

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, June 3, 2024
6:00 PM

CALL TO ORDER:

Commissioners Present

Brian Stephens
Don Homan
Kathy Kem
Maryann Neeland

Commissioners Absent

Bill Waugh
Sherry Whitson

City Staff Present

Julie Hurley
Michelle Baragary

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

APPROVAL OF MINUTES: June 3, 2024

Chairman Stephens asked for questions, comments or a motion on the minutes presented for approval: June 3, 2024. Commissioner Homan moved to approve the minutes as presented, seconded by Commissioner Kem, and approved by a vote of 4-0.

OLD BUSINESS

None

NEW BUSINESS:

1. 2024-12 REZ – 300 SANTA FE

Conduct a public hearing for Case No. 2024-12 REZ – 303 Santa Fe, wherein the applicant is requesting a rezoning of their property located at 300 Santa Fe from PUD, Planned Unit Development, to RMX, Residential Mixed Use District.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated the applicant, The Prime Company, is requesting a rezoning of the property located at 300 Santa Fe from PUD to RMX. The property is currently owned by Mar-Mac FLP and is occupied by the structure commonly referred to as the Helmer’s Building. The building is currently occupied by Besel’s Home Improvement Company. The applicant is requesting the rezoning in order to develop a workforce housing project in the existing building.

The existing building is listed on the National Register of Historic Places, and was originally built as a furniture manufacturing facility in 1909. Since ceasing operations, the building has been utilized for a variety of uses. It is currently occupied by Besel’s Home Improvement Company, with the majority of the building unutilized. The

applicant intends to develop a multifamily workforce housing project, which will provide an attainable, quality housing option to the Leavenworth community. The applicant intends to utilize historic tax credits and low income housing tax credits (LIHTC) in the development of the project. The initial phase of the project will be the remodel of the existing building into approximately 102 multifamily units, consisting of one, two, and three bedroom apartments, with the potential for future development on the site. Any development on the site, to include the remodel of the existing building, will be required to meet all applicable city standards to include parking, infrastructure, utilities, design, etc. A rezoning to RMX would allow for the continued operation of the existing use on site.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

- a) The character of the neighborhood;

The subject property is situated east of 4th Street with no direct frontage on 4th. There are commercial uses to the west, multifamily residential uses to the south, industrial uses to the north, and single-family residential uses to the east.

- b) The zoning and use of properties nearby;

The properties to the north are zoned I-1, Light Industrial District, and I-2, Heavy Industrial District, and are occupied by a variety of existing auto and storage related businesses. Directly to the east is a property zoned GBD, General Business District, which is occupied by a self-storage facility. Other properties to the east are zoned RM-F, Residential Multiple Family, and are occupied by single-family homes. The City of Leavenworth Southside Park is also to the east of the subject property. The property directly to the south is zoned RM-F and is occupied by an apartment complex. Properties to the west are zoned GBD and I-1, and are occupied by a variety of commercial and single-family uses.

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

The subject property has always been used for industrial or commercial uses, and has remained underutilized for a number of years. The nature of access to the site makes it unsuitable for most business related uses.

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

The proposed rezoning should have no detrimental affect nearby properties. There are a wide variety of uses and zonings surrounding the subject property. The property as it exists has always been utilized for various industrial or commercial uses, and the proposed rezoning that will allow for the development of multifamily housing should not significantly impact surrounding properties. Development of multifamily housing on the site will require improvement to the street network accessing the site, which will address any potential increase in traffic.

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

The subject property is not vacant.

- f) The relative gain to economic development, public health, safety and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the individual landowner;

The proposed rezoning should have a positive economic impact as it will allow for development of housing to serve the needs of current and future Leavenworth residents. Development of a new housing option will

also benefit current and future Leavenworth businesses by providing access to housing options for potential employees.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

- h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

The area is identified as appropriate for industrial uses on the Comprehensive Land Use Plan. However, the subject site is surrounded by a variety of existing uses, as well as a variety of land use designations on the Comprehensive Plan including industrial, commercial, single-family, and multifamily. Due to the mix of surrounding uses as well as relative seclusion of the site, staff believes based upon all available information that the adaptive reuse of the building for a residential or mixed use project is appropriate.

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

No other factors.

After the required notices were sent to property owners within 200' as required by Kansas State Statute, staff received no comments regarding the proposed rezoning.

REZONING ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report.

Commissioner Kem asked staff if the Future Land Use Plan would be changed to reflect this if the rezoning request is approved.

Ms. Hurley responded in the affirmative stating staff tries to go through an annual review of the Comprehensive Land Use Plan, so any changes would be reflected at that time.

Commissioner Neeland asked how this works since the subject property is on the National Historic Registry.

Ms. Hurley stated there are standards from the Department of Interior that registered properties, either individually registered like this one or in a registered district, are to comply with. The City of Leavenworth has its own Historic Preservation Commission, which is designated by the State to do those reviews. Many times with these properties, interior type renovations do not have to go to the Leavenworth Preservation Commission, unless they are going to significantly damage or alter the building. Any development that would happen to this building, would be reviewed by staff for those historic designations, and then determine if it warranted going to the LPC or if it could be processed at staff level.

