

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

**REGULAR SESSION
Monday, December 4, 2023
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: November 6, 2023**

NEW BUSINESS:

- 1. 2023-34 SUB – DOLLAR TREE - LEAVENWORTH**
Consider a final plat for Dollar Tree – Leavenworth, Case No. 2023-34 SUB.
- 2. 2023-30 TXT – TEXT AMENDMENTS**
Conduct a public hearing for Case No. 2023-30 TXT for proposed text amendments to the adopted 2016 Development Regulations.

OLD BUSINESS:

- 1. 2023-28 SUP – 1913 CHOCTAW STREET**
The public hearing for Case No. 2023-28 SUP – 1913 Choctaw Street was conducted at the November 6, 2023 Planning Commission meeting, and the vote was tabled to the December 4, 2023 Planning Commission meeting for requested additional information. The applicants/owners are requesting a Special Use Permit to allow for the operation of a Child Care Center for seven or more children in their home located at 1913 Choctaw Street. The property is currently zoned R1-9, Medium Density Single Family Residential District. Child Care Centers are allowed in the R1-9 zoning district with issuance of a Special Use Permit.

OTHER BUSINESS:

None

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, November 6, 2023
6:00 PM

CALL TO ORDER:

Commissioners Present

Don Homan
Sherry Hines Whitson
Brian Stephens
Maryann Neeland

Commissioners Absent

Bill Waugh
James Diggs
Kathy Kem

City Staff Present

Julie Hurley
Michelle Baragary
Bethany Falvey

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

APPROVAL OF MINUTES: September 11, 2023

Chairman Homan asked for questions, comments or a motion on the minutes presented for approval: September 11, 2023. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2023-28 SUP – 1913 CHOCTAW STREET

Conduct a public hearing for Case No. 2023-28 SUP – 1913 Choctaw Street. The applicants/owners are requesting a Special Use Permit to allow for the operation of a Child Care Center for seven or more children in their home located at 1913 Choctaw Street. The property is currently zoned R1-9, Medium Density Single Family Residential District. Child Care Centers are allowed in the R1-9 zoning district with the issuance of a Special Use Permit.

Chairman Homan called for the staff report.

City Planner Bethan Falvey stated the applicants, Gerald and Vanessa Jackson, are requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 1913 Choctaw Street. The property is currently zoned R1-9 (Medium Density Single Family Residential District). Child Care Centers are allowed in the R1-9 zoning district with the issuance of a Special Use Permit. No concerns

or complaints were received by the City regarding the operation of the Child Care Center at their previous home.

The applicants are licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care.

CONDITIONS OF DETERMINATION

In recommending approval of a special use, the Planning Commission may impose such conditions, safeguards and restrictions as may be necessary to carry out the general purpose and intent of the ordinance. The development regulations stipulate specific conditions as a requirement for the approval of Child Care Centers as follows:

1. Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.

The subject property is located along Choctaw Street, which is classified as a Residential street.

2. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be 100% enclosed by a minimum four (4) foot high fence or wall.

The subject property includes a back yard area of approximately 5,800 sqft., enclosed by a 4' chain link fence.

3. Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.

The subject property includes a driveway capable of accommodating 4 cars.

4. Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.

The applicants have provided a copy of their Group Day Care Home permit from the Kansas Department of Health and Environment.

5. All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.

The home functions as the only residence of the operator/owner.

6. Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of two sides or one non-illuminated sign affixed to the main structure of 3 square feet.

Any signage displayed will conform to this requirement.

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.

Child Care Centers are an essential service to working parents in the community, and promote the economic development, welfare and convenience of the public.

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

Staff does not feel that the proposed Child Care Center 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.

No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as a residential structure.

Notification was sent to property owners within 200' of the subject property, as required by Kansas Statute. Since notifications were mailed, staff received one inquiry from notified property owners, who are against the Special Use Permit.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. A minimum of 1,200 square feet of open space 100% enclosed by a minimum 4' high fence or wall shall be provided and maintained in good condition.
2. A copy of the permanent Group Day Care Home license shall be provided annually upon renewal by the State of Kansas.
3. The operation shall be limited to a maximum of 12 children.
4. No additional home occupations may be carried out at the residence.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

ACTION/OPTIONS:

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

Chairman Homan asked for questions from the commissioners about the staff report.

Commissioner Stephens asked if the one inquiry from the neighboring property gave specifics on why they are in opposition of the special use permit.

Ms. Hurley stated that property owner is in attendance, and probably plans to speak.

Vanessa and Gerald Jackson, applicants/owners, stated she opened her daycare in 2020 at a previous location in Leavenworth. They purchased the subject property in August 2023 because they outgrew their home.

Commissioner Stephens asked if there has been a change in the amount of children they care for or a change in their business model.

Mrs. Jackson responded in the negative.

Commissioner Stephens asked the applicants if they have talked with the neighborhood, and laid out how they are doing pickup and drop-off.

Mrs. Jackson responded that when they first moved into their new home everybody was nice, came over to meet them, and Mrs. Jackson told them that they run a family daycare at home. Mrs. Jackson stated she knows there has been a little bit of an issue with parking because the way the cul-de-sac is. There was one car that blocked a neighbor's driveway. Mrs. Jackson spoke with the parent and the issue has been resolved. Mrs. Jackson further stated her daycare families are a very tight-knit group and respectful of neighboring properties.

Commissioner Stephens asked if the pickup and drop-off are usually around the same times or do they vary.

Mrs. Jackson responded they are usually the same times. The daycare opens at 7:00 am but there are several families that do not drop-off until 7:30 am. Typical pickup times are between 4:00-5:30 pm, with 4:00 pm being the busiest time for pickup.

Commissioner Stephens asked if the maximum number of kids is 12.

Mrs. Jackson responded in the affirmative further stating they currently have 8 kids enrolled in their home daycare.

Commissioner Stephens asked if both Mr. and Mrs. Jackson are the only employees.

Mr. and Mrs. Jackson both responded in the affirmative.

With no further questions of the applicant, Chairman Homan opened the public hearing.

Ms. Hurley asked that any members of the public here to speak to sign-in on the sheet at the podium with their name and home address.

David Sedgwick, 405 S 19th St., stated the issues he has with the daycare is that he was never talked to about the daycare, and cars speeding. Stated a little boy was almost hit by a car the other week. Mr. Sedgwick stated cars speed down S 19th Street, and cut across part of the yard located at 1901 Choctaw St. Stated one day he saw a car going 50 mph down S 19th Street.

Commissioner Stephens asked if cars speeding occurred prior to the daycare.

Mr. Sedgwick responded in the negative.

Commissioner Stephens asked how long Mr. Sedgwick has lived at his current location.

Mr. Sedgwick responded 28-years (questionable audio).

Ms. Hurley stated the public needs to stay at the microphone when speaking or it will not pick-up for the recording.

Chairman Homan asked that there has never been 50 mph traffic down S 19th Street since the daycare started.

Mr. Sedgwick responded no, further stating that before the daycare, occasionally someone crazy may drive through there but there is a dead end sign because there is a cul-de-sac at both ends of Choctaw St. On occasion, someone may drive through, turn around and then fly out but most of the time there are no issues.

Linda Bohnsack, 1912 Choctaw St., stated she was a little concerned when the owner mentioned she had a daycare with only six to eight kids but many times people do not realize that watching six to eight child means 12-16 trips at drop-off, and another 12-16 trips at pickup. The first day the daycare opened was total chaos, with people trying to find somewhere to park and double parking. Ms. Bohnsack further stated she could tell the owner spoke with the parents, and the parents got into a good rhythm. Ms. Bohnsack stated she does not really notice the drop-offs and pickups a whole lot now. Ms. Bohnsack stated there is still a little bit of parking issues. They have what is called lazy back curbs on their driveways. Most small cars cannot get over those curbs without dragging so you have to angle-in to get in and out of the driveways. Even if a car is blocked on the street and is not actually in front of the driveway, it still can be blocking the driveway and the ability for the person to get in and out. Ms. Bohnsack further stated there are a lot of retired people living on this block, and there are three homes that have young children in this area. There are always cars parked along S 19th Street so you have to kind of thread your way through. Ms. Bohnsack said this area could use some traffic calming with speed limit signs or something of the sort to slow people down. This is a very quiet neighborhood on a cul-de-sac so it shows when there are extra people in the area. This neighborhood is fortunate to have sidewalks so a lot of people come into this neighborhood to walk their dogs.

Mike Ingram, 1908 Choctaw St., stated he has a story to tell, and proceeded to provide the commission a handout he prepared. Mr. Ingram stated he is speaking for 11 owner occupied households, and they all oppose the childcare center. This is an enclosed micro- neighborhood with 31 single-family homes that are primarily owner occupied. Most people in this neighborhood are retired and at home through the day. There are also a few people who work from home during the day. Mr. Ingram stated there are three issues: 1) adverse effects on the neighborhood, 2) overall startup process, and 3) legalities.

Mr. Ingram stated adverse effects revolves around traffic increase, and proceeded to state that on August 14th, the Jackson's dropped into the neighborhood running hot with an unpermitted daycare. He was not informed a daycare was coming into the neighborhood but figured it out throughout the first week with the play equipment and traffic. There is a significant increase in vehicular traffic. Every one of these potentially 12 clients means it could be 48 vehicle passes in addition to the existing traffic. This diminishes the traffic minimizing quality of the cul-de-sac, and that connects to the values of the properties. Mr. Ingram further stated neighbors have come to him about speeding, impatient and reckless driving, and wrongly parking in the cul-de-sac. The daycare vehicles have changed the neighborhood's driving, walking, dog walking, playing and bicycle riding habits. Mr. Ingram stated he was surprised about how unhappy and disturbed some people are by this view getting in their face of this non-compliance with traffic laws, the danger that it presents, and this daycare being popped on them out of the blue.

Mr. Ingram stated on September 1, 2023, he went to City Hall, and requested through proper authority a sign for S 19th Street and High Street, to which the City provided a large NO OUTLET sign that has helped some with the speeding. On September 5, 2023, Mr. Ingram spoke with SGT Mance at the Police Department, at which time Mr. Ingram learned the speed limit in that area is 30 mph and not 20 mpg. Residents in this neighborhood always drive slowly but they're (motions to audience) not going 30, we saw cars and they are going more than 30 mph. The Police Department is currently collecting traffic data at Choctaw and South 19th Street. Mr. Ingram stated he emailed SGT Mance and a piggyback complaint has come on from the traffic study from someone who lives on South 19th Street but Mr. Ingram does not know who it is. Mr. Ingram further stated several neighbors have confronted drivers regarding parking and speeding, which he said the commissioners have already heard about from a previous speaker tonight. Mr. Ingram stated it was a little more of a confrontation as he heard it in the different cases. Mr. Ingram stated he will not confront anybody in this day and age. He recently attended The Leavenworth County Sherriff's Office Citizens Academy, where he learned about weird laws in Kansas regarding conceal and carry, and he doesn't know who's carrying or not. Mr. Ingram further stated that last year with young people and people being impatient, there was a young man killed at the Leavenworth Local Hotel about a year ago. Somebody got excited and someone died as a result. Mr. Ingram said that he hopes the commissioners remember that. The young man who died was going to graduate and that just shows you that you cannot confront people. So if it comes back that we need to do something with our neighbors about a calming and this and that, they're not in control, they may be responsible (inaudible) but you can't control these people, and you can't control the next new client.

Mr. Ingram stated he is the reason we're here tonight, if anyone wants to thank me or hate me for it, and will now discuss "process issues". Mr. Ingram stated he went to the Planning Department on September 1, 2023, and asked what the policy is for a home daycare that is operating without a Special Use Permit. Staff explained the daycare is allowed to operate during the application process. Mr. Ingram asked if there is an application for the daycare at 1913 Choctaw, and staff responded an application had not been submitted at that time. Mr. Ingram went back to the Planning Department on September 7th, and asked if the daycare had submitted an application for a Special Use Permit. Staff still had not received an application, which prompted a violation notice.

Mr. Ingram cited from the Municipal Code "Accessory uses permitted by special use permit. The following accessory uses shall only be permitted upon approval of a special use permit application by the City Commission". Mr. Ingram further stated the daycare was not permitted by this policy because it was already running. Mr. Ingram looked at all the City Commission and Planning Commission minutes since January 2020, and stated there seems to be a bias toward daycare and even against neighborhoods where there may be some legitimate substantive reasons for pause. Three City Commissioners on record stating we need daycare. Mr. Ingram asked what is the demand for and supply of daycare in Leavenworth, and would like to see an analysis of this. There has been no demand for a daycare in this neighborhood.

