

CITY OF LEAVENWORTH PLANNING COMMISSION
COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, September 9, 2024
6:00 PM

CALL TO ORDER:

Commissioners Present

Kathy Kem
Bill Waugh
Sherry Whitson
Maryann Neeland

Commissioners Absent

Brian Stephens
Don Homan

City Staff Present

Julie Hurley
Michelle Baragary

Vice Chairperson Kem called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: August 5, 2024

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

OLD BUSINESS

None

NEW BUSINESS:

1. 2024-19 SUP – 1830 S. BROADWAY ST.

Conduct a public hearing for Case No. 2024-19 SUP – 1830 S Broadway St., wherein the applicant is requesting a Special Use Permit to allow the operation of a Day Care Center in the RMX zoning district.

Vice Chairperson Kem called for the staff report.

Planning Director Julie Hurley stated that the owner, 1830 S Broadway LLC, is requesting a Special Use Permit for the operation of a Day Care Center at 1830 S Broadway St. to be operated by Happy Little Hearts Daycare. The property is currently zoned RMX, Residential Mixed Use District, and Day Care Centers are allowed in the RMX zoning district with issuance of a Special Use Permit. The operator is licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care.

1830 S Broadway St is the former site of the Council on Aging, and was previously rezoned from PUD to RMX in 2022 to accommodate a mixture of appropriate uses for the site. The property is surrounded by an existing single-family neighborhood.

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 bordered on four sides by streets; Pennsylvania, Garland, Rees, and Broadway Streets. All four streets are classified as Local Streets.

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 is 9.32 acres in size, and includes an existing area of approximately 5,000 sqft on the west side of the building enclosed by a 4' high chain link fence. Any additional area the operator intends to utilize as open space for children in care would need to be enclosed by a 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 two separate parking lots capable of accommodating multiple vehicles.

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 Temporary Permit for a Group Day Care Home from the Kansas Department of Health and Environment (KDHE). The applicant shall provide a copy of their permanent license once obtained.

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

Not applicable for the RMX zoning district, as it is a mixed use district.

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, 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 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 no questions or comments.

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.

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

Vice Chairperson Kem asked the commissioners for questions about the staff report.

Vice Chairperson Kem stated that when she drove by the property it appeared that the daycare is already operating.

Ms. Hurley responded that is fairly common with daycares and other special use type businesses. Staff informs folks that we will not shut the business down so long as they get in the process for a special use permit. A problem arises when they do not come in to apply for the special use permit or if the special use permit gets denied.

Vice Chairperson Kem asked what hours they intend to operate, and how many employees there will be.

Ms. Hurley stated that information was not provided in the packet that was submitted.

Commissioner Whitson asked about signage.

Ms. Hurley responded that staff does not want to force a business to spend any more money until the special use permit is approved. Staff does not want to get into a situation we are requiring them to purchase new signage and then have the special use permit be denied. Once the special use is approved, then they will have to come into compliance with any signs. Ms. Hurley further stated that the applicant has multiple yard signs, which is not going to be allowed, so the applicant will need to come into compliance with the sign regulations for the RMX zoning district.

Commissioner Whitson stated the big issues for her are the minimum required 1,200 sqft of open space enclosed by a minimum 4' high fence or wall. Would hate to hold this up just on that one contingency but feels like this is very important.

Ms. Hurley stated the outside area that they have that is covered and kind of tucked in the corner does have a wall but it does not appear to be 4' tall. The applicant did call staff today and stated she is waiting for approval of the special use permit prior to installing the fence.

Commissioner Neeland asked staff if the special use can be approved with these three contingencies.

Ms. Hurley responded in the affirmative, and stated that this item still has to go to the City Commission for final approval. Furthermore, as with any special use permit that has conditions attached to it, if we find that those conditions are not being met, then staff will give them a timeframe for them to get into compliance. Should they not come into compliance, then the special use permit is revoked.

Vice Chairperson Kem stated that even though it is implied, she wants to make it absolutely clear that they cannot have playground equipment without it being fenced.

Ms. Hurley stated that can be added as another condition that any provided playground equipment would be enclosed in the fenced in area.

With no further questions, Vice Chairperson Kem opened the public hearing. With no one else wishing to speak, Vice Chairperson Kem closed the public hearing and called for discussion among the commissioners or a motion. Based on the findings as stated, staff recommended conditions presented, and the added condition that all playground equipment shall be inside the fenced in area, Commissioner Neeland moved to recommend approval of the daycare to the City Commission, seconded by Commissioner Whitson, and passed by a vote of 4-0.

2. 2024-22 SUB – SIOUX ESTATES FINAL PLAT

Consider a final plat for Sioux Estates Final Plat, Case No. 2024-22 SUB.

Vice Chairperson Kem called for the staff report.

Planning Director Julie Hurley stated that the subject property is owned by Development, Inc., plat prepared by Atlas Surveying. The applicant is requesting the plat in order to combine the three lots currently addressed as 729, 735 and 737 Metropolitan for potential future development. All lots are zoned GBD, General Business District, and are currently vacant. The lot addressed as 729 Metropolitan was formerly occupied by an Evergy electrical substation. The plat does not include any dedication of right-of-way or easements.

Staff recommends approval of the Sioux Estates plat.

ACTION/OPTIONS:

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

Vice Chairperson Kem asked the commissioners for questions about the staff report.

With no questions/discussion, Vice Chairperson Kem called for a motion. Commissioner Whitson moved to approve the Sioux Estates Final Plat, seconded by Commissioner Waugh, and approved by a vote of 4-0.

OTHER BUSINESS:

No other business.

Ms. Hurley stated there will be a meeting October 7th.

Vice Chairperson Kem adjourned the meeting.

Meeting adjourned at 6:18 p.m.

Minutes taken by Planning Assistant Michelle Baragary.