

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR December 2, 2024
6:00 PM

CALL TO ORDER:

Commissioners Present

Brian Stephens
Kathy Kem
Bill Waugh
Maryann Neeland
Don Homan

Commissioners Absent

Sherry Whitson

City Staff Present

Scott Peterson
Michelle Baragary

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

APPROVAL OF MINUTES: November 4, 2024

Chairman Stephens asked for questions, comments or a motion on the minutes presented for approval: November 4, 2024. Commissioner Waugh moved to approve the minutes as presented, seconded by Commissioner Kem, and approved by a vote of 5-0.

OLD BUSINESS

None

NEW BUSINESS:

1. 2024-26 SUB – KICKAPOO ESTATES FINAL PLAT

Consider a final plat for Kickapoo Estates Final Plat, Case No. 2024-26 SUB.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the subject property is owned by Insight Development, LLC, plat prepared by Atlas Land Consulting. The applicant is requesting the plat in order to combine the three existing lots for potential future development. All lots are zoned R1-6, High Density Single Family Residential, and are currently vacant. The property is within the North Neighborhood overlay district, which allows for development of multi-family homes within the single family zoning district. The proposed plat creates one lot of 8,888 square feet, and which complies with all applicable standards of the Development Regulations. The properties were previously owned by the City of Leavenworth, and were recently purchased by Insight Development.

Staff recommends approval of the Kickapoo Estates plat.

ACTION/OPTIONS:

- Approve the Final Plat

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions or discussion, Chairman Stephens called for a motion. Commissioner Homan moved to approve the plat, seconded by Commissioner Waugh, and approved by a vote of 5-0.

2. 2024-28 SUP – 724 POTTAWATOMIE

Conduct a public hearing for Case No. 2024-28 SUP – 724 Pottawatomie, wherein the applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 724 Pottawatomie. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently vacant but was previously occupied by a four-plex dwelling, which was demolished in 2014.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 724 Pottawatomie will be nearly identical.

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.
Based on all available information, staff believes that this application complies with all provision 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.
Currently, the property is a vacant lot. The proposed two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.
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 proposed use will cause any substantial injury to the value of other property in the neighborhood.
4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
The proposed two-family dwelling is consistent with the character of the neighborhood and will not prevent future use or development of nearby properties.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

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

Sr. Amy Willcott (521 Pleasant Ave., and representing Depaul USA) stated that at 724 Pottawatomie there is already a duplex that they have built, which is approximately 900 sqft and are single bedrooms. Their program is to help folks find attainable housing in Leavenworth. With an agreement they have with the City of Leavenworth, they are able to beautify the neighborhoods where these duplexes are located, as well as help the folks that live in the duplexes to continue to contribute to the city and the economy.

Sr. Amy continued by stating they received a grant from the State of Kansas Housing Resource to build four duplexes. The idea is the sense of community is important for all of us. With that in mind, they plan to have the duplexes in close proximity to one another for the sense of community.

Commissioner Homan asked for the size of the duplexes.

Sr. Amy responded that each side of the duplex is approximately 425 sqft, so the total square footage is approximately 850-900 sqft.

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

With no further discussion or questions, Chairman Stephens called for a motion. Commissioner Neeland moved to recommend approval of the Special Use Permit to the City Commission based upon findings as stated and conditions as presented, seconded by Commissioner Waugh, and passed by a vote of 5-0.

3. 2024-29 SUP – 724 OSAGE

Conduct a public hearing for Case No. 2024-29 SUP – 724 Osage, wherein the applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 724 Osage. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently vacant but was previously occupied by a single-family dwelling, which was demolished in 2002.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property of 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 724 Osage will be nearly identical.

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.

Based on all available information, staff believes that this application complies with all provision 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.

Currently, the property is a vacant lot. The proposed two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.

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 proposed use will cause any substantial injury to the value of other property in the neighborhood.

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

The proposed two-family dwelling is consistent with the character of the neighborhood and will not prevent future use or development of nearby properties.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners or a motion. Commissioner Kem moved to recommend approval of the Special Use Permit to the City Commission based upon findings as stated and conditions as presented, seconded by Commissioner Neeland, and passed by a vote of 5-0.

