



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, NOVEMBER 26, 2024 6:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting
Meetings are televised everyday on Channel 2 at 6 p.m. and midnight and available for viewing on YouTube

CALL TO ORDER – Pledge of Allegiance Followed by Silent Meditation

AWARDS:

1. Employee Service Awards (pg. 02)

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

2. Minutes from November 12, 2024 Regular Meeting **Action:** Motion (pg. 04)

NEW BUSINESS:

Public Comment: (i.e. Items not listed on the agenda or receipt of petitions)-Public comment is limited to 2-3 minutes and no action will be taken by the Commission on public comment items - Please state your name and address. A signup sheet will be provided in the commission chambers for anyone wishing to speak.

General Items:

3. Consider Transient Merchant Permit Waiver Request for Military Collectors Show at Riverfront Community Center **Action:** Motion (pg. 08)
4. Cancellation of Outstanding City Checks **Action:** Motion (pg. 10)

Resolutions:

5. Commonwealth Development Affordable Housing Fee Waiver Request (pg. 13)
a. Resolution B-2387 Resolution of Support **Action:** Motion
b. Approval of Fee Waiver Letter **Action:** Motion

First Consideration Ordinances:

6. First Consideration Ordinance for Special Use Permit to Allow Accessory Dwelling Unit at 303 N. Esplanade **Action:** Consensus (pg. 22)

Consent Agenda:

Claims for November 8, 2024, through November 21, 2024, in the amount of \$914,488.44; Net amount for Payroll #23 effective November 15, 2024 in the amount of \$411,540.29 (Includes Police & Fire Pension in the amount of \$7,491.38). **Action:** Motion

Other:

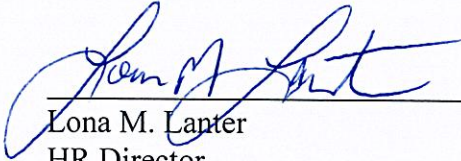
Adjournment

Action: Motion

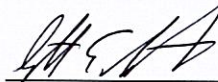
**POLICY REPORT 24-04
Employee Service Awards
November 26, 2024**

Prepared by:

Reviewed by:



Lona M. Lanter
HR Director



Scott Peterson
City Manager

Issue:

In 2024, eleven (11) employees reached a milestone in their career with the City of Leavenworth. These employees are being recognized for their faithful, dedicated, loyal and continuous service to the City.

In addition to recognizing the 10 and 25 year awards, we are also recognizing those employees who have continued loyal service to the City with 15, 20 and 30 years of service.

Background:

In 1926, the League of Kansas Municipalities began the practice of recognizing city employees for faithful, continuous service. Loyal and dedicated officials and employees form the foundation of every city with strong, progressive government. The pride and devotion shown by these men and women in their jobs is an important factor in making Kansas communities a better place to live.

The following City of Leavenworth employees are being honored at this time:

10 Year Awards

- Sarah Brummer, Police Detective**
- Sean Fisher, Records Supervisor**
- Charles Fitzhugh III, Maintenance Supervisor-RFCC**
- Laura Flynn, Police Detective I**
- Patrick Fuimaono, WPC Operator II**
- Cody Kear, Police Detective I**
- Amy Peters, IT Manager-Public Safety**
- Ezekiel Stevenson, Police Sergeant I**
- Glenn Young, Maintenance Mechanic**

25 Years of Service

- Erin Bartlett, Fire Battalion Chief**
- Andrew Brooks, Fire Admin Battalion Chief/Fire Marshal**

We would also like to recognize the following individuals for milestone achievements listed below:

15 Years of Service

Pamela Cline, Accountant

Ted Glass, Police Sergeant III

Scott Lee, Fire Captain

Heather Mowery, Police Detective III

Reginald Williams, WPC Operator III

20 Years of Service

Arianne Burgoon, HR Administrative Specialist

Timothy Guardado, WPC Superintendent

Lona Lanter, HR Director

Tesh St. John, Police Detective III

30 Years of Service

Roger Hundley, Police Sergeant II



CITY OF LEAVENWORTH
100 N. 5th Street
Leavenworth, Kansas 66048

City Commission Regular Meeting
Commission Chambers
Tuesday, November 12, 2024 6:00 p.m.

CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Griff Martin, Mayor Pro Tem Holly Pittman, Commissioners Nancy Bauder, Edd Hingula and Jermaine Wilson (via telephone call-in).

Staff members present: City Manager Scott Peterson, Assistant City Manager Penny Holler, Planning & Community Development Director Julie Hurley, Police Chief Patrick Kitchens, Public Information Officer Melissa Bower, City Attorney David E. Waters and City Clerk Sarah Bodensteiner.

Mayor Martin asked everyone to stand for the pledge of allegiance followed by silent meditation.

PRESENTATIONS AND PROCLAMATIONS:

Mayor's Award - Mayor Martin presented the Mayor's Award for Community Service to Patrick Kitchens for his contributions to the City during his time as Interim City Manager. Chief Kitchens was present to accept the award.

Small Business Saturday Proclamation - Mayor Martin read the proclamation proclaiming Saturday, November 30, 2024 as Small Business Saturday. The proclamation was accepted by Haley Shaw of Leavenworth Main Street.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Bauder moved to accept the minutes from the October 22, 2024 regular meeting. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

Second Consideration Ordinances:

Second Consideration Ordinance No. 8253 Amending Code of Ordinances Chapter 44, Section 87 No Parking Anytime – Police Chief Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the October 22, 2024 meeting.

Mayor Martin called the roll and Ordinance No. 8253 was unanimously approved.

No Action Taken Item from October 22, 2024:

Library Board Appointment – Commissioners considered the appointment of Mr. Robert Jason Redmon to the Library Board, as introduced by Mayor Martin at the October 22, 2024 City Commission Meeting.

Mayor Martin moved to appoint to the Library Board Robert Jason Redmon to a term ending on April 30, 2028. Commissioner Hingula seconded the motion and the motion was approved with Commissioner Bauder voting no. Mayor Martin declared the motion carried 4-1.

