and approved by a vote of 5-0.

2. 2024-01 SUP – 300 N 4th Street

Conduct a public hearing for Case No. 2024-01 SUP – 300 N 4th Street, wherein the applicant is requesting a Special Use Permit to allow a gas station use in the North Neighborhood Overlay District. Gas station uses are allowed in the North Neighborhood Redevelopment Overlay District with the issuance of a Special Use Permit.

Chairman Stephens called for the staff report.

City Planner Bethany Falvey stated the applicant, JK & Sons, LLC, is requesting a Special Use Permit to allow a gas station use in the North Neighborhood Overlay District, located at 300 N. 4th Street. Gas stations are allowed in the North Neighborhood redevelopment overlay district with the approval of a Special Use Permit. There is an existing gas station on the property, that is considered a nonconforming use. Per section 1.05 of the adopted Development Regulations:

Any nonconforming use shall not be physically extended, expanded, or enlarged.

The owner has requested a building permit to build an addition on the rear of the structure. The owner is requesting the Special Use Permit to bring the property into conformation in order to enlarge their structure.

COMMISSION FINDINGS

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

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

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

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

The property is currently a gas station and has been since at least the early 2000's in its current configuration. It is one of the few gas stations within the downtown area and continued use will contribute to 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 use will cause any substantial injury to the value of other property in the neighborhood as the property is currently exists as a gas station.

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

The property owner is proposing a 400 square foot addition on the rear. The addition meets the rear setbacks for the North Neighborhood overlay district.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Stephens asked for questions about the staff report. With no questions, Chairman Stephens opened the public hearing.

Osama, owner's nephew, stated they want to expand the cooler area in the rear.

Commissioner Homan asked if the building will have a facelift.

Mr. Osama responded in the affirmative that the façade will be renovated and new pumps will be added. Osama further stated the entire building will be renovated to make it better and more convenient for the public.

Chairman Stephens asked if there will be traffic going between the building and concrete wall.

Mr. Osama responded the parking lot is in the front, and there is no space behind the building to drive through.

Chairman Stephens asked if any signage will be changed.

Mr. Osama stated they may install a new sign because they have changed the store name.

Chairman Stephens stated he will need to abide by the sign regulations.

Commissioner Whitson asked when they plan on beginning construction.

Mr. Osama stated they are just waiting on this approval.

Commissioner Whitson asked if they will close during construction.

Mr. Osama stated his uncle would need to answer that question.

With no one else wishing to speak, Chairman Stephens closed the public hearing and called for a motion. Based upon findings as stated and conditions as presented, Commissioner Homan recommended approval of the Special Use Permit for property located at 300 N. 4th Street to the City Commission, seconded by Commissioner Waugh, and approved by a vote of 5-0.

3. 2024-04 SUP – 920 N. 14th Street

Conduct a public hearing for Case No. 2024-04 SUP – 920 N. 14th Street. The applicant is requesting a Special Use Permit to allow a two-family dwelling in R1-6 zoning district, High Density Single Family Residential District. Two-family dwellings are allowed in the R1-6 zoning district with the issuance of a Special Use Permit.

Chairman Stephens called for the staff report.

City Planner Bethany Falvey stated the applicant, Stieger Family Trust, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 (Low Density Single Family Residential District) zoning district, located at 920 N. 14th Street. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently a quarter acre, vacant lot. A two-story house was on the property previously, but it was demolished in 2009.

The applicant is seeking the Special Use Permit to build a duplex.

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.

If approved, the property will fill a need in the community by adding a two-family housing option.

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

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

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

The proposed new structure is a two-story duplex. It was a historically developed lot and this will not dominate the immediate neighborhood.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Stephens asked for questions about the staff report.

Chairman Stephens asked when the notifications were mailed out.

Planning Assistant Michelle Baragary stated the notifications to property owners within 200' of the subject property were mailed on January 11, 2024.

Commissioner Homan stated the plot plan does not match up with what the applicant has for the building plans. The garage is separate and L-shaped on one drawing, and the other drawing has the garages with living areas next to them.

With the developer present, Chairman Stephens stated the developer can answer those questions.

Planning Director Julie Hurley reminded the Board that this application is a Special Use Permit for the "use", and not for a specific design of a duplex.

Chairman Stephens opened the public hearing.

Eric Anderson, 1219 E 9th St., The Dalles, OR, stated he heard there is a need for good quality rentals in Leavenworth so he purchased this property to build a duplex. Mr. Anderson stated he mistakenly sent the wrong site plan. The correct site plan is the one that has the white rectangle and square.

Chairman Stephens asked the applicant if he has built homes in the past.

Mr. Anderson responded that he has helped build homes but that he has a contractor that will build the duplex.

Chairman Stephens asked if he owns any other rental property in Leavenworth.

Mr. Anderson responded he does not.

Ms. Hurley noted that any setbacks or other requirements would have to be met when they apply for building permits.

With no one else wishing to speak, Chairman Stephens closed the public hearing and called for a motion. Based upon findings as stated and conditions as presented, Commissioner Whitson recommended approval of the Special Use Permit for property located at 920 N. 14th Street to the City Commission, seconded by Commissioner Waugh, and approved by a vote of 5-0.

In order to preserve numerous trees on the lot, Mr. Anderson wants the address to be a Pawnee address. He stated he spoke with someone at the City who informed him that would not be a problem.

Ms. Hurley responded that can be worked out through the City's GIS Department.

4. 2023-26 SUB – LUXURY ADDITION FINAL PLAT

Consider a final plat for Luxury Addition, Case No. 2023-26 SUB.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated the subject property is owned by Rea Holdings, LLC, plat prepared by Atlas Surveying. The applicant is requesting the plat in order to divide their current unplatted property into two lots, as well as incorporate portions of land that were purchased from Citizens Savings & Loan to the west, and K & L Leasing to the north. The plat also includes the dedication of access easements for the use of Citizens Savings & Loan, and K & L Leasing. The plat includes a total of 2.5 acres.

