

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

**REGULAR SESSION
Wednesday, April 5, 2023
6:00 p.m.**

AGENDA

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: March 1, 2023**

OLD BUSINESS:

None

NEW BUSINESS:

- 1. 2023-08 LPC – 325 DELAWARE STREET**
A State Law review (KSA 75-2724) for proposed modifications to the property located at 325 Delaware Street, a property located in the Downtown Historic District, under the Secretary of the Interior's Standards for Rehabilitation.
- 2. 2023-11 TXT – ARTICLE 9**
Review proposed text amendments to Article 9 of the adopted Development Regulations.

OTHER BUSINESS/CORRESPONDENCE:

- 1. MINOR STATE LAW REVIEW AND/OR MINOR CERTIFICATE OF APPROPRIATENESS (1) –
No action required.**
 - 214 Arch St – repair private sewer line in rear yard

ADJOURN



LEAVENWORTH PRESERVATION COMMISSION MINUTES
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
WEDNESDAY, MARCH 1, 2023, 6:00 PM

CALL TO ORDER:

Board Members Present

Rik Jackson
Ed Otto
Ken Bateman
Dick Gibson

Board Member(s) Absent

Sherry Hines Whitson

City Staff Present

Michelle Baragary
Bethany Falvey

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

APPROVAL OF MINUTES: January 4, 2023

Chairman Jackson asked for comments, changes or a motion on the January 4, 2023 minutes presented for approval. Commissioner Otto moved to approve the minutes as presented, seconded by Commissioner Gibson and approved by a vote of 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2023-05 LPC – 1000 3RD AVENUE

A State Law review (K.S.A. 75-2724) for proposed modifications to the property located at 1000 3rd Avenue, a property located in the 3rd Avenue Historic District, to determine if the project meets the Standards for Rehabilitation as set forth by the Secretary of the Interior.

Chairman Jackson called for the staff report.

City Planner Bethany Falvey stated this is a State Law Review (KSA 75-2724) for proposed modifications to the property located at 1000 3rd Avenue, a property located in the 3rd Avenue Historic District, under the Secretary

of the Interior's Standards for Rehabilitation. The scope of work includes window replacement, HVAC upgrades, and interior acoustical ceilings and lights.

The property is the historic Leavenworth Junior High School, now the Nettie Hartnett Education Center, which was listed in the Register of Historic Kansas Places and National Register of Historic Places in 2002. Myron K. Feth of Leavenworth architectural firm, Feth & Feth, designed the brick 1923 Tutor Revival style school building. Aluminum windows replaced the original 9/9 wood windows. In the rear (west) elevation is a 1999 two-story addition.

The proposed work includes window replacement in the front and two side elevations, HVAC upgrades, and the addition of interior classroom acoustical ceiling tiles. Replacement windows would meet the SOI Standards since the windows to be replaced are already replacement windows. HVAC upgrades can be made to meet the Standards. The addition of the drop ceilings would change the character of the historic property and would encourage the applicant to consider keeping at least one classroom at the historic height as a representation of the historic character. However, the installation of acoustical tiles is limited to the classrooms and would retain historic character in the primary spaces of the corridors.

At this time, the USD 453 Board of Education is asking for an initial discussion with the board and has not submitted a complete application at this time. Staff recommends tabling the item to a future meeting once a complete application is submitted.

ACTION /OPTIONS:

- Motion, to Table item until the next meeting for the purpose of gathering additional information.
- Motion, to forward to the SHPO for review.

Chairman Jackson open the public hearing.

Matt Dedeke, Director of Facilities for Leavenworth public schools, stated Nettie Hartnett is looking at spending some Esser dollars that still remain in their budget. It is his understanding that part of the Esser process is that there are some pre-approvals that need to be made at the State level. This project has not been brought before the school board at this time. His intention tonight is to gain some feedback from the Board.

Mr. Dedeke stated the scope of work would include replacement windows on the front and two sides with a potential change to the rear windows. Asked if bronze windows would be an option to match the new work that was done.

Commissioner Gibson asked if they want to keep the bronze color.

Mr. Dedeke responded in the affirmative stating the idea was to move forward with the bronze so it would match the back half of the addition.

Commissioner Gibson asked if all windows would be replaced.

Mr. Dedeke stated they are proposing to replace all remaining windows that have the aluminum finish. The intention of the windows is to make the classrooms more efficient. Continuing with the scope of work, Mr. Dedeke stated an option for the heating and cooling system is called a VRF. A VRF is basically multiple compressors that would sit outside and the line sets are piped into the building. Cassette cartridges would run in the ceiling in the classrooms, and would provide both your heating and cooling from a central location. The outside compressors would potentially be in a fenced enclosure near the dock entrance, which is on the north side of the building.

Mr. Dedeke further stated the cassette cartridges would sit in the ceiling. The ceilings in the classrooms are currently 12 ft. open type ceilings. The cassette units would need to be masked to look presentable. The proposal would be to bring the ceiling down to about a nine foot drop ceiling, and install LED lighting to improve the lighting environment. The windows would be boxed in to preserve the height of the windows from the exterior and still allow daylight to come in.

Referring to the classroom picture in the policy report, Commissioner Gibson asked where the drop ceiling would be.

Mr. Dedeke stated the proposed drop ceiling would be just below the current lights.

Ms. Falvey asked Mr. Dedeke to confirm that when he says “boxed-in windows” that means the drop ceiling will not dissect the window but would be pulled back.

Mr. Dedeke responded in the affirmative. Typically, if your ceiling is lower than the window, you would come in a foot or two and box-in the window creating kind of a window-well.

Mr. Dedeke further stated all of their historic documents and items from the district are housed in the old library located in the building. It is recommended to leave one space unfinished with the ceiling, and the old library would be the ideal place to have that considered.

Commissioner Otto asked if the old library is secure and fireproof for the historic documents to be stored.

Mr. Dedeke replied that it is not fireproof but the building is primarily brick and plaster, so it would be more smoke damage if something were to happen. A lot of effort has gone into protecting the artifacts, such as UV resistant lights, blinds are drawn to help prevent degrading, and it is kept air conditioned and moisture controlled the best they can in a 100-year old building with window units and steam heat.