Commissioner Homan asked about tax credits and if there are certain things that are required to be kept on or in the building due to the building being on the historic registry.

Chris Eley, owner of The Prime Company, stated there are both state and federal tax credits with both the historic side of things and the low income housing tax credits side of things. Mr. Eley further stated that one of their consultants, Rosen Preservation, were the ones that went through the property and got the property

originally on the historic register. Rosen Preservation made recommendations to the State SHPO Office on what things are historic and what things are not historic. For instance, the brick façade on the subject property needs to remain intact, as well as the historic entryway and the paneling in the office area. Mr. Elsey thinks this is a neat project, and will maintain a lot of the big historic elements of the building.

Commissioner Homan asked if the remaining vacant ground on the property will be developed.

Mr. Elsey responded that potentially down the road it would be developed.

Commissioner Neeland asked with the wording “affordable housing” is there some kind of cap, and who decides what is affordable.

Mr. Elsey responded the state and federal government decides what is considered affordable. They use the average median income of the residents and that is determined by each county’s AMI average. Basically, it is between 60%-80% of the average median income to qualify to rent these units. Studio rent is \$650/mo, one-bedroom would be around \$875/mo, two-bedrooms around \$1,000/mo, and three-bedrooms around \$1,100/mo.

Ms. Hurley stated it is pretty rare to find three-bedroom units and multi-family housing in the City of Leavenworth. This is a request that staff receives quite a bit from folks looking for housing.

Commissioner Kem asked how many units there will be.

Mr. Elsey stated there will be 115 total units that breakdown as four studios, 43 one-bedrooms, 38 two-bedrooms, and 33 three-bedrooms.

Commissioner Kem asked how security will be addressed, since the property is very isolated.

Mr. Elsey responded that all of their buildings have controlled access, good lighting, and having that many people living in the building also helps to provide security. Additionally, there will be on-site management that lives in the building, which is a requirement for attainable housing.

Chairman Stephens asked if the existing business, Besel’s, will continue operating there or will they be vacating the building.

Mr. Elsey responded that Besel’s would be vacating the facility.

With no further questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among with commissioners or a motion. Based on the findings as stated and conditions as presented, Commissioner Neeland moved to recommend approval of the rezoning request from PUD to RMX for property located at 300 Santa Fe to the City Commission, seconded by Commissioner Homan, and passed by a vote of 4-0.

Ms. Hurley stated this item will go to the City Commission on Tuesday, June 25th for first consideration, and again Tuesday, July 9th for final determination.

2. 2024-13 REZ – 1820 S 4TH STREET

Conduct a public hearing for Case No. 2024-13 REZ – 1820 S 4th Street, wherein the applicant is requesting a rezoning of their property located at 1820 S 4th Street from R1-6, High Density Single Family Residential District, to GBD, General Business District.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated the owner/applicant, Kaushik Patel, is requesting a rezoning of their property located at 1820 S 4th Street from R1-6, High Density Single Family Residential District, to GBD, General Business District. The property is 1.02 acres in size and is occupied by Topsy Liquor. The owner is requesting the rezoning in order to bring the property into conformance with development standards for a commercial retail property. The property is located directly on 4th Street, a major commercial thoroughfare, and has always been occupied by a retail business.

The business as it exists is considered a legal nonconforming use, and no action is required by the City of Leavenworth in order for the property to continue to function as it is. The owner is intending to remodel and construct an addition to the existing building. Current Development Regulations stipulate that:

No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

Retail uses are allowed by-right in the GBD zoning district. The proposed rezoning will bring the property into conformance with the regulations of the GBD zoning district.

CONDITIONS OF DETERMINATION

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

a) The character of the neighborhood;

The subject property is located directly on 4th Street, which is a major commercial corridor. The property is occupied by an existing retail business with other established commercial businesses to the north, south, and east along 4th Street. To the west is an existing single-family neighborhood.

b) The zoning and use of properties nearby;

The property to the north is zoned R1-6 and is occupied by Benjie's Auto Sales (existing nonconforming use). The property to the south is zoned GBD and is occupied by O'Reilly Auto Parts. The properties to the west are zoned R1-6 and are occupied by single family homes. The property to the east, across 4th Street, is zoned I-2, and occupied by Tire Town.

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

The subject property has always been occupied by a retail establishment, and is not appropriate for single family residential uses.

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

The proposed rezoning should have no detrimental effect upon surrounding properties. There is no proposed change in the use of the property; it will continue to function as a retail establishment. The proposed addition to the structure will not significantly increase traffic in the area.

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

The subject property is not vacant.

- f) The relative gain to economic development, public health, safety and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the individual landowner;

The proposed rezoning should have a positive economic impact, as it will allow for expansion of an established retail business, thereby potentially increasing sales and tax revenue.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

- h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

The area is identified as appropriate for commercial uses on the Comprehensive Land Use Plan.