NEW BUSINESS:

Public Comment: *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*

Raymond Hillebrand, 1325 Cheyenne St.:

- Purchased shed and was informed item was a shipping container by City Staff
- Disagrees with City Staff finding
- Unable to store at commercial property as no shipping containers are allowed
- Would like a resolution to the issue

Alex Forse, No Address Given:

- Stated he has been homeless in Leavenworth for the past 10 years
- Lives at the Interfaith Community of Hope Shelter or behind the Community Center when the weather is nice
- Appreciates that he is able to ask for money on street corners to use to buy drugs
- Thanked the City for not stopping activities by the homeless community
- Wants to see the City pass more ordinances supporting the homeless

General Items:

Consider Updates to City Fee Schedule – City Clerk Sarah Bodensteiner presented updates to the City Fee Schedule for a January 1, 2025 effective date:

- **Solid Waste – Collection and Disposal of Refuse Monthly Fee** – In the approved 2025 Budget, the monthly fee for Collection and Disposal of refuse is set to increase by 3%.
- **Utilities – Sewer Service Charges** – In the approved 2025 Budget, the sewer service charges are set to increase by 3%.

Commissioner Hingula moved to approve the updates to the City Fee Schedule as presented and to be effective January 1, 2025. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 5-0.

Commissioner Wilson left the meeting at 6:20 pm

Resolutions:

Resolution B-2384 Kansas Region L Hazard Mitigation Plan – Police Chief Patrick Kitchens presented for approval the Kansas Region L Hazard Mitigation Plan. In order for the City to be eligible for FEMA reimbursement while recovering from a hazard, the City Commission must adopt a resolution approving the plan. The plan for Leavenworth County was completed by the County Emergency Manager Chuck Magaha with participation from all relevant entities including, but not limited to, Law Enforcement, Fire, and Public Works. Without approval, the City would bear the responsibility of recovery costs which would have a significant budget impact.

Commissioner Bauder moved to approve Resolution B-2384 Kansas Region L Hazard Mitigation Plan. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Resolution B-2385 Authorize Serving of Complimentary Alcoholic Liquor at Main Street “Alive After Five Winter Wine Walk” – City Clerk Sarah Bodensteiner presented for approval and adoption Resolution B-2385. The resolution allows unlicensed businesses to serve complimentary alcoholic liquor or cereal malt beverages to members of the general public during Leavenworth Main Street Program “Alive After Five Winter Wine Walk” event scheduled on Friday, December 6, 2024.

Commissioner Bauder moved to approve Resolution B-2385 authorizing the servicing of complimentary alcoholic liquor at Main Street “Alive After Five Winter Wine Walk” event, as presented. Commissioner Pittman seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Resolution B-2386 Authorize Serving of Complimentary Alcoholic Liquor at Main Street “Alive After Five” Events for 2025 – City Clerk Sarah Bodensteiner presented for approval and adoption Resolution B-2386. The resolution allows unlicensed businesses to serve complimentary alcoholic liquor or cereal malt beverages to members of the general public during Leavenworth Main Street Program “Alive After Five” events in 2025.

Commissioner Bauder moved to approve Resolution B-2386 authorizing the servicing of complimentary alcoholic liquor at Main Street “Alive After Five” events in 2025, as presented. Commissioner Pittman seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Staff Report:

Homelessness Discussion – Police Chief Patrick Kitchens introduced Myranda Agnew from the Interfaith Community of Hope and Christina Ashie Guidry from the Kansas Housing Advocacy Network to review and discuss the approach in dealing with the unhoused community within Leavenworth. Discussion topics included:

- Community has seen an increase in the homelessness population in recent years
- It is not illegal to be homeless; you can’t make it illegal to be homeless
- Discussed the Police Department’s approach
- Ordinances that Officers use (criminal trespassing, disorderly conduct, yelling & shouting, littering, illegal camping)
- Mental Health Tools
- City Attorney Waters discussed the homelessness issue with legal remedies as a result of the recent Supreme Court Case (crime vs. penalty)
- Working to make the stint in homelessness rare, brief and non-recurring
- Goal is to get unhoused housed within 90 days
- A homeless shelter does not solve homelessness, housing does
- Challenges the Interfaith Community of Hope faces (housing cost, low vacancy rate, larger amount of abandoned homes, higher number of chronic homelessness)
- Housing continuum has gaps (costs of inflation, increase in rental costs, inadequate housing supply)

- Very transient community
- Half of residents are renters and spending too much on rent
- Kansas represents 0.4% of U.S. Homelessness, this is a solvable situation
- Recommendations:
 - Create a housing and homelessness task force
 - Identify need and utilize housing resource
 - Support responsive housing development
 - Ensure utilization of housing choice vouchers
 - Preserve existing housing stock and weatherize homes
 - Set aside property tax relief for fixed and low income households

Consent Agenda:

Commissioner Hingula moved to approve Claims for October 18, 2024 through November 7, 2024, in the amount of \$2,054,239.71; Net amount for Payroll #21 effective October 18, 2024 in the amount of \$417,797.54 (Police & Fire Pension in the amount of \$7,491.38) and Payroll #22 effective November 1, 2024 in the amount of \$399,376.72 (No Police & Fire Pension). Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Martin declared the motion carried 4-0.

Other:

Commissioner Pittman:

- Thanked Police, Fire and EMS for showing up to the scene of her car accident

Commissioner Bauder:

- Welcomed Mr. Peterson

Commissioner Hingula:

- Welcomed Mr. Peterson
- Pleasure to participate in the Veterans Day Parade

Mayor Martin:

- Welcome to Mr. Peterson
- Veterans Day Parade was a good one

Adjournment:

Commissioner Hingula moved to adjourn the meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved and the meeting was adjourned.

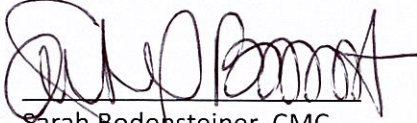
Time Meeting Adjourned 7:47 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC

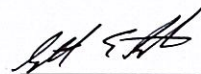
POLICY REPORT
REQUEST A WAIVER FOR A TRANSIENT MERCHANT PERMIT
MILITARY COLLECTORS SHOW
RIVERFRONT COMMUNITY CENTER

NOVEMBER 26, 2024

Prepared by:


Sarah Bodensteiner, CMC
City Clerk

Reviewed by:


Scott Peterson
City Manager

ISSUE:

Consider a waiver of a Transient Merchant Permit for the purpose of a Military Collectors Show at the Riverfront Community Center.