Chairman Jackson asked if the building has a sprinkler system.

Mr. Dedeke responded there is not a sprinkler system but in the 1999 addition, which added the towers, that did add fire doors to all the classrooms, and it created safe exiting for the two towers.

Commissioner Gibson asked Mr. Dedeke if he has contacted the City about fire codes since the building will be renovated.

Mr. Dedeke responded in the negative stating once he submits plans, depending on the amount of renovation and the occupancy of that space are deciding factors the City would look at to determine whether they would have to improve to a sprinkler system or not. Mr. Dedeke further stated ideally they would like the renovations done all at once but realistically this may be a multi-year plan.

Commissioner Gibson asked if they have done a cost study on how much energy they would save with the proposed drop ceiling.

Mr. Dedeke responded they have not done a cost study at this time.

Commissioner Bateman asked if they plan to pursue state tax credits.

Mr. Dedeke stated they are unsure at this time, and would need to discuss it with their CFO to determine what benefits it would offer.

Commissioner Gibson stated there are two options: 1) state tax credits and 2) the Heritage Trust Fund, which provides additional credits. The applicant needs to contact the State to go through the approval process before any money is spent on the project(s). Any construction done prior to approval cannot be part of the tax credit. On average, this process takes approximately 45-60 days.

Commissioner Bateman stated the tax credit is 30% so for a two million dollar project, you would be looking at \$600,000 tax credit, which you could probably sell for \$.90 on the dollar, which is \$500,000 back.

Commissioner Bateman asked staff that if the applicant does proceed with state tax credits, would they need to submit documents per phase if the project is a multi-year project.

Ms. Falvey responded it would depend on how they would want the credits but they could also do an amendment.

With no one else wishing to speak, Chairman Jackson closed the public hearing and called for a motion. Commissioner Bateman moved to table the item for additional information, seconded by Commissioner Otto, and passed by a roll call vote 4-0.

OTHER BUSINESS/CORRESPONDENCE

1. MINOR STATE LAW REVIEW AND/OR MINOR CERTIFICATE OF APPROPRIATENESS

Chairman Jackson noted there are a few minor state law reviews included in the agenda packet, which do not require action from the commission.

Ms. Falvey stated there are items on the agenda for April.

With no further discussion, Chairman Jackson called for a motion to adjourn. Commissioner Gibson moved to adjourn, seconded by Commissioner Bateman and approved by a vote of 4-0.

Meeting adjourned at 6:26 p.m.

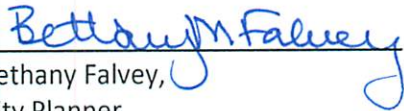
Minutes taken by Administrative Assistant Michelle Baragary.

LEAVENWORTH PRESERVATION COMMISSION

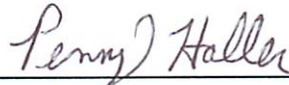
State Law Review
KSA 75-2724
325 Delaware Street
April 5, 2023

PREPARED BY:

APPROVED BY:



Bethany Falvey,
City Planner



Paul Kramer,
City Manager

APPLICANT/OWNER:

Dave Richards

SUBJECT:

A State Law review (KSA 75-2724) for proposed modifications to the property located at 325 Delaware Street, a property located in the Downtown Historic District, under the Secretary of the Interior's Standards for Rehabilitation. The scope of work includes the construction of a two-story, freestanding wood deck in the rear.

STAFF ANALYSIS:

The property is located in the Downtown Historic District, which was listed in the Register of Historic Kansas Places and National Register of Historic Places in 2002. The brick building is a two-story Italianate style commercial block. The property is a Contributing structure to the district. The nomination notes that it retains its original configuration and second-story architectural elements, including the cast iron storefront and full arch windows with window hoods.

The property has an existing deck on the ground level. This project is proposing expanding the deck to the second floor, to an existing door. The existing fire escape will be removed and replaced with the proposed wood, two-story, freestanding deck in the rear of the building.

REQUIRED REVIEWS:

The proposed project shall be reviewed utilizing the Standards for Rehabilitation as set forth by the Secretary of the Interior:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
No such change is proposed.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
The proposed rear deck project will not remove or alter historic features.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
No such change is proposed.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
No such change is proposed.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
No such change is proposed.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
No such change is proposed.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
No such change is proposed.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
No ground disturbing work is proposed.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
The proposed wood deck is in the rear and is differentiated but compatible with the property.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
No such work is proposed.

ACTION/OPTIONS:

- Motion, to determine that the proposed changes to 325 Delaware Street do not damage or destroy the Downtown Historic District.
- Motion, to determine that the proposed changes to 325 Delaware Street do not damage or destroy the Downtown Historic District.
- Motion, to Table item until the next meeting for the purpose of gathering additional information.
- Motion, to forward to the SHPO for review.



Application No. 12724
Filing Date 2-7-2023

HISTORICAL IMPACT DETERMINATION

Property Address: 325 DELAWARE STREET, LEAVENWORTH

Print Name of Property Owner: DAVE RICHARDS

Address of Property Owner: 736 GLENVIEW ST, LEAVENWORTH

Phone: 913 306 2800 Email: dave.richards@gmail.com

Applicant Name (if different from property owner): _____

Phone: _____ Email: _____

Legal Description: (Attach recorded copy of full legal description provided by the REGISTER OF DEEDS OFFICE)

Nature of Project: DECK CONSTRUCTION - 2 story freestanding

(Attach detailed written description of proposed project, along with plans, renderings, photos, and any other necessary supporting documentation to fully describe scope of work)

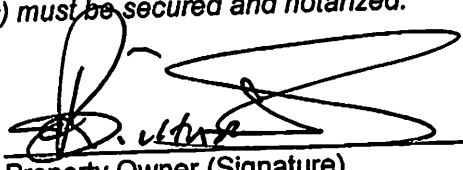
- Historical or Architectural significance:
- National Register
 - Kansas Register
 - Leavenworth Landmarks Register
 - Historic District
- Name of District: Downtown

