

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

**REGULAR SESSION
Monday, February 4, 2019
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: January 7, 2019**

NEW BUSINESS:

- 1. 2019-02-SUB – RICHARD WARREN SCHOOL FINAL PLAT**
Consider a final plat application for the Richard Warren Middle School property.
- 2. TEXT AMENDMENTS**
Hold a public hearing for proposed text amendments to the adopted Development Regulations.
- 3. ELECTION OF OFFICERS**

OTHER BUSINESS:

NONE

ADJOURN

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048

REGULAR SESSION
Monday, January 7, 2019
6:00 PM

CALL TO ORDER:

Commissioners Present

Mike Burke
John Karrasch
Claude Wiedower
Linda Bohnsack
Sherry Hines Whitson

Commissioners Absent

Jay Byrne
Camalla Leonhard

City Staff Present

Julie Hurley
Michelle Baragary

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

Approval of Minutes: December 3, 2018

Chairman Byrne asked for comments or a motion on the minutes presented for approval: December 3, 2018. Ms. Bohnsack moved to accept the minutes as presented, seconded by Mr. Wiedower. The minutes were approved by a vote of 5-0.

OLD BUSINESS:

1. 2018-11 REZ – 600 SHAWNEE STREET AND 621 SENECA STREET

Conduct a public hearing for Case No. 2018-11 REZ – 600 Shawnee Street and 621 Seneca Street. The property, owned by Exact Loft and Gym, LLC, is commonly known as former Immaculata High School building and adjacent vacant lot. The building was constructed in 1922 and was listed on the National Register of Historic Places as part of the Leavenworth Downtown historic District in 2002. The Planning Commission reviewed this project at the October 1, 2018 Planning Commission meeting and requested that the applicant add parking on the vacant lot at 621 Seneca Street to alleviate parking concerns with other nearby uses. That parking has been added.

Vice Chairman Burke called for the staff report.

City Planner Julie Hurley stated the applicant is requesting a rezoning of their property located at 600 Shawnee and 621 Seneca Street from CDB to RMX. The property, owned by Exact Loft and Gym, LLC, is commonly known as former Immaculata High School building and adjacent vacant lot. The building was constructed in 1922 and was listed on the National Register of Historic Places as part of the Leavenworth Downtown Historic District in 2002. The Planning commission reviewed this project at the October 1, 2018

Planning Commission meeting and requested that the applicant add parking on the vacant lot at 621 Seneca Street to alleviate parking concerns with other nearby uses. That parking has been added.

The structure is a two-story, symmetrically massed, red brick building on a sloping lot with the foundation level fully exposed on the southern elevation. The RMX zoning district is intended to provide for high-density, multi-family residential dwellings along with a mix of appropriate neighborhood-serving uses. Commercial uses may be included in some structures, but there is no requirement for each structure to have non-residential uses included.

This location is a part of the Redevelopment Overlay District, whose purpose is to facilitate the development of property in the downtown and northeast Leavenworth in accordance with the 2010 Downtown-North Leavenworth Redevelopment Master Plan. In particular, this location is identified as part of the Downtown Core. The intent of the subarea is to define Leavenworth's traditional and historic downtown core, with a diverse mix of retail, office and residential uses. The downtown core should embrace redevelopment activities that promote diverse uses and activities that complement the established scale and urban form of the historic downtown. New activities should promote preservation, renovation and adaptive reuse of historic structures.

The rezoning is being requested in order to repurpose the school building portion of the property into a total of 38 apartment units (37 1-bedroom units and 1 2-bedrooms units), with the gymnasium portion of the property to be used a commercial space for a gym/group fitness operation and juice bar, along with other dividable commercial space. The proposed uses are all allowable within the existing CBD zoning district, however, residential uses are prohibited within the front half or front 30 feet of space, whichever is greater, on the first floor. The applicant intends to provide residential units on the entirety of the first floor of the former school portion of the building.

Total required parking for the project is 108 spaces based on the following breakdown:

1 2-bedroom unit: 2 spaces

37 1-bedroom units: 37 spaces

4,797 sqft gym/recreation: 16 spaces

12,866 sqft gym/recreation: 51 spaces

302 sqft food service: 2 spaces

There are a total of 47 spaces provided on-site, with an additional 35 on-street parking spaces adjacent to the project along Shawnee Street and North 6th Street, and 34 spaces in the adjacent city-owned public parking lot, for a total of 116 spaces. There are 6 other city-owned public parking lots within a 2-block radius, with numerous on-street parking opportunities. The Development Regulations allow several provisions for a reduction in the number of required on-site parking spaces, including for properties in mixed-use districts and registered historic properties. The CBD zoning district has no minimum parking requirement for any use type allowed within the district, as on-street parking opportunities and city-owned public parking lots are intended to satisfy any parking needs.