Mr. Ingram stated the Planning Director is running a policy contrary to Municipal Code. There is no apparent authorization for this policy.

Mr. Ingram stated he will now go over the Boilerplate language.

Commissioner Stephens stated the board cannot address the language of what's typed in our laws. All we can do right now is hear the pros and cons for this case, and hear everybody's concerns. From there this board will make a recommendation to either approve the Special Use Permit to the City Commission or not.

Mr. Ingram stated this is about the process and them being cut out of the process that is a historic thing here, and it's written firmly in the code in Kansas law. The open hearing should have been before any of this.

Commissioner Stephens responded that he and staff would be happy to speak with Mr. Ingram about this but that is not something that makes sense to discuss here.

Mr. Ingram stated he wants to talk about the boilerplate language and the biases of what has been going through these packets. There is a lot of language that does not bring in a lot of substance, like their essential service, this and this, and convenience to the public. Relative to us there is nothing addressing our particular neighborhood. We are incurring all the cost and none of the benefit of this public good. Then there are things like the value of property, and how it comes in almost every time precisely this way that staff does not feel that the proposed childcare center will cause any substantial injury to the value of other property in the neighborhood. How does staff come to *feel* about property values? What are the methodologies, data, and analysis? Mr. Ingram proceeded to state that they have two kinds of feelings. Intrinsic is what we value our property as, as we live in it and experience it over time. This value has been diminished by the traffic and by the fact this happened without us having proper say at the proper time. The market price at any given time now that we have diminished the value of the cul-de-sac is less valuable because we have lost some of the traffic minimization quality.

Commissioner Stephens stated property taxes are through the county not the city.

Mr. Ingram responded that he said it is about value and how staff feels our value is not going to be affected or injured. Mr. Ingram stated how we sit and enjoy our property certainly has been damaged.

Commissioner Stephens stated if no evidence is brought to this board showing the value of a property has decreased by a certain amount because of this daycare, there is not a lot this board can do. With this matter before us, all we are hearing are the problems that are associated with the daycare along with the benefits. Commissioner Stephens stated he wants to keep things moving along, and asked what other problems Mr. Ingram has with the daycare.

Mr. Ingram stated he wants to discuss the Planning Director bias. On September 16, 2023, he and his wife reviewed the application in the Planning Department. He asked staff if there was a Special Use Permit at the daycare's prior location. A displeased Planning Director spoke in a condescending and rude manner throughout the visit. While the Ingram's were questioning this whole process, they really did not get to say anything. Mr. Ingram continued by stating he asked a couple questions. Are you running a process to allow these businesses to open contrary to City code? Staff response was that we need daycares, we're going to help these businesses get started, we are not going to shut down a business, and people need to make a living. Do you have a written policy, and can we get a copy? Stated staff did not reply. Does Joy Bogart coordinate with Planning when a Kansas license is granted? Staff response was that is not a requirement. Did this daycare business ever have a Special Use Permit at their prior location? Staff response was that I do not know, we do not have that information, we cannot tell you, you will have to do an Open Records Request if you want that. Mr. Ingram continued stating he told staff that they must know who has permits because staff talked about 17 active permits in the City, and asked if the daycares prior location was on it? Staff response was I don't know what you're talking about; I never said that. Mr. Ingram stated he checked the meeting minutes from May 3, 2021, and stated that Ms. Hurley said she is unaware of a childcare center in this particular neighborhood but there are 17 active special use permits for home-based childcare centers in the City.

Mr. Ingram proceeded to state that the agenda packet is inaccurate, incomplete, and misleading. It is not complete without the documentation that reflects this application had to be compelled by a violation. The packet is misleading as it states no concerns or complaints were received by the City regarding the operation of a childcare center at their previous home. Mr. Ingram stated he visited the Planning Department on three separate occasions, the last time being October 16, 2023, asking if the daycare owners had a special use permit for their prior location. The City had received concerns three times about the operation of the daycare at the previous home that the City did not even know they were operating. The agenda packet is inaccurate because the packet states the subject property includes a backyard area of approximately 5,800 sqft, enclosed by a 4' chain link fence. Mr. Ingram asked how the fence height is determined. He then proceeded to grab a four-foot ruler and stated that he measured the height of the subject property fence where it meets the neighboring fence, and it measured at 42 inches. He does not care if the fence is 2 feet or 5 feet or if a fence is a requirement or not but the fence requirement has been addressed and factually misstated.

Commissioner Whitson stated that it is listed under Staff Recommendation in the policy report that the fence needs to be 4 feet in height (inaudible as Mr. Ingram spoke over Commissioner Whitson).

Mr. Ingram said that it is stated earlier that it is enclosed by that right now. Mr. Ingram further stated he may drive around town to check the height on all the other fences that have special use permits.

Mr. Ingram stated his next topic of concern are the legalities. He and his wife checked the State's online compliance search, and found that the applicants were listed as operating a daycare at their prior address of 823 Dakota since September 2020. On August 14, 2023, they began operating their daycare at 1913 Choctaw; they closed on a Thursday and came in hot on Monday. Mr. Ingram stated he filed an open records request for any special use permit issues for 823 Dakota for dates between June 1, 2020 through August 31, 2023. Staff emailed Mr. Ingram stating no records found. At a previous visit to the Planning Department, Mr. Ingram stated a staff member did a quick search for a special use permit at 823 Dakota and did not find any records. He further stated the applicants went 1,099 days without a special use permit because they operated a daycare at a previous location.

Mr. Ingram stated State laws have a role in childcare centers. Kansas License Application states they are responsible for meeting and maintaining compliance with all applicable childcare licensing laws and regulations at all times, and is under penalty of perjury. Furthermore, Joy Bogart at the County reminds daycare applicants to contact the City, and KDHE requires an orientation to process the application. The license from the State states that local codes and ordinances may prescribe other requirements for the legal operation of this facility.

Mr. Ingram stated that in summary the increased and noncompliant traffic has changed the nature of the neighborhood, disturbing and endangering neighbors and adversely affecting property values because they have lost that traffic minimizing quality. Mr. Ingram then stated he has two degrees in agricultural economics and a PhD in economic geography from the University of Kansas. Has worked in analysis and has led analysis, managed analysis, and directed analysis his entire career; 30 years in the government, 20 plus years in the Army Reserves, and 12-year teaching economics at KCK.

Mr. Ingram continued by stating a process contrary to codes being run that favors daycare businesses over Leavenworth citizens and neighborhoods, without regard to all specific location characteristics or substantive neighborhood input. If they received input prior, they may not be at this point; may have been able to mitigate things. Speaking directly to Ms. Jackson, applicant, Mr. Ingram stated that she talked to everyone but when he came over and talked to the Jacksons, not once was daycare mentioned to him, and he didn't ask the Jackson's about the daycare because he knew what was going on. Even after the permit dropped so expeditiously, there was no engendering of goodwill. And how

does Mr. Ingram know all these things, because the Jacksons have been open about everything on Facebook.

Mr. Ingram stated he is here to offer the commissioners some help. Speaking for himself and the neighbors he came to the meeting with, he recommends the Planning Commission table this issue in order to:

- complete and correct the packet
- address the unique qualities of this specific location to make an informed decision
- substantively address value and how you have a better understanding and sense of our property than we do
- determine effects on property value with a documented methodology, data and analysis that stands up to outside scrutiny
- propose and enact reasonable mitigations to the traffic problem that has been created, beyond those that we have done or have authority to do

Ashliegh Baker, 813 Cottonwood Dr., Lansing, stated the applicant has taken care of her three children when they went to A Deere Place Daycare. Ms. Baker further stated she is a nurse at the Veterans Administration but knows that two or three of the parents that use the Jackson's daycare work for the school district. When talking about how this daycare benefits the neighborhood in any capacity, Ms. Baker takes care of the veterans that live in the subject neighborhood. The teachers that use this daycare educate the children that live in this neighborhood. This daycare very much affects the neighborhood, just as much as it affects the Jackson's livelihood. Ms. Baker does not know why a speed limit sign is not posted but believes one should be.

Gordon Mein, 1101 S 2nd St., stated he has been a realtor in this area for 25 years. The Jackson's prior house at 823 Dakota sold for well above the listing price. They spent over \$15,000 on interior renovations on their new home at 1913 Choctaw. This idea that property values are going to suffer because of a daycare in the neighborhood does not hold water. Mr. Mein further stated there is empirical data out there called MLS. He could provide numbers from 10 years ago to today.

Chairman Homan stated MLS is for listings not sales.

Mr. Mein stated it is for both.

As an appraiser, Chairman Homan stated there is also age depreciation and functional obsolescence. Chairman Homan is more concerned with economic obsolescence, which means something outside the property that is causing loss in value to the property. Mr. Ingram is trying to say a daycare center in his neighborhood is going to cause a loss in value to his property.

Mr. Mein stated that did not happen at the prior daycare location.

Chairman Homan stated it may not have affected the daycare property but what about if the property next door sold with a daycare center next to it. You need to compare apples to apples not apples to pears. (Inaudible: Chairman Homan and Mr. Mein were speaking over each other).

Ms. Hurley asked that the commissioners not debate with any of the public speakers.

Mr. Mein restated no one knows what the market will do in 10 years. He further stated that speeding is not just a problem on main streets but is also a problem in cul-de-sacs, and accidents can happen anywhere. Believes that the special use permit is just so the City knows that there is a daycare at that location, and is not supposed to be an election type process where the Jacksons are voted out of the

village because they want to run a daycare, which is their livelihood. Mr. Mein proceeded asking that if there is something in the paperwork that does not quite meet the requirement of a special use permit for a daycare that the commissioners will allow the applicants time to correct whatever they need to.

Joyce Finley, 409 S 19th St., stated she does not know the applicants but they look like very nice people. Her complaint is with traffic. Feels unsafe walking her dog down the street. People are in a big hurry to get to their jobs. Need to be more considerate of people who live in that area.

Commissioner Stephens asked if the traffic problem is for several hours in the morning and in the afternoon, or is it like 30 minutes where it is really busy.

Ms. Finley responded that she used to walk somewhere between 7:30 a.m. and 8:30 a.m. but no longer walks during that time anymore. She continued stating that after 8:30 a.m. the traffic is fine.

Chairman Homan asked if there is a sidewalk for walking her dog.

Ms. Finley responded there is a sidewalk that is uneven but she does use the sidewalk.

Janai Johnson, 110 Western St., stated she is one of the families that uses the daycare, and wants to speak to the value of the daycare being in the neighborhood. Her son goes to David Brewer, and daughter to the daycare. She is an educator at David Brewer and it is very convenient for all to be in a central location. The Jacksons are wonderful people, and good caretakers. If the main concern is traffic, maybe some traffic signs can be installed. Ms. Johnson further stated she had to postpone returning to work for three months because she could not find daycare. This daycare is greatly valued by all the parents using the daycare.

Commissioner Stephens asked what time she drops her daughter off at the daycare.

Ms. Johnson responded between 7:00 a.m. to 7:30 a.m.

Commissioner Stephens asked if she pulls into the driveway or parking in the cul-de-sac.

Ms. Johnson stated she typically pulls into the driveway.

Commissioner Stephens asked how many cars are typically there at this time.

Ms. Johnson said one, maybe two.

Commissioner Stephens asked if the other vehicles pull into the driveway or park on the cul-de-sac.

Ms. Johnson responded that they pull into the driveway where there is room. If the one additional vehicle is there, they try to pull along the curb so they are not blocking anybody trying to leave or come in.

Commissioner Stephens asked if it becomes kind of tetris when there are three or four cars there.

Ms. Johnson stated she has not experienced that.

Becky Ritchey, 1817 Choctaw St., stated she has nothing against the Jacksons or the families using their daycare. Her issue is the traffic, and speeding being the major issue. This is a dead-end street

in a small community. She is very alarmed about people speeding with kids in the car. In the nine years she has lived in this area, there has not been one accident on South 19th Street or Choctaw Street.

Commissioner Stephens asked if it is a constant fear of cars driving through that area too fast, or if it is predictable on when that occurs.

Ms. Ritchey responded it is not constant, and occurs during drop-off and pick-up times for about 1 to 2 hours. She does not hate kids but thinks people need to comply with the law. She stated she drove down that street going too fast, and a couple neighbors unhappily looked at her. Since then she does not speed in that area. If speeding is going to be an issue maybe the speed limit can be lowered or install some sort of traffic calming device.