The property is occupied by Luxury & Imports, and is zoned GBD, General Business District. The existing automotive related use is an allowed use in the GBD zoning district.

The subject plat was reviewed by the Development Review Committee on January 4, 2024. A number of technical items related to the plat were discussed at that time. The plat has also been reviewed by the Leavenworth County Surveyor and Register of Deeds. All items identified by the DRC and Leavenworth County staff have been addressed, or will be addressed, prior to recording of the plat.

STAFF RECOMMENDATION:

Staff recommends approval of Luxury Addition Final Plat.

ACTION/OPTIONS:

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

Chairman Stephens asked for questions about the staff report.

With no questions, Chairman Stephens called for a motion. Commissioner Homan stated he will recuse himself because the applicant is a client of his. Commissioner Whitson moved to approved the final plat for Luxury Addition, seconded by Commissioner Neeland, and approved by a vote of 4-0 (Commissioner Homan abstained).

5. 2023-30 TXT – TEXT AMENDMENTS

Conduct a public hearing for Case No. 2023-30 TXT for proposed text amendments to the adopted 2016 Development Regulations.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated the Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. Many of the proposed amendments consist of clarifying existing language, with no substantial policy change. The following modifications have been drafted by staff and are now presented for public hearing and vote.

Article 1; General Provisions

- Remove specific dates by which regulations and updated zoning map must be prepared each year. All documents are updated as changes are made throughout the year.

Article 2; Applications & Procedures

- Add requirement that applicants provide two full sized copies of all recorded plats to the City.
- Move Article 6-Landscaping and Article 8-Signs to the jurisdiction of Board of Zoning Appeals for variance requests in lieu of City Commission.

Article 4; Zoning Districts & Standards

- Add provision that adjacent right-of-way width may not be counted towards the minimum lot width requirement.
- Add provision to allow 3 detached accessory structures on parcels 2 acres or larger.
- Add specific setback requirements for pools.
- Add Solar Arrays as permitted accessory use.
- Remove Solar energy facilities from requirement for Special Use Permit.
- Change language regarding signage for home occupations to reference regulations in Article 8-Signs.

Chairman Stephens asked if someone has to install a hammerhead at the end of a dead-end street, what material is that constructed of.

Ms. Hurley stated that turnarounds are completely handled by the Public Works Department.

Chairman Stephens asked if the Board would take that into consideration for rezoning applications.

Ms. Hurley responded that it would typically be for subdivision when looking at a lot layout, and that is not something this Board would deal with. That is all handled as they come through for various permits.

Chairman Stephens asked where the 5 ft. setback requirement for a pool from the primary dwelling came from.

Ms. Hurley stated that is a building code requirement.

Chairman Stephens asked if a Special Use Permit is required for roof mounted solar panels.

Ms. Hurley stated a Special Use Permit is not required but a building permit is required to install them. Article 10 specifically deals with solar and wind collection systems, and so this is getting it in line with what is defined in Article 10.

Chairman Stephens asked if a Special Use Permit is required in the new regulations for any renewable energy, like turbine.

Ms. Hurley responded that wind turbines do require a Special Use Permit because those structures are typically more intrusive for neighboring properties. The Development Regulations already state a Special Use Permit is needed for wind turbines. Solar energy facilities do not require a Special Use Permit. Wind and solar energy are defined in Article 10 of the regulations.

Article 5; Access & Parking

- Add provision to allow alternative paving materials as acceptable parking surface for single-family dwellings with review and approval by the Public Works Department.

Chairman Stephens asked if Public Works is approving just the material or are they also approving the design.

Ms. Hurley responded that this provision is just for single-family driveways, therefore, Public Works would only approve the materials.

Chairman Stephens asked if applicants would need to provide full plans for driveways to include materials being used.

Ms. Hurley stated when someone comes in for a permit for a driveway, they must have their plot plan showing the location of the driveway and specify what material will be used to construct the driveway, which will be reviewed by Public Works. Ms. Hurley further stated that it is mainly our department that looks at the design to make sure it meets our lot coverage requirements, setback requirements, etc. so the design and placement of the driveway is already part of the review and approval process.

Article 6; Landscape & Site Design

- Change wording of “areas” or “properties” to “uses” for consistency.
- Remove minimum height requirement for residential uses abutting a commercial or industrial use.
- Revise language related to fencing around a pool to reference applicable building code.
- Remove specific requirements for decorative fences in the CBD.

Article 7; Design Standards

- Change language referencing “two feet 18 inches” to “3 feet 6 inches” for clarity.
- Clarify language regarding maximum driveway width for residential properties.

Referring to the maximum driveway width, Chairman Stephens asked if there has been some issues with consistency, will staff look at previous decisions to make sure they are in line with the regulations.

Ms. Hurley responded that if folks feel like the regulation was interpreted incorrectly, they should contact us. It would be near impossible for staff to look back at every driveway that has been approved.

Article 8; Signs

- Revise size computation standards for multi-face signs.
- Correct all references to “free standing” signs to “freestanding”.
- Refine regulations related to directional signage to include directional wall signs.
- Refine language related to neighborhood identification signs to include term “development” in order to clarify that regulations also apply to multi-family developments.
- Refine language related to projecting signs for clarity.
- Add provision to allow all signage for businesses without an exterior wall fronting a public ROW.
- Change language related to variance requests to indicate that such requests be made to the Board of Zoning Appeals.

Article 9; Historic Preservation

- Remove section relating to variances, redundant.

Article 10; Supplemental Standards

- Refine language related to Solar Arrays for clarity.

Article 12; Definitions

- Move definitions for “Manufactured Home” and “Mobile Home” so that they are with all other definitions for various types of dwellings, for consistency.
- Add definition of “Shelter Home”.

Appendix A; Use Table

- Require SUP for Manufactured Dwellings in R1-9, R1-7.5, and R1-6.
- Add use category of Shelter Home
- Require SUP for Private Wind Energy Systems in all zoning district for consistency with requirements of Article 4.

Chairman Stephens asked if there is a City ordinance against rain or water collection because in Appendix A of the Development Regulations allows “water storage” in the R1-25 zoning district.