This project also requires review by the Leavenworth Preservation Commission (LPC), as the structure is listed on the National Register of Historic Places. The Leavenworth Preservation Commission considered the request on August 1, 2018 and voted 5-0 to approve the request for a Major Certificate of Appropriateness for the project.

The Development Review Committee reviewed the application at their July 26, 2018 meeting. The main area of discussion focused on required parking. There was some concern about use of the adjacent city-owned public parking lot, as the lot is typically heavily used by members of the First Christian Church on Sundays. There was no concern that the proposed uses would result in a higher volume of traffic than the former high school use located on the property.

CONDITIONS OF DETERMINATION

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

- a) The character of the neighborhood;

The subject property is part of Downtown Leavenworth and the Redevelopment Overlay District, with a variety of uses and building forms. Historic structures such as this are common in the area.

- b) The zoning and use of properties nearby;

The properties to the east, south and west are zoned CBD, Central Business District, and the properties to the north are zoned R1-6, High Density Single Family Residential District.

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

The subject property is currently zoned CBD, which allows a variety of uses by-right.

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

The proposed rezoning should have little to no detrimental effect on nearby property. There is a mix of uses present in the Downtown area, including multi-family. Staff does not anticipate that the volume of traffic generated by the proposed uses will be significantly higher than previously generated by the high school use.

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

The structure has been unoccupied since June, 2017.

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

The proposed rezoning will have a positive effect upon the economic vitality of Downtown Leavenworth in terms of bringing more residents to the area which will potentially increase the patronage of local businesses, as well as expanded commercial offerings offering an expanded tax base.

- g) The recommendations of permanent or professional staff;

Staff recommends approval of the rezoning request.

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

The subject area is identified as appropriate for commercial uses in the Comprehensive Plan. However, the majority of the Downtown area is identified as commercial on the Future Land Use Map, and there exists already a mix of residential uses in this area. Additionally, this area is part of the Downtown-North Leavenworth Redevelopment Area Master Plan, which promotes the area as appropriate for a mix of uses, including residential. Therefore, staff finds the proposed request is not in conflict with the Comprehensive Plan.

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

This proposal makes possible the adaptive re-use of a previously vacant historically significant structure.

REZONING ACTION/OPTIONS:

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

Vice Chairman Burke asked for questions from the commissioners.

Ms. Bohnsack asked about lighting in the parking lot at 621 Seneca.

Jon Klocke, representing the property owner and works for Exact Architects 3829 Main Street, Ste 007, Kansas City MO, stated the parking lot will have lighting and there will also be mounted lighting around the perimeter of the building and all the entrances.

Mr. Karrasch asked what the dimensions are in the new parking lot.

Mr. Klocke stated he believes there are four compact (7' x 6') and 30 regular stalls (8' x 16'), which are in compliance with city regulations.

Mr. Wiedower stated that what has been done to install a new parking lot is appreciated. He further stated he hopes tenants are assigned a designated parking spot and should not be parking in the church's parking lot. The church should also be a contact person in case tenants are parking in the church's lot. Mr. Wiedower asked if tenants will have their own designated parking spot.

Mr. Klocke responded typically how this has been handled in the past is that Greenamyre has been the property manager and will most likely be the property manager for this property as well.

Mr. Wiedower stated that will be good because the tenants will be advised of their designated parking spots and also be made aware to stay in your area and not to park in places the tenants should not be parking.

Ms. Hurley clarified that the adjacent lot on the corner of 6th Street and Seneca is a city owned lot and is not owned by the church. The lot on the opposite corner and to the north of Seneca is a church owned parking lot. Staff has not required the property owner to designated specific parking spot numbers for tenants. If at some point there are parking issues, it could be discussed with the property manager. Furthermore, the city cannot prohibit a particular use from using a city owned parking lot.

Mr. Wiedower stated that at previous meetings the church had a viable concern about people parking in their church area. Mr. Wiedower hopes this has been resolved with installing the new parking lot.

With no further questions from the commissioners, Vice Chairman Burke opened the public hearing.

Bob Euler, 3019 Grand Ave, approached the board. Mr. Euler stated he is a member of First Christian Church. He is much more comfortable with the new plan presented. He does not believe the designation of parking spots on the new lot will work because there are more tenants than there are parking stalls on the new parking lot.

Ms. Hurley stated there are a total of 34 parking stalls on the new parking lot and additional parking at the rear entrance of the building for a total of 47 parking stalls.