4. 2024-31 REZ – 701 POTTAWATOMIE

Conduct a public hearing for Case No. 2024-31 REZ – 701 Pottawatomie, wherein the applicant is requesting a rezoning of their property located at 701 Pottawatomie from OBD, Office Business District, to R1-6, High Density Single Family Residential District.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a rezoning of the property located at 701 Pottawatomie from OBD, Office Business District, to R1-6, High Density Single Family Residential District. The property is .28 acre in size and is vacant. The applicant is requesting the rezoning in order to construct a two-family dwelling on the property. Two-family dwellings are not allowed either by-right or with a special use permit in OBD. The property is currently owned by the Independent Baptist Church, and is under contract to be transferred to Depaul USA upon approval of the requested rezoning and special use permit.

The rezoning to R1-6 and accompanying special use permit are being requested in lieu of a request to rezone the property to R-MF, Residential Multi Family District, in which a two-family dwelling would be allowed by-right, in order to avoid “spot zoning” and to maintain consistency with existing zoning patterns and the adopted future land use plan. The accompanying special use permit request is also on this agenda.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property of 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 701 Pottawatomie will be nearly identical.

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 .28 acre in size and is part of an established neighborhood that includes a variety of housing types including single-family, two-family, and multi-family. The property is also located along the 7th Street corridor, which includes a variety of land uses from residential to industrial.

- b) The zoning and use of properties nearby;

The property to the north is zoned OBD and is occupied by a multi-family building. The property to the south is zoned OBD and is occupied by a single-family home. The property to the east, across 7th Street, is zoned R1-6 and is occupied by the Independent Baptist Church. The property to the west is zoned R1-6 and is occupied by a single-family home.

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

The subject property is .28 acres in size making it extremely unlikely to be able to accommodate an office or commercial use allowed by-right in the OBD district.

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

The proposed rezoning should have no detrimental effect upon surrounding properties. The existing surrounding neighborhood already includes a wide mix of residential uses.

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

Based upon aerial photos, the subject property has been vacant since prior to 1998.

- 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;

Currently, the property is a vacant lot. The proposed rezoning to allow development of a two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

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

The area is identified as appropriate for single-family residential uses on the Comprehensive Land Use Plan.

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

No other factors.

After the required public notices were sent to property owners within 200' of the subject property, as required by Kansas Statute, staff received no comments from notified property owners.

REZONING ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners or a motion. Commissioner Homan moved to recommend approval of the rezoning from OBD to R1-6 to the City Commission, seconded by Commissioner Waugh, and passed by a vote of 5-0.

5. 2024-30 SUP – 701 POTTAWATOMIE

Conduct a public hearing for Case No. 2024-30 SUP – 701 Pottawatomie, wherein the applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 701 Pottawatomie. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently vacant. A related request to rezone the subject property from OBD, Office Business District, to R1-6, High Density Single Family Residential District, is also on this agenda. Two-family dwellings are not allowed in the OBD zoning district either by-right or with a Special Use Permit.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property of 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 701 Pottawatomie will be nearly identical.

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.

Based on all available information, staff believes that this application complies with all provision 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.

Currently, the property is a vacant lot. The proposed two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.

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 proposed use will cause any substantial injury to the value of other property in the neighborhood.

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

The proposed two-family dwelling is consistent with the character of the neighborhood and will not prevent future use or development of nearby properties.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners or a motion. Commissioner Waugh moved to recommend approval of the Special Use Permit to the City Commission based upon findings as stated and conditions as presented, seconded by Commissioner Kem, and passed by a vote of 5-0.

6. 2024-32 REZ – 711 OTTAWA

Conduct a public hearing for Case No. 2024-32 REZ – 711 Ottawa, wherein the applicant is requesting a rezoning of their property located at 701 Pottawatomie from OBD, Office Business District, to R1-6, High Density Single Family Residential District.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a rezoning of the property located at 711 Ottawa from OBD, Office Business District, to R1-6, High Density Single Family Residential District. The property is .16 acre in size and is vacant. The applicant is requesting the rezoning in order to construct a two-family dwelling on the property. Two-family dwellings are not allowed either by-right or with a special use permit in OBD. The property is currently owned by St. Paul Lutheran Church and School, and is under contract to be transferred to Depaul USA upon approval of the requested rezoning and special use permit.