BACKGROUND:

Edward Trevor Brown submitted an application that was received in the Office of the City Clerk for a Military Collectors Show at the Riverfront Community Center to be held on February 7-8, 2025. This Collectors Show has been held at the Riverfront Community Center for several years. The show typically has 40-50 vendors from the local area and as far away as Omaha and St. Louis. Admission is by donation and vendors do sell their items.

All vendors have a Kansas Retail Tax number or the event coordinator will provide the vendors with a tax form to complete and return to the Kansas Department of Revenue. The City reports all events to the Kansas Department of Revenue so they can verify that taxes on admissions, booth fees and any other applicable sales are submitted as required.

The City of Leavenworth Code of Ordinances Chapter 34, Peddlers, Solicitors and Transient Merchants Sec. 34-62 States:

- A transient merchant permit shall not be issued for use in or on a city-owned property including rights-of-way, parks or open spaces or the community center, provided that the city commission may grant in specific cases a waiver of this general prohibition.
- Application and request for waiver shall be on a form provided by the city clerk and submitted to the city clerk at least 30 days prior to the date of the activity to be placed on the agenda of the next regular meeting of the city commission.

The City of Leavenworth Codes of Ordinances Chapter 34, Peddlers, Solicitors and Transient Merchants Sec. 34-1 Definitions, defines a transient merchant as:

- *Transient merchant, itinerant merchant or itinerant vendor* are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, or public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who,

while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. A transient merchant is not a person who has a permanent business presence in Leavenworth and conducts sales or activities similar as described herein on a temporary basis.

Fee for Transient Merchants:

- A Transient Merchant, Itinerant Merchant or Itinerant Vendor Permit fee is \$50.00 per day. The permit is not to exceed 5 days; and no more than two licenses may be issued during a calendar year.

If the City Commission should grant the waiver all applicable fees and insurance requirements would still apply, the waiver just allows the sale to be held on city property, specifically the Community Center which is prohibited by ordinance. The applicant is also required to provide a certificate of liability insurance prior to the date of the event along with any fees required by the Community Center.

CITY COMMISSION ACTION:

Grant a waiver of a Transient Merchants Permit for use of the Community Center for the Military Collectors Show on February 7-8, 2025;

Or

Deny the request for a Transient Merchant Permit

Policy Report

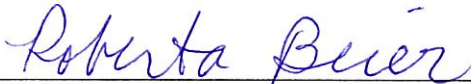
Finance No. 24-06

Cancellation of Outstanding City Checks

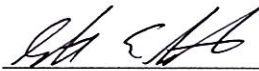
November 26, 2024

Prepared by:

Approved by:



Roberta Beier
Finance Director



Scott Peterson
City Manager

Issue:

According to KSA 10-816a, checks that remain outstanding after a period of two years of issuance may be canceled by the City Commission. The City has a total of 40 checks in the amount of \$4,705.30 that remain outstanding after two years of issuance (see attached listing).

Background:

It is appropriate to cancel outstanding checks after two years. After cancellation by the City Commission, if a check is presented for payment, the Finance Department would honor the obligation and issue a new check.

The funds revert back to the original City Fund upon which they were drawn.

Recommendation:

Staff recommends the City Commission authorize Staff to cancel 40 checks that remain outstanding after two years of issuance and that these balances, in the amount of \$4,705.30, in accordance with KSA 10-816c, revert back to the City Fund upon which such checks were drawn.

City of Leavenworth
Uncleared Checks > Two Years Old as of November 1, 2024
November 1, 2024

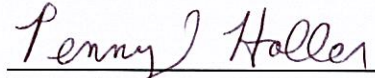
Check #	Check Date	Vendor #	Vendor Name	Amount
290036190	12/02/2021	2098	MAIJA HERSKIND	14.00
290036191	12/02/2021	2099	MICHAEL BARLOW	56.00
290036406	12/17/2021	1	Fire District 1 of Leavenworth County	300.00
290036500	12/30/2021	1	Phillip Roland	100.00
290036595	01/03/2022	2099	MICHAEL BARLOW	56.00
290036606	01/03/2022	2201	HAYLEE TRADER	78.00
290036786	01/21/2022	1706	KIJA CAMMOCK	70.00
290036875	02/01/2022	1896	LARRY JUONI	54.00
290036885	02/01/2022	2099	MICHAEL BARLOW	56.00
290036906	02/01/2022	2234	WILLIAM F MCGOVERN	489.00
290037174	03/01/2022	2099	MICHAEL BARLOW	56.00
290037183	03/01/2022	2179	SCOTT HILTERBRAND	18.00
290037209	03/01/2022	2391	SHANIN COMBS	12.00
290037514	04/01/2022	2099	MICHAEL BARLOW	56.00
290037553	04/01/2022	2391	SHANIN COMBS	10.00
290037558	04/01/2022	2412	SANDRA BAPTIST	124.00
290037633	04/08/2022	2368	ZACHARY THIEL	30.00
290037634	04/08/2022	2382	BLAKE CHADWICK	70.00
290038104	06/01/2022	1	Joseph E. Miller	500.00
290038196	06/03/2022	1	Breanna Johnson	219.49
290038240	06/10/2022	1	Diana Ausmus	300.00
290038242	06/10/2022	1	Ingrid Babri	300.00
290038284	06/10/2022	1954	TYRIEK FORD	9.62
290038307	06/17/2022	1	Brian Stephens	50.00
290038316	06/17/2022	1	Tremain Parris	14.00
290038370	06/24/2022	1	Jessica Ellison	100.00
290038448	07/01/2022	1310	DERRICK COLLINS	54.00
290038456	07/01/2022	1552	BRIAN GRIFFITH	54.00
290038517	07/01/2022	2425	HILARY KOZAK	124.00
290038615	07/15/2022	1	Justin M. Musterman	80.00
290038783	07/22/2022	2436	ROBIN GOEBEL	37.50
290038783	07/22/2022	2436	ROBIN GOEBEL	37.50
290038858	08/01/2022	1310	DERRICK COLLINS	54.00
290038865	08/01/2022	1707	LEAH HERZOG	80.00
290039117	08/26/2022	871	BERRY COMPANIES INC	566.18
290039180	09/01/2022	1310	DERRICK COLLINS	54.00
290039523	10/03/2022	1310	DERRICK COLLINS	54.00
290039555	10/03/2022	2219	MICHAELA BANKS	16.00
290039594	10/03/2022	10780	BAKER HOMES LLC	352.00
290039768	10/26/2022	287	THE WEBSTAUANT STORE	0.01
				<u><u>4,705.30</u></u>