Mr. Euler stated he does recognize the parking lot at the corner of 6th Street and Seneca (west side of 6th Street) is a public parking lot. For years, Immaculata High School used the public parking lot Monday – Friday but it was available on Sundays. His concern was that the public lot would end up being a private lot for the tenants; but he feels comfortable now that there will be a parking lot installed at 621 Seneca. Furthermore, he is in favor of the rezoning request.

Jim Bliss, 1407 Lawrence Ave, approached the board stating he is also a member of First Christian Church. Mr. Bliss asked if selling the public parking lot has been a consideration.

Ms. Hurley stated it was discussed preliminarily with the applicant. The City Manager indicated the city would not be interested in selling the parking lot.

Mr. Bliss asked if at some point the city changed their minds, would the property go up for public bid.

Ms. Hurley responded in the affirmative and stated the city is aware the church would be interested in purchasing the parking lot.

Mr. Burke asked if that would be a Planning Commission issue.

Ms. Hurley said any sell of city property would be a consideration for the City Commission.

With no else wishing to speak, Vice Chairman Burke closed the public hearing and opened it for discussion among the commissioners.

Mr. Karrasch asked if the parking lot to the southwest of Shawnee and 7th Street is a public parking lot.

Ms. Hurley stated it is not. That parking lot belongs to Southwestern Bell. All public parking lots on the map are denoted with stripes. There are several public parking lots within a couple blocks of the subject property.

Ms. Bohnsack asked who owns 611 Seneca.

Ms. Hurley responded Paul Backs owns that property.

Ms. Bohnsack stated she is concerned with two large parking lots on either side of 611 Seneca in case the property owner ever wanted to further develop that property.

Ms. Hurley responded that is not a house at 611 Seneca; it is an existing storage shed. In the future someone could potentially attempt to build a home there but it would be difficult with the existing setbacks. Staff does not anticipate that happening.

With no further discussion, Vice Chairman Burke called for a motion. Mr. Karrasch recommends approval of the rezoning request 2018-11 REZ from CBD to RMX to the City Commission, seconded by Ms. Whitson and approved by a vote of 5-0.

Vice Chairman Burke called for the next item on the agenda – Election of Officers. Vice Chairman Burke recommended tabling the issue until all officers are available to vote; approved by a vote of 5-0.

Vice Chairman Burke called for the next item on the agenda – Revision to Bylaws – Article 1 – Members, #2.

Ms. Hurley stated that appointments are for three-year terms. Staff noticed this was not listed in the bylaws and therefore has been added.

Vice Chairman Burke called for a motion. Mr. Karrasch moved to accept the bylaws as written, seconded by Ms. Whitson and passed by a vote of 5-0.

Ms. Hurley stated that at the last Planning Commission meeting discussion of the annual update to the Development Regulations took place. Staff is currently working on this and will bring the proposed updates to the next Planning Commission meeting for review.

With no further business Vice Chairman Burke called for a motion to adjourn. Mr. Wiedower moved to adjourn, seconded by Mr. Karrasch and passed by a vote of 5-0. The meeting adjourned at 6:27 p.m.

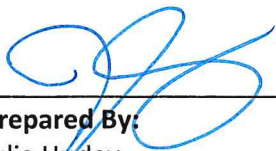
JH/mb

**PLANNING COMMISSION AGENDA ITEM
2019-02-SUB
RICHARD WARREN SCHOOL
FINAL PLAT**

FEBRUARY 4, 2019

SUBJECT:

A request for a final plat of Richard Warren School



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by USD 453 Board of Education and is occupied by Richard Warren Middle School. The existing school property is comprised of two separate lots. Additionally, the Leavenworth School District also owns property to the north of the undeveloped Meadow Lane right-of-way adjacent to the school property. The School District is in the process of developing an addition to the existing middle school, and this plat is being requested in order to consolidate the multiple owned by the School District into one lot. The plat contains a total of 17.61 acres.

The School District has submitted a request to vacate the portion of the Meadow Lane right-of-way adjacent to the school property, which is scheduled to be considered by the City Commission at their regularly scheduled meeting on February 12, 2019. The section of Meadow Lane right-of-way proposed to be vacated is included in this plat. Any approval of the plat will be contingent upon approval of the vacation by the City Commission.

Public Works has reviewed the plat and has no concerns. Staff recommends approval of the Richard Warren School Final Plat.