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

No other factors.

After the required notices were sent to property owners within 200' as required by Kansas State Statute, staff received no comments regarding the proposed rezoning.

REZONING ACTION/OPTIONS:

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

Chairman Stephens called for questions on the staff report.

Chairman Stephens asked if the city has lost tax revenue since this property has been zoned residential instead of commercial.

Ms. Hurley responded in the negative stating the county does not base their taxing classification off the city's zoning, so this property is and has been taxed at a commercial rate.

Commissioner Neeland asked if this will affect the applicant's food truck.

Ms. Hurley stated food trucks are allowed to be parked on private property so nothing will change with their food truck.

With no further questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among with commissioners or a motion. Based on the findings as stated and conditions as presented, Commissioner Kem moved to recommend approval of the rezoning request from R1-6 to GBD for property located at 1820 S 4th Street to the City Commission, seconded by Commissioner Neeland, and passed by a vote of 4-0.

3. CITY INITIATED REZONING – 2ND AVENUE & SANTA FE

Consensus to direct staff to proceed with a city-initiated rezoning process for an existing neighborhood containing 15 individual properties lying east of 2nd Avenue between Santa Fe and Sheridan Streets from RM-F, Multiple Family Residential District, to R1-6, High Density Single Family Residential District.

Chairman Stephens called for the staff report.

Planning Director Julie Hurley stated in recent years, the City of Leavenworth has received multiple rezoning and special use permit requests for properties occupied by existing nonconforming uses. Typically, these requests originate from the intention of the property owner to either sell or expand the existing nonconforming use on the property, which necessitates bringing the property into conformance with existing development standards. It has been the general desire of the Planning Commission and city staff to facilitate these applications in instances where no action of the property owner has caused the property to become nonconforming.

In an effort to further facilitate the bringing of nonconforming properties into conformance without any additional burden to property owners, staff has identified an area suitable for a city-initiated rezoning. State statute grants authority to municipalities to initiate a rezoning process for privately owned properties. The identified area consist of an existing neighborhood containing 15 individual properties all developed with single-family homes, which are currently zoned RM-F, Residential Multiple Family. The area lies east of 2nd Avenue, roughly between Santa Fe and Sheridan Streets. The RM-F zoning designation makes all of the existing homes nonconforming, as single family homes are not allowed either by-right or with approval of an SUP in the RM-F zoning district. Staff proposes to initiate a rezoning of the identified area to R1-6, High Density Single Family Residential District, which will bring all properties included into conformance with current development standards.

A city-initiated rezoning process operates largely the same as an owner-initiated rezoning request. Should the Planning Commission provided consensus, staff will work with the City's legal counsel to begin a rezoning process for the identified area in accordance with State statute requirements. Such request will come before the Planning Commission for consideration after appropriate notice has been made to affected property owners.

ACTION:

Consensus to direct staff to proceed with city-initiated rezoning process.

Chairman Stephens called for questions about the staff report.

Chairman Stephens asked if there were consensus would the rezoning come back to this commission as one application or 15 individual applications.

Ms. Hurley responded there would be one city-initiated rezoning application that would cover all 15 properties. Those property owners would then have the opportunity to come speak in favor of or against the rezoning.

Commissioner Kem asked if her assumption is correct that the property owners would not have the opportunity to opt out.

Ms. Hurley stated that is correct.

Commissioner Homan asked if the R1-6 zoning includes duplexes.

Ms. Hurley stated duplexes are not allowed in the R1-6 zoning district by-right. This city-initiated rezoning would not be making any property nonconforming; it would be making them all conforming.

Chairman Stephens stated he wanted it on the record that he had a neighbor whose house caught on fire, and they lost just about all of their belongings and their dog. After trying to recover from that, trying to find a new place to live, and trying to sell their property, they found out that they were nonconforming and that they needed to tear down their deck and shed so that the property was conforming before they could sell their house. It would be great if the city-initiated rezoning could prevent something like that from happening.

There was consensus by the Planning Commission directing staff to proceed with the city-initiated rezoning of the 15 individual properties lying east of 2nd Avenue between Santa Fe and Sheridan Streets from RM-F, Multiple Family Residential District, to R1-6, High Density Single Family Residential District.

Ms. Hurley stated if everything goes smoothly, this should be on the August agenda.

OTHER BUSINESS:

With no other business, Ms. Hurley stated the Special Use Permit for Brothers Disposal is on the agenda for July. Notices for that will go out this week. There has already been some talk about this project on social media, so the comments may increase with the notification going out.

Commissioner Kem asked if the commission can put a time limit on people speaking during the public hearing.

Ms. Hurley responded in the affirmative. Interim City Manager Chief Kitchens and a staff member from Public Works will be in attendance at the July meeting.

Chairman Stephens adjourned the meeting at 6:45 p.m.

Minutes taken by Planning Assistant Michelle Baragary.