Public Notice

According to Kansas statute, checks issued by the City of Leavenworth that remain outstanding after a period of two (2) years may be canceled. The City Commission will take formal action at the November 26, 2024 Commission meeting to cancel such checks. Checks issued to the following payees will be canceled: Robin Goebel, Joseph E Miller, Brian Stephens, Tremain Parris, Justin M Musterman, The Webstaurant Store, Berry Companies Inc, Kija Cammock, Zachary Thiel, Blake Chadwick, Fire District 1 of Leavenworth County, Phillip Roland, Diana Ausmus, Ingrid Babri, Jessica Ellison, Breanna Johnson, Tyriek Ford, Maija Herskind, Michael Barlow, Haylee Trader, Larry Juoni, William F McGovern, Scott Hilterbrand, Shanin Combs, Sandra Baptist, Derrick Collins, Brian Griffith, Hilary Kozak, Leah Herzog, Michaela Banks and Baker Homes LLC. Please call the City of Leavenworth Finance department at 913-684-0354 to request a replacement check. A detailed listing of the checks canceled can be found under Finance - Documents at www.lvks.org.

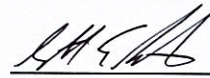
Policy Report
Commonwealth Development Affordable Housing Fee Waiver Request
November 26, 2024

Prepared By:



Penny Hoffer
Assistant City Manager

Reviewed By:



Scott Peterson
City Manager

ISSUE:

Consider approving the revised Resolution of Support and the Fee Waiver Letter for the affordable housing project by Commonwealth Development Corporation.

BACKGROUND:

Commonwealth Development Corporation is planning to build an affordable housing project at 2604 2nd Avenue (near Fire Station #3). The project will include 43 units for those that meet eligible income levels based on the Area Median Income (AMI). During the April 9, 2024 meeting, approval was provided for the project to receive Industrial Revenue Bonds (IRBs), a waiver of City fees up to \$40,000 and a letter of support for the project. Those three items were included in Commonwealth Development Group's application to the Kansas Housing Resources Corporation for Low Income Housing Tax Credits (LIHTC).

While the project scored well on the tax credit criteria, it did not receive enough points to receive tax credits during that round. Commonwealth Development intends to resubmit their application in 2025 and have requested a revised fee waiver letter. For the project to receive the full 10 points in the 2025 round, Commonwealth Development Group has requested the City waive fees in the amount of \$80,000.

Staff reviewed that request. City development fees derive from a combination of sources including administrative costs associated with project review and approval as well as hard costs to extend City infrastructure like sanitary sewer. After a review of those fees, staff recommends approval for a fee waiver in the amount of \$40,000. The application criteria includes two fee waiver thresholds based on unit count. A fee waiver of \$40,000 would make the project eligible for 5 points towards their application. It is anticipated that a fee waiver level higher than \$40,000 may be an undue burden to the City's hard costs for sanitary sewer infrastructure.

ATTACHMENTS:

Resolution of Support B-2387
Fee Waiver Letter
Policy Report April 9, 2024

RESOLUTION B-2387

A RESOLUTION OF SUPPORT OF LOW INCOME HOUSING TAX CREDITS FOR COMMONWEALTH DEVELOPMENT CORPORATION HOUSING DEVELOPMENT AT 2604 2nd AVENUE LEAVENWORTH KANSAS

WHEREAS, the City of Leavenworth, Kansas has been informed by Commonwealth Development Corporation that Low Income Housing Tax Credits (LIHTC) from the Kansas Housing Resources Corp. are necessary to move forward with a multifamily housing development at 2604 2nd Avenue in Leavenworth, Kansas; and

WHEREAS, this housing project contains approximately 5 residential buildings — approximately 43 units — in total; and

WHEREAS, the individual units will have Energy Star rated or equivalent appliances, washers/dryers; and

WHEREAS, the property will have the following amenities: community building and play area; and

WHEREAS, the City of Leavenworth will provide fee waivers in the amount of \$40,000.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. The Mayor and City Commission, City of Leavenworth supports and approves the development of the aforesaid housing in our community, subject to City ordinances and the building permit process.

Section 2. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

ADOPTED THIS 26th day of November, 2024.

Griff Martin, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk



November 26, 2024

Daniel DiFrancesco
Vice President of Development
Commonwealth Development Corporation
2501 Parmenter Street, Ste 300B
Middleton, WI 53562

Dear Mr. DiFrancesco,

The City of Leavenworth is thrilled that you are working toward building an affordable housing project in Leavenworth.

We fully support the Commonwealth Development Corporation tax credit application to the Kansas Housing Resources Corporation.

To further show our support, the City intends to waive permit fees in the amount of \$40,000.

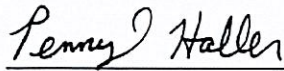
This project is much needed and we look forward to working with Commonwealth Development.

Sincerely,

Griff Martin
Mayor

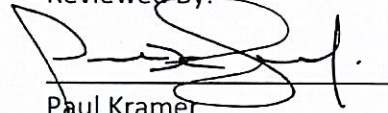
Policy Report
Commonwealth Development Corporation Affordable Housing Project
April 9, 2024

Prepared By:



Penny Holler
Assistant City Manager

Reviewed By:



Paul Kramer
City Manager

ISSUE:

Consider approving the Resolution of Support, the Non-Binding IRB Resolution of Intent and the Fee Waiver Letter for the 2nd Avenue affordable housing project by Commonwealth Development Corporation.