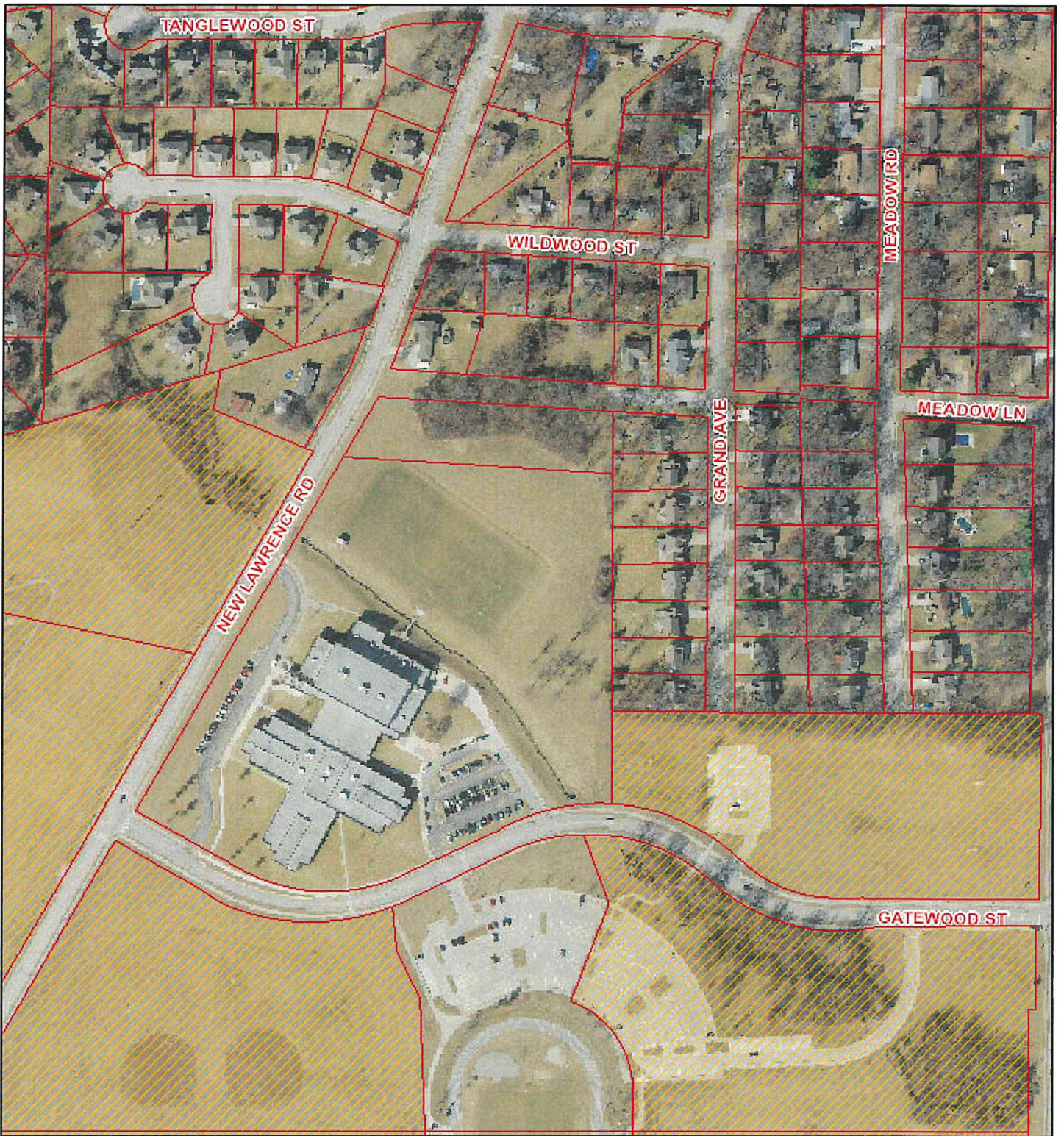
ACTION/OPTIONS:

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

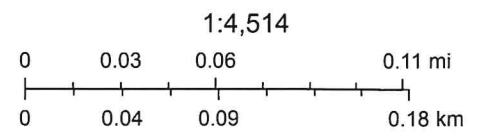
ATTACHMENTS:

Location map
Application materials

2019-02-SUB



1/31/2019, 10:13:19 AM



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Project No. 2019-02 SUB

FINAL PLAT APPLICATION
CITY OF LEAVENWORTH

OFFICE USE ONLY

Application No. 5166
Fee: 350

(\$350 plus \$10 per lot over 5 lots)

Date Paid 01/04/2019

Received By Cary Collins

NOH, N2PO, Publication - NA

Planning Commission Mtg 2/4/19

NAME OF SUBDIVISION/PROJECT: Richard Warren School

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

NAME: USD 453 Board of Education

STREET ADDRESS: 200 N 4th St.

CITY: Leavenworth STATE: KS ZIP: 66048

PHONE: 913-684-1400 FAX: 913-684-1407 EMAIL: matt.dedeke@lvpioneers.org

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

NAME: USD 453 Board of Education, Matt Dedeke, Director of Facilities

STREET ADDRESS: 200 N. 4th St.