Ms. Hurley stated the definition of water storage is “potable commercial water storage structures or features of more than 10,000 gallons. This will not be a plastic water barrel; but rather a water tower.

Commissioner Whitson asked if rain barrels are allowed in residential districts.

Ms. Hurley stated she is not sure because rain barrels are not covered in the Development Regulations. Ms. Hurley will check in the City Ordinance and will get back with the commissioners.

ACTION/OPTIONS:

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

Chairman Stephens asked for questions about the staff report.

Chairman Stephens stated he hopes that a solution can be found to the nonconforming issue of some homes in the City because some folks in the process of selling their house is when they find out that they have a nonconformance issue, and some people have lost residential sales because they have to wait to get the Special Use Permit.

Ms. Hurley responded that a lot of that has stemmed from a change in lending practices. We are not sure why some lenders require a zoning verification letter from staff and other lenders do not. When staff gets these requests and has to inform them that the home cannot be rebuilt as-is, staff explains why it cannot be rebuilt, such as the zoning, setbacks, etc. Staff has noticed in the last four to five years that lenders will not lend on properties that are nonconforming. Ms. Hurley further stated this is not due to anything the City has changed.

Commissioner Homan stated that it is due to how they are insured when they sell that loan, if they sell it to Fannie Mae or Freddie Mac in a secondary market. If they hold it in their own portfolio, they underwrite their own risk. However, a lot of single-family houses are sold to Fannie Mae, Freddy Mac or a Federal Home Loan Bank Board, and they have certain requirements, so if it is a nonconforming use it is not because of the lender it is because who is buying the loan.

Ms. Hurley further stated that staff has revised the development regulations to help with this issue. Additionally, it is stated in the zoning verification letters that the home cannot be rebuilt as-is but it could be rebuilt with issuance of a Special Use Permit or with a rezoning, whichever is applicable. Staff will continue to keep looking into what we could do to streamline a process or do something for folks that are caught in that.

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

Laura Fowler, 2500 Hebbeln Dr., stated this in regards to the adjacent right-of-way and hammerhead discussion that was discussed earlier. Ms. Fowler requests the commissioners refrain from voting on that particular measure until the City can provide specifics on what the board is voting on. Ms. Fowler stated she is a property that would be affected by these stipulations, and that these stipulations were listed as a condition for her to replat her property at 2500 Hebbeln Dr. 2500 Hebbeln Dr. was initially designed to be a neighborhood in 1987, and the owner essentially decided not to do anything with the land for the last 35 years. Ms. Fowler stated she has always wanted to own land so she could do homesteading, conservation and small-scale farming. Ms. Fowler stated she had an asphalt company give her an estimate on the cost of a hammerhead at the end of Hebbeln Drive but without any type of specifications, such as is AB3 needed or does 3 inches or 6 inches of rock need to be compacted, it is impossible to get an estimate on what this project will actually cost. Wants to know what is the square footage of the hammerhead; is it 20' x 30' or 25' x 30'. These considerably impact her out-of-pocket expense.

Ms. Fowler continued by stating it is not just one dead-end but two dead-ends, the second being on Vilas. At one point, Ms. Fowler stated she wanted to have a half-acre lot at the southern end of Vilas that she could at some point sell that lot to someone that would want to build a house there. She further stated that in August of 2023, the City stated she could not plat a lot there without a corresponding hammerhead to go with it. Her issue is that there is a creek that runs along that border so in her opinion a hammerhead would be even more costly because of all the structural and foundational gravel that would need to be put in place in order to make a hammerhead for whatever the unwritten rule is. Off one estimate it was about \$10,000 without anything

relating to the creek. Ms. Fowler continued by stating then you start adding in other issues so she automatically doubled the cost in her head and estimates that it would cost her about \$40,000. She stated that staff told her that she needs to put this in place in order to build her house or plat a lot in there so that a lost driver or the Amazon driver could have a turnaround spot. Stated she does not see the value in her spending \$40,000 for a lost driver.

Ms. Fowler stated that perhaps as a solution there could be verbiage in the regulations that this is for developers only, further stating she acknowledges this is the end of a subdivision that was never completed. This should have been abandoned in 1995 but it was not so some of this is cleaning up the old paperwork that should have been cleaned up 20 to 30 years ago. Ms. Fowler stated that she and her family have been trying to do that, and are currently working through some encroachment issues with some of the neighbors who had built structures over their property line. Requests the Planning Commissioners refrain from voting on this until they have all of the information, as this already has a negative impact in that the land could not be platted the way Ms. Fowler wanted it to because of a rule that literally does not exist yet.

Chairman Stephens asked what would be required for Ms. Fowler to come into conformance.

Ms. Hurley stated just to be clear about what is being talked about, the requirement that the end of a dead-end road cannot be counted as a lot width does not have anything to do with constructing a turnaround. The Planning Department has a requirement for a minimum lot width, and that is to give frontage along a right-of-way, to construct a driveway, or to have a house potentially front onto. Referring to 2500 Hebbeln Drive, Ms. Hurley stated that a lot like this, your house is not going to front onto the road but you still need to have that lot width along a public ROW. What staff is saying by adding the provision in Article 4, is that only the portion that runs along Vilas Street could be counted as your lot width. No portion at the end of a dead-end street could be counted as your lot width. Measuring on the south side of Vilas from the dead-end to the property line at 2405 Vilas is approximately 240 feet, which will meet any minimum lot width requirement. This has nothing to do with constructing a turnaround/hammerhead. Turnarounds are solely a Public Works requirement. The Development Regulations do not deal with when a turnaround is required.

Chairman Stephens stated that Ms. Fowler had said she was not able to plat the property because of this requirement.

Ms. Hurley stated there were multiple versions of a potential lot layout, and staff does not remember exactly what was proposed. At one point, there were one or two lots proposed off Vilas but staff does not have those draft revisions at tonight's meeting to know exactly how the lots were situated.

Chairman Stephens stated we know that 2500 Hebbeln Drive is going to be residential, and wants to know why we are standing in Ms. Fowler's way of platting her property.