The rezoning to R1-6 and accompanying special use permit are being requested in lieu of a request to rezone the property to R-MF, Residential Multi Family District, in which a two-family dwelling would be allowed by-right, in order to avoid “spot zoning” and to maintain consistency with existing zoning patterns and the adopted future land use plan. The accompanying special use permit request is also on this agenda.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property of 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 711 Ottawa will be nearly identical.

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 .16 acre in size and is part of an established neighborhood that includes a variety of housing types including single-family, two-family, and multi-family. The property is also located along the 7th Street corridor, which includes a variety of land uses from residential to industrial.

- b) The zoning and use of properties nearby;

The properties to the north are zoned OBD & R1-6, and are occupied by a single-family home and multi-family building, respectively. The property to the south is zoned R1-6 and is occupied by a single-family home. The property to the east is zoned OBD and is occupied by the Kids Connection. The property to the west is zoned R1-6 and is occupied by a single-family home.

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

The lot split was recently approved and recorded to split the subject property from the parcel to the east occupied by the Kids Connection, for the purposes of transferring the parcel to Depaul USA for potential development with a two-family home. The size of the parcel makes it extremely unlikely to accommodate an office of commercial use allowed by-right in the OBD zoning district.

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

The proposed rezoning should have no detrimental effect upon surrounding properties. The existing surrounding neighborhood already includes a wide mix of residential uses.

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

Based upon aerial photos, the subject property has been vacant since prior to 1966.

- 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;

Currently, the property is a vacant lot, which was unutilized by the Kids Connection. The proposed rezoning to allow development of a two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

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

The area is identified as appropriate for single-family residential uses on the Comprehensive Land Use Plan.

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

No other factors.

After the required public notices were sent to property owners within 200' of the subject property, as required by Kansas Statue, staff received no comments from notified property owners.

REZONING ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners or a motion. Commissioner Homan moved to recommend approval of the rezoning from OBD to R1-6 to the City Commission, seconded by Commissioner Kem, and passed by a vote of 5-0.

7. 2024-33 SUP – 711 OTTAWA

Conduct a public hearing for Case No. 2024-33 SUP – 711 Ottawa, wherein the applicant is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district.

Chairman Stephens called for the staff report.

City Manager Scott Peterson stated the applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 711 Ottawa. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit. The property is currently vacant. A related request to rezone the subject property from OBD, Office Business District, to R1-6, High Density Single Family Residential District, is also on this agenda. Two-family dwellings are not allowed in the OBD zoning district either by-right or with a Special Use Permit.

A lot split was recently approved and recorded to split the subject property from the lot addressed as 521 N. 7th Street, and which is occupied by the Kids Connection.

Depaul USA applied for and received a Special Use Permit in 2023 to construct a similar two-family dwelling at the neighboring property of 728 Pottawatomie. That structure was recently completed and is in use. The proposed two-family dwelling at 711 Ottawa will be nearly identical.

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.

Based on all available information, staff believes that this application complies with all provision 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.

Currently, the property is a vacant lot. The proposed two-family dwelling will bring tax revenue to the city with the improved value to the property, as well as provide a needed housing option for Leavenworth residents.

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 proposed use will cause any substantial injury to the value of other property in the neighborhood.

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

The proposed two-family dwelling is consistent with the character of the neighborhood and will not prevent future use or development of nearby properties.

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

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Stephens asked the commissioners for questions about the staff report. With no questions, Chairman Stephens opened the public hearing. With no one wishing to speak, Chairman Stephens closed the public hearing and called for discussion among the commissioners or a motion. Commissioner Kem moved to

recommend approval of the Special Use Permit to the City Commission based upon findings as stated and conditions as presented, seconded by Commissioner Waugh, and passed by a vote of 5-0.

Chairman Stephens stated he appreciates and commends the folks that are affecting our community in a positive way, and affordable housing is something that is in great need in our community.

Planning Assistant Michelle Baragary stated the rezoning and special use permit applications will go to the City Commission for first consideration on Tuesday, January 14, 2025.

OTHER BUSINESS:

No other business.

Planning Assistant Michelle Baragary stated there is one item on the agenda for the January 6th meeting.

Chairman Stephens called for a motion to adjourn. Commissioner Homan moved to adjourn, seconded by Commissioner Waugh, and approved 5-0.

Meeting adjourned at 6:24 p.m.

Minutes taken by Planning Assistant Michelle Baragary.