CITY: Leavenworth STATE: KS ZIP: 66048

PHONE: 913-684-1400 FAX: 913-684-1407 EMAIL: matt.dedeke@lvpioneers.org

NAME OF ENGINEER PREPARING PLAT:

NAME: Brian Hill, PE

STREET ADDRESS: 11827 W 112th St. Suite 200

CITY: Overland Park STATE: KS ZIP: 66210

COMPANY: MKEC Engineering, Inc.

PHONE: 913-317-9390 FAX: 913-317-9385 EMAIL: bhill@mkec.com

PARCEL NO: 1011102007004000 **SEC.TWP.RNG.** 11 T 9S R22E

ZONING OF SUBJECT PROPERTY: R1-9 **CURRENT LAND USE:** School

TOTAL ACREAGE: 17.61 **NUMBER OF LOTS:** 1

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

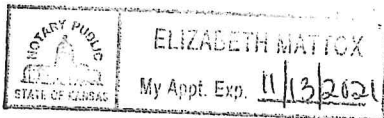
DATE OF PRELIMINARY PLAT APPROVAL: _____

SIGNATURE OF OWNER(S) [Signature] Date: 1-4-19

State of Kansas, County of Leavenworth, ss
Signed or attested before me on Jan 4, 2019 by Matt Dedeke.

Elizabeth Mattox 11/13/2021
Notary Appointment Expires

(Seal)




PLANNING COMMISSION AGENDA ITEM
Text Amendments
Development Regulations

FEBRUARY 4, 2019

SUBJECT:

Public hearing for amendments to the adopted Development Regulations



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

DISCUSSION:

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, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. On December 3, 2018 the Planning Commission reviewed proposed text amendments which are now presented for public hearing and vote.

- **Section 3.02 Applicability and Exemptions; subsection B.1**
Language should read "The division of land into parcels or tracts of NOT more than five acres and not involving any new streets or easements of access and not affecting major streets."
- **Section 4.04; Use Standards**
Add provision for Accessory Dwelling Units in residential areas.
- **Section 4.04; Use Standards**
Add provision for Massage Therapy establishments as home occupation allowed by issuance of a Special Use Permit, as adopted previously in city ordinance by the City Commission.
- **Section 4.04 Use Standards; Subsection B.3.a**
Variances in size for detached garages should be approved through Board of Zoning Appeals process, not Special Use Permit process.
- **Section 8.04 Permits; subsection C**
Add "decorative light pole banners" as a type of sign excluded from permit.
- **Article 8.08; Signs Permitted in All Residential Districts**
Add size standards for neighborhood identification monument signs in residential areas.

- **Section 10.01 Solar Energy**
Remove requirement for Special Use Permit to install solar energy system with over 500 sqft of collection surface.

- **Article 12; Definitions**
Add definition for “Indoor Commercial Recreation”

- **Appendix A; Use Table**
 - “Live/Work Dwellings” allowed use in commercial zoning districts
 - Add use type for “Event Venue”
 - “Private Solar Collection Systems” allowed use in all districts
 - “Commercial Solar Collection Systems” allowed with SUP in all districts
 - “Commercial Wind Energy Systems” allowed with SUP in additional districts
 - Move “Athletic Facilities” from Commercial Services subsection to Recreation and Entertainment, Outdoor subsection.

ACTION/OPTIONS:

Recommend approval or denial of proposed text amendments for final action by City Commission.

ARTICLE 3. SUBDIVISION STANDARDS

3.01. Purpose and Intent

The purpose and intent of this Article is to provide for the proper location and width of streets, building lines, open spaces, safety and recreation facilities, utilities, and drainage, and for the avoidance of congestion of population through requirements of minimum lot width, depth and area and the compatibility of design; to require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure the actual construction of such physical improvements.

3.02. Applicability and Exemptions

- A. **General Applicability.** The standards in this Article apply to anyone platting property, or to any application that involves or requires the construction or alteration of public improvements as a result of development.
- B. **Exemptions.** The standards in this Article shall not apply in the following instances:
1. The division of land into parcels or tracts of **not** more than five acres and not involving any new streets or easements of access and not affecting major streets.
 2. A change in the boundary between adjoining lands which does not create an additional lot or a nonconforming lot or further the nonconformance of any lot or any structure on that lot.
 3. Land used for street or railroad right-of-way, drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
 4. The re-subdivision of land to be used for industrial purposes only.
 5. Any transfer by operation of law.
- C. **Restrictive Covenants.** The Planning Commission shall have the right to confer with the applicant regarding the type and character of development that will be permitted in the subdivision and may require that certain minimum regulations regarding this matter be incorporated in the restrictive covenants. Such regulations shall be intended to protect the character and value of the surrounding development of the property which is being subdivided.
- D. **Planned Unit Development.** In accordance with Planned Unit Development District regulations of the Development Regulations, the preliminary development plan may be used as the preliminary plat. Approval of the preliminary development plan by the City Commission signifies concurrent approval of the preliminary plat, subject to any requirements made as a condition of this approval.