Clayton Darby, 1901 Choctaw, stated he is the corner house on the southwest side, and gets a firsthand view on what goes on at that intersection, which includes people crossing through his front yard, which he has taken measures to prevent cars driving through the corner of his yard. He knew a daycare was moving into the neighborhood when he saw a truckload of children's equipment. There has been changing in the traffic, to include hotspots during the pickup and drop-off times. Another concern is that the road is not plowed in the winter because it is not an emergency route. Will this be an issue come wintertime? Mr. Darby further stated he supports the Jackson's on whatever they choose to do for a living but wants to point out they have a mutual problem in this small neighborhood with an uptick in traffic. Right now, the daycare is new but Mr. Darby believes somewhere there is a mutual benefit where everyone can make this work.

Commissioner Stephens asked about the possible damage to Mr. Darby's property.

Mr. Darby responded that if he does not park his truck close to the corner, then he gets a lot people speeding around that corner and driving through his yard.

Erica Johnson, 1309 Ottawa St., stated she is a family of the daycare, with her 3-year old son going there since he was two months old. The Jackson's are great caretakers. Ms. Johnson agrees that people speed, and people speed everywhere. She believes more signage would be wonderful. With that said, other people's choices in speeding should not affect the Jackson's business. Typically, there are not issues with parking. The daycare families are very close and communicate with each other so if need be, parents will park behind each other in the Jackson's driveway rather than blocking a neighbor's driveway. There has been rare times where she had to park a little bit in front of somebody's driveway, and in those rare cases, they try to be very quick and move out of the way. Ms. Johnson also mentioned people walking their dogs in the streets even though there are sidewalks to walk on.

Bonnie Ingram, 1908 Choctaw, stated traffic has been a big problem. Daycare parents will leave their vehicles running for 5-15 minutes. Ms. Ingram is angry because this business just popped in without notification this was going to happen. Traffic is still her number one concern but the Special Use Permit process has been turned on its head. The Code requires that this happened before now. We should not be here tonight discussing there is a traffic issue. What has happened is that the Planning Department has decided to issue a de facto zoning change by allowing people to operate contrary to code. The residents of this micro community feel like they have been cut out of this whole process. Ms. Ingram further stated it is the daycare parents who are driving recklessly on their streets, and don't seem to have any regard for the neighborhood children. Retirees have older knees, and do not walk on concrete without risking damage. A lot of the neighbors do walk on the streets because it has been historically safe to do so. Walking in the street is not against the law, and it should be safe

to do so in this neighborhood. The whole idea of this zoning is to be sure that there is not a negative effect on the neighborhood. The negative effect for them has been that the daycare parent's cars coming into their neighborhood has made it less safe. Ms. Ingram stated she understands there is a two week period after this meeting to protest this board's decision, and there will be a lot of stuff that comes in.

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

Ms. Hurley stated to address a few issues, in terms of procedures, as with any code violation that our staff becomes aware of, whether it is through code enforcement activities, a property maintenance violation or a use issue where something is operating where it should not be, we do give property owners a chance to remedy the violation. Staff notifies the property owners once we become aware of the violation, giving a certain timeframe in which remediation steps need to be taken. As long as those steps are taken within that time, staff will continue to work with those property owners. This has happened before, and there are probably home daycares operating that staff is unaware of. Staff works closely with the county office that does the licensing for the State, and we certainly ask that they direct their daycare operators to come to the City because we do have the Special Use Permit requirement; however, that does not always happen. The county office usually direct folks to our department but genuinely there are a number of daycare operators who do not know there is an additional requirement on top of the State requirements. Unless staff becomes aware of that either by our code enforcement officers seeing it or a neighbor notifying us, we are not going to know. Typically what has happened when we have been informed by someone, is that we will go out to take a look and cannot even tell that there is a daycare operating just by visibly inspecting. However, we will always send a letter to the property owners informing them of what has been reported, and request the property owners to contact us to talk about next steps. That is what happened in this case, and the Jacksons contacted our office immediately. Ms. Hurley further stated it is not the policy of the City to shut down someone's business, their livelihood, as long as they are taking steps to remedy a situation. If something were to come in, go through the process, and ultimately get denied by the City Commission, at that point there would be enforcement actions taken.

Ms. Hurley further stated in terms of the Jackson's previous location, obviously the City was unaware that a daycare had been operating there, and the Jacksons had apparently never been informed by the county or the State that they needed to contact the City to get a Special Use Permit. This speaks to neighbors at the daycare's previous location never had a complaint, and never contacted the City with any concerns. So again, the City would not know a daycare was operating at the prior location on Dakota Street.

Ms. Hurley stated in terms of individuals requesting information about a property that is not theirs, and does not have a public application on it currently, that is an open records request per State Statute. Property owners cannot get private information about another property that they do not own, which is why the gentleman who spoke earlier was directed to our City Clerk's Office to make the Open Records Request about the separate property on Dakota Street.

Ms. Hurley further stated it sounds like most of the concerns heard tonight are with traffic. Staff had not heard anything from our Police Department but it sounds like someone has been in contact with the Police Department, and the PD may have a speed trailer or something of the sort set up in the neighborhood.

Commissioner Stephens asked if there is an official traffic study being conducted in the neighborhood.

Ms. Hurley responded that she will have to check on this because this is the first she has heard about it. The Ingram's had come in to our department to speak with us. We have received no other communication, calls, letters, emails, etc. from any other residents. Before tonight, we were unaware of any concerns other than what the Ingram's had expressed to us. If staff had heard any of these concerns, we would have checked with the Police Department. Anything about additional signage or traffic calming are strictly decisions for the Police Department and Public Works Department. All signage has to go through the Police Department, and they are very specific in their requirements as to what signage can be placed where and under what conditions. That is not for the Planning Department or this body to decide. In terms of any physical traffic calming, like a speed table or something of the sort, would be a Public Works decision.

Commissioner Neeland stated she feels like quality of life should be added to what the neighbor's main concerns were. They feel like their quality of life is diminished.

Commissioner Whitson stated more information needs to be provided about the traffic study, and how a home is valued because there are so many interpretations with that.

Ms. Hurley responded that nationwide research has shown that home daycare businesses do not overall decrease the value of property in neighborhoods. This is well established research-based information. Staff has no indication that property values have declined in other neighborhoods where there are home daycares or other home occupations.

Commissioner Whitson stated it sounds like a process of elimination. The applicants were not aware of some codes but now that they are aware, they are working on fixing them. There are statistics showing that possibly home values are not affected, and then there is quality of life and the traffic concern. Maybe this needs to be tabled to find out if it goes to Public Works on the signage, and to look at the data from the traffic report.

Commissioner Neeland asked what should have happened because she has been approached at her own house by letter and by people about someone wanting to operate a daycare in her neighborhood, and they went through this exact process. Everyone in the neighborhood came to the public hearing and said their peace, and there is not a daycare there.

Ms. Hurley responded that there is no State or City requirement that a property owner preemptively approach neighbors about their plans to open a daycare. The statutory requirement is that once the application is made that the City provide notification to property owners within 200 feet of the subject property, which was done.

Commissioner Stephens asked if the daycare owners would have applied for the Special Use Permit before starting their daycare, would anything have changed in terms of the process.

Ms. Hurley responded in the negative, stating the owners of the daycare would have been told they need to apply for the Special Use Permit, they would have made application, staff would have provided notice to property owners within 200 feet, and the request would have come before this board. It would have been the same process.

Commissioner Neeland stated that she agrees with Mr. Ingram in that some of the language wasn't exact, and maybe slightly misleading. She agrees that the issue should be tabled.

Commissioner Whitson stated she feels there is some unfinished business.

Commissioner Stephens stated that now that it has been brought up that the applicants are operating without a Special Use Permit, and if this board tables this item until the next meeting, that means essentially this board is forcing them to operate without a Special Use Permit, which is an issue that has been brought up by the neighbors.

Ms. Hurley responded it is the City's process that if a property owner, for whatever the violation is, is taking steps to remediate that violation that the City is not going to shut down their business or take them to court. If it is the decision of the Planning Commission to table the issue to the December meeting, staff asks for very specific information that the board wants to be provided at the December meeting.

With no further questions from the commissioners, Commissioner Stephens moved to table the issue to the December Planning Commission meeting for additional information from the Police Department on the traffic study and from Public Works on potential signage and traffic calming measures, seconded by Commissioner Whitson, and passed by a vote of 4-0.

Commissioner Neeland would like someone of authority to measure the fence since that was also an issue that was brought up.

Ms. Hurley responded 4 feet is a standard fence height. When a fence application is made and the fence is installed, staff does not go on private property to measure a fence after it has been installed. It is highly likely that fences are going to be a few inches off when they are installed just due to changes in grade.

Commissioner Stephens asked if a special use permit changes the characteristics of a neighborhood.

Ms. Hurley responded that the purpose of a special use permit is that it could. With any zoning district and any use there are uses that are permitted by right in a zoning district, whether it is single-family, commercial, office, etc., and there are a number of uses that are permitted with issuance of a special use permit. Those will be uses that could be compatible in a certain zoning district depending on the specific use or operation, or it may not be. Those are uses that warrant a little bit of extra consideration. With a single-family zoning district, the recognition is that a homebased occupation is a business whether it is a daycare or some other homebased occupation, such as small engine repair, which requires a special use permit. There are uses that may be appropriate for certain locations or they may not be appropriate, and that is why a special use permit is required to get that extra level of review by staff, the Planning Commission, and the City Commission, instead of just allowing the use by right.

2. 2023-29 SUP – 2805 2ND AVENUE

Conduct a public hearing for Case No. 2023-29 SUP – 2805 2nd Avenue. The applicant is requesting a Special Use Permit to allow a government facility (Fire Station) to operate in the R-MF, Multiple Family Residential District, zoning district, located at 2805 2nd Avenue. Government facilities are allowed in the R-MF zoning district with the issuance of a Special Use Permit.

Chairman Homan called for the staff report.

Planning Director Julie Hurley stated the applicant, City of Leavenworth, is requesting a Special Use Permit to allow a government facility in the R-MF (Multiple Family Residential District) zoning district, located at 2805 2nd Avenue. The property is occupied by Fire Station 3, which was constructed in the 1960's and is currently scheduled to be replaced with a new Fire Station facility on the same site in 2024. Government facilities are allowed in the R-MF district with approval of a Special Use Permit.

The existing fire station facility is considered a nonconforming use, as there is no existing Special Use Permit. Replacement of the facility requires the approval of a Special Use Permit. Per section 1.05 of 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 1.05 of the Development Regulations also states in regards to nonconforming uses:

If a structure devoted to a nonconforming use is damaged or destroyed by more than fifty percent (50%) of its fair market value, such building shall not be restored if the use of such building is not in conformance with the regulations of the zoning district in which it is located.

The Development Review Committee reviewed the site plan and building elevations associated with the new fire station facility on October 19, 2023. Items related to sewer, access, and setbacks were discussed, and will be addressed to meet all applicable requirements at the time of building permit.

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 functioned as a fire station since the 1960's, providing a vital service to the welfare of the public.

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

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

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

The proposed new fire station facility will be largely similar in size, scale and placement to the existing facility, and 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 regarding the proposed Special Use Permit.

STAFF RECOMMENDATION:

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

ACTION/OPTIONS:

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

Chairman Homan called for questions from the commissioners about the staff report.

Commissioner Neeland asked if the fire station will be closed.

Ms. Hurley responded the fire station will be down for a period of time while it is being rebuilt.

Jody Kaaz, Kaaz Construction, stated the existing firehouse will operate out of fire station one or two during construction of the new building. The project will take about a year to complete.

Chairman Homan asked if the new building will be in the floodplain.

Ms. Hurley responded that the building will not be in the floodplain. The right-of-way is huge, and most of the floodplain falls within the right-of-way.

With no further questions about the staff report, Chairman Homan opened the public hearing. With no one wishing to speak, Chairman Homan closed the public hearing and called for a motion. Commissioner Whitson moved to recommend approval of the Special Use Permit to the City Commission based on the findings as stated and conditions as presented, seconded by Commissioner Stephens, and approved 4-0.

3. 2023-31 SUP – 2103 METROPOLITAN AVENUE

Conduct a public hearing for Case No. 2023-31 SUP – 2103 Metropolitan Avenue. The applicant is requesting a Special Use Permit to allow the operation of an Assisted Living Facility in an R1-9, Medium Density Single Family Residential District, zoning district, located at 2103 Metropolitan Avenue. Assisted Living Facilities are allowed in the R1-9 zoning district with the issuance of a Special Use Permit.

Chairman Homan called for the staff report.

City Planner Bethany Falvey stated the applicant, Robyn Smith of Peace At Heart Senior Living LLC, is requesting a Special Use Permit to allow the operation of an Assisted Living Facility at 2103 Metropolitan Avenue in an existing building on the property. The property is currently zoned R1-9, Medium Density Single Family Residential District. The adopted Development Regulations defines an Assisted Living Facility as:

Facilities which provide residents with supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help ensure their health, safety, and wellbeing.

Assisted Living Facilities are allowed in the R1-9 zoning district with issuance of a Special Use Permit.

Peace at Heart Home Care Services LLC is currently a licensed Home Health agency through the State of Kansas and looking to expand service operations. The Assisted Living Facility will have up to 6 residents and 1-2 staff on the premises at one time.

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.
There is a current need within the community for Assisted Living Facility uses. The proposed facility will provide primarily seniors cooking, cleaning, ADLs (Activities of Daily Living), and activities to its residents. It will help to improve the overall wellbeing of the residents.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.
Staff does not feel that the 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.
No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as it currently does.

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

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. Obtain an active registration of an Assisted Living Facility with the State of Kansas.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

ACTION/OPTIONS:

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

Chairman Homan asked what level of assisted living is this since there are only two employees, and is it a 24 hour assisted living facility.

Ms. Falvey responded it is a 24 hour facility for up to six residents.

Ms. Hurley stated staff is not sure what classification that State uses but the business owner would need to get whatever required licensing from the State in order to operate at the level they are proposing.

Commissioner Whitson stated the application has the lessee listed as Robyn Smith – Peace at Heart Senior Living, LLC but the property owner’s name is different.

Ms. Hurley stated the lessee does not own the building but will be leasing the building and operating the business. The owner of the property is the one who is required to apply for a special use permit.

Commissioner Stephens asked then who is responsible for compliance.

Ms. Hurley responded that the owner of the property is responsible for ensuring compliance. Even though this property is being rented, the owner of the property is responsible for making sure the property stays in compliance with all city laws and regulations.

Commissioner Whitson asked if there is adequate parking for visitors since this facility houses up to six residents plus two employees.

Ms. Hurley stated the property has a deep driveway but the business owner is here to answer questions as well.

Commissioner Neeland stated when she looked up this property, there was an apartment A listed. Is there a separate apartment inside the primary dwelling or is it referring to the building in the back.

Ms. Hurley stated a previous owner had built the structure in the rear as an accessory dwelling unit but that never went forward. The accessory structure meets all building codes to operate it as an accessory dwelling unit but it would need a special use permit to do so, and the project not got to that point. Ms. Hurley further stated It is staff’s understanding that the applicant does not plan on having their residents living in that detached building out back.

Robyn Smith, applicant and owner of Peace at Heart Senior Living, stated they are taking their steps to get their licensure, and have already passed their inspection. Through the inspection process, they are approved to have 12 residents in the first portion of the home; however, they will not have 12 residents living at the property. The upstairs bedroom will be considered a Home Plus Assisted Living, which will be a semi-private room that can house 1-3 residents. The rest of the dwelling of the home did not meet the qualifications to have additional residents to live there. Individuals may attend day services, and visitors are welcome during business hours. The detached unit in the back also passed inspection for the State of Kansas and met KDHE requirements. This unit will be used for additional business operations, storage, and adult day-stay program.

Commissioner Whitson asked if they will be accepting Medicaid patients.

Ms. Smith responded in the negative.

Chairman Homan asked if the building in the back will or will not have residents.

Ms. Smith stated they have been approved to operate an adult day-stay program in the detached building with a maximum of 10 participants. The adult day-stay program can operate in the front

portion of the main dwelling as well. The adult day-stay program is like an adult daycare for daytime activities but these participants will not be living in the detached unit.

Chairman Homan asked for clarity that three residents will be living in the main dwelling.

Ms. Smith stated that a maximum of three residents can live in the main dwelling for a Home Plus. There are two other bedrooms downstairs in the main dwelling that they are approved to allow for someone who wanted independent living (private pay). The Home Plus would be the section that would receive assisted living and services. The reason for the different services provided in different areas of the main structure are that the windows in the lower portion of the home are not fire code compliant. For the Home Plus Assisted Living, the State of Kansas requires that the bedrooms be at ground level.

Commissioner Whitson asked if the applicants will be there at the subject property as well.

Ms. Smith responded in the negative but further stated there will be 24-hour care for the individuals who are under the Home Plus Assisted Living Program. Shifts will either be three 8-hour shifts or two 12-hour shifts for staff so there will only be one or two staff members working at a time. During business hours, you may see Physical Therapists coming in and out, Walmart delivering groceries, medications being delivered, etc.

Chairman Homan asked if there will be a nurse on-call.

Ms. Smith responded in the affirmative.

Commissioner Whitson asked if the lease agreement with the property owner is a one-year lease with the option to renew.

Ms. Smith responded in the affirmative.

Commissioner Whitson asked what happens if the property owner sells the property or does not want to lease the property anymore.

Ms. Smith stated they are given adequate amount of information of any plans pertaining to the property, which gives them time to relocate.

With no further questions about the staff report or for the applicants, Chairman Homan opened the public hearing.

Larry Hammer, 2021 Metropolitan – Household of Faith, stated he is not for or against the special use permit. His concern is with traffic coming over the crest of hill on Metropolitan heading toward 20th Street. He has had vehicles on his rear bumper immediately after pulling out of the church parking lot. Mr. Hammer also asked if the current water and sewer pipes will support the proposed use with the additional people at the subject property.

Commissioner Stephens asked staff if utilities were considered as part of the special use permit.

Ms. Hurley responded in the negative stating the capacity of the sewer or utilities in general were not looked at.

Commissioner Whitson asked if the number of residents allowed to live at the subject property was six.

Ms. Smith stated she applied for six residents originally but since then the inspection has come back, and they are approved for three assisted living residents in the Home Plus portion of the residence. However, the State of Kansas has approved independent living in the other two bedrooms, if the applicant chooses to have that as well. Therefore, the maximum number of residents allowed would be five. The maximum number could be six if a husband and wife move in. Commissioner Stephens asked about the outpatient adult daycare traffic.

Ms. Smith stated that is usually one physical therapist if the resident is requiring physical therapy. If a resident is requiring physical therapy or occupational therapy, it typically is only one to two visits a week from a physical therapist or occupational therapist for an hour per each visit.

Chairman Homan asked for clarification that all of this is based on the applicants receiving their license from the State.

Ms. Smith responded in the affirmative.

With no one else wishing to speak, Chairman Homan closed the public hearing and called for a motion. Commissioner Stephens moved to recommend approved to the City Commission based on the findings as stated, and the condition that the applicant obtain an active registration of an Assisted Living Facility with the State of Kansas, to recommend approval of the Special Use Permit to allow an Assisted Living Facility in the R1-9 zoning district to the City Commission, seconded by Commissioner Whitson and approved by a vote of 4-0.

4. 2023-30 TXT – TEXT AMENDMENTS

Preliminary review of potential amendments to the adopted Development Regulations.

Chairman Homan called for the staff report.

Planning Director Julie Hurley stated the Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, minor items arise that may necessitate possible updating. An annual review and update of the Development Regulations takes place in order to ensure that they remain up to date and comprehensive.

A number of the proposed changes involve correcting typos and clarifying language or procedures, in addition to more substantive changes. The following sections have been identified for update and are provided for informational purposes and discussion:

Article 1; General Provisions

- Remove language requiring specific publishing date of updated zoning regulations and amendments, as this update process is completed at varying times throughout the year and current regulations are available at all times.

Article 2; Applications & Procedures

- Add language requiring applicant to provide City with 2 full sized copies of all recorded plats.

Article 4; Zoning Districts & Standards

- Add language clarifying that the width of right-of-way cannot be counted towards lot frontage requirements for parcels abutting a dead end street.
- Add language allowing for 3 detached accessory structures on parcels 2 acres or larger.
- Add setback requirements for pools.
- Bring requirements for home occupation signage into alignment with requirements as laid out in sign code.

Article 5; Access & Parking

- Add language allowing solid surface paving stones to be used for single-family residential driveways.

Article 6; Landscape & Site Design

- Bring requirements for pools in line with building code standards.

Article 7; Design Standards

- Clarify language regarding maximum width of driveways for single family residential properties.

Article 8; Signs

- Update language regarding computation of area of multi-faced signs.
- Include maximum allowable size for directional signage.
- Add language to allow for freestanding sign for multi-family residential communities.
- Add language to allow for wall signage for tenant that may not share an exterior wall.

Article 9; Historic Preservation

- Remove section regarding variances.

Article 10; Supplemental Standards

- Clarify and make consistent language regarding Solar Energy standards.

Article 12; Definitions

- Revise definitions of “ Dwelling, Modular Home” and “Manufactured Home” to provide distinction between the two.
- Revise definition of “Shelter Home”.
- Revise definition of “Sign Refacing”.

Appendix A; Use Table

- Include that “ Dwelling, Multi-Family” is permitted in CBD

ACTION/OPTIONS:

No formal action required at this time. Upon conclusion of discussion by Planning Commission, a public hearing will be set for the proposed text amendments at the next regularly scheduled Planning Commission meeting, as provided for in section 2.01 of the Development Regulations.

Commissioner Stephens asked if the requirement for a Special Use Permit for nonconforming duplexes located in single-family residential zoning districts will be included in the text amendments.

Ms. Hurley responded in the negative stating she is working with the City Attorney on that issue. Generally, it is not good practice to give blanket variances. In terms of allowing two-family dwellings by right in single-family residential zoning districts, is not proposed to be changed.

Referring to Article 5, Chairman Homan asked if there are requirements on type of paving stones used to single-family residential properties.

Ms. Hurley responded that currently there are no requirements. However, what is likely to happen is that there will be a requirement that if you choose to use paving stones that it would need to be approved by our Public Works Department, since those technologies change quickly.

OTHER BUSINESS:

With no other business, Ms. Hurley stated there are a few items on the agenda for the December meeting.

Chairman Homan adjourned the meeting at 8:21 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

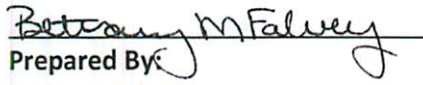
DRAFT

PLANNING COMMISSION AGENDA ITEM
2023-34-SUB
DOLLAR TREE - LEAVENWORTH
FINAL PLAT

DECEMBER 4, 2023

SUBJECT:

A request for a final plat of the Dollar Tree - Leavenworth Subdivision


Prepared By:
Bethany Falvey
City Planner


Reviewed By:
Paul Kramer
City Manager

ANALYSIS:

The subject property, 2017 S. 4th Street is owned by Great Western Manufacturing Co., Inc., plat prepared by OWN, Inc. The applicant is requesting approval of a one lot final plat for the Dollar Tree – Leavenworth subdivision at 2017 S. 4th Street. The subject property is currently an unplatted lot that is approximately 6.87 acres. The proposed plat is a 1.53 acre portion of the entire 6.87 acre lot. The property is zoned GBD, General Business District. The 1.53 acres of this property is currently only used for parking and is otherwise a vacant lot.

The plat was reviewed at the November 16, 2023 Development Review Committee. All comments from the committee have been addressed.

Staff recommends approval of the Dollar Tree - Leavenworth Subdivision, Final Plat.

ACTION/OPTIONS:

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



Project No. 2023-34 SUB

FINAL PLAT APPLICATION
CITY OF LEAVENWORTH

OFFICE USE ONLY

Application No. 14428
Fee: 350.00
(\$350 plus \$10 per lot over 5 lots)

Date Paid _____
Received By _____
PC Meeting 12/4/23

NAME OF SUBDIVISION/PROJECT: Dollar Tree - Leavenworth
LOCATION OF SUBDIVISION/PROJECT: 2017 S 4th Street
NAME OF PROPERTY OWNER: (If Corporation, include name and address of Director or President)

NAME: Caprot Western Manufacturing Co, Inc
STREET ADDRESS: PO Box 149 Leavenworth, KS 66048
CITY: Leavenworth STATE: KS ZIP: 66048
PHONE: _____ FAX: _____ EMAIL: dschroeder@gumfg.com

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

NAME: CBC DT LLC
STREET ADDRESS: 4706 Broadway Suite 240
CITY: Kansas City STATE: MO ZIP: 64112
PHONE: 816.645.8963 FAX: _____ EMAIL: mblewe.usfpc.com

NAME OF ENGINEER PREPARING PLAT:

NAME: Samuel J. DePriest
STREET ADDRESS: 8455 College Blvd
CITY: Overland Park STATE: KS ZIP: 66210
COMPANY: OWN, INC
PHONE: 816-777-0400 FAX: _____ EMAIL: sdepriest@wcaowner.com

PARCEL NO: 101-01-0-10-04-003.00-0 SEC.TWP.RNG. Sec 1-T9S-R22E

ZONING OF SUBJECT PROPERTY: G3D CURRENT LAND USE: VACANT

TOTAL ACREAGE: 1.53 NUMBER OF LOTS: 1

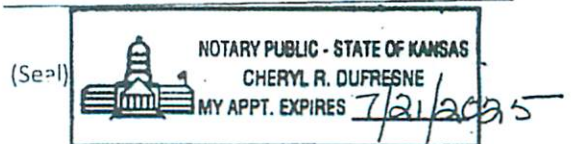
LEGAL DESCRIPTION: _____
(Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

DATE OF PRELIMINARY PLAT APPROVAL: N/A

SIGNATURE OF OWNER(S) [Signature] Date: 10/10/23

State of Kansas, County of Leavenworth, SS
Signed or attested before me on October 10, 2023 by _____

Notary [Signature] Appointment Expires 7/21/2025



FINAL PLAT
DOLLAR TREE - LEAVENWORTH
PART OF THE NE 1/4 OF SECTION 1-T9S-R22E
LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS

POINT OF COMMENCEMENT
NW COR. OF THE NE 1/4
SEC 1-T9S-R22E
RND 1/2" REBAR W/ 2"
ALUM CAP IN MON BOX

SOUTHWEST QUARTER
SOUTH 74°06'17.52"E
50.17'±

SOUTH 74°06'17.52"E
50.17'±

SOUTH 74°06'17.52"E
50.17'±

SOUTH 74°06'17.52"E
50.17'±

R/W
WIDTH VARIES

42.00' R/W

SW COR. OF THE NE
1/4 SEC 1-T9S-R22E
RND 1/2" CUT IN
ALUM DISK APPROX
6" DEEP

UNPLATTED

PARCEL ID 101-01-0-10-04-002.00-0

N86°40'50"E 42.03'

POINT OF BEGINNING

42.00' R/W

10.00' UTILITY EASEMENT

10.00' UTILITY EASEMENT

42.00' R/W

10.00' UTILITY EASEMENT

AREA TABLE	SQUARE FEET	ACRES
LOT 1	58,474	1.34
RIGHT-OF-WAY	8,151	0.19
TOTAL	66,625	1.53

LOT 1
58,474 SQ. FT. / 1.34 ACRES

PARCEL ID 101-01-0-10-04-003.00-0

UNPLATTED



1 INCH = 20 FEET



VICINITY MAP
SECTION 01, TOWNSHIP 9 S, RANGE 22 E
CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS
SCALE - 1" = 200'

SURVEYED DESCRIPTION

All that part of the Northeast Quarter of Section 1, Township 9 South, Range 22 East, in the City of Leavenworth, Leavenworth County, Kansas, being more particularly described as follows: The lines of bearing for this description in the Kansas State Plane North Zone NAD83 and true north are determined by Samuel J. DePue's K.S. PS 1331 or under my direct supervision, October 30, 2022, commencing at the northeast corner of the Northeast Quarter of Section 1, Township 9 South, Range 22 East, 17 minutes 43 seconds East, with the west line of the Northeast Quarter of Section 1, a distance of 172.28 feet; thence North 85 degrees 40 minutes 50 seconds East, a distance of 43.03 feet to the point of beginning; thence North 85 degrees 40 minutes 50 seconds East, a distance of 395.83 feet; thence South 74 minutes 06 seconds 17 minutes 40 seconds East of 187.49 feet; thence South 87 degrees 17 minutes 29 seconds West, a distance of 296.58 feet; thence North 01 degree 17 minutes 40 seconds West, a distance of 194.35 feet to the point of beginning. The above described tract of land contains 58,474 square feet, or 1.34 acres.

PLAT DEDICATION

The undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be hereinafter known as "DOLLAR TREE - LEAVENWORTH".

RIGHT OF ENTRANCE

The right of entrance and egress in travel along any street or drive within the boundaries of the property is hereby granted to Leavenworth, Kansas, for the purpose of fire and police protection, maintenance of water mains, sanitary and storm sewer lines, collection of garbage and refuse and to the United States Postal Service for the delivery of mail; provided, however, such right of ingress and egress does not include any obligation to contribute for any damage to any private street or drive by virtue of the exercise of the rights stated herein and specifically, neither Leavenworth, Kansas nor the U.S. Postal Service shall incur any liability by virtue of the exercise of such rights.

FLOOD ZONE DESIGNATION

This area is shown as an area determined to be outside the 0.25 annual chance floodplain, as shown on Flood Insurance Rate Map 205320141C, effective as of 7/18/2025.

UTILITY EASEMENT DEDICATION

A perpetual easement over, under and through the areas outlined and designated on this plat as "Utility Easement" or "U/E" for the purpose of entering upon, locating, constructing and maintaining or authorizing the location, construction or maintenance, and use of conduit, water, sewer, gas, power, gas, surface drainage facilities, ducts, cables, including similar facilities, and appurtenances therein in any part of the facility within the boundary right to chain, repair and care for the facilities, and for any reconstruction and future expansion of the facilities within the boundary of the easement, together with the right of access for the same, is hereby granted to the City of Leavenworth, Kansas, who shall have the right to use the same for any governmental activities and public utilities as may be authorized by state law to use such easement for said purposes. Utility Easements shall be kept clear of obstructions that impair the strength or efficiency with the use and/or maintenance of public utilities located within the easement.

DRAINAGE EASEMENT DEDICATION

Areas designated on the accompanying plat as "Drainage easement" or "D/E" are hereby reserved to the City for the purpose of a natural streamwater drainage easement or for the purpose of controlling, maintaining, servicing, removing and relocating streamwater drainage facilities in accordance with plans and specifications approved by the City Engineer of the City of Leavenworth. No fence, wall, planting, building, or other obstruction shall be placed in or maintained in said drainage easement heretofore dedicated and there shall be no alteration of the grade or contour in said dedicated area without the approval of said City Engineer of the City of Leavenworth. No obstructions may be placed in said drainage easement which would prevent ingress and egress or the same by maintenance vehicles or which would prevent said vehicles traveling on said drainage easement for maintenance purposes.

DEDICATION OF DETENTION AREA

Areas designated on the accompanying plat as "Detention Area" are hereby established by grant of the Owners as a perpetual restriction easement for the purpose of permitting the flow, conveyance, storage, and discharge of stormwater runoff from the various lots within this subdivision and adjacent areas to the subdivision. Drainage facilities constructed in said detention area shall be in accordance with the standards prescribed by the City of Leavenworth and plans and specifications approved by the City Engineer. Said detention area shall be maintained as permanent open space by the owner of the lot or lots over which the easement is located. In the event said lot ceases to be owned by the same owner, the City of Leavenworth may enter upon said area, perform such maintenance, and the cost of performing said maintenance shall be paid by said lot owner proportionately on the basis of all ownership. In the event said lot ceases to be owned by the same owner, the City of Leavenworth may enter upon said area, perform such maintenance, and the cost of performing said maintenance shall be paid by said lot owner proportionately on the basis of all ownership. In the event said lot ceases to be owned by the same owner, the City of Leavenworth may enter upon said area, perform such maintenance, and the cost of performing said maintenance shall be paid by said lot owner proportionately on the basis of all ownership. In the event said lot ceases to be owned by the same owner, the City of Leavenworth may enter upon said area, perform such maintenance, and the cost of performing said maintenance shall be paid by said lot owner proportionately on the basis of all ownership.

STREET DEDICATION

The undersigned proprietor of said property shown on this plat does hereby dedicate those portions of the streets and roadways shown as South 1st Street together with all other streets and parts of land indicated on this plat, and not heretofore dedicated as streets, thoroughfares, roads, avenues, lanes, easements, courts, places, etc., for public use as public ways or thoroughfares, subject to the right hereby reserved to the present owner and its successors and assigns for the location, construction and maintenance of conduits, water, gas and sewer pipes, poles and wires under, over and along said roadways. The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been obtained except that some person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

REFERENCE DOCUMENTS

The record deed for the present parcel for this subdivision plat is filed in Deed Book 588 at page 1551. Previous survey of the present parcel is filed in Book 53 at page 12.

THEORY OF LOCATION

The boundary for this subdivision plat was established as follows: the west line of the plat is a 42 foot offset of the west line of the Northeast Quarter of Section 1, the Center of Section 1 and the North Quarter corner of the Section were both found monumented as noted in previous Land Survey Reference Reports on file with the Kansas State Historical Society. The north line of the plat was established as an angle turned off at the right-of-way of Fourth Street, as shown on a previous survey filed in Survey Book 3 at Page 12, dated January 28, 1924. The south and west lines of the plat were established based on engineering site plans for future development.

In testimony whereof: Great Western Manufacturing Co., Inc., has caused these presents to be signed by David Schreiner, President, the _____ day of _____, 20____.

By _____
David Schreiner
President

STATE OF _____
COUNTY OF _____

BE IT REMEMBERED that on the _____ day of _____, 20____, before me, the undersigned, a notary public in and for the County and State aforesaid, David Schreiner, in his personal appearance, after being sworn, did declare to me that he is the Great Western Manufacturing Co. and that said instrument was signed and sealed of said company and that David Schreiner authorized and instructed me to be the true and lawful deed copyist.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, the day and year last above written.

Notary Public: _____ My commission expires: _____

CITY PLANNING COMMISSION
This plat of _____ has been submitted to and approved by the Leavenworth Planning Commission, the _____ day of _____, 20____.

Donald Hansen, Chairman
Julie Hurley, Secretary

CITY COMMISSION
The acceptance of this plat by the City Commission is in the following form: This plat approved by the City Commission of Leavenworth, Kansas, the _____ day of _____, 20____.

(SEAL)
Jermine Wilson, Mayor
Loren Bollenbacher, City Clerk
Brian Faust, Director of Public Works
David Wilcox, City Attorney

REGISTER OF DEEDS
State of Kansas, County of Leavenworth, SS
This is to certify that this instrument was filed in the Register of Deeds office on the _____ day of _____, 20____, in Book _____ Page _____.

Verlisa G. Muench, Register of Deeds

COUNTY SURVEYOR
I hereby certify this survey plat meets the requirements of K.S.A. 58-2005. The face of this survey plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for survey information only.

Donald Baumman, PS-1353
County Surveyor

SURVEYOR'S CERTIFICATION
I hereby certify that I am a duly Registered Land Surveyor under the laws of the State of Kansas, and that to the best of my knowledge this survey meets or exceeds the minimum standards for properly boundary surveys, and that said survey was conducted under my direct supervision. The field work was completed on 07/30/2023.

DW, Inc.
8415 College Blvd.
Overland Park, Kansas 66110



DOLLAR TREE - LEAVENWORTH
2017 S 4TH STREET,
LEAVENWORTH, KS 66048

REVISIONS		
NO.	DESCRIPTION	DATE

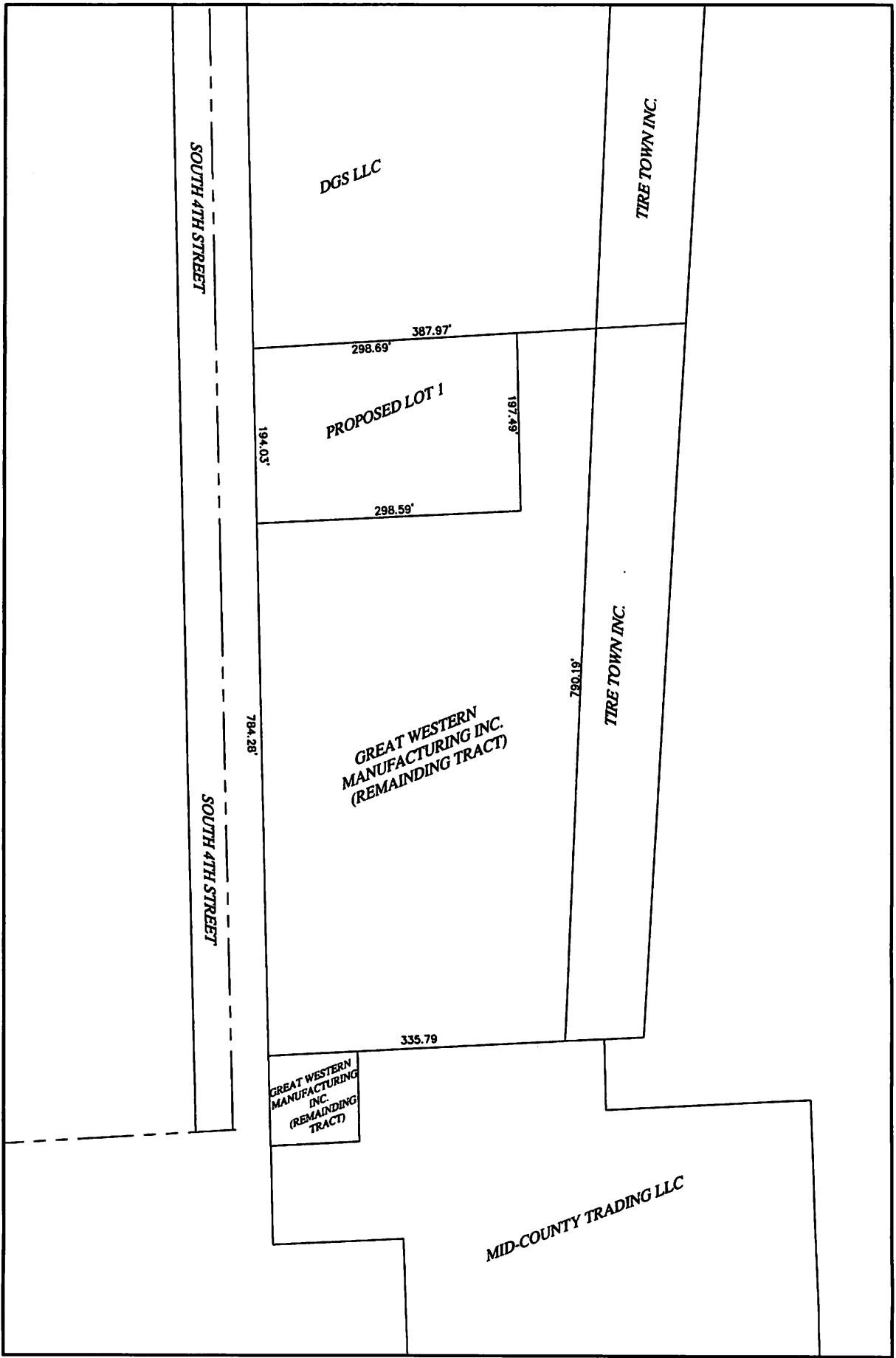
DRAWING INFORMATION
PROJECT NO: 23KC10023
DRAWN BY: AH
CHECK BY: SD
ISSUED DATE: 10/06/2023




ISSUED BY: SAM DEPRIEST
LICENSE NO: PLS No # 1351
A Licensed Kansas
Engineering Corporation
COA 00017

SHEET TITLE
DOLLAR TREE - LEAVENWORTH

SHEET NUMBER
1/1

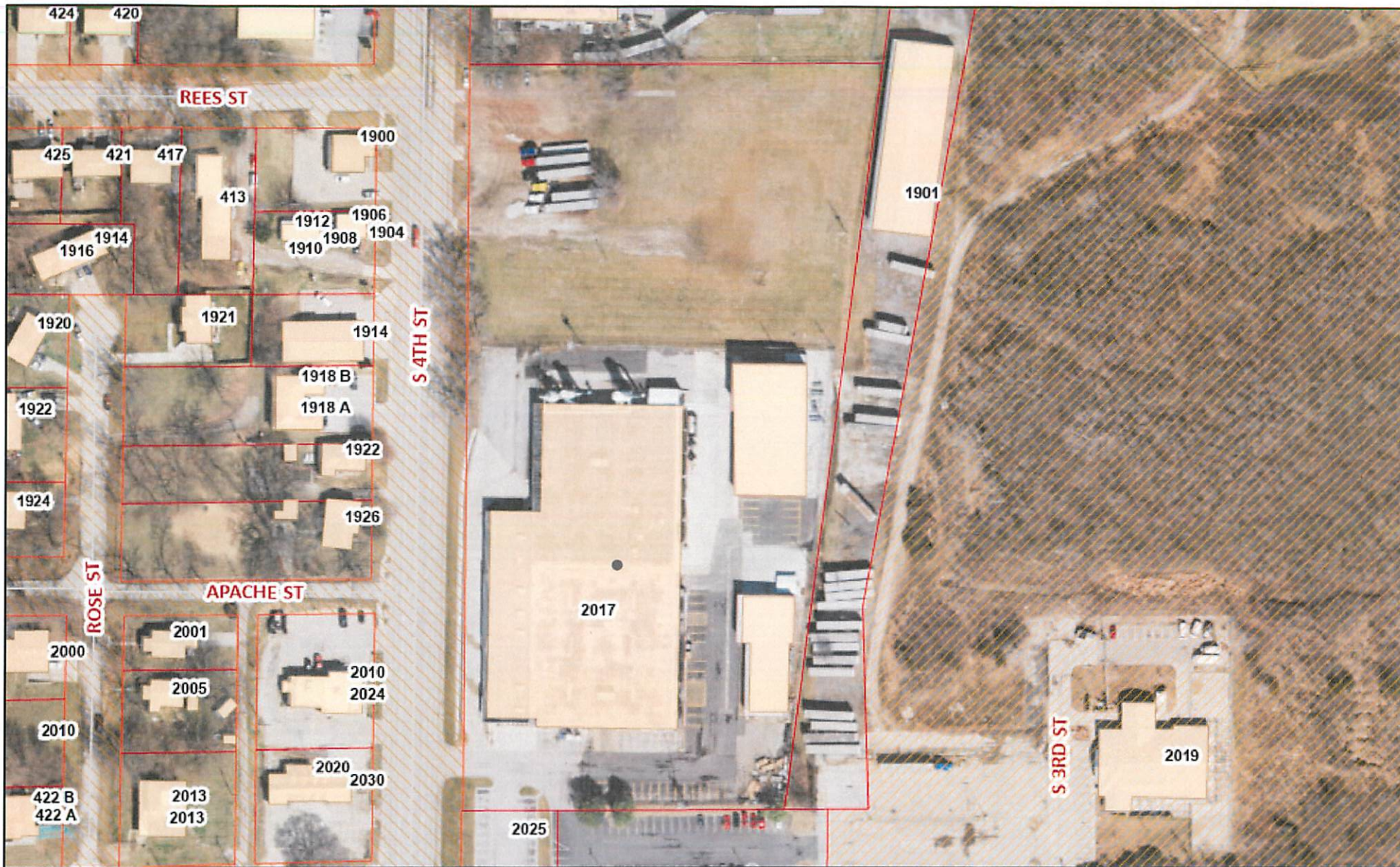



 8455 College Boulevard
 Overland Park, KS 66210
 816.777.0400
 COA# 02424
 Engineering beyond.

DOLLAR TREE
 2017 SOUTH 4TH STREET, LEAVENWORTH, KANSAS

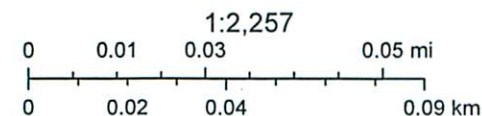
DRAWN BY: HD	FIELD BY: HD
DATE: 11-08-2023	FIELD BK: -

2023-34-SUB Site Plan



11/28/2023, 2:41:55 PM

- Parcels (City Owned)
- Parcels_Current
- Buildings
- Address (Points)
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline



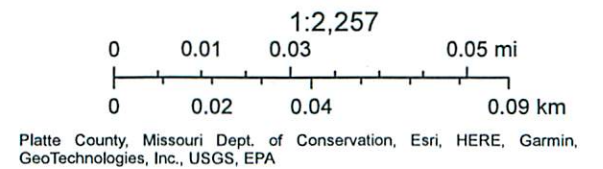
Platte County, Missouri Dept. of Conservation, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA

2023-34-SUB Zoning



11/30/2023, 8:21:14 AM

- | | | | |
|----------------|----------------------|-------------------------|-------------------|
| Zoning_CURRENT | R1-6 | Buildings | City Right-of-Way |
| GBD | Parcels (City Owned) | Address (Points) | RoadCenterline |
| I-2 | Parcels_Current | Leavenworth City Limits | |



**PLANNING COMMISSION AGENDA ITEM
2023-28 SUP
1913 CHOCTAW STREET**

DECEMBER 4TH, 2023

SUBJECT:

A request for a Special Use Permit to allow the operation of a Child Care Center at 1913 Choctaw Street.



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



Reviewed By:
Paul Kramer,
City Manager

This item was previously considered at the November 6, 2023 Planning Commission meeting and was tabled in order for staff to provide additional information.

NATURE OF REQUEST

The applicants, Gerald and Vanessa Jackson, are requesting a Special Use Permit to allow the operation of Child Care Center in their home located at 1913 Choctaw Street. The property is currently zoned R1-9 (Medium Density Single Family Residential). Child Care Centers are allowed in the R1-9 zoning district with issuance of a Special Use Permit. The applicant is licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care, and has indicated that she currently has a total of 8 children enrolled.

The applicant previously operated a home daycare since 2020 at their prior residence in Leavenworth. There was no Special Use Permit applied for at the previous location, as the applicant has indicated that she was unaware of the City requirement to obtain a Special Use Permit in addition to being licensed by the State. Staff was notified in August by a neighbor that the applicant was operating her daycare at 1913 Choctaw, and contacted the Leavenworth County Health Department to see if the applicant was licensed. County staff contacted the applicant, and she contacted City staff the following day to inquire about steps needed in order to obtain a Special Use Permit, before staff had the opportunity to send a notice of violation.

During the November 6 Planning Commission meeting, staff was asked by the board members to provide data generated by a speed survey that was currently being undertaken by the Leavenworth Police Department, as well as information regarding property values near existing home daycares and potential signage or other traffic calming measures for the area. The request for additional information was made based upon concerns raised by neighbors during the meeting.

SPEED SURVEY

At the request of neighbors, the Leavenworth Police Department installed a stealth radar device at the intersection of 19th & Choctaw to record vehicle count and speed for a two-week period. Data was collected from 11/1/23 through 11/15/23. The results are as follows:

Posted Speed Limit:	30 mph
Vehicles Counted:	2,722

Vehicles Under Speed Limit: 96.88%
Average Speed: 21.46 mph
Average Speed Violation: 33.99 mph

During the speed survey, 1 vehicle was registered going over the designated Excessive Speed threshold of 55 mph. The time of that recording was between 6pm & 7pm. This timeframe falls outside of the normal business hours of the daycare. The owner of the daycare provided sign in/sign out sheets for the duration of the speed survey, which indicate that no children were picked up between the hours of 6pm and 7pm on any day.

Given the lack of data suggesting speeding or traffic volume issues, no traffic calming measures for the area are indicated.

EXISTING HOME DAYCARES/PROPERTY VALUES

There are currently 15 active Special Use Permits for home daycares in the City of Leavenworth. Staff surveyed the 2022-2023 property value increase for the immediately surrounding 8-10 properties of a random sample of 9 of those existing daycares. The average property value increase was 15.36%. The average property value increase for Leavenworth County during the same period was 14.85%, per the Leavenworth County Appraiser's Office.

CONDITIONS OF DETERMINATION

In recommending approval of a special use, the Planning Commission may impose such conditions, safeguards and restrictions as may be necessary to carry out the general purpose and intent of the ordinance. The development regulations stipulate specific conditions as a requirement for the approval of Child Care Centers as follows:

1. Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.
The subject property is located along Choctaw, which is classified as a Residential street.
2. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be 100% enclosed by a minimum four (4) foot high fence or wall.
The back yard area of the property is completely enclosed by an approximately 4' high chain link fence, with a 4' high wooden fence having been installed to divide the yard into two areas, one of which is for exclusive use of the daycare. The portion of the yard established for use by the daycare clients is approximately 2,000 sqft. Upon inspection by staff, portions of the chain link fence, which existed prior to the applicants purchasing the property, appear to be slightly lower than 4' by up to 4". The wooden portion of the fence, which was installed by the applicant, meets or exceeds 4'.
3. Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.
The subject property includes a driveway capable of accommodating 4 cars.
4. Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
The applicants have provided a copy of their Group Day Care Home permit from the Kansas Department of Health and Environment (KDHD). KDHE staff has visited and inspected the daycare for all areas of compliance.

5. All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.

The home functions as the only residence of the operator/owner.

6. Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides or one non-illuminated sign affixed to the main structure of 3 square feet.

No signage is currently displayed on the property. Any signage displayed in the future will conform to this requirement.

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, or will comply, with all provisions of City of Leavenworth Development Regulations, based upon review of all available materials.

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

Child Care Centers are an essential service to working parents in the community, and promote the economic development, welfare and convenience of the public.

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

Staff has no indication that the proposed Child Care Center will cause any substantial injury to the value of other property in the neighborhood, based upon available data.

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.