For Office Use:		Project No. <u>2023-08</u> LPC
Required Review		Fee (non-refundable) \$200.00
<input type="checkbox"/>	Minor State Law Review	Fee Paid/Received By: <u>200.00 / BMF</u>
<input checked="" type="checkbox"/>	Major State Law Review	<u>2/7/2023</u>
<input type="checkbox"/>	Minor Certificate of Appropriateness	
<input type="checkbox"/>	Major Certificate of Appropriateness	
Date of LPC Hearing: <u>4-5-2023</u>		
Date of Notice of Public Hearing published <u>3-14-23</u>		
Date Notice sent to property owners within historic district, as appropriate: <u>3-14-23</u>		
Date of request for appeal to City Commission, if appropriate: _____		
Date scheduled for City Commission review and action, if appropriate: _____		
Final Action:		
Deny as proposed <input type="checkbox"/> Approve as proposed <input type="checkbox"/> Approve with modifications <input type="checkbox"/>		
Reviewed by: _____		Date: _____

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

Dated this 7 day of February, 2023

DAVE C. RICHARDS
Property Owner (Print Name)

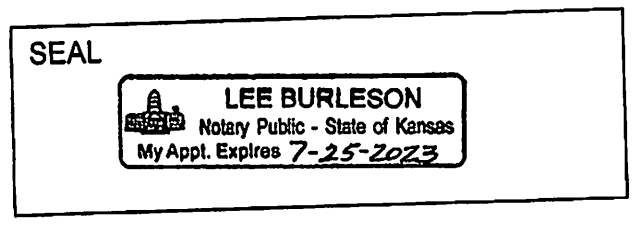

Property Owner (Signature)

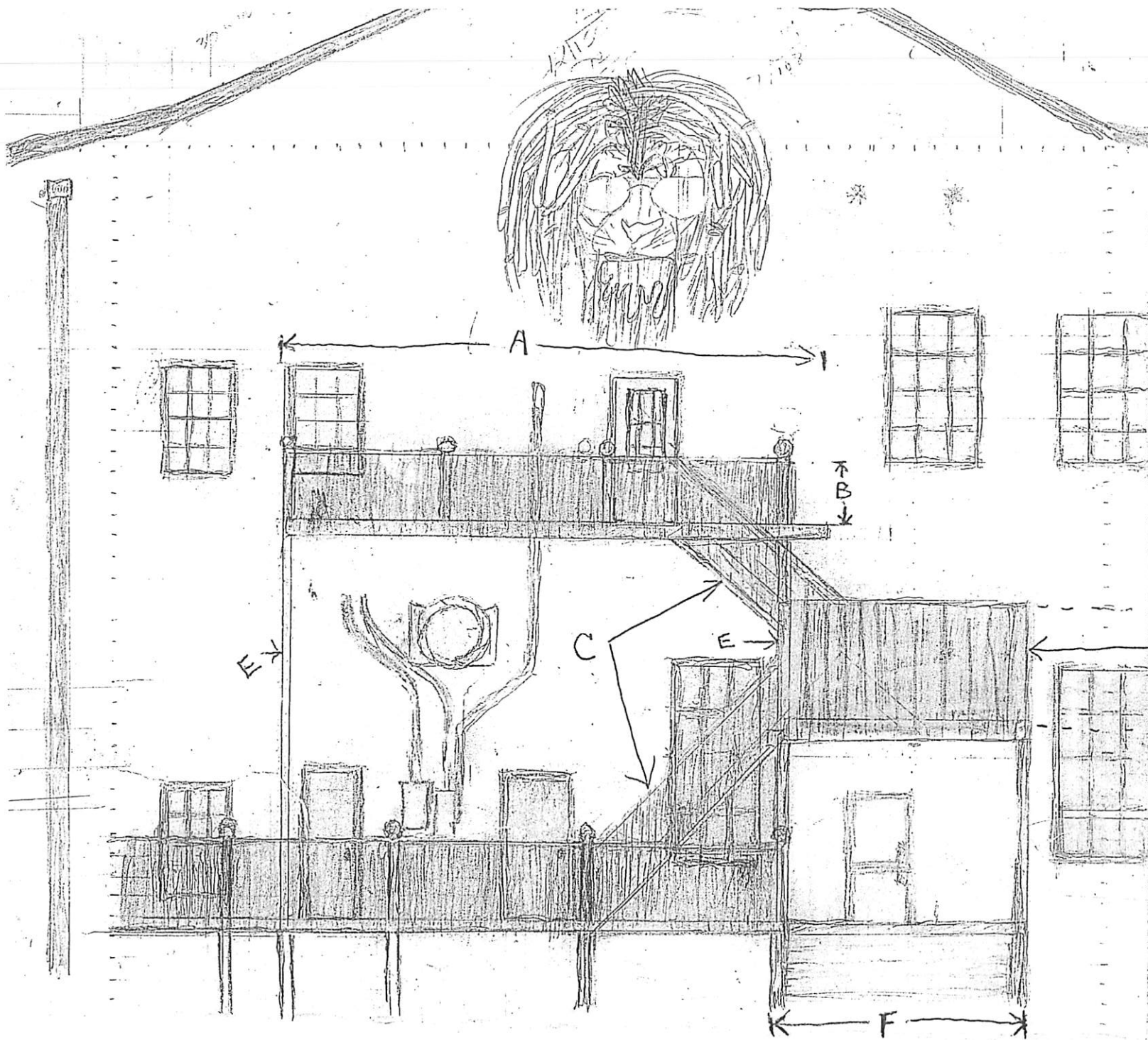
State of Kansas

County of Leavenworth

Signed or attested before me on Feb. 7, 2023 by Dave Richards

Notary Public Lee Burleson My appointment expires 7-25-2023





A = 20' x 12'

B = 34 1/2"

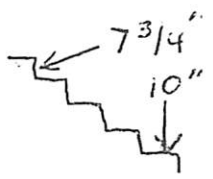
C = 36" WIDE STAIRS

D = 6'