3.03 Minimum Design Standards

The design of the subdivision shall provide for efficient traffic flow, proper mixing of land uses, and a logical link between surrounding, existing development, and the proposed layout. The Comprehensive

- required setbacks and are not subject to size restrictions except that all other requirements of the Development Regulations must be met.
7. All accessory structures shall be constructed from material customary to detached structures.
 8. In no case shall an accessory structure be constructed from materials or equipment originally designed for another use such as but not limited to packing crates or a part of a motor vehicle truck or trailer regardless if wheels, axles, etc., have been removed and the structures are placed on more permanent foundations.
 9. No shipping containers may be used as accessory buildings.
 10. Accessory structures which are equal to or more than 15% of the footprint of the main structure shall be architecturally compatible or complementary to the architectural style of the principal building, with similar materials, color, arrangement of massing, roof forms and other details and ornamentation.

4.04. Use Standards

- A. ***Permitted and Special Uses.*** Permitted and special uses for each zoning district are identified in Appendix A Use Table.
- B. ***Accessory Uses.***
 1. ***Principal Use Required.*** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
 2. ***Accessory Uses.*** Accessory Uses are a structure or use which:
 - a. Is subordinate to and serves a principal building and principal use;
 - b. Is subordinate in area, extent, or purpose of the principal use or building or building served;
 - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
 - d. Is located on the same lot as the principal building or principal use served; and
 - e. The total square footage of all detached structures functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area.
 3. ***Permitted Accessory Uses.*** Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
 - a. Private garages or carports: Not to exceed the following capacity:
 - (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or

- larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
- (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
- (3) Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger may be approved by the Board of Zoning Appeals.
- b. Storage Buildings: A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
- c. Play Structures: A child's playhouse, including tree houses.
- d. Pools & Courts: A private swimming pool, bathhouse, or tennis court.
- e. Yardicles: Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges, and solar collectors.
- f. Shelters: Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- g. Signs: Signs, when permitted by Article 8 – Sign Regulations.
- h. Parking: Off-street parking and loading spaces as required by these regulations.
- i. Recreational Vehicles, Campers, Trailers, and Boats: Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these Development Regulations.
- j. Commercial Accessories: Restaurants, drug stores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
- k. Supplemental Employee Services: Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
- l. Office Space: Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
- m. Retail Sales: Retail sales in conjunction with permitted industrial uses when located on the same site as the industrial use.
- n. Indoor Retail Storage: The storage of retail merchandise when located within the same building as the principal retail business.
- o. Auto Sales: The retail sale of automobile parts and used automobiles on a tract of land not to exceed one acre in area when located on the same site as and in conjunction with an automobile race track.
- p. Radio Towers: Amateur radio towers no taller than 50 feet in residential districts and no closer than 50 feet to a property line is permitted as an allowed accessory use. A tower and antennae must maintain a setback of one foot per one foot of height from all property lines and must be located in a side or rear yard of the principal structure and the owner of the tower and property maintains and shows proof of a current federal license as an amateur radio operator. The construction of the tower must follow the manufacturer's installation specifications.
- q. Agriculture Buildings: In residential districts an agricultural accessory building not to exceed 1,500 square feet may be permitted on parcels two acres or larger.

-
4. *Prohibited Accessory Uses.* None of the following shall be permitted as an accessory use:
- a. Large Vehicles or Trailers. Outdoor storage or overnight parking in a residential district of commercial trucks or trailers, or other on, or off, road items exceeding 12,000 GVW (Gross Vehicle Weight).
 - b. Dismantled Objects. Outdoor storage, of dismantled, inoperative and/or unlicensed motor vehicles; parking and/or storage of construction machinery and equipment, tracked or wheeled; farm machinery and/or equipment except as specifically permitted in district regulations in conjunction with a permitted use.
5. *Accessory Uses Permitted by Special Use Permit.* The following accessory uses shall only be permitted upon approval of a special use application by the City Commission:
- a. Commercial Communication Towers and Antennae. Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in Article 10, Supplemental Standards.
 - b. Renewable Energy Facilities, including wind or solar energy facilities, subject to the provisions included in Article 10, Supplemental Standards.
 - c.
 - d. Accessory Dwelling Units. Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:
 - (1) Shall be compatible with the design of the principal dwelling unit.
 - (2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.
 - (3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.
 - (4) Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.
 - (5) Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.
 - (6) Shall be subject to all applicable residential building codes.
 - (7) Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.
 - e. Massage Therapy establishments as a home occupation may be allowed with issuance of a Special Use Permit. Such establishments are subject to all requirements of Home Occupations as provided in these regulations, as well as all requirements for Massage Establishments as provided in the City of Leavenworth Code of Ordinances, Chapter 26, Article III.
6. *Home Occupations.* A home occupation may be established provided:
- a. That no separate outside entrance is provided for the home occupation;
 - b. That no one, other than members of the immediate family residing on the premises, be employed;
 - c. That no use will occupy more than 25% of the gross floor area on one floor nor more than 400 square feet of gross floor area;