BACKGROUND:

Commonwealth Development Corporation reached out to the City regarding their plans to develop 2604 2nd Avenue into 43 affordable housing units. They plan to apply for tax credits through the Kansas Housing Resources Corporation (KHRC). That program utilizes scoring criteria to distribute Low Income Housing Tax Credits (LIHTC) to eligible projects. Commonwealth Development Corporation requested a letter of support from the City for their application. They also requested the City agree to waive certain development fees and authorize \$8.7 million in Industrial Revenue Bonds, items that are included in the LIHTC's scoring criteria. The IRBs allow project materials to be purchased exempt from sales tax. The City incurs no fees for that process and is under no financial obligation for those bonds.

Any request for City economic development incentives requires the consideration of whether or not the project could proceed without the requested incentives. Per the developer's financial calculations, the project will not be feasible without City and state/federal incentives. The project also must support City economic development goals. The creation of new affordable housing falls within the City's Economic Development Policy under, "Housing developments for seniors and the disabled are of the highest priority. It is the City's intention to encourage development of housing for residents of all ages, abilities and incomes." The project's mix of one, two and three bedroom apartments will be available based upon income criteria that benefit all three housing categories.

The documents demonstrate the City's support for the affordable housing project as they seek additional tax credits through KHRC. Staff recommends approval of two resolutions and the fee waiver letter.

ATTACHMENTS:

Resolution of Support (LIHTC Application)
Non-Binding IRB Resolution of Intent
Fee Waiver Letter

RESOLUTION B-2365

A RESOLUTION OF SUPPORT OF LOW INCOME HOUSING TAX CREDITS FOR COMMONWEALTH DEVELOPMENT CORPORATION HOUSING DEVELOPMENT AT 2604 2nd AVENUE LEAVENWORTH KANSAS

WHEREAS, the City of Leavenworth, Kansas has been informed by Commonwealth Development Corporation that Low Income Housing Tax Credits (LIHTC) from the Kansas Housing Resources Corp. are necessary to move forward with a multifamily housing development at 2604 2nd Avenue in Leavenworth, Kansas; and

WHEREAS, this housing project contains approximately 5 residential buildings — approximately 43 units — in total; and

WHEREAS, the individual units will have Energy Star rated or equivalent appliances, washers/dryers; and

WHEREAS, the property will have the following amenities: community building and play area; and

WHEREAS, the City of Leavenworth will provide fee waivers in the amount not to exceed \$40,000.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. The Mayor and City Commission, City of Leavenworth supports and approves the development of the aforesaid housing in our community, subject to City ordinances and the building permit process.

Section 2. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

ADOPTED THIS 9th day of April, 2024.

Griff Martin, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

RESOLUTION NO. B-2366

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS DETERMINING THE ADVISABILITY OF ISSUING INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUIRING, CONSTRUCTING AND EQUIPPING OF A MULTIFAMILY HOUSING FACILITY TO BE LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

WHEREAS, the City of Leavenworth, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of Leavenworth, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in a principal amount not to exceed \$8,700,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquiring, constructing and equipping of a Multifamily Housing facility (the "Project") to be located at 2604 2nd Avenue and to be leased by the Issuer to Commonwealth Development Corporation, or its successors and assigns (the "Tenant").

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. **Public Purpose.** The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

Section 2. **Authorization to Acquire Project; Intent to Issue Bonds.** The Issuer is hereby authorized to proceed with the acquiring, constructing and equipping of the Project and to issue its revenue bonds, in one or more series, in a principal amount not to exceed \$8,700,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

Section 3. **Conditions to Issuance of Bonds.** The issuance of the Bonds is subject to: (a) the passage of an ordinance authorizing the issuance of the Bonds; (b) the successful negotiation of a Trust Indenture, Site Lease, Project Lease, Bond Purchase Agreement or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of City's bond counsel in form acceptable to the Issuer, the Tenant

and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and (f) the commitment to and payment by the Tenant or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the Issuer and the Issuer Attorney; (ii) any underwriting or placement fees and expenses; (iii) all legal fees and expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals.

Section 4. **Sales Tax Exemption.** The Governing Body hereby determines that pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the Bonds are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. In the event that the Bonds are not issued for any reason, the Tenant will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted hereunder.

Section 5. **Reliance by Tenant; Limited Liability of Issuer.** It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

Section 6. **Further Action.** The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) cooperate with the Tenant in filing an application for a sales tax exemption certificate with the Kansas Department of Revenue with respect to Bond-financed property; and (b) execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act.

Section 7. **Effective Date.** This resolution shall become effective upon adoption by the Governing Body.

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ADOPTED by the governing body of the City of Leavenworth, Kansas on April 9, 2024.

[SEAL]

Griff Martin, Mayor

Attest:

Sarah Bodensteiner, CMC, City Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on April 9, 2024, as the same appears of record in my office.

DATED: April 9, 2024

Clerk

(Signature Page to Resolution)



April 9, 2024

Daniel DiFrancesco
Commonwealth Development Corporation
2501 Parmenter Street, Suite 300 B
Middleton, WI 53562

Dear Mr. DiFrancesco,

The City of Leavenworth appreciates your efforts to build 43 units of affordable housing at 2604 2nd Avenue.

We fully support Commonwealth Development Corporation's application to the Kansas Housing Resources Corporation for Low Income Housing Tax Credits. As a show of support, permit fees not to exceed \$40,000 will be waived for the project.

Affordable housing fills a community need and we look forward to working with you further as this develops.

Respectfully,

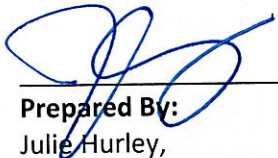
Paul Kramer
City Manager

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
2024-24-SUP
303 N. ESPLANADE**

NOVEMBER 26TH, 2024

SUBJECT:

Place on first consideration an ordinance to approve 2024-24-SUP to allow an Accessory Dwelling Unit (ADU) at 303 N. Esplanade.



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



Reviewed By:
Scott Peterson,
City Manager

NATURE OF REQUEST

The applicants, Christopher and Danielle L'Heureux, are requesting a Special Use Permit to allow an ADU on their property located at 303 N. Esplanade, which is located in the North Esplanade Historic District. The property is occupied by an existing single family home, and detached accessory building which contains a two-car garage and an existing dwelling unit. The accessory building was constructed in 2004, with approval of a Major Certificate of Appropriateness. The accessory building has contained a dwelling unit since the time of its construction. At the time of construction, ADUs were not specifically addressed by the Development Regulations.