E = 6 x 6

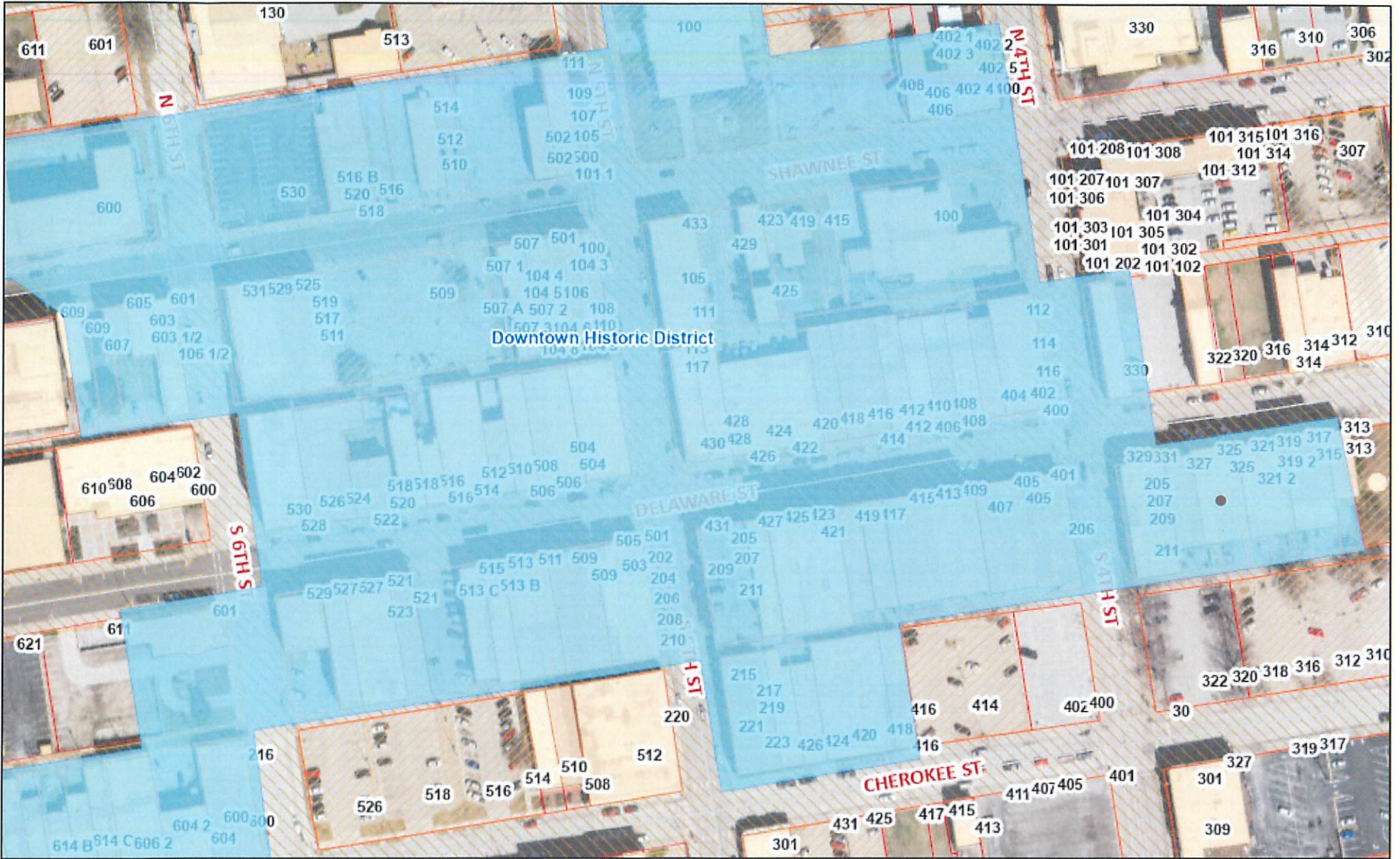
STAIRS 7 3/4"

F = 10'



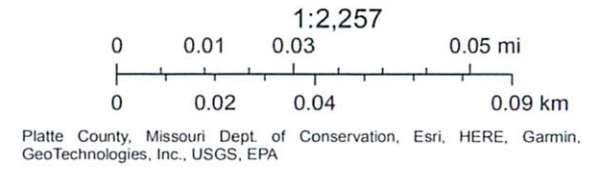


LPC 2023-08 - 325 Delaware



3/23/2023, 1:03:56 PM

- Historic Districts
- Buildings
- City Right-of-Way
- Parcels (City Owned)
- Address (Points)
- Road Centerline
- Parcels_Current
- Leavenworth City Limits

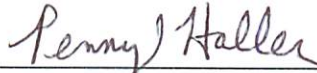


LEAVENWORTH PRESERVATION COMMISSION
Article 9 Amendment
Development Regulations

April 5, 2023



Prepared By:
Bethany Falvey
City Planner



Reviewed By:
Paul Kramer
City Manager

SUBJECT:

Text amendments to Article 9 – Historic Preservation to the Development Regulations

DISCUSSION:

The City Commission adopted the Development Regulations in June 2016 after a year-long comprehensive update process. The Historic Preservation section, Article 9, has not had a comprehensive update since that time. This update will ensure it remains up to date and comprehensive. The proposed amendments update the code to reflect current practice and laws, add clarification to current practices and policies, and reorganize the existing Article for better flow.

- Removes references to the Environs portion of the Kansas State Preservation Law, which has been removed from the law.
- Removes inconsistent language and corrects language throughout to match current practices.
- Adds clarification and language to differentiate between review processes.
- Combines the section regarding “Alteration, Expansion or Demolition – Major” with Section 9.16 “Procedure for Demolition, Alteration or Expansion.”

ACTION/OPTIONS:

Recommend approval or denial of proposed text amendments to Article 9 for final action by the City Commission.