Ms. Hurley responded that the property has been platted.

Ms. Fowler stated it was not platted the way she wanted it to be platted, and she did have space for a driveway. One of the drafts would have allowed a driveway to come off Vilas. There is a creek at the end of Vilas, and it would be astronomical to put any type of road over that creek.

Ms. Hurley stated that this provision is to prevent that situation of there being an unwritten rule. There have been a number of situations where there has not been adequate frontage, and folks have wanted to use that dead-end. Staff has strongly discouraged that but there has not been a written rule. This is to prevent staff from trying to enforce an unwritten rule. As with anything, in those kind of one-off situations, there is always the process for a variance, and that would have been an option for Ms. Fowler to request a variance from a regulation that staff was enforcing. The intent of the regulations is to deal with the bulk of cases, and there

is always going to be those unusual situations that may warrant a variance, which is the process for the Board of Zoning Appeals to consider those cases.

Ms. Fowler stated at the time she understood that her plat request would not make it to the Planning Commission unless she agreed to this, and if that is the case, Ms. Fowler asks to be alleviated from that requirement from September 11, 2023.

Ms. Hurley stated that the property has been platted, and staff is not sure for what relief is being requested.

Ms. Fowler stated there is a line on the plat that requires that she install a 20' x 30' hammerhead.

Commissioner Waugh asked is that not a Public Works issue.

Ms. Hurley responded in the affirmative stating that is a Public Works issue and is not a plat issue. That is not a line on our recorded plat but rather a requirement of Public Works.

Commissioner Waugh asked Ms. Fowler if she has addressed this issue with Public Works.

Ms. Fowler stated she has but has not received responses to her emails.

Ms. Hurley stated she is not sure what that communication has been but it is not anything for the Planning & Zoning Department or this board to address the requirements of the Public Works Department.

Ms. Fowler stated that this board is voting on it.

Ms. Hurley responded that this board is not voting on the requirement of a hammerhead/turnaround, material, composition, design, or anything like that.

Chairman Stephens asked if what the board is voting on requires a hammerhead to be installed in these situations.

Ms. Hurley stated that the width of a dead-end not be counted towards a lot width requirement has absolutely nothing to do with the requirement for a turnaround or the composition of a turnaround should the Public Works Department decide that one is required.

Ms. Fowler asked how she gets out of that requirement that she does not feel was right to begin with.

Ms. Hurley stated that if Ms. Fowler is unable to contact the Public Works Director that she suggests that Ms. Fowler contact the City Manager.

Commissioner Waugh stated that staff is correct in saying that this issue is not an issue for this board, and that it should be Public Works resolving this issue.

Commissioner Homan stated Ms. Fowler could also contact the City Commissioners.

Ms. Hurley suggests contacting the City Manager first because the City Commissioners would just contact the City Manager anyway.

Ms. Fowler stated she got a name and process, and was advised to get a petition stating her case, and have people sign it.

Ms. Hurley asked if the City Manager suggested this.

Ms. Fowler responded in the affirmative stating in the military calls that going nuclear.

Ms. Hurley asked again who Ms. Fowler spoke to.

Ms. Fowler stated it was actually her mother who spoke to someone at the City in December but she cannot recall his name.

Commissioner Waugh believes a discussion with the City Manager would generate a response from the Public Works Department.

Ms. Hurley stated she will not speak for who said what but that does not sound like a response from the City Manager.

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

Ms. Hurley stated if there are any specific regulations that the board wants staff to look at further, staff would hold all the text amendments from moving forward to the City Commission that way when the text amendments do go to the City Commission it will be as a complete package.

With no further discussion, Chairman Stephens called for a motion. Commissioner Whitson moved to recommend approval of the text amendments to the City Commission, seconded by Commissioner Waugh, and approved by a vote of 5-0.

OTHER BUSINESS:

With no other business, Ms. Hurley stated there will be a meeting on March 4, 2024.

Chairman Stephens adjourned the meeting at 7:17 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

PLANNING COMMISSION AGENDA ITEM
2024-05 REZ
46 LIMIT STREET

MARCH 4TH, 2024

SUBJECT:

A request to rezone the property located at 46 Limit Street from R1-9, Medium Density Single Family Residential District, to R1-6, High Density Single Family Residential District.

Prepared By:

Julie Hurley,
Director of Planning and
Community Development

ANALYSIS:

The owner and applicant, Property Management & Maintenance inc., is requesting a rezoning of their property located at 46 Limit Street from R1-9, Medium Density Single Family Residential District, to R1-6, High Density Single Family Residential District. The property is .57 acres in size and is occupied by a single family home. The owner is requesting the rezoning in order to divide the parcel into three separate residential lots. The minimum required lot width for the R1-9 zoning district is 75', and the minimum required lot width for the R1-6 zoning district is 48'. The lot containing the existing home will be 76.99' in width, with the other two lots being 61.4' in width, exceeding the minimum required lot width. The accompanying plat is also on this agenda.

As originally platted, the subject property consisted of 4 separate lots, each approximately 50' in width. In the immediately surrounding neighborhood, there are lots of varying widths and sizes. The lot configuration as presented will be in character with the remainder of the neighborhood.

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 .57 acre in size and is part of an established single-family neighborhood. Within the existing neighborhood, there are lots of varying sizes ranging from .16 acre to .58 acre.

- b) The zoning and use of properties nearby;

The properties to the north, east, and south are zoned R1-9. The properties to the north and east are part of the same existing neighborhood as the subject property and are occupied by single-family homes. The property to the south, across Limit Street, is an open field. The properties to the west, across Wilson Avenue, are zoned R1-6, and are also part of the same existing neighborhood as the subject property. Also nearby are the Woodland Village apartment homes, the City of Leavenworth dog park, and the VA campus.