Buildings or Structures owned or leased and used by other public, semi-public, or civic organizations.

21. Special Event signs shall be exempt from a permit as follows: Signs of a temporary nature for campaigns, drives, seasonal events of civic or philanthropic organizations not to exceed 32 square feet. These signs must be placed on private property and must be removed within three days after the event.
22. A new sign permit shall not be required unless (a) the existing sign base, pole, or face is nonconforming to these regulations or, (b) the existing sign base or pole is going to be relocated, changed, or enlarged.
23. Political signs may be placed on private property only after permission has been granted by the owner of the property or his or her authorized agent. No political signs are permitted on public right-of-way or on public property. In commercial or industrial areas, signs shall not exceed 32 square feet in area per face. In residential areas, signs shall not exceed 3 square feet per face. Signs shall not be placed where they interfere with intersection sight distances, and may not be affixed to any utility poles, trees, street lights, bridges, benches or similar public structures. Signs must be removed within 3 days after the election.
24. Contractor signs as further defined in section 8.07.D.
25. Decorative light pole banners, which may not include any business or advertising information.

8.05. Sign Installers

All persons, firms, or corporations engaged in the business of sign or billboard fabrication, erection, installation or maintenance within the corporate limits of the city shall comply with the provisions of this Section.

- A. **License Required:** There shall be an annual license and fee for each person, firm, or corporation engaged in the business of sign installation, hanging and erecting signs and billboards.
- B. **Subcontractors:** All persons engaged in the business of sign fabrication, installation and the erection of signs and billboards shall obtain such a license, except those who are employed by contractors carrying a license.
- C. **Certificate of Insurance Required:** All persons, firms, or corporations engaged in the business of sign or billboard fabrication, installation, or erection shall file a Certificate of Insurance with the City Clerk before installing, erecting, or maintaining any sign or billboard. The Certificate of Insurance shall be in the amount of bodily injury liability \$100,000 each person, \$300,000 each accident and property damage liability: \$25,000 each accident or a good and sufficient bond in the same amounts shall be filed with and approved by the City Clerk or Duly Authorized Representative. The certificate or bond shall state that the policy or bond shall not be cancelled or in any manner amended, changed, or altered without giving the authorized representative five days written notice thereof. If a surety bond is provided in lieu of a certificate of insurance, such bond shall be approved and shall be

8.08. Signs Permitted in All Residential Districts (R1-25, R1-9, R1-6, R1-7.5, R4-16, R-MF, RMX, MP)

Table 8-01: Residential Signage Standards			
	Maximum Number	Height	Area
Home Based Business Signs	1	N/A	1/2 s.f.
Temporary Signs	1	N/A	3 s.f.
Real Estate Signs	1	6'	6 s.f.
For Sale Signs (undeveloped land over 5 acres)	2	10'	40 s.f.
Open House Signs	1	6'	4 s.f.
Neighborhood Identification Signs	1 per entrance	8'	50 s.f.
Public & Semi-Public Buildings	See Table 8-02		

The following types of signs are permitted in all residential districts, in accordance with the requirements set forth or referred to herein:

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.
- B. A ½ square foot home based business sign as described in Article 10 – Supplementary District Regulations.
- C. Temporary signs, not specifically otherwise identified by sign type, conforming to the restrictions set forth herein are allowed as follows;
 - 1. Three temporary signs are permitted on any lot.
 - 2. These temporary signs shall be a single faced sign, and have a sign Face no larger than six square feet
- D. In lieu of the temporary signs permitted herein a real estate sign not exceeding six square feet per sign face, with two faces per sign are permitted. The maximum height of the sign shall not exceed six feet. A maximum of one sign per lot shall be permitted.
- E. Undeveloped land over five acres in size shall be allowed two "For Sale" signs not to exceed 40 square feet in area per sign face, with two sign faces permitted. No sign shall exceed 10 feet in height.
- F. In lieu of the temporary signs permitted a sign designating an open house may be erected at the site of an open house. No open house sign shall exceed four square feet per sign face with two faces per sign permitted. One sign face shall be allowed in lieu of each one of the temporary signs permitted by subsection (B) above. The maximum height of the sign shall not exceed six