ARTICLE 9. HISTORIC PRESERVATION

9.01. Purpose

The purpose of this article of the development regulation is to:

- A. Preserve buildings and sites of historic and architectural importance and safeguard the heritage and culture of Leavenworth;
- B. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- C. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- D. Foster civic pride in Leavenworth and the appearance of the community; thereby protecting and enhancing the city's attraction to tourists and visitors and providing support and stimulus to business and industry;
- E. Promote the restoration and productive use of historically and architecturally significant structures, property and areas for the culture, education, enjoyment and economic welfare of the city's citizens and visitors; and
- F. Promote the study of history, culture, and architectural design.

9.02. General

- A. A historic resources preservation code establishing the Leavenworth Preservation Commission, providing for the designation of Leavenworth landmarks and historic property districts, and regulating improvements to and demolition or clearance of buildings, sites, structures, or objects listed as landmarks or located in historic districts.
- B. The City is authorized, under the Kansas Historic Preservation Act, KSA 75-2724, to participate in the Certified Local Government (CLG) program by establishing a partnership with the State Historic Preservation OfficeDepartment, Kansas State-Historical Society,
- C. The City Commission finds and determines that it is desirable to identify and promote the City's prehistoric, historic and cultural heritage, to enhance the attractiveness of the City, thereby promoting business and tourism,
- D. The Code is intended to enhance and promote Leavenworth's contribution to the history of the State of Kansas as well as to this nation.

9.03. Applicability

This Code shall apply to all historically and architecturally important structures, properties, and districts located within the City limits, which have demonstrated and have been determined to be significant through nomination and placement on local, state, or national registers of historic ~~places~~properties.

9.04. Leavenworth Preservation Commission

Formatted: Indent: Left: 0", First line: 0"

- A. **Creation:** The Leavenworth Preservation Commission (hereafter in this article "commission") is created to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the City that have special significance of an architectural, archaeological, cultural or historical sense. The commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- B. **Membership:** The commission shall consist of ~~seven~~five Leavenworth residents by appointment by the mayor with concurrence by the City Commission. The membership shall to every extent possible include a minimum of three of the Board members must The professional fields include: history, architecture, architectural history, historical architecture, archaeology-prehistoric, archaeology-historic, or landscape architecture. at least one architect, one real estate professional, one planning commissioner, and/or one historian (amateur or professional), as well as members at large. Appointments shall be for a term of three years, except that the first commission shall be appointed as follows: three for three-year terms, two for two-year terms and two for one-year terms. The mayor may reappoint, as above, persons who have met the minimum attendance requirement and who otherwise have served adequately. The mayor may remove any member of the commission, for cause. Vacancies shall be filled by appointment as above within 60 days, such appointment for the remainder of the unexpired term.
- C. **Rules of Procedure:** The commission shall adopt bylaws or rules of procedure, which specify attendance requirements, conflict of interest, officer/selection process, quorum, agenda formulation, notice, and such other appropriate matters. Minutes of the meeting will be distributed to commission members, the City Manager and the State Historic Preservation Officer (SHPO).
- D. **Annual Report:** The commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year and a record of current and appointed commission members. The report should also assess progress in preserving historically important structures and assess the need for future changes to the Code. The report shall conclude with a statement of goals for the ensuing year and shall be duly authorized by majority vote of the commission.
- E. **Authority and Responsibilities:**

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

1. *Jurisdiction:* The geographic area of authority shall be the area contained within the Leavenworth corporate limits.
2. *Mission:* The commission's central purpose is the designation and the protection of historic properties in compliance with the Kansas Historic Preservation Act (KSA 75-2724 et seq.). Matters arising under the statute shall require notification of the SHPO.
3. *Nomination Reviews:* The commission shall review all proposed nominations for local, state, and national registers of historic placesproperties. All nominations shall be evaluated by a professional in a specific discipline, if not represented on the commission, prior to commission recommendation.
4. *Certified Local Government (CLG):* The SHPO may, by mutual agreement with the City, delegate responsibilities to the commission.
5. *Training:* Each commission member shall attend at least one information or training meeting each year as approved by the SHPO.
6. *Historic Inventory:* The commission shall review and maintain the historic property inventory to add properties, which may be eligible for designation as landmarks or districts in accordance with procedures established by the SHPO. In addition to the Kansas Historic Structures Inventory form, the City shall use the SurveyUrban-Study Unit Manual prepared by the SHPO for the preservation planning process. Copies of all inventory materials shall be submitted to the SHPO.
7. *Transparency:* The City shall provide for adequate public participation in all aspects of the implementation of this Code. All meetings shall be open to the public pursuant to KSA 75-4318. The commission shall meet at least four times each year. Agenda materials provided to commission members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection. Minutes shall be considered notice of any action or decision.
8. *Programming:* The commission shall have the discretion to establish other programs and services, including but not limited to: create public information programs, use of City funds to promote preservation activities, review other departmental plans being considered that may affect historic structures or properties, and cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places.
9. *Participation Incentives:* The commission shall review and recommend local incentives that may encourage Landmark designation in Leavenworth. These may be in the form of retail discounts, tax rebates, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation available only to designated Landmark properties. Such incentives shall be by agreement between the city, the Landmark owner and the respective business or utility providing the reduction or rebate.
10. *Review of Public Projects:* The commission shall review and recommend policies regarding historic structures, public streetscape, lighting, and signage in historic

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

- districts to encourage their development. Resources available to create such places may include general or special tax authority as well as assessment processes.
11. *Grants and Gifts:* The commission shall prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of preservation, including state, federal, or corporate grants or bequests.
 12. *Code Review:* The commission shall review the provisions of this Code at least every five years to make comprehensive or individual changes deemed appropriate. The commission may make recommendations for amendment at any time deemed necessary to improve the enforceability of the Code.
 13. *Compensation and Expenses:* Commission members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

9.05. Administration

- A. *Department:* The Planning and ~~Community Development~~Zoning Department shall be responsible for the administration of this Code and performing the staff function for the commission. The department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code. The department shall process all applications for Landmark designations in accordance with Section 9.10 as described herein.
- B. *Department Staff Director:* The ~~Staff Planning and Zoning Department Director~~ shall review all building permit applications to determine if a Landmarks ~~or listed~~ property may be affected by a proposed development. If so, ~~they~~the Director shall follow the procedure to either issue a certificate of appropriateness or begin a ~~state preservation law~~ review process in accordance with the provisions further described herein. ~~The Staff Director~~ shall forward the commission's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the commission.
- C. *Historic Landmark Impact Determination:* No historic property may be occupied or used in a different manner unless/until the ~~Staff Director~~ has made a ~~Historic Landmark~~ Impact Determination, which shall be attached to a certificate of appropriateness ~~or permit~~ (see Sections 9.10 through 9.16). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and ~~Staff~~the Director's recommendation to approve or deny ~~a certificate of appropriateness~~.