- c) The suitability of the subject property for the uses to which it has been restricted;
The subject property is occupied by a single family-home and has been identified as appropriate for single family uses on the Future Land Use map.
- d) The extent to which removal of the restrictions will detrimentally affect nearby property;
The proposed rezoning should have no detrimental effect upon surrounding properties. The proposed reconfiguration of the property from one residential lot into three is consistent with the character of the neighborhood.
- 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 by providing two additional lots which may be developed with single-family homes, thereby increasing the tax revenue potential of the property, as well as by providing two additional homes for Leavenworth residents.
- 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 single family residential uses on the Comprehensive Land Use 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 no comments from notified property owners.

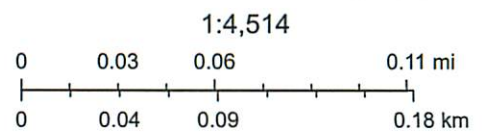
REZONING ACTION/OPTIONS:

- Recommend approval of the rezoning request from R1-9 to R1-6 to the City Commission
- Recommend denial of the rezoning request from R1-9 to R1-6 to the City Commission
- Table the issue for additional information/consideration.



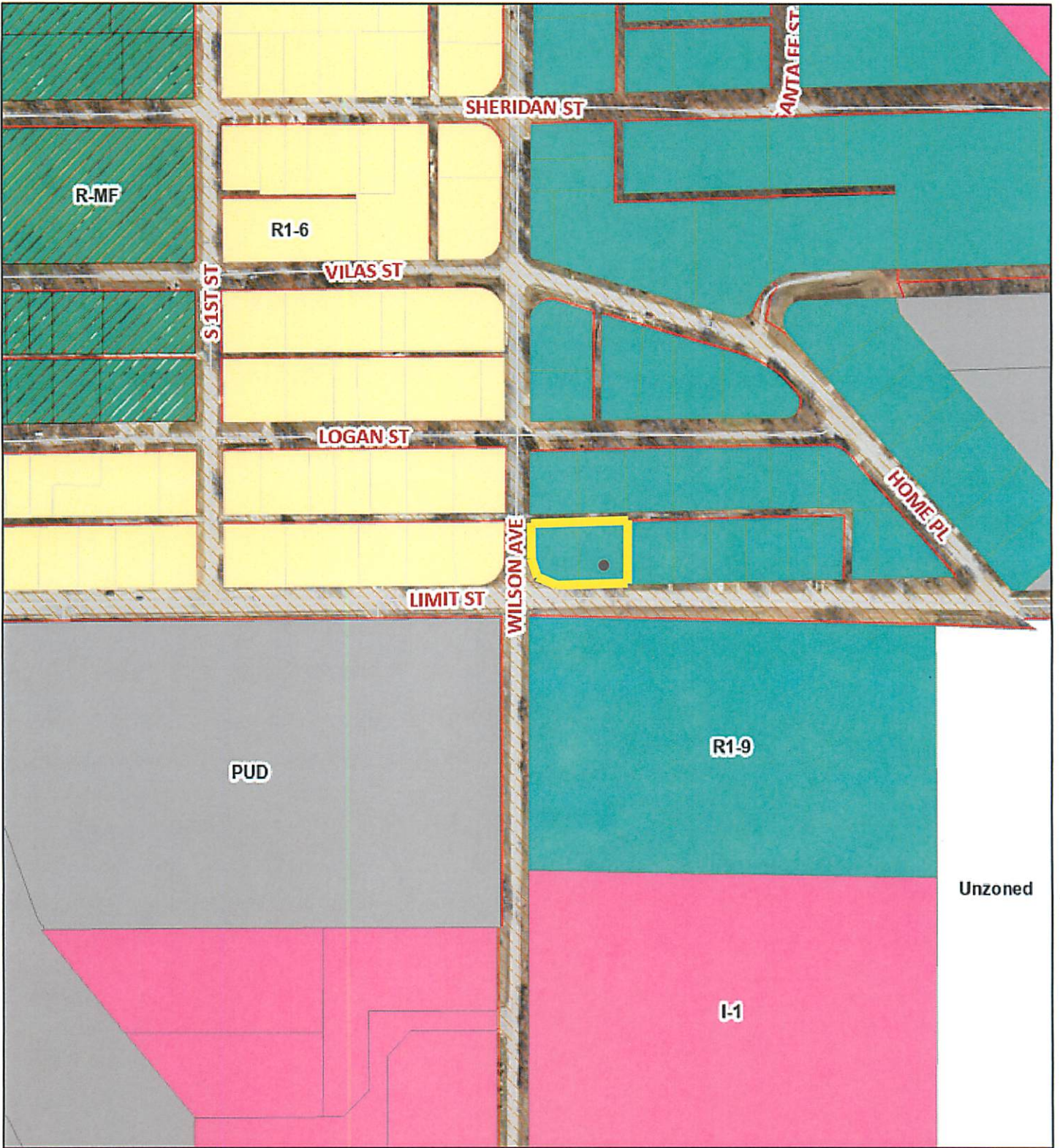
2/29/2024, 12:31:55 PM

-  Override 1
-  Leavenworth City Limits
-  Parcels (City Owned)
-  City Right-of-Way
-  Parcels_Current
-  RoadCenterline
-  Missouri River



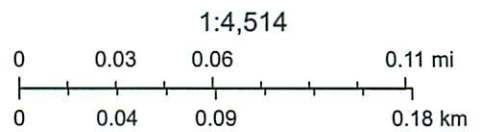
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

2024-05-REZ (Zoning)