The existing ADU is considered a nonconforming use, as there is no existing Special Use Permit. Per section 1.05 the adopted Development Regulations:

Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Section 4.04 of the Development Regulations states:

Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:

- (1) *Shall be compatible with the design of the principal dwelling unit.*
- (2) *Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.*
- (3) *Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.*
- (4) *Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.*
- (5) *Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.*
- (6) *Shall meet all building code requirements for a single family dwelling unit.*

- (7) *Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.*

The applicants wish to bring the existing ADU into conformance with current Development Regulations through the approval of a SUP in order to obtain a separate address for the unit to support mail delivery and emergency services. There are no physical changes or additional construction proposed. The existing ADU meets all conditions as listed above.

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.

This property has included an ADU since 2004, providing a valuable housing option for the public. ADUs are generally viewed as a valuable tool to help communities broaden housing choice in single-family neighborhoods.

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

Based on available information, staff does not believe that the use will cause any substantial injury to the value of other property in the neighborhood. The ADU is existing, and there is no new construction or change in use proposed.

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 ADU is existing, there is no new construction or change in use proposed, it will not cause any substantial impact to the surrounding neighborhood.

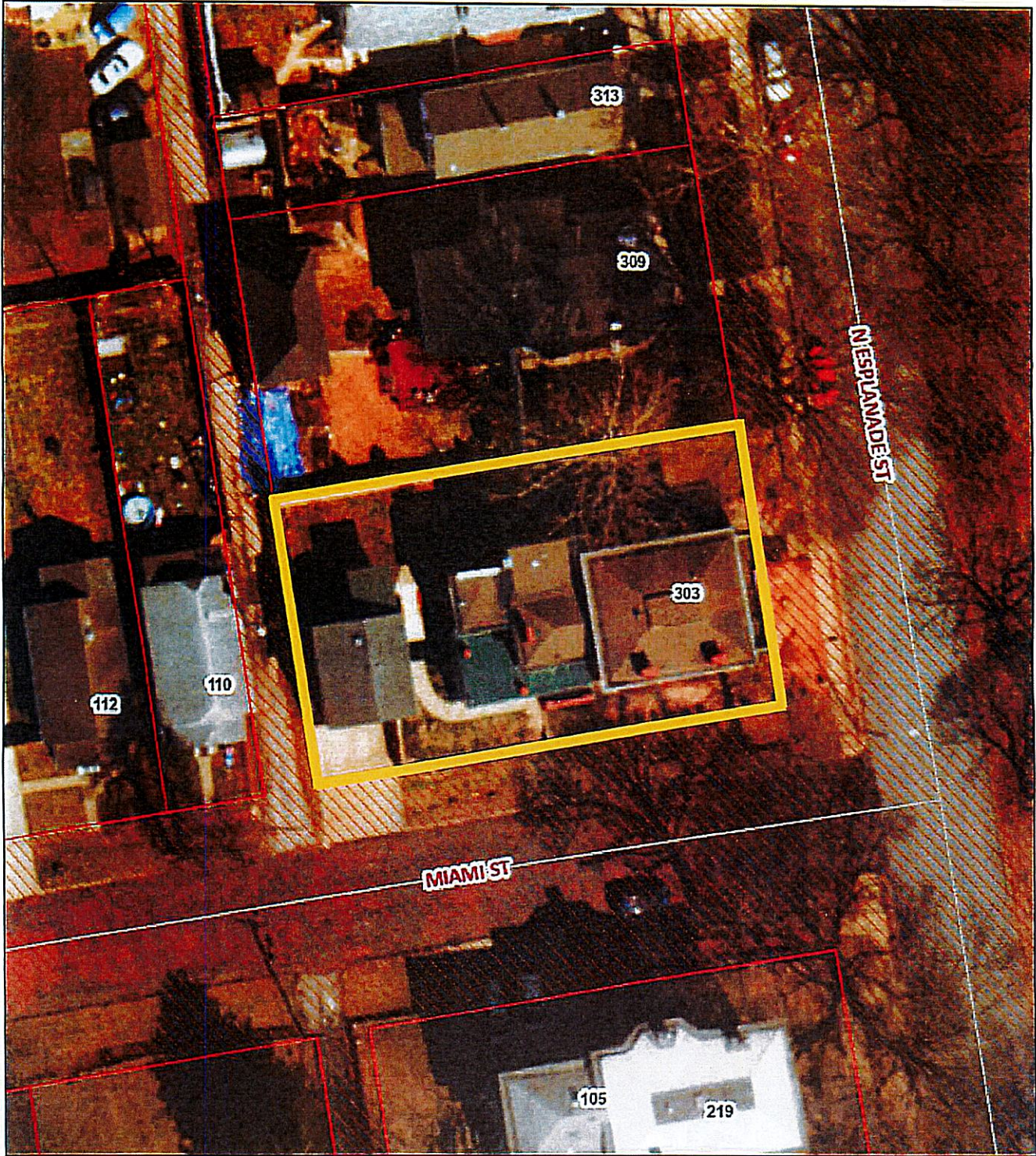
Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Since notifications were mailed, staff has received no comments or inquiries.

The Planning Commission took action on this item at their November 4, 2024 meeting and voted 4-0 to recommend approval of the Special Use Permit.

ACTION/OPTIONS:

- Place an ordinance on first consideration to approve the Special Use Permit request to allow an Accessory Dwelling Unit at 303 N. Esplanade.
- Deny the Special Use Permit request to allow an Accessory Dwelling Unit at 303 N. Esplanade.
- Remand the Special Use Permit request to allow an Accessory Dwelling Unit at 303 N. Esplanade.