9.06. Enforcement

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.06 Enforcement

- A. **Building Permit Required:** It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed ~~in~~ on the National Register of Historic Places/~~Register of Historic Kansas Places~~, or located within a ~~listed~~registered Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.
- B. **Maintenance:** Normal property maintenance which does not require a permit from the City shall be exempt from the provisions of this Code, unless and/or until a permit for work to be done is required by other City development regulations.
- C. **Sufficient Documentation Required:** No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings and material lists in sufficient detail to enable the City to conclude that the project meets the appropriateness test as set by the Secretary of the Interior's ~~Standards~~standards for ~~Rehabilitation~~historic-preservation and the special terms of this Code.
- D. **Compliance with Plans Presented Required:** Building construction shall be halted if inspection staff notes that the project description presented to the City for approval differs in any way from the construction practices being performed on-site. During this stop-construction period, the City shall require compliance with the original approved depiction. The owner may appeal the order to the Leavenworth Preservation Commission by submitting amendments to the original plan and construction may proceed upon their approval. If the Leavenworth Preservation Commission denies the amendment, the owner may appeal to the City Commission.
- E. **Orders to Cease Construction:** The ~~Staff~~Director, upon discovery that a demolition or improvement to a property is being made without review of the appropriate permit, shall issue notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within 30 days or an appropriate action to comply with the provisions of this Code will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner.
- F. **Assessment of Compliance Costs:** If the City has filed proper notice and the time has elapsed for correction by the owner, the City may take corrective action and any and all costs incurred by the City under the provisions of this article shall be assessed against each lot or piece of ground, chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

9.07. Appeals

Any property owner aggrieved by any section of this Article may apply for an appeal. Appeals shall be to the Leavenworth Preservation Commission. Any decision of the commission may be further appealed to the City Commission. All rulings by the City Commission shall be final and binding on all parties unless appealed to a court of valid jurisdiction.

9.08. Variances

Any property owner, or authorized representative, may apply for a variance from specific guidelines ~~for historic preservation~~ as set and amended by the Secretary of Interior's Standards for Rehabilitation, the Interior Department. Variance applications shall be made to the Leavenworth Preservation Commission whose decisions are final. Before the commission may grant a variance from the specific regulation, it must make a finding that all five conditions below are affirmed:

- A. Such variance would not be contrary to the health, safety or best interest of the public;
- B. A literal enforcement of the provision will result in an unnecessary hardship to the property owner;
- C. There is a condition unique to the property which was not created by the property owner;
- D. There is no adverse effect on surrounding properties, and,
- E. The variance would not be contrary to the general spirit or intent of this Article.

9.09. Historic Resources Survey

The commission shall annually update the historical resources survey to identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural, or architectural importance to the community. As part of the survey, the commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by the SHPO.

9.10. Identification of Landmarks and Historic Districts

The commission shall identify the most significant resources with potential for designation as a local Landmark or historic district, devise and adopt procedures to initiate and consider their nomination to local, state and national registers and prepare and adopt a heritage conservation and promotion plan containing goals, objectives and policies to preserve the community's historic resource.

9.11. Leavenworth Landmarks Register

The commission shall establish a register of local historic places to be called the Leavenworth Landmarks Register. The register will contain a complete description of all buildings, structures, sites, and objects designated as landmarks and a description of boundaries of any area designated a historic district. All landmarks and districts shall be identified on the Landmarks Register Map, on file in the office of the City

Clerk and the Community Development Department. Updated copies of the map will be provided to the reference section of the Leavenworth Public Library.

9.12. Nomination of Landmarks and Historic Districts

Using the required public hearing process nominations for landmark or historic district designation shall be made by application submitted by the owner of a landmark or by written consent signed and acknowledged by seventy-five percent of all property owners within the defined boundaries of a proposed historic district. Each owner or owners of any legal parcel of record shall have one vote in the district per parcel, regardless of parcel size to determine this threshold. Lots that have been historically combined to create one parcel or building site shall be considered one parcel for this purpose. The commission shall review each application and shall apply the following criteria to determine eligibility to the local register:

- A. Character, interest, or value as part of the development, site, or structure that contributes significantly to the heritage or cultural characteristics important to the development of the city, state, or nation.
- B. Identification with a person or persons who significantly contributed to the development of the city, state, or nation.
- C. Architectural style valuable to the study of a period, or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure, or identification with a master builder, architect or craftsman whose work influenced the development of the city, state or nation.
- D. Location of a prehistoric or historic site, occupation, or activity possessing significant archeological value.
- E. The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination, which may render the nomination sufficient for placement on the register. All applications shall be submitted to the Community Development Department, City Hall, 100 N. 5th Street, Leavenworth, KS (Department).

9.13. Report and Recommendation

Within thirty (30) days after close of the public hearing, the commission shall adopt and submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the register with the following considerations: significance or lack of significance of the nominated property as it relates to the above stated criteria and integrity or lack of integrity of the nominated property as it relates to historical features. Recommendations will be accompanied by a

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.12 Nomination of Landmarks and Historic Districts

locator map of the subject property and such other photographs or renderings deemed pertinent to the nomination process.

9.14. City Commission Designation

The City Commission shall consider the nomination at the next available regular commission meeting, after the protest petition period has elapsed. The City Commission shall approve acceptable nominations by Code approved by roll call vote. Denials may be by simple motion as recorded in the minutes of the meeting. Any landmark or historic district nomination denied by the City Commission shall not be reconsidered for a period of one year. The Commission may take any of the following actions:

- A. Accept the recommendation of the commission, or reverse the recommendation of the commission.
- B. Amend by reduction or enlargement of the landmark or historic district.
- C. Amend or rescind previous placements on the register (after following the procedure for placement).

9.15. Designation

Within seven (7) days after approval, the City Commission shall forward notice of designation of any landmark or historic district to the SHPO, ~~in the format necessary to request placement on the state and national registers of historic places.~~ All appropriate state and local officials shall receive notice of the designation as well. Designation shall not alter the uses permitted by the existing zoning classification or district regulations affecting the property.

9.16. Procedure for Demolition, Alteration or Expansion

Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district, the commission and department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, issued, or denied in accordance with the process outlined herein.

- A. **Determination of Appropriateness:** Department staff shall prepare a certificate of appropriateness ~~or conduct a state law review~~ before any alteration or demolition permit may be issued for any landmark or historic district property. Certificates shall be classified as either a minor ~~or certificate of appropriateness or a major certificate of appropriateness.~~ All certificates ~~or permits~~ shall include the Director's landmark impact determination.

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

B. **Minor (Administrative) Reviews: City staff Certificates of Appropriateness:** Minor certificates shall have the authority to approve at the administrative level be issued for any demolition or alteration work involving the following list of project types:

1. Repair of architectural elements such of permits which can be demonstrated by the owner to have no adverse effect on a landmark or historic district: demolition of non-contributing structures, most interior improvements except those noted as porches, fascia, windows, doors, with like-kind replacement materials. This includes all roofing.
2. Installation of mechanical plumbing, or electrical systems that require minimal pertinent to a landmark designation, changes
3. Installations of awnings and to signs on commercial properties
4. Interior modifications that do not affect character-defining elements of the structure
5. Installation of fire safety equipment, or minor alterations to meet the Americans with Disabilities Act
6. Public improvements including improvements to, fences, public walkways, public streets, curbs, sidewalks, parking areas, parks, utilities, and public alleys, public retaining walls and public utilities that do not contribute to the historic character of a landmark or historic district
7. Minor zoning changes (e.g. subdivision of property, vacation of streets or alleys, variances)
8. Minor exterior building changes including installation of decks, patios, and pools, not visible from the public right-of-way, the addition of mechanical or electrical equipment, when not affecting character-defining features of historic properties.
9. Sidewalk dining
10. Minor exterior additions to accessory structures
11. Demolition of non-contributing structures
12. Interior modifications that do not affect or remove character-defining elements of interior space. Including installation of mechanical, plumbing, or electrical systems that require minimal changes to existing features.
13. Changes to existing signs (e.g. sign reface)

If the proposed project meets the Secretary of the Interior's Standards for Rehabilitation, then City staff will administratively approve the proposed project. If staff determines that the proposed project may "damage or destroy" a listed property, then the proposed project will be forwarded to the Leavenworth Preservation Commission.

C. **Major (Commission) Reviews:**

Alteration, expansion, or demolition applications requiring a Major State Law Review or Certificate of Appropriateness shall be processed as follows:

1. The department receives application for a permit which triggers the determination warranting a major review and notifies the applicant within 24 hours that a Commission review is required before a permit can be issued [allow one-two days for this process].
2. Applicant submits request for review in writing within seven days [allow one-seven days for this process].

Formatted: Indent: Left: 0", First line: 0", Space Before: 6 pt, After: 6 pt

Formatted: Expanded by 0.25 pt

Formatted: Indent: Left: 0.5"

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

3. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.
4. The commission conducts the public hearing and determines if the certificate of appropriateness or permit can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness or permit can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate or "damages or destroys" the historic resource in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling]
5. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.
6. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness or permit is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].

DC. Monthly Reports: Minor (Administrative) Review Such certificates shall be authorized by Staffthe Director and reported monthly to the commission. Such reviewscertificates may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.

ED. Major ReviewsCertificate of Appropriateness: Major certificates or reviews shall be subject to review and approval by the Commissioneommission and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within a historic district; and demolition of part or all of a landmark or building or structure in a historic district.

FE. Criteria to Determine Appropriateness: The commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving, and demolition of landmarks or properties in an historic district, including but not limited to, the following:

1. Non-binding conceptual reviews are encouraged and the Leavenworth Preservation Commission shall wherever possible provide written and graphical examples of similar suitable projects.

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

2. Specific design criteria for ~~appropriate~~ exterior alterations of landmarks or historic district properties shall be based on the US Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require;
3. New construction and additions to existing structures shall be sensitive to and take into account the special historic district or landmark characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, architectural detail, roof forms, vertical or horizontal elements, walls, fences, landscaping and other features;

GF. *Demolition Delay:* Demolition applications for landmarks or historic district properties shall be denied for a period not to exceed 180 days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the landmark or historic district property. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the landmark or historic district before demolition of a contributing or landmark structure may proceed. This section also applies to properties nominated or landmark or historic district designation. Once redevelopment plans are known, the commission will determine appropriateness.

9.17. Signs

The commission ~~and/or staff~~ shall review and approve or deny all requests for signs to be located on a landmark or within an historic district in accordance with the following criteria:

- A. Signs shall be designed and placed to be an integral part of the property design, in proportion to the landmark and compatible with the environment in historic districts.
- B. Signs should be relative to the services and shall not block, obscure or distract from the landmark's or historic district's significant design elements.
- C. Wherever possible, actual historic signage should be maintained and restored to original significance regarding design, materials, craftsmanship, or placement.
- D. In Commercial and Industrial Zoning Districts, illuminated signs shall be designed to reduce glare and shall not detract from the landmark's or district's historic character.
- E. Freestanding signs and monument placards explaining the landmark's or district's significance or age shall be compatible with the landmark or district, but are otherwise encouraged. Signs shall be regulated for a distance of not more than 300 feet from a landmark or historic district.
- F. Signs to be placed upon a National Register ~~Landmark~~-property shall not be subject to the public hearing process and may be approved as a minor ~~review~~ certificate of appropriateness if the terms of Section 11.19 are met. ~~National Register Landmark~~ signs which do not meet

all of the stated terms shall be set for review by the Leavenworth Preservation Commission at its next regular meeting with appeal to the City Commission if denied.