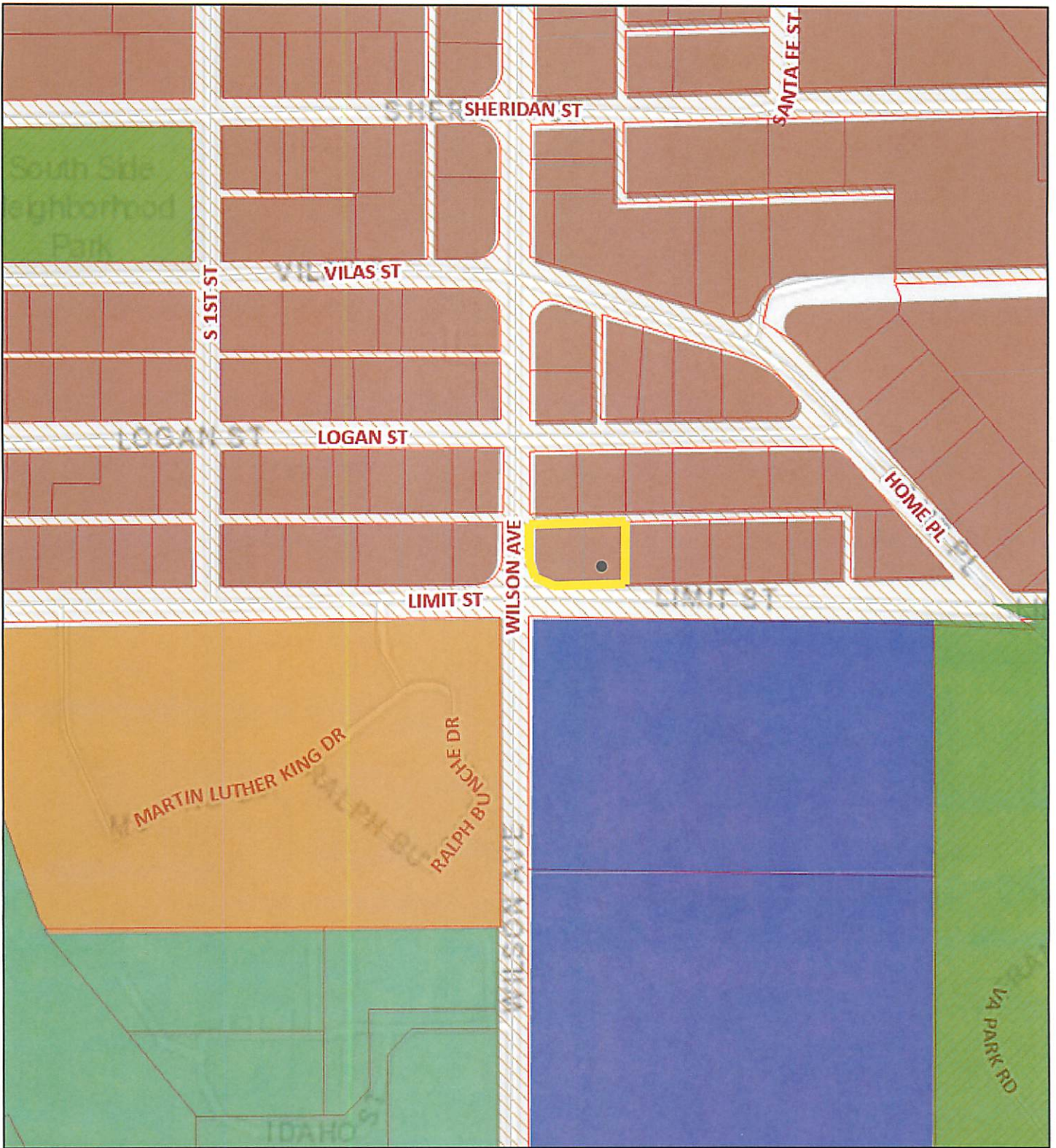
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- | | | |
|----------------|----------------------|-------------------------|
| Override 1 | R-MF | Parcels_Current |
| Zoning_CURRENT | R1-6 | Missouri River |
| GBD | R1-9 | Leavenworth City Limits |
| I-1 | Unzoned | City Right-of-Way |
| PUD | Parcels (City Owned) | RoadCenterline |



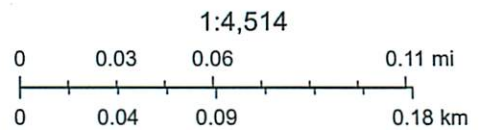
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

2024-05-REZ (Future Land Use)



2/29/2024, 1:11:35 PM

- Override 1
- Single-Family
- Future Land Use (Comp Plan 2030)
- Parcels (City Owned)
- Commercial
- Parcels_Current
- Conservation/Open Space
- Missouri River
- Multi-Family
- Leavenworth City Limits
- Park
- City Right-of-Way
- RoadCenterline



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



APPLICATION FOR REZONING
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO. 2024-05 REZ

Application #	14855
Fee (non-refundable)	\$350.00
Filing Date	1-8-24
Received By	<i>pd.</i>
Hearing Date	3-4-24
Publication Date	2-8-24

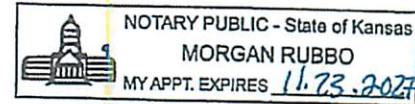
The undersigned owner(s)/agent for the owner(s) of the property described below, herein petition for a change in the zone of the following legally described property: (agent must have authorization to make application).

Subject Property:	48 Limit St Leavenworth Ks 66048 / <u>46 Limit St.</u>		
Rezoning:	Present classification of: R1-9	district to: R1-6	
Legal Description:	(Attach full legal description provided by the REGISTER OF DEEDS OFFICE)		
Real Estate PID #:		Historic District:	

I/We, _____ 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):	Property Management & Maintenance inc.		
Address:	48 Limit St, Leavenworth, KS 66048		
Contact No.	913-828-4440	Email Address:	jeremy@greenamyre.com
Signature of Owner(s):	<i>[Handwritten Signature]</i>		

State of Kansas) (SEAL)
County of Leavenworth)



Signed or attested before me on 12.22.23 by Michael Greenamyre
(date) (name(s) of person(s))

Notary Public: *[Handwritten Signature]* My Appointment Expires: 11-23-2027

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: _____

The property is being used as a residence and will continue to be used as a residential property. _____

The surrounding dwellings are also being used for residential. _____

Briefly describe the intended use and character of the property: _____

The intended use is for residential. _____

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

property: The current zoning is R1-9 and the owner is looking to split the property into 3 residential lots. Therefore,

R1-6 would allow the owner to complete this.

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: We are rezoning to a similar zoning in the surrounding areas. The owner is looking to add 2 residential homes, which will have no impact on the welfare of the public.