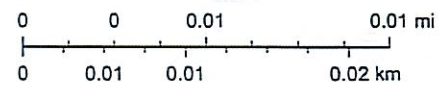
2024-24-SUP



10/3/2024, 10:31:13 AM

1:564

- Override 1
- Leavenworth City Limits
- Parcels_Current
- City Right-of-Way
- Address (Points)
- RoadCenterline



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



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2024-24 SUP

Application No.	<u>15989</u>
Fee (non-refundable)	\$350.00
Filing Date	<u>8/2/24</u>
Received By	<u>AK</u>
Hearing Date	<u>10/7/24</u>
Publication Date	<u>9/12/24</u>

As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: ADU

in accordance with the attached site plan on the following described property:

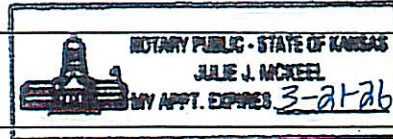
Subject Property:	<u>303 N. Esplanade St, Leavenworth, KS 66048</u>		
Legal Description:	<u>(Attach a full legal description provided by the Register of Deeds Office)</u>		
Real Estate PID #:	<u>052-077-25-0-31-08-007.00-0</u>		
Zoning:	<u>R1-9</u>	Historic District:	<u>North Esplanade Historic District</u>

I/We, the undersigned, depose and state we are the owners of the above described property:

Name(s) of Owner (print):	<u>Christopher and Danielle L'Heureux</u>		
Owner Address:	<u>303 N. Esplanade St, Leavenworth, KS 66048</u>		
Contact No.	<u>(831) 521-5971</u>	Email:	<u>cdlheureux@gmail.com</u>

Signature of Owner(s):

State of Kansas
County of Leavenworth (SEAL)



Signed or attested before me on: 8-2-24
Notary Public: Julie J. McKeel
My Appointment Expires: 3-21-26

If business is operated by someone other than the owner, provide name and address of operator(s).

Name of Lessee:	
Address:	
Contact No.	
Email:	

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

Check list below...

<input checked="" type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input checked="" type="checkbox"/>	Attach <i>full</i> legal description obtained through the Register of Deeds Office
<input checked="" type="checkbox"/>	Site Plan drawn to scale (See General Instructions)
<input checked="" type="checkbox"/>	Supporting documentation (See General Instructions)

Leavenworth Planning Commission,

Enclosed is an application to utilize an existing Additional Dwelling unit (ADU) on our property, 303 N. Esplanade Street, Leavenworth, Kansas 66048, as an ADU and obtain a mailing address.

The ADU was built in 2004 and the county property card and tax information currently list the property as having two Single Family Residences (enclosed) although there is only one address. The main home, which had been a three-apartment residence, was remodeled beginning in the 2000s and the ADU occupied as an apartment. Both residences have been occupied on and off since 2004. We purchased the property in 2022 and subsequently rented the whole property until we could return to Leavenworth upon Christopher's retirement from the US Army.

In July 2024, we returned to the main home and rented the ADU assuming the legality based on the county records listing two residences on the property. When trying to obtain a mailing address for the second residence and register the rental with the city, it came to our attention that while the county considered there to be two residences on the property, the city does not. After discussing the situation with the city Planning & Zoning office team, we are submitted this packet to obtain a special permit for an ADU to ensure we are doing the right thing.

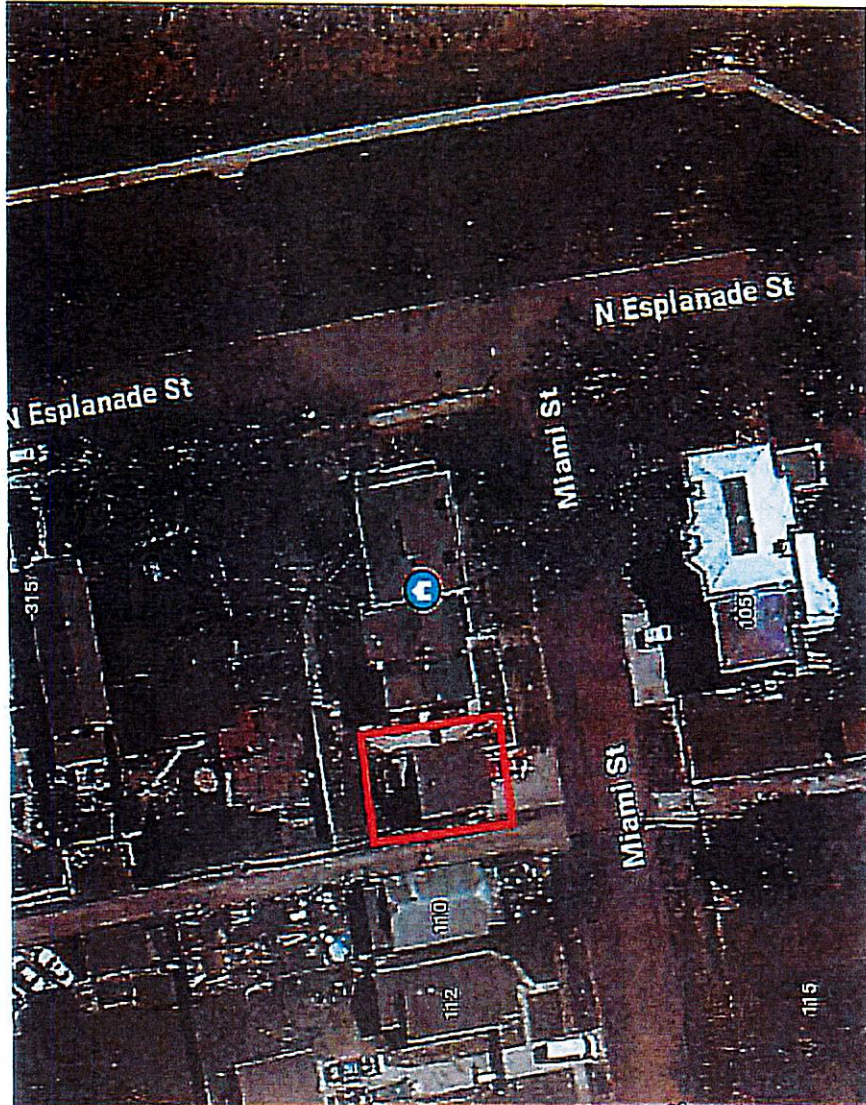
Our sole intention is to obtain an address for our ADU to support mail, provide a tenant legal address, and ensure Emergency Services. There is no additional construction or changes to be made.

Please let us know if you have any questions or concerns.