- G. Signs within Commercial or Industrial Historic Districts shall not be subject to the public hearing process and may be processed as a minor certificate of appropriateness if the terms of Section 11.19 are met. Signs within Commercial or Industrial Historic Districts which do not meet all of the terms of this Section shall be set for review by the Leavenworth Preservation Commission at its next regular commission meeting with appeal to the City Commission if denied.

- H. Signs within Residential Historic Districts shall be subject to the following procedure:

~~1. Any sign larger than two square feet proposed to be located within a Residential Historic District or within 300 feet of such District shall require a review by the Leavenworth Preservation Commission prior to issuance of any sign permit.~~

Formatted: Indent: Left: 0"

12. The commission and/or staff shall review the sign for compliance with the terms of this sub-section and shall modify, approve or deny the permit following a scheduled informal hearing set for its next regular meeting. Such informal hearing shall be preceded by written notice to each of the properties within the affected historic district.

23. This is not a formal public hearing process as described elsewhere in this Code for appeals. No notice is required to be advertised. Letters shall be sent by regular mail. Failure to receive notice of such informal hearing shall in no way void the hearing process. The letter mail distribution shall be based upon the addresses of the properties within the district as filed with the nomination for the district in records kept and maintained by the Planning and Zoning Department, City of Leavenworth, Kansas. Such notice shall be mailed at least five workdays prior to the date set for the informal hearing. It shall state the date, time and place of the informal hearing and that the Leavenworth Preservation Commission will meet to discuss a sign permit request and shall give the address where the sign may be located.

34. Should a legal, non-historic commercial or industrial zoned property be located within 300 feet of a Residential Historic District, then the Leavenworth Sign Code shall be used to issue sign permits and no further Historic review shall be required.

45. During the informal hearing the chair may elect to hear public testimony in favor of or opposed to the sign as designed. The commission may encourage modification of the sign to assure historic integrity and compatibility with the character of the historic landmark or district, or the commission may grant or deny the sign permit as presented. The owner of the sign may appeal the decision of the commission to the City Commission, if denied.

56. Appeals shall be in writing received by City staff within seven days of the date of denial.

9.18. Retention of Accessory Structures and Landscaping

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.18 Retention of Accessory Structures and Landscaping

- A. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the landmark or district's significance shall be retained and protected from demolition or alteration.
- B. Landscaping shall be appropriate to the scale and feature of the landmark or historic district.
- C. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributing/contributory structures shall not distract or detract from the landmark or historic district properties.
- D. Design criteria shall be applied more stringently to projects of greater significance than those of lesser impact. Accessory facilities are not subject to the public hearing process and will be reviewed at the next regular commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within seven days of date of denial.

9.19. Public Properties

Existing historically or architecturally significant public properties shall be nominated to local, state, and federal registers upon authorization by the City Commission after review and approval by the commission of appropriate nominating materials. Unless specifically required elsewhere, normal nomination procedures may be waived.

- A. Normal property maintenance shall be exempt from the provisions of this Code unless or until a permit for work to be done is required by other City development regulations
- B. Demolition, exterior alteration, or expansion of landmark properties owned by such entities shall follow the procedures enumerated in these Development Regulations.

9.20. Promotion of Other Functions

To further the purposes of this Code and to assure maximum public knowledge and involvement in the preservation of Leavenworth's history, the City may enter into agreements with other units of government, other agencies and private corporations. Specifically, the City shall negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of building and/or demolition permit applications for compliance with the above stated historical regulations and objectives.

- A. **Types and purposes of grants, or other agreements:** The commission may recommend and the City Commission may authorize such agreements which address:
 - 1. Designation of landmarks and historic districts;
 - 2. Administration and use of preservation fund resources;
 - 3. Improvements to landmarks and historic districts;
 - 4. Maintenance of landmarks and historic district properties;

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.18 Retention of Accessory Structures and Landscaping

5. Other mutually acceptable provisions such as contracts with public or private consultants and acceptance of grants or other resources to further the objectives and functions of the commission.

9.21. Promotion

The commission shall be the City's point of contact for all historic associations and organizations within the City, state and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Leavenworth within the established budget for the operation of the commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the commission and as authorized by the City Commission through the various agreements. The commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

9.22. Public Hearing Process

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed.

- A. Landmark nomination as additionally described above shall be processed as follows:
 1. The commission or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.
 2. The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].
 3. The commission conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].
 4. The City Commission accepts or reverses the recommendation and approves or denies the nomination.
 5. If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].
 6. If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one-year delay before a future nomination may be submitted].

9.23. Alteration, Expansion or Demolition - Major

~~Alteration, expansion, or demolition applications requiring a Major Certificate of Appropriateness shall be processed as follows:~~

Formatted: Expanded by 0.25 pt

Formatted: Indent: Left: 0", First line: 0", Space Before: 6 pt, After: 6 pt

~~A. The department receives application for a permit which triggers the determination warranting a major certificate of appropriateness and notifies the applicant within 24 hours that a formal review is required before a certificate of appropriateness can be issued [allow one two days for this process].~~

~~B. Applicant submits request for review in writing within seven days [allow one seven days for this process].~~

Formatted: Indent: Left: 0.5"

~~C. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.~~

~~D. The commission conducts the public hearing and determines if the certificate of appropriateness can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling].~~

~~E. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.~~

~~F. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].~~

Formatted: Indent: Left: 0", First line: 0", Space Before: 0 pt, After: 0 pt, Border: Bottom: (Single solid line, Auto, 0.5 pt Line width), Pattern: Clear (Background 1)