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: N/A

Check List:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Non-refundable fee of \$350.00 is due at time of application |
| <input checked="" type="checkbox"/> | Certified list of the property owners within two hundred (200) feet of the subject property |
| <input checked="" type="checkbox"/> | Full legal description obtained through the Register of Deeds Office |
| <input checked="" type="checkbox"/> | Site plan drawn to scale (see General Instructions) |
| <input type="checkbox"/> | Supporting documentation (see General Instructions) |

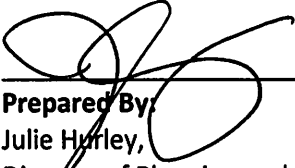
**PLANNING COMMISSION AGENDA ITEM
2024-06-SUB**

**LIMIT PARK ADDITION
FINAL PLAT**

MARCH 4TH, 2024

SUBJECT:

A request for a final plat of Limit Park Addition Final Plat


Prepared By
Julie Huxley,
Director of Planning and
Community Development

ANALYSIS:

The owner and applicant, Property Management & Maintenance inc., is requesting a final plat of their property located at 46 Limit Street. The property is .57 acres in size and is a single lot occupied by a single-family home. The plat is being requested in order to divide the parcel into three separate residential lots, providing two additional lots for potential development of single-family homes. The lots will range in size from .17 acre to .22 acre.

An accompanying 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. The rezoning is being requested in order to allow residential lots with a width of less than 75', as required in the R1-9 zoning district. In the immediately surrounding neighborhood, there are lots of varying widths and sizes. The lot configuration as presented will be in character with the remainder of the neighborhood.

Staff recommends approval of Limit Park Addition Final Plat.

ACTION/OPTIONS:

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

LIMIT PARK ADDITION

LOTS 24, 25, 26 AND 27, BLOCK 35, IN SOUTH SIDE PARK SUBDIVISION TO THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS



MINOR SUBDIVISION PLAT

LEGEND

- (O) DENOTES SET 1/2" REBAR ALK KS CLS 363 MO CLS 2022104231
- (●) DENOTES FOUND PROPERTY CORNER AS NOTED
- (BL) BUILDING LINE
- (U/E) UTILITY EASEMENT
- (M) MEASURED
- (D) DEED
- (P) PLATTED
- (C) CALCULATED

GENERAL NOTES

1. THE BASIS FOR THE BEARING SYSTEM FOR THIS SURVEY IS KANSAS NORTH ZONE U.S. STATE PLANE 1983
2. ALL DISTANCES SHOWN HEREON ARE IN FEET
3. MONUMENTS WERE NOT CALLED ON THIS SURVEY
4. REFERENCED SURVEY: SOUTH SIDE PARK PLAT BOOK 28, PAGE 16, (3/13 DATED 8/13/1987 NA 388 PFD000)
5. FLOODPLAIN NOTE: ACCORDING TO "100" YEAR FLOODPLAIN PANEL NUMBER 15, APPROVED EFFECTIVE JULY 16TH, 2013, AREA ZONE 4, AREA OF WINDING, 11000 ACRES
6. CURRENT PRECISION: 1 PART IN 778,943.130
7. CURRENT ZONING: R-1.6 (RESIDENTIAL ZONING - R-1.6)
8. TITLE COMMITMENT: L23-24618 MCCAFFINE-SHORT TITLE COMPANY DATED NOVEMBER 2ND, 2023 AT 08:30 AM
9. REFERENCE DEED: -INSTRUMENT NUMBER: 2019410391-

VICINITY MAP



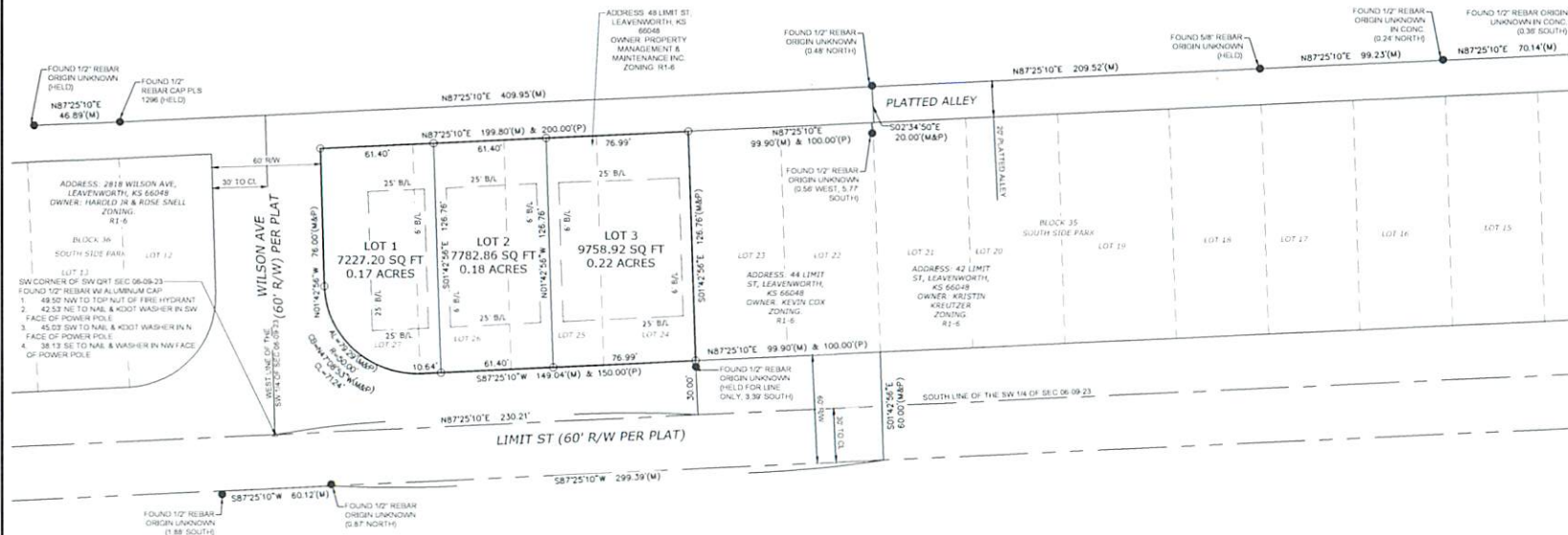
VICINITY MAP NOT TO SCALE

This is to certify on this 6th day of DECEMBER, 2023 this field survey was completed on the ground by me or under my direct supervision and that said survey meets or exceeds the "Kansas Minimum Standards" for boundary surveys.

ANDREA R. REISCHMAYR L.S. 1730

JOB NO: 23-322

SCALE	PREPARED FOR
30 15 0 30 SCALE IN FEET	JEREMY GREENAMYRE
SEC-TWN-RNG	ADDRESS: 48 LIMIT ST, LEAVENWORTH, KS 66648
06-09-23	DATE
DECEMBER 14TH, 2023	



DESCRIPTION PER TITLE COMMITMENT:

LOTS 24, 25, 26 AND 27, BLOCK 35, IN SOUTH SIDE PARK SUBDIVISION TO THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS.

DEDICATION

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "LIMIT PARK ADDITION"

The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, drives, roads, lanes, parkways, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any poles, lines, poles and wires, conduits, ducts or cables heretofore installed thereon and thereon are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Leavenworth, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.

The undersigned proprietors of the above described land hereby consents and agrees the City Council of Leavenworth, Kansas, shall have the power to release such land proposed to be dedicated for public ways and thoroughfares, or part thereof, for public use, from the lien and effect of any special assessments, and that the amount of the unpaid special assessments on such land dedicated shall become and remain a lien on the remainder of that land fronting or abutting on such dedicated public ways or thoroughfares.

The use of all units in this subdivision shall hereafter be subject to the restrictions which will be executed as a separate instrument of writing and will be recorded in the Office of the Register of Deeds of Leavenworth County, Kansas, said restrictions will hereby be made a part of the dedication of this plat as though fully set forth herein.

IN TESTIMONY WHEREOF,

I, undersigned owner of **LIMIT PARK ADDITION** have set our hands this _____ day of _____, 20____.

PROPERTY MANAGEMENT & MAINTENANCE, INC.,
MICHAEL GREENAMYRE, PRESIDENT

ACKNOWLEDGEMENT

STATE OF KANSAS
COUNTY OF _____

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME PROPERTY MANAGEMENT & MAINTENANCE, INC.,

_____, PRESIDENT,
TO ME PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE FORGOING INSTRUMENT OF WRITING, AND DULY ACKNOWLEDGED THE EXECUTION OF SAME. IN TESTIMONY WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED MY NOTARY SEAL THE DAY AND YEAR ABOVE WRITTEN.

NOTARY PUBLIC:
My Commission Expires _____

PLANNING COMMISSION

THIS PLAT OF **LIMIT PARK ADDITION** HAS BEEN SUBMITTED TO AND APPROVED BY THE LEAVENWORTH PLANNING COMMISSION THIS _____ DAY OF _____, 20____.

_____, CHAIRMAN
MICHAEL GREENAMYRE, PRESIDENT
_____, SECRETARY
JULIE HURLEY

REGISTER OF DEEDS

STATE OF KANSAS
COUNTY OF LEAVENWORTH
SS
THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE REGISTER OF DEEDS OF FICE ON THE _____ DAY _____, 20____ AT _____ AM/PM IN BOOK _____

TERENCE G. MASHBURN, REGISTER OF DEEDS

COUNTY SURVEYOR

I HEREBY CERTIFY THIS SURVEY PLAT MEETS THE REQUIREMENTS OF K.S.A. 58-2005: THE FACE OF THIS SURVEY PLAT WAS REVIEWED FOR COMPLIANCE WITH KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS. NO FIELD VERIFICATION IS EMPLOYED. THIS REVIEW IS FOR SURVEY INFORMATION ONLY.

DANIEL BAUMCHEN, PS-1363
COUNTY SURVEYOR



Project No. 2024-06 SUB

FINAL PLAT APPLICATION
CITY OF LEAVENWORTH

OFFICE USE ONLY

Application No. 14856
Fee: 350.00
(350 plus \$10 per lot over 5 lots)
Date Paid 1-8-24
Received By pd.
PC Meeting 3-4-24

NAME OF SUBDIVISION/PROJECT: Greenamyre Addition
LOCATION OF SUBDIVISION/PROJECT: 46 Limit St, Leavenworth, KS 66048 / 46 Limit St.
NAME OF PROPERTY OWNER: (If Corporation, include name and address of Director or President)

NAME: Property Management & Maintenance Inc. by Michael Greenamyre, President

STREET ADDRESS: 2500 S 2nd St

CITY: Leavenworth STATE: KS ZIP: 66048

PHONE: 913-828-4440 FAX: _____ EMAIL: jeremy@greenamyre.com

NAME OF DEVELOPER: (If Corporation, include name and address of Director or President)

NAME: Same as above

STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ FAX: _____ EMAIL: _____

NAME OF ENGINEER PREPARING PLAT:

NAME: AUSTIN THOMPSON - ATLAS LAND CONSULTING

STREET ADDRESS: 14500 Parallel Rd Unit R

CITY: Basehor STATE: KS ZIP: 66007

COMPANY: Atlas Land Consulting - ALC

PHONE: 913-702-8916 FAX: _____ EMAIL: austin@alconsult-llc.com

PARCEL NO: 0930603007007010 SEC.TWP.RNG. 06-09-23

ZONING OF SUBJECT PROPERTY: R1-9 CURRENT LAND USE: RESIDENTIAL

TOTAL ACREAGE: 0.57 ACRES NUMBER OF LOTS: 3

LEGAL DESCRIPTION: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

DATE OF PRELIMINARY PLAT APPROVAL: _____

SIGNATURE OF OWNER(S) [Signature]

Date: December 19, 2023

State of Kansas County of Leavenworth SS
Signed or attested before me on 19th December, 2023 by Michael Greenamyre

[Signature]
Notary Appointment Expires 3/13/24

(Seal)