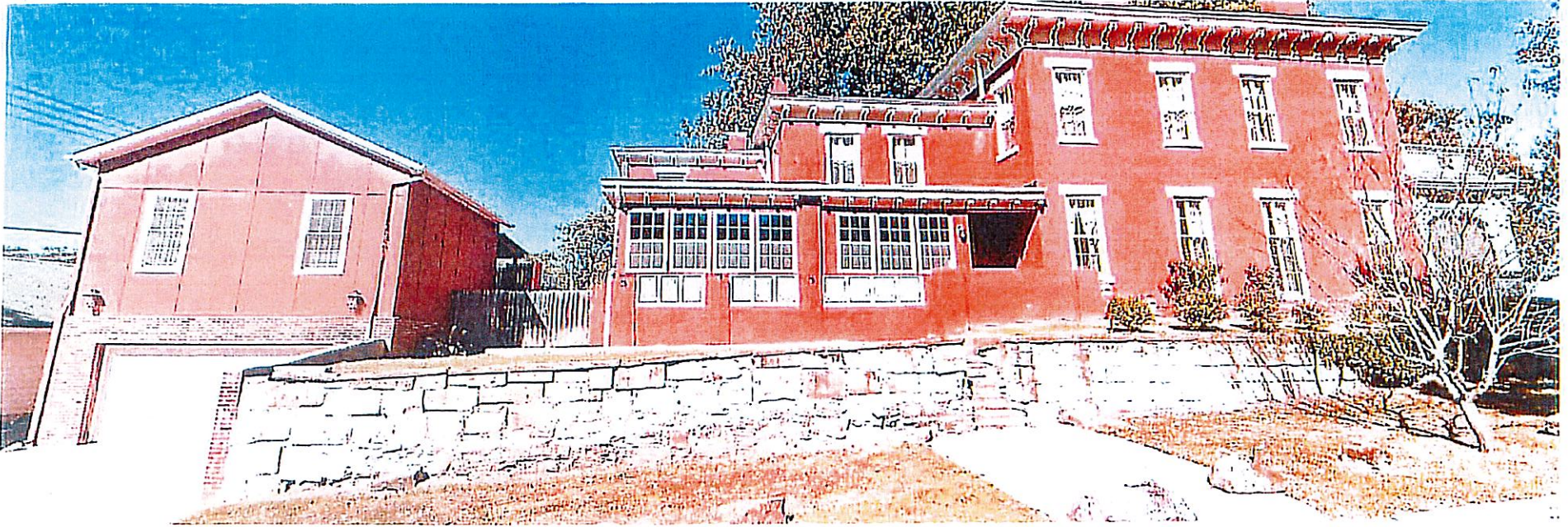
Sincerely,

Christopher & Danielle L'Heureux
303 N. Esplanade St, Leavenworth, Kanas 66048

SITE PLAN



obtained from Google Maps 30 Jul 2024





Landmark Impact Determination

Major Certificate of Appropriateness

Owner's Name & Address: *LAWRENCE W. SCHLAK*

Property Address of Landmark or Contributing Property to be developed: *303 N. ESPLANADE*

Nature of Repair/alteration/demolition:

Historical or architectural significance: Listed on Historic Resource Survey [], Leavenworth Landmark register [] Kansas Register , National Register []; other contribution:

Located in North Esplanade Historic District

Physical Description of Demolition/Improvements to be made:

Construction of carriage house-style garage

Determination: No detrimental effect as proposed []. Reasoning for this determination (attach necessary documentation including site plan, elevation, architectural detail, or rendering, in keeping with Secretary of Interior standards or special considerations for historic characteristics, patterns, size, acceptable substitutions and other general design criteria). This will be reviewed by the Historic Landmarks and Appeals Board at its next regular monthly meeting. Following approval, the appropriate permit may be issued. This action does not trigger a public hearing, but the board may make changes with consent of the owner/applicant.

Detrimental Effect on Historic Property []. Reasoning for this determination (check all that apply): Significant deviation from general character of the historic property(ies) []; Height/scale/spatial inappropriateness []; Inappropriate facade/window/entrance elements []; Inappropriate roof form/horizontal/vertical elements []; Other (requires documentation) []; Attach all necessary documentation to show how the proposed improvements are inappropriate for the site or building.

Remedies to correct detrimental effect: Project owner may undertake the following improvements which would remedy the above named inappropriate factors (cite secretary's standards with each suggested remedy, attach additional materials as necessary):

Date applicant requested hearing: *DEC. 9, 2003*

Date set for public hearing: *JANUARY 7, 2004*

Date of notice published in the Leavenworth Times: *DEC. 16, 2003*

Date of notice sent to property owners within an historic district, as appropriate: *DEC. 12, 2003*

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 []; Approve, as proposed ; Approve with modifications [].

(Summary Published in the Leavenworth Times on _____)

ORDINANCE NO. XXXX

AN ORDINANCE ALLOWING A SPECIAL USE FOR AN ACCESSORY DWELLING UNIT TO BE LOCATED AT 303 N. ESPLANADE STREET IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under Appendix A of the City of Leavenworth Code of Ordinances, Development Regulations of the City of Leavenworth, Kansas, Sec 2.04, the Governing Body of the City of Leavenworth is given the power to locate special uses in each zoning district by ordinance within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 4th day of November, 2024 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas. The official date and time set as was published in the Leavenworth Times newspaper on the 13th day of September, 2024 and mailed to all property owners within 200 feet of the said property were given notice of the public hearing; and

WHEREAS, upon a motion made, duly seconded, and passed, the City Planning Commission adopted findings of fact and recommended approval of the request for an accessory dwelling unit in the R1-9, Medium Density Single Family Residential District zoning district, located within the North Esplanade Historic District located at 303 N. Esplanade Street, Leavenworth, Kansas.

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to allow special use for an accessory dwelling unit for the property described herein.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. That a special use permit be issued for an accessory dwelling unit on the following described property:

LOTS 1, 2 AND 3, BLOCK 15, LEAVENWORTH CITY PROPER, CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS. And more commonly referred to as 303 N. Esplanade Street, Leavenworth, Kansas.

Section 2. That this Ordinance shall take effect and be in force from and after its passage by the Governing Body, and its summary publication once in the official City newspaper.

PASSED AND APPROVED by the Leavenworth City Commission of the City of Leavenworth, Kansas on this _____ day of _____, 2024.

Griff Martin, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk