

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, December 4, 2023
6:00 PM

CALL TO ORDER:

Commissioners Present

Don Homan
Sherry Hines Whitson
Brian Stephens
Maryann Neeland
Bill Waugh
Kathy Kem

Commissioners Absent

James Diggs

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: November 6, 2023

Chairman Homan asked for questions, comments or a motion on the minutes presented for approval: November 6, 2023. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 6-0.

NEW BUSINESS:

1. 2023-34 SUB – DOLLAR TREE – LEAVENWORTH

Consider a final plat for Dollar Tree – Leavenworth, Case No. 2023-34 SUB.

Chairman Homan called for the staff report.

City Planner Bethany Falvey stated the subject property is located at 2017 S 4th Street owned by Great Western Manufacturing Co., Inc., plat prepared by OWN, Inc. The applicant is requesting approval of a one lot final plat for 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 acres 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 policy report incorrectly noted the size of the proposed plat as 1.53 acres. The actual plat is 1.34 acres).

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:

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

Chairman Homan asked for questions/discussion from the commissioners.

Commissioner Stephens asked if this has already been done, and that the commissioners are just formally approving what has already been done.

Planning Director Julie Hurley responded that the Great Western property is on one lot, and is not currently platted. Dollar Tree is purchasing the unused portion of the Great Western parcel to the north so they are platting that lot so they can move forward with a development.

Chairman Homan asked if the road located behind Great Western is a private road.

Ms. Hurley stated that road is located on city property where the Animal Control building is. The road is not located on the Great Western parcel, and is not right-of-way.

Commissioner Stephens asked if this Dollar Tree will be a new store or if it will be replacing another Dollar Tree.

Ms. Hurley stated this is just a new Dollar Tree building, and will not be replacing another Dollar Tree.

Chairman Homan asked if Dollar Tree and Family Dollar have merged.

Alex Gustafson, engineer for the Dollar Tree project, stated Family Dollar and Dollar Tree are owned by the same entity. The stores that open are different with Family Dollar more like a one stop shop for all your home goods needs, and Dollar Trees are geared more for birthday items and things like that.

Commissioner Stephens asked if this store will carry the fresh vegetables and fruits.

Mr. Gustafson responded in the negative stating this is not one of the Dollar Tree Market places.

Commissioner Whitson asked when they plan to open.

Mr. Gustafson responded that construction would be completed about mid next year, and should be open by June 2024.

Commissioner Stephens asked if there was anything from the city for traffic considerations.

Ms. Hurley stated no traffic study was required. The site plan is completely separate from the plat, and has been reviewed by staff as well.

With no further questions or discussion, Chairman Homan called for a motion. Commissioner Whitson moved to approve the final plat for Dollar Tree – Leavenworth, seconded by Commissioner Kem, and approved by a vote of 5-1 (Commissioner Stephens voted nay).

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.

Planning Director Julie Hurley stated this item is being continued to the January 8, 2024 Planning Commission meeting at the request of staff to provide additional time to make the amendments.

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 the issuance of a Special Use Permit.

Chairman Homan called for the staff report.

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

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). 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 6th 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 Policy Department installed a stealth radar device at the intersection of 19th & Choctaw Street 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 indicated 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 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 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 (KDHE). 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 two 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

Chairman Homan asked for questions from the commissioners about the staff report. With no questions, Chairman Homan asked Police Chief Pat Kitchens to go over the data from the speed study.

Police Chief Pat Kitchens stated from his understanding, the basic question asked of the Police Department related to this item was is there a speeding problem in this particular neighborhood. One particular neighbor has had quite a bit of contact with the Traffic Supervisor Sgt. Brandon Mance about traffic concerns. When this question arises, there is a very specific process used to evaluate it that has 3 components.

Chief Kitchens stated first, there is a Kansas State Statute that requires the Police Department to conduct a traffic investigation and engineering study if they are going to consider making changes to the speed limit. As part of this entire process, the Police Department also has the ability to answer our questions from the community about this because this is a common practice that the Police Department gets so they use their technology to make a decision. One particular part is very important, which is the percentage of people that were measured. 97% of the people that were measured in the speed study were traveling at or below the speed limit. This is important because the criteria established to make any changes would be 85%. That means in order for the Police Department to consider making some kind of change or modification they would need to have less than 85% of the people traveling in that roadway to be speeding. In this case, 97%, almost 100%, of the people are at or below the speed limit, and the people that were above are at a very small range. So this component would not allow the Police Department to move forward with changes or modifications.

Chief Kitchens further stated the second part of that component is traffic accidents. From January 1, 2022 to today, there have been zero traffic accidents in this neighborhood so the second component is not eligible for the Police Department to take action.

Chief Kitchens stated the final component in the State Statute allows the Police Department to make a judgment. Even still, if there is no speeding or not a lot of traffic accidents, can the Police Department still come up with some judgment, and in Chief Kitchen's experience and consultation with Public Works Director Brian Faust, there is nothing that would indicate there is some unique circumstance that exists that would require the police to do that. So the answer to the question is there a speeding problem in that neighborhood that would warrant the Police Department taking action, is no. Chief Kitchens further stated that there are a number of locations that are far worse than this neighborhood in terms of speeding and traffic accidents that take up quite a bit of the Police Department's resources.

Commissioner Stephens asked if the statute or local protocol defines how long the study is to last.

Chief Kitchens responded in the negative stating that in his experience the 14 day window gives them the best sense of what is really going on in that neighborhood. Additionally, the manufacturer of the technology also states that generally speaking this timeframe would give you your best estimation of what is going on.

Commissioner Neeland asked if people in this neighborhood could ask that the traffic study be done again at some time because the fact of the matter is that it was in place, then this board met, and the daycare owners said that they were going to talk to the daycare parents, which they apparently did and they all lowered their speed. The fact of the matter is the daycare parents were warned not to speed anymore but what if that picks back up again.

Chief Kitchen responded in the affirmative that the radar device can be put back out there again. He further stating that his experience with people knowing the radar device is out there is that they may slow down for a few days but after that, they return to their normal routine driving behavior and pattern.

Public Works Director Brian Faust stated he will just echo what the Police Chief said that based on the data he would not be supportive in a change in the speed limit or of speed calming methods.

With no questions for Mr. Faust, Ms. Hurley stated that the public hearing for this item was conducted at the November 6th Planning Commission meeting so tonight is not a public hearing. A number of people in the audience may want to speak to this item so at the board's discretion you may allow public comment if you would like to take that. Ms. Hurley stated that based on the length of public comment at the last meeting, with some fairly long speakers, that staff suggests out of respect for everyone's time that any comments be limited to five minutes, and be limited to any new information or concerns that were not presented at the last meeting, since all of those have been heard and entered into the record. This is standard with City Commission meetings, that actually limit speakers to three minutes. To keep everyone on track, Ms. Hurley will set her timer on her phone for five minutes with any speakers so we can keep things moving along. Before taking any public comments, staff suggests having the applicants provide any information or comment that they would like to.

Commissioner Stephens asked the applicants how the conversation went with the daycare parents about lowering their speed in the neighborhood, and if the applicants have noticed any differences themselves since the last meeting.

Applicants, Vanessa and Gerry Jackson, stated they did speak with the daycare parents, and the parents all understood the concerns of the neighbors, and the parents all respectfully stated they would watch their speed a bit closer.

Commissioner Stephens asked if they have received any more complaints from neighbors about parking, traffic volume, etc.

Mr. Jackson stated the neighbors to the west of them (Ron and LouAnn) spoke to them about a daycare parent who parked a little bit in front of their driveway. The Jackson's spoke with the daycare parent, and also purchased a road cone that they set out and have instructed the daycare parents not to park behind that cone.

Mrs. Jackson stated she puts the cone out in the morning and again in the afternoon and there has not been a problem with parking since.

Chairman Homan stated it concerns him that there is only one bathroom for eight daycare children.

Mrs. Jackson stated they have only one kid who is fully potty-trained and one kid that is in the process of being potty-trained.

Commissioner Stephens asked if they have been inspected by the State of Kansas, and if so, have they passed inspection.

Mrs. Jackson responded in the affirmative.

Chairman Homan asked if they can only watch kids up to a certain age.

Mrs. Jackson responded they are licensed to watch kids from 6 weeks of age to 11 years of age.

Ms. Hurley stated the State License is in the packet and outlines the ratio of kids that are allowed, and that ratio is based on the ages of kids in the daycare.

Mrs. Jackson stated their license allows for up to 12 kids but they will never have 12 kids because they will always have an infant in the daycare.

Mr. Jackson stated if you have an infant in the daycare, it lowers your maximum allowed to nine total children in the daycare. If they have two infants, the maximum number of children allowed will lower to eight.

Chairman Homan asked if anyone else would like to speak, and if so the allotted time to speak will be held to five minutes.

Rebekah Varvel, 1317 9th Avenue, stated she is a parent of a child who attends the daycare, and noticed at the November meeting there was a lot of emphasis on if daycares are needed in Leavenworth (Ms. Varvel provided staff and commissioners a packet of the importance of daycares). Ms. Varvel stated not only is there a need for daycare in Leavenworth but there is a need for daycare in Kansas. Leavenworth is located in what is called a daycare desert. In the packet she provided, there are maps of Leavenworth, as well as a map of the neighborhood where the Jackson's daycare is located. Just this year, the Kansas City Star reported that just in Kansas there is over 84,000 kids in Kansas alone that do not have daycare because there are not enough available slots open. Just in the Jackson's neighborhood, there are 444 children under the age of five that need daycare but there is only 184 slots available so there is definitely a need in this neighborhood for daycare to exist. Ms. Varvel further stated that Child Care Aware of Kansas did a study, which showed a lack of daycare openings. According to this study, there were approximately 1,800 children under the age of six that need daycare and were unable to find a daycare. Ms. Varvel stated she works for the Leavenworth School District and so do several other daycare parents that use the Jackson's daycare. When looking for daycare, Ms. Varvel actually looked at daycare in Platte City and Atchison because there just is not a lot of daycares in this area. She was lucky and fortunate to get into the Jackson's daycare. Ms. Varvel requests the commissioners take this information into account when looking to approve the Special Use Permit request.

Michael Ingram, 1908 Choctaw, stated he has been tracking appraisals within two blocks of Choctaw Street, in fact 30 properties around the city for 15 years, and knows a little bit about appraisals, and how it has worked over that time in the state and in the county. Our two blocks of Choctaw over the time period of 2022 to 2023, they went up 15.17%. It was a 15% standard application across the city; first time ever that has happened, and what would change it would be recent sales. That may have missed the mark as far as what we are doing because it is about our particular neighborhood. Mr. Ingram further stated he is glad Chief Kitchens is here because he could explain what the traffic study

was all about. While looking back at Chief Kitchens, Mr. Ingram stated when he got with Sgt. Mance back on the 5th of September, he took a ride around and sat at our house (inaudible as Mr. Ingram is turned around and not speaking into the microphone)...beautiful job, we appreciated it. Got it hooked up. It took two months to get the equipment up because it is so much in demand.

Mr. Ingram further stated he understood some things and one thing he understood at the end was we may get speed limit reduced, we may not but we would possibly have a stop sign up at the intersection where that T is. That would be helpful. Mr. Ingram turned around again and stated to Chief Kitchens he doesn't know where they are at in this whole process now.

Ms. Hurley requested that Mr. Ingram keep his comments directed into the microphone for the record.

Mr. Ingram continued by stating since the speed study came up, the summary was given the lack of data suggesting speeding or traffic volume issues. Lack of data might have been a Freudian slip. Mr. Ingram directed the commissioners to look at their packet at the speed study to point out something and have it clarified by the Police Chief. The summary page has the inbound and outbound traffic. There is a 310 difference between inbound and outbound. Apparently, there are magical cars that are appearing and go outbound (inaudible as Mr. Ingram keeps turning around directing his comments at Chief Kitchens). I don't know if that is radar beam that does not work or what could be going on but we'll move past that.

Mr. Ingram stated if you look at the distribution chart by hours, I'm just going to point to the 07:00 - 07:59 hour. This is the count for the entire 14-day period. The total number of cars coming in and going out is what? It's zero, and that is impossible. When we saw this because I was not being provided this information ahead of you guys. I had to see the packet and try to figure out what is going on so I can do something if necessary about it. There is something wrong about this report. I don't know how the data was logged but I know how this report gets brought off of the stealth equipment, and it could be that something happened as far as the data reporting part of it. I don't know but you cannot have zero as a count in the 07:00 - 07:59 hour, and if you were looking at this one excessive speed at that hour, why did you not notice here when she (Mrs. Jackson) opens up that there are no cars in those two weeks. Impossible. I know it's not true, and even the next hour, 37 total. There is something wrong. We did go to daylight savings time in this period but I don't know how that could affect this coming off of the measured recorded data on the machine and then being downloaded into this report. You can set it up for hours that you do not have it collecting, and there's some discrimination of vehicles and these sorts of things but there is something wrong right there. Turning directly around to face Chief Kitchens, Mr. Ingram stated he doesn't know (inaudible because Mr. Ingram is not speaking into the microphone).

Chairman Homan again requested that Mr. Ingram to speak directly into the microphone.

Mr. Ingram stated Chief I don't know how you get a zero when I saw vehicles in those times. Now turning and directly speaking to Ms. Jackson, Mr. Ingram stated I know you've had people at 7:00am. I mean, we know that so something is not correct about that. I don't know if it's an hour shift that needs to be done.

Commissioner Stephens stated he does not want Mr. Ingram to run out of time, and since he has stated that point about the 07:00 to 07:59 hour, does he have another point to make.

Mr. Ingram stated there is a day-by-day pattern that you can also drop out. There is no day-by-day so we don't see the weekend taken out.

The five minute timer went off.

Mr. Ingram proceeded to state Maryann's (Commissioner Neeland) point exactly though, we don't really see the morning and separate out who's what day. The Monday – Friday is what we were talking about.

Commissioner Stephens asked what story does this data not tell.

Mr. Ingram responded we don't know. There can't be a zero from 7:00 – 8:00am.

Commissioner Stephens asked Mr. Ingram what his subjective experience that is not represented in this data because we have over 95% compliance. We are not looking at a margin of like 40% so that if we missed an entire hour that it would throw off the results. This is a huge sample size.

Mr. Ingram asked what is the difference between the inbound and outbound. That is 310.

Commissioner Stephens asked with the overall results of the data, how is it different than what you experience as a human.

Mr. Ingram responded he experiences the 48 cars every day, or 32 right now, or whatever. I experience all of them passing in front of my face because I'm at the end of the cul-de-sac. So I don't know what this is going to record all the way up and down. It seems like it could be right but not for those hours.

Commissioner Stephens asked with the exception of those zeros, if Mr. Ingram thinks it captured the traffic volume (inaudible – Mr. Ingram started speaking).

Mr. Ingram stated why would I think that's correct though. I see that's not right. So is it a matter of the time, being a shift in the reporting and producing that report.

Ms. Hurley stated that Chief Kitchens can speak to how the data is collected since he is familiar with the equipment.

Looking at the map, Commissioner Stephens asked what if someone parks in front of this center.

Mr. Ingram yelled no, not for two weeks, Brian. No, we're not standing for that. This is not correct right there, and if it's a two hour shift, then we're capturing the wrong picture.

Commissioner Stephens stated the difference is this is not hinging on the traffic study. There is nothing (inaudible – Mr. Ingram interrupted).

Mr. Ingram stated he knows this has nothing to do with you and the Special Use Permit but it's been brought into this, and there is something wrong about it, and it was part of how she's saying (referring to Mrs. Jackson) oh this one out here at that time couldn't have been. Well we don't know what time that is.

Commissioner Stephens stated unless you can present object evidence (inaudible – Mr. Ingram interrupted).

Mr. Ingram stated he couldn't get in contact with them (pointing at Chief Kitchens) to even found out what had happened.

Commissioner Stephens stated if Mr. Ingram cannot present objective evidence then the board will have to go with the evidence that we have. We are only talking about a Special Use Permit. We have no authority to do anything else.

Mr. Ingram stated he was bringing this up because you co-opted this and I want to know you're not seeing at 7:00-8:00am there were no cars counted. That can't be. Something is wrong with the study.

Ms. Hurley stated that point has been made, and Chief Kitchens can speak to how the data is collected.

Commissioner Stephens asked Chief Kitchens if he has anything to add.

Chief Kitchens stated he is not prepared to answer the questions, and stands by the study. If Mr. Ingram has specific questions or he has issues with that, in my opinion it is not relevant to this tonight. I'm telling you in my opinion of 33 years of experience, a review of that data and traffic accidents the question was is there a speeding problem in the neighborhood, and the answer to that question is no, and that is unequivocal.

Mr. Ingram stated he question is why were there zero cars counted from 7:00-8:00am. It casts doubt on what we're looking at. I'm trying to figure it out in my head, and also the 300 car discrepancy between inbound and outbound. How did they magically appear in the neighborhood.

Ms. Hurley stated those concerns have been noted for the record, and staff asks that we move on to try and keep things moving.

Chairman Homan stated he appreciates Mr. Ingram bringing that concern to the board, and suggests that maybe Chief Kitchens could speak with Mr. Ingram to answer some of these questions the best he can. All the board can go by is what has been presented to them.

Mr. Ingram stated I understand. It was hey look, here we go again.

Chairman Homan stated they appreciate what Mr. Ingram has given them. The traffic study did not say anything about stop signs or anything like that. Rather than how many cars came in and out, maybe at the T intersection there should be a yield sign or stop sign. Maybe the neighborhood should go to the city with that.

Mr. Ingram stated that was discussed in the parallel path with Sgt. Mance from the beginning, and that is why I brought it up and told you what we've been doing.

Ms. Hurley stated that is not part of this consideration.

Chairman Homan stated all they can go by is what is provided in the study.

Mr. Ingram stated he did not mean for it to get wrapped into this process but it did because you all go it and put it in and that data cannot be true.

Ms. Hurley stated the traffic results were because of the request of Mr. Ingram at the last meeting. Staff suggests that Mr. Ingram get back in touch with Sgt. Mance, since he was his initial point of contact at the police station, if he has specific questions about the study. The study was requested by the neighbors, Mr. Ingram in particular, and the board at the last meeting that staff provide this data, and that is what staff has done to help the board make their decision. Staff suggests that we move on to the next speaker.

Commissioner Stephens stated he wants to make a point of clarification that this commission did not ask for the traffic study to be done. This commission heard there might be a study, and asked that this item be tabled so the board can have that information; but this data is being presented not as part of this Special Use Permit, but as additional information for the board to consider.

Ms. Hurley responded in the affirmative.

Bonnie Ingram, 1908 Choctaw, stated we noticed immediately when the stealth radar went up that it must have been obvious because it had slowly dropped, but by the time the last Planning Commission Meeting happened the next day it just dropped immediately. It was obvious that Vanessa Jackson spoke with the parents, and that they were coming in much slower, and it has continued. We are grateful for that. It has made it more pleasant to look out our front window and not see them coming in at that speed. The parking has been better, and the cones have really helped. Both my husband and I are data driven so when we see something that doesn't make sense, we can't let it go because if there is bad data then you don't know what you're looking at. We've heard a lot about daycare and I've looked at all the statistics too, and statistics can be tricky because a lot of that is about potential need of daycare. We weren't really here to talk about daycare. We were concerned that there was a business operating in the neighborhood that was causing a difference in traffic, and we wanted to see that addressed. If daycare is an issue here, I would think that in the City Connection that something should be put in there about daycare, and the need for a Special Use Permit. There's lots about massage therapists, and it's in there like every other time, and I don't really think that needs to be in there as much. Perhaps something about daycare can be put in there if we think we need daycare, and let people know what they need to do to provide it. We might get in on the front end of this process instead of the back end, as I had said in the last meeting. We have been more concerned about the process, not the fact that there is a daycare in our neighborhood, and I wanted to make that clear.

Claude Collins, 1920 2nd Avenue, stated he attended the last meeting, and wants to address some items that were mentioned then and at tonight's meeting. All this traffic before the daycare parents, they were going 50 mph. Where did that come from? I have a motorcycle that flies by my house sometimes at 88 mph and sometimes at 92 mph, or that's what it seems like. I was over at Gerry and Vanessa's house Thursday for Thanksgiving, and that night when I was leaving, I was driving south on 19th Street and did get up to 30 mph, and I thought it was too fast. I normally drive about 20 mph. If I'm out on the sidewalk and somebody is driving 30 mph, I'm going to be thinking they need to slow down because they are probably going 50 mph. We are basing 50 mph that everybody is driving based on people's visualization. As far as the daycare, anyone can have a home daycare up to six kids. The Jackson's are licensed for 12 children. For them to have 12 children, three of them have to be over the age of five. They can only have five kids under 5-years of age with a maximum of nine kids. Talking with the Jackson's, they do not watch school aged kids so the maximum they will have is nine kids with the permit. Without the permit they can have six so we are talking about three extra vehicles and 12 extra trips per day going down 19th Street. The other thing is that 19th Street is owned by the public, it is not owned by the residents of that community. They said it tonight, "our community", "my neighborhood". Well that is my street too. If I want to play my saxophone on 19th Street, I can because it's a public sidewalk. As far as walking on the street, that is against the law, and someone said it wasn't at the last meeting. The 2023 Kansas Statute standard traffic ordinance, section 68, paragraph (a) states if there is a sidewalk available, it shall be unlawful to walk in the roadway. They think that should be their private street, and it's not. I used to drive my motorcycle up and down that street every weekend about 11:30pm driving home from work. I had a restricted permit and could only drive to school and work so I would take the scenic route home because I wanted to go cruising, and the chances of a police officer being on a dead-end street is very slim. Next Spring, if the motorcycle club wants to take the scenic route on their way out to Hwy 92, and 50 Harley Davidsons

want to drive up 19th Street and back down, they can. It is a public street and not owned by the neighbors. I do understand where they are coming from. If I bought a house on a dead-end street, I'd be like ah, no traffic or very little traffic. After the last meeting, I looked at realtor.com, and there was a house pending in the 1800 block of Choctaw Street. Who is to say they aren't going to open up a home daycare for six kids. The next house that goes up for sale, I told my wife we are going to buy it and open up a home daycare and no Special Use Permit needed. Then the next house for sale, I'm going to buy it and rent it to someone who is going to open up a home daycare, and there is nothing that "their community" can do about that.

With no one else wishing to speak, Chairman Homan called for discussion among the commissioners.

Commissioner Stephens stated he wants to remind everyone that we are talking about a Special Use Permit to open a home daycare. We are not talking about their operations or if we think it is a good daycare or a bad daycare. He further stated that he agreed with one of the speakers that if we tied it to a tax incentive we would probably get more people to sign up for home daycares. Right now, there is no benefit, and they do the best that they can but it should be advertised more, and maybe we can do that.

Commissioner Stephens further stated that he appreciates the Police Department providing the data, and understands that it may have some holes in it but he also has some subjective data. He had a 15-18 minute conversation with a neighbor in the middle of the intersection of 19th Street and Choctaw. Not once did he fear for his, not once did a car drive by, and this was between 4:00pm and 4:30pm. Asked one neighbor to the north how many times she had somebody block her in, and she said it never happened. Also asked her if she noticed an increase in traffic, and she said not at all, and in fact she really liked what they were doing and thought it ran pretty well. The neighbor directly next door with a three-foot grass separation between the driveways, not enough to park a car, and even this neighbor said that there hasn't been any problems with cars blocking his driveway in the mornings or in the afternoons. A couple different times in the mornings and in the evenings, Commissioner Stephens went and parked in different areas in the neighborhood just to see the traffic for himself, and he did not see anything. Sees things that are a lot more dangerous in his neighborhood behind Henry Leavenworth School.

Chairman Homan stated the only comment he has is about the appraisals and the county's percentage, and it is not always sales that cause the increase. In 2022 and 2023, the interest rates were lower so the values were higher. To factor an appraisal is done 3 ways: 1) cost approach, 2) direct sales approach, and 3) income approach. On the cost approach, you look at 3 different kinds of depreciation: 1) age-life depreciation, 2) functional obsolescence, and 3) economic obsolescence, which is something outside your property causing loss and value to your property.

Commissioner Kem stated that one of the central issues she believes to be a concern of the residents is the traffic issue. Agrees that the traffic study is not valid because there are four hours for two weeks that have absolutely no traffic but there is enough information to be able to make an informed decision. Traffic issues have been mitigated with the things that the owners are doing with the cones and talking to the parents. Suggests to continue to have those conversations periodically, particularly when new parents come in. Other concerns about home values and process believed to have all been addressed so far.

With no further discussion, Chairman Homan called for a motion. Commissioner Stephens moved to recommend approval to the City Commission for the Special Use Permit to allow the operation of a home daycare at 1913 Choctaw, seconded by Commissioner Kem, and approved 5-1.

Ms. Hurley stated this item will go to the January 9, 2024 City Commission for first consideration ordinance.

Commissioner Stephens asked if public comment is allowed during that time.

Ms. Hurley responded that it is not a public hearing at the City Commission meeting. Generally, if the City Commissioners know there are people wishing to speak they will go ahead and take comments but it is not a public hearing.

OTHER BUSINESS:

With no other business, Ms. Hurley stated there will be a meeting on January 8, 2024.

Chairman Homan adjourned the meeting at 7:06 p.m.

Minutes taken by Planning Assistant Michelle Baragary.