No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as a residential structure. The daycare could account for an increase in up to 48 car trips per day on the street, when at full capacity of 12 children.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. After notifications were mailed, staff received one inquiry from notified property owners, who indicated that they were not in favor of the Special Use Permit. During the November 6th Planning Commission meeting, multiple individuals spoke both in favor of, and opposition of, the Special Use Permit. Since the November 6th Planning Commission meeting, staff has received 4 letters in support of the Special Use Permit.

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. A minimum of 1,200 square feet of open space 100% enclosed by a minimum 4' high fence or wall shall be provided and maintained in good condition.
2. A copy of the permanent Group Day Care Home license shall be provided annually upon renewal by the State of Kansas.
3. The operation shall be limited to a maximum of 12 children.
4. No additional home occupations may be carried out at the residence.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

ACTION/OPTIONS:

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



RECEIVED
 SEP 11 2023
 Leavenworth Planning & Community Development

SPECIAL USE PERMIT
 CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2023-28 SUP

Application No.	14218
Fee (non-refundable)	\$350.00
Filing Date	9/11/2023
Received By	Bmf
Hearing Date	11/6/2023
Publication Date	10/11/23

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: Family Home Daycare
MS. Nessa's Kaleidoscope

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

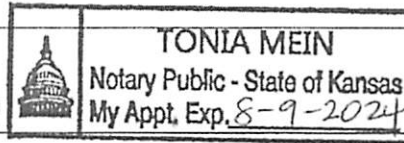
Subject Property:	1913 Choctaw St. Leavenworth, KS. 66048		
Legal Description:	(Attach a full legal description provided by the Register of Deeds Office)		
Real Estate PID #:	052-078-34-0-20-05-043.00-0		
Zoning:	RI-9	Historic District:	n/a

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

Name(s) of Owner (print):	Gerald + Vanessa Jackson		
Owner Address:	1913 Choctaw St. Leavenworth, KS. 66048		
Contact No.	913-240-6090	Email:	vanessasmilesalot@yahoo.com
Signature of Owner(s):	 		

State of Kansas
 County of Leavenworth

(SEAL)



Signed or attested before me on: 9-11-2023

Notary Public: Tonia Mein

My Appointment Expires: 08-09-2024

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.

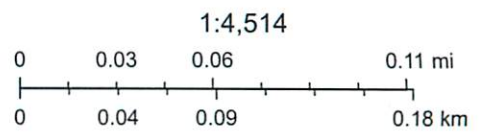
Check list below...

<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 full 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)

2023-28-SUP 1913 Choctaw



11/29/2023, 4:49:30 PM

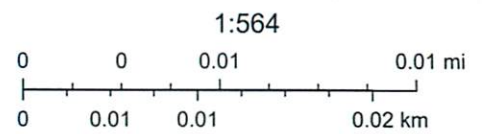


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

Daycare Yard Area



11/29/2023, 4:45:39 PM



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

Kansas Department of Health and Environment

License

Group Day Care Home
License No. 0061125-013

15223

Licensee: Gerald Floyd Jackson and Vanessa Kay Jackson

Place sticker here

Facility: Ms Nessas Kaleidoscope

Located at: 1913 Choctaw St
Leavenworth, KS 66048

08/31/2024

In the county of: Leavenworth

Having complied with the laws and regulations of the State of Kansas governing Group Day Care Homes, Gerald Floyd Jackson and Vanessa Kay Jackson is hereby authorized to care for a maximum of 12 children, under one of the following options:

MAXIMUM LICENSED CAPACITY IF ONE ADULT IS PRESENT WITH THE CHILDREN:

- 9 children, at least 2 ½ years but under 11 years of age*; or
- 10 children, at least 3 years but under 11 years of age*; or
- 12 children, at least 5 years but under 11 years of age; or refer to Table I in K.A.R. 28-4-114(e) if children under 2 ½ years of age are in attendance.

MAXIMUM LICENSED CAPACITY IF TWO ADULTS ARE PRESENT WITH THE CHILDREN:

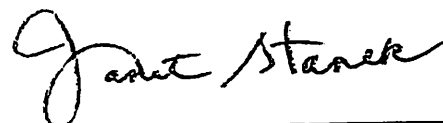
- 12 children, infancy to 11 years of age*, with not more than 9 children under 5 years of age, 3 of whom may be under 18 months of age; or
- 10 children, infancy to 11 years of age*, with not more than 8 children under 5 years of age, 4 of whom may be under 18 months of age; or
- 12 children, at least 18 months but under 11 years of age*, with not more than 5 children, 18 months to 2½ years of age.

*Children five years of age and over may be substituted for younger children in the license capacity. Children under 11 years of age who are related to the applicant with a temporary permit, the licensee, or any other provider shall be included in the maximum number of children in each age group. Children at least 11 years of age but under 16 years of age who are unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.

This License is effective 08/27/2023 and remains in effect until the expiration date noted by the above sticker unless invalidated by a change of owner, operator, location or it is administratively closed.

Smoking is prohibited inside the day care home during hours of operation.

** Local codes and ordinances may prescribe other requirements for the legal operation of this facility.



Janet Stanek, Secretary
Kansas Department of Health and Environment

Basement

Garage

Exit ↑

Main
Daycare

utility

closet

G

O

W

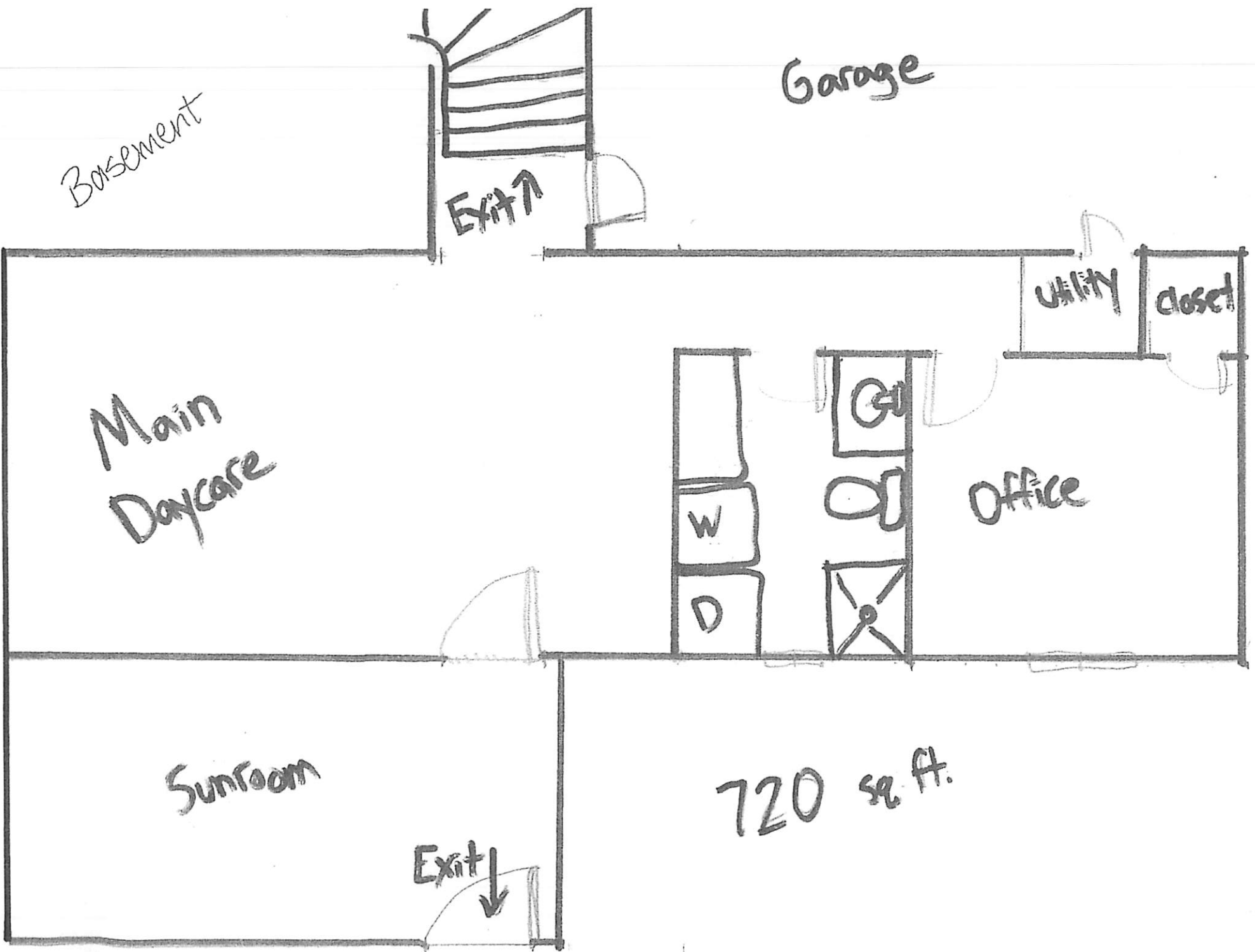
D

Office

Sunroom

720 sq. ft.

Exit ↓



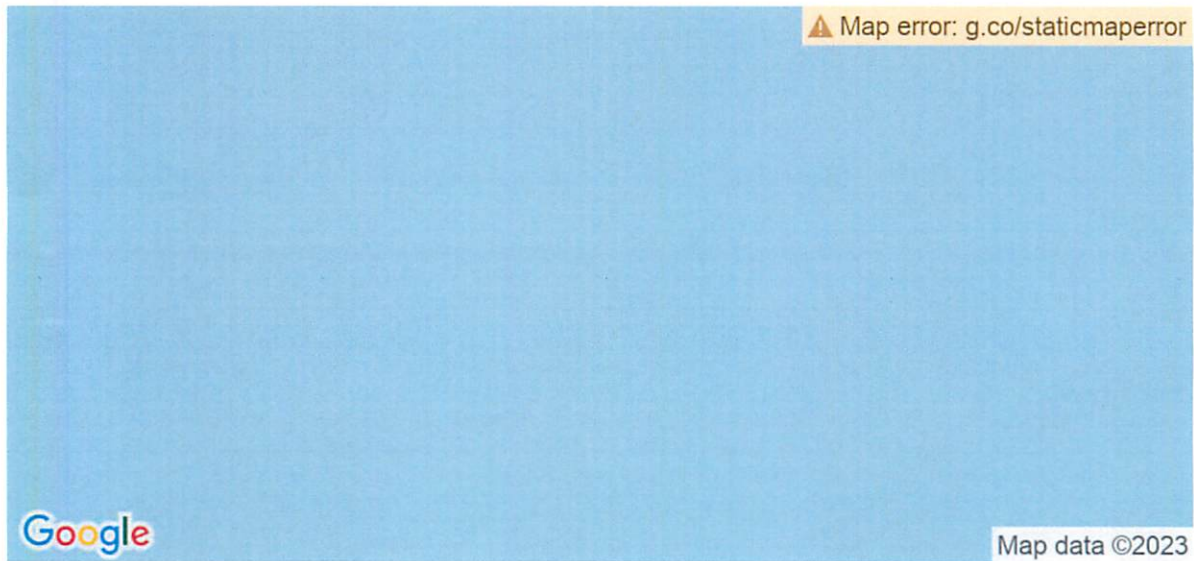
Survey Description

Survey Details

Survey Location	Choctaw & S 19th St, Leavenworth, Ks	
Survey GPS Coordinates		
Survey Dates	Start	Stop
	Wednesday, 11/1/2023 10:21 AM	Wednesday, 11/15/2023 9:35 AM
Posted Speed Limit	30 mph	
Traffic Zone	None	
File Name	SurveyDataFile@2023-11-15_10-10-34 S19th St.xml	
Device Type	1484	
Device Serial Number	SNAA000000	
Survey Note		

Total Vehicle Count	2722	
<i>Traffic Direction</i>	Undefined (Closing)	Undefined (Away)
<i>Vehicle Count</i>	1206	1516

Survey Map



Survey Summary

Survey Description

Survey Location Choctaw & S 19th St, Leavenworth, Ks
Survey GPS Coordinates
Survey Dates **Start** Wednesday, 11/1/2023 10:21 AM **Stop** Wednesday, 11/15/2023 9:35 AM
Posted Speed Limit 30 mph
Traffic Zone None

Survey Result

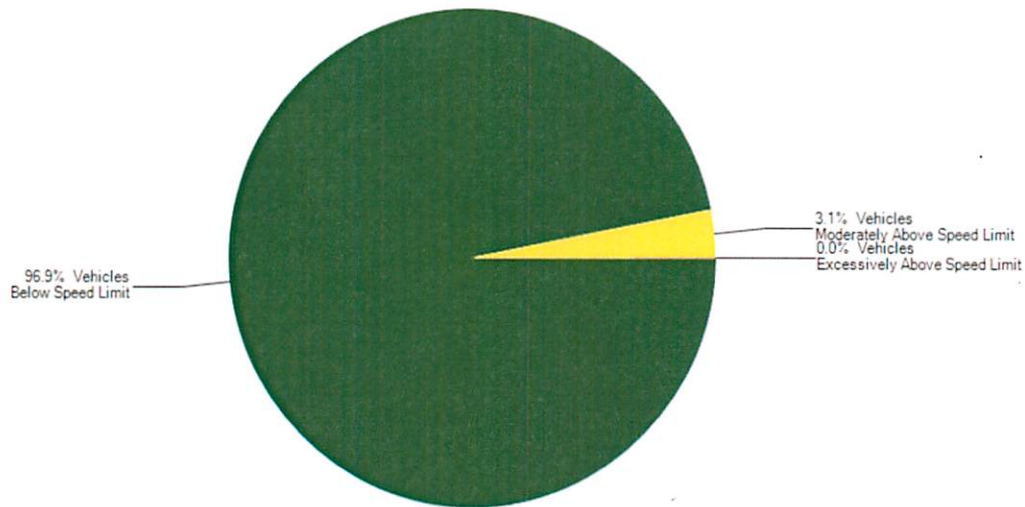
Total Vehicle Count			2722
	Traffic Direction	Closing	Away
		Undefined	Undefined
	Vehicle Count	1206	1516
Posted Speed Limit			30 mph
<i>Vehicles Under the Speed Limit Count</i>		1185	1452
<i>Vehicles Under the Speed Limit Percentage</i>		98.26%	95.78%
<i>Vehicles Over the Speed Limit Count</i>		21	64
<i>Vehicles Over the Speed Limit Percentage</i>		1.74%	4.22%
Excessive Speed Threshold			55 mph
<i>Vehicles Over the Excessive Speed Count</i>		0	1
<i>Vehicles Over the Excessive Speed Percentage</i>		0	0.07%
<i>Average Violation Speed</i>		32.71 mph	34.41 mph
Speed Profile			
	Average Speed	20.48 mph	22.24 mph
	Minimum Speed	6 mph	6 mph
	Maximum Speed	37 mph	55 mph
	85th Percentile Speed	25 mph	27 mph
	Standard Deviation	4 mph	5 mph
	10 mph Pace	16-25 mph	18-27 mph
	In Pace Count	817	1017
Data Recording Limits			
	Highest Speed Allowed		120 mph
	Lowest Speed Allowed		10 mph
	Minimum Following Time		0 Second(s)

Survey Description

Survey Location Choctaw & S 19th St, Leavenworth, Ks
Survey GPS Coordinates
Survey Dates **Start** **Stop**
 Wednesday, 11/1/2023 10:21 AM Wednesday, 11/15/2023 9:35 AM
Posted Speed Limit 30 mph
Traffic Zone None

Speed Pie Chart

Date Range: 2023-11-01 - 2023-11-15
 Direction: Both



	Traffic Direction	Closing	Away	Combined
Posted Speed Limit			30 mph	
<i>Vehicles Under the Speed Limit Count</i>		1185	1452	2637
<i>Vehicles Under the Speed Limit Percentage</i>		98.26%	95.78%	96.88%
<i>Vehicles Over the Speed Limit Count</i>		21	64	85
<i>Vehicles Over the Speed Limit Percentage</i>		1.74%	4.22%	3.12%
Excessive Speed Threshold			55 mph	
<i>Vehicles Over the Excessive Speed Count</i>		0	1	1
<i>Vehicles Over the Excessive Speed Percentage</i>		0	0.07%	0.04%
<i>Average Violation Speed</i>		32.71 mph	34.41 mph	33.99 mph

Survey Description

Survey Location Choctaw & S 19th St, Leavenworth, Ks
Survey GPS Coordinates
Survey Dates **Start** **Stop**
 Wednesday, 11/1/2023 10:21 AM Wednesday, 11/15/2023 9:35 AM
Posted Speed Limit 30 mph
Traffic Zone None

Speed - Volume Matrix

Date Range: 2023-11-01 - 2023-11-15

Direction: Both

Date Span	Total	6-10	11-15	16-20	21-25	26-30	31-35	36-40	41-45	46-50	51-55	56-60	61-65	66-70	71-75	76-80	81-85	86+
00:00 - 00:59	9			1	7	1												
01:00 - 01:59	5			3	1	1												
02:00 - 02:59	15		2	5	1		7											
03:00 - 03:59	14		4		8	2												
04:00 - 04:59	0																	
05:00 - 05:59	0																	
06:00 - 06:59	0																	
07:00 - 07:59	0																	
08:00 - 08:59	37		2	11	16	8												
09:00 - 09:59	174		10	57	72	28	6	1										
10:00 - 10:59	146	2	14	50	61	17	2											
11:00 - 11:59	190	1	13	81	68	25	1			1								
12:00 - 12:59	211	8	23	73	73	28	5	1										
13:00 - 13:59	205	6	21	56	83	27	9	2	1									
14:00 - 14:59	221	3	27	80	85	24	2											
15:00 - 15:59	201	2	18	52	86	38	5											
16:00 - 16:59	308	5	31	88	130	46	5	3										
17:00 - 17:59	329	4	29	85	147	52	8	4										
18:00 - 18:59	254	4	20	91	84	48	5		1		1							
19:00 - 19:59	141	1	14	45	54	27												
20:00 - 20:59	92	4	10	34	34	10												
21:00 - 21:59	70		5	19	32	9	3	1	1									
22:00 - 22:59	68		2	18	24	19	5											
23:00 - 23:59	32	1		6	11	9	5											

To whom it may concern:

I am writing to express the invaluable importance of high-quality daycare facilities within our community, specifically highlighting the exceptional experience I have had working alongside Vanessa at Nessa's daycare.

My professional engagement with Vanessa has been truly enlightening. Her dedication, passion, and commitment to creating a positive environment for children have been nothing short of remarkable. Her nurturing approach and ability to foster a safe and stimulating space for young minds to grow and learn are commendable.

It is crucial to underscore the significance of quality daycares to the overall well-being and advancement of our community. They serve as essential pillars supporting working families, enabling parents to contribute to the workforce with peace of mind, knowing their children are in a safe and nurturing environment. Quality early childhood education provided by daycares has a profound impact on a child's cognitive, social, and emotional development, laying the foundation for future success.


Vanessa's collaborative spirit and willingness to collaborate with USD 453 to support students and families have been exemplary. Her proactive efforts to bridge the gap between childcare and education have been instrumental in ensuring a seamless experience for both parents and students.

The absence of a daycare facility, such as the one Vanessa operates, would not only impose undue hardships on the families within our community but also directly affect USD 453 employees. Currently, the absence of this service impacts dedicated employees within the district, making it challenging for them to balance work commitments and childcare responsibilities.

Recent county statistics indicate a concerning reality: over 1,500 children under the age of 6 lack access to daycare due to the limited number of available spots. This shortage highlights the urgent need to expand and support daycare facilities like Vanessa's, which are crucial in providing access to quality early childhood education and relieving the burden on working families.

In conclusion, I strongly advocate for the support and expansion of quality daycare facilities like Nessa's led by Vanessa. Their impact on our community's well-being, educational advancement, and the support they provide to both families and employees within USD 453 cannot be overstated.

Thank you,


Jennifer Allen
ECSE teacher
USD #453

November 19, 2023

To Whom It May Concern:

I would like to offer my professional observation and my support for Ms. Nessa's Kaleidoscope Daycare in Leavenworth, KS. I am a nationally certified Speech-Language Pathologist with licenses to practice in three states. My professional focus is pediatric speech service delivery, ages 3-6 years. I am also an Army spouse of 30 years who has observed childcare practices across the United States, South Korea, and Germany.

I have had the pleasure of working with Ms. Vanessa during opportunities to evaluate children who participate in her childcare program. Vanessa has been a strong advocate for the children she serves and has provided invaluable feedback on their overall development. She has developed a cooperative relationship with USD 453, Leavenworth Public School District and has allowed practitioners to come to her childcare business to observe and evaluate children in potential need of special education services through the school district. She has been professional during all interactions with me. The children in her care participate in structured learning activities as well as times of play.

I frequently hear from families I work with about the great difficulty they experience in finding quality child care in Leavenworth. Recent information about Leavenworth County indicated that over 1,500 children under the age of 6 do not have access to quality child care due to a limited number of available openings. Ms. Nessa's Kaleidoscope Daycare fills a void for many families who are seeking childcare services. Her program directly impacts USD 453 students in another way as she provides childcare for five USD 453 employees. These employees are able to focus their attention on the children of our community because they know that their own children are being cared for by Ms. Vanessa.

I urge you to carefully consider Ms. Vanessa's business as an asset to our community which meets a growing demand for child care. I may be reached at (804)920-7092 if you have any questions or concerns about my recommendation for Ms. Vanessa.

Most respectfully,

Marde Mott, M.A., CCC-SLP

Marde Mott, M.A., M.S., CCC-SLP

To whom it may concern,

My name is Meredith Medley and I am a School Psychologist at USD 453 at the Earl Lawson Education Center and Nettie Hartnett. I have been a School Psychologist in the district since the 2021-2022 school year. In my experience, working with the students who attend Earl Lawson and Ms. Nessa's daycare, I have seen great success through those children. Ms. Nessa is always more than willing to work with the school and families of the students who attend both centers. Ms. Nessa is always more than willing to let school staff come in to observe children, share her lesson plans, and report successes displayed everyday at her daycare.

In the city of Leavenworth there are a rising number of children who go without daycare providers due to the small number of daycare providers who still have spots available for children. Research shows us that children who are not able to socialize with their peers before attending a public school setting, for Kindergarten or First Grade, will historically struggle more academically, socially, and with behavior than those able to appropriately socialize with peers. The day care that Ms. Nessa currently operates, allows children the opportunity to appropriately socialize with their peers to develop essential social skills that children going into Kindergarten or First grade need to possess in order to be successful in an educational environment.

It should be noted that there are over five employees who currently work in the USD 453 district that would be negatively impacted should something happen to Ms. Nessa's daycare. This along with the negative social impact this could have on those children as well as others should be taken heavily into consideration. Ms. Nessa's daycare has always shown USD 453 employees and students the utmost dedication to providing children a safe and friendly learning environment and has my highest recommendation.

Sincerely,
Meredith Medley
School Psychologist E.d.s.

November 24, 2023

To Whom It May Concern,

My name is Linda DeMoss, and I am writing to you as a concerned resident and grandmother in our beloved community. I recently learned about the impending decision regarding the granting of a special permit for Ms.Nessa's Daycare, and I felt compelled to express my deep concern and urge your favorable consideration of this request.

I understand the weight of the responsibilities that come with your role in overseeing zoning matters, and I appreciate the importance of maintaining a balanced and harmonious community. However, I believe it is crucial to consider the significant positive impact that our local daycare has on the lives of our families and the overall well-being of our community.

As a grandmother, I have had the privilege of witnessing firsthand the positive impact that Ms.Nessa's daycare has had on children. The daycare provides a safe and nurturing environment where our little ones can learn, play, and grow. Vanessa's dedication not only ensures the physical safety of the children but also contributes significantly to their emotional and cognitive development. My granddaughter has been attending Ms.Nessa's Daycare since she was approximately 10 weeks old. Since attending daycare with Vanessa, she has met numerous milestones and has become part of their family. She truly cares for each child as if they were her own.

Moreover, the daycare serves as a support system for working parents who rely on its services to maintain employment and provide for their families. The closure of such a vital facility would undoubtedly create a substantial burden on these parents, forcing them to make difficult choices between their careers and the well-being of their children. Additionally, many of the families at the daycare serve as employees of USD 453, which is already suffering from a significant staff shortage. By not allowing daycare to obtain a special permit, these families will

be forced to potentially find new employment, furthering the burden on the local school district and tax payers.

I am aware that special permit decisions are complex and multifaceted, but I urge you to consider the long-term consequences of denying this special permit for our local daycare. The positive contributions it makes to our community, both socially and economically, are undeniable. It is essential to recognize the indispensable contribution that daycares make to the lives of our families and the overall health of our community. With the ongoing shortage in our county, with little relief in sight, it is important to ensure we are not creating barriers for our established daycares and those willing to start a business in our community.

In closing, I appreciate your dedication to the well-being of our community and the careful considerations you make in matters of zoning. I trust that, with thoughtful deliberation and community involvement, we can find a solution that ensures the continued strength of our community and the well-being of our children.

Thank you for your time and attention to this matter. I look forward to a positive outcome that will benefit all members of our community.

A handwritten signature in black ink, appearing to read "Linda DeMoss".

Linda DeMoss