ARTICLE 10. SUPPLEMENTAL STANDARDS

10.01 Solar Energy

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

- A. **Solar Array Defined:** A “solar array” shall mean a freestanding, ground-mounted solar collection system consisting of a linked series of photovoltaic modules, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
- B. **Solar Array Standards:** All solar arrays shall comply with the following requirements:
1. **Setbacks, Location, and Height:**
 - a. Solar array shall not be located in the front yard between the principal structure and the public right-of-way.
 - b. A solar array shall be located a minimum of six feet from all property lines and other structures.
 - c. An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and nonresidential districts shall not exceed one-half of the footprint of the principal structure. Any proposed solar array in excess of the stated size limits shall require approval of a Special Use Permit.
 - d. There shall be no size limits on solar arrays as a primary use on a site. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
 - e. A solar array shall not exceed 20 feet in height and shall not create any solar reflectivity that measurably impacts surrounding properties.
 2. **Code Compliance:** Solar arrays shall comply with all applicable building and electrical codes contained in the adopted building code. The solar collection system shall be maintained and in productive use or removed within 90 days of notice from the city that the system is not in compliance with city regulations.

- C. **Solar Collection System Defined:** A "solar collection system" shall mean a roof-mounted or wall-mounted panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
- D. **Solar Collection System Standards:** All solar collection systems shall comply with the following requirements:
1. *Setbacks, Location, and Height:*
 - a. A solar collection system shall not extend more than five feet above the roofline or the maximum height permitted in the zoning district in which it is located, whichever is less.
 - b. A solar collection system may be located on an accessory structure.
 - c. A development that is proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.
 2. *Solar Collection Code Compliance:* Solar collection systems shall comply with all applicable building and electrical codes contained in the city's adopted building code. The solar collection system shall be maintained and in productive use or removed within 90 days of notice from the city that the system is not in compliance with city regulations.

10.02 Wind Energy

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

This section is intended to promote the compatible use of small wind energy systems. Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed wind energy structures also enhance the reliability and power quality of the power grid, reduce peak power demands, and increase local electricity generation.

- A. **Special Use Permit Required:** All wind energy systems shall be a Special Use Permitted accessory use allowed in all zoning districts except the CBD; where they are prohibited.
- B. **Small Wind Energy Standards:** All wind energy systems are subject to the following requirements:

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

Improvements: Street and drainage work and utilities that are to be installed, or agreed to be installed in conformance to City of Leavenworth's standard and specifications, by the subdivider on the land to be used for public or private use of the lot owners in the subdivision, as a condition precedent to and acceptance of the final plat.

Indirectly Illuminated Sign: A sign whose source of illumination is exterior to the body of the sign with the light shining directly on the sign.

Indoor Commercial Recreation/ Entertainment: Any facility for recreation, which is indoors, and commercial in nature.

Indoor Shooting Ranges: Any indoor shooting range for guns or archery meeting National Rifle Association standards for the design, construction, and operation of the facility.

Infill Construction: Construction of a new residential or commercial structure on a previously platted and developed lot where one or more main structures were removed. Infill constructions shall conform to established setback lines, building orientation, mass, form, and architectural styling of the surrounding buildings.

Inoperative Vehicle: A vehicle that is wrecked, partially dismantled and/or damaged to the extent that the equipment required by State statute on any such vehicle used on the streets and highways is not present or is not in good condition or proper adjustment or such vehicle is in an inoperable condition or a condition that would render the operation on the streets and highways a hazard to public safety.

Internally Illuminated Sign – A sign in which the source of illumination is contained within the sign.

Inter-Parcel Access: A private, vehicular way adequate to convey vehicular traffic from the subject property to adjacent properties in an unimpeded manner.

Jails and Prisons: Places in which people are physically confined and, usually, deprived of a range of personal freedoms. In the United States, "jail" and "prison" refer to separate levels of incarceration; generally speaking, jails are county or city administrated institutions which house both inmates awaiting trial on the local level and convicted misdemeanants serving a term of one year or less, while prisons are state or federal facilities housing those awaiting trial on the state or federal level and convicted felons serving a term of more than one year. On the federal level, this terminology has been largely superseded by a more complex five-tier system implemented by the Federal Bureau of Prisons that ranges from low security "Prison Camps" to medium security "Correctional Institutions" and finally maximum security "Penitentiaries."

Junk Yard: The use of any lots, portion of a lot, or tract of land for the storage, processing, sale, or abandonment of junk, including scrap metal or other scrap material, or for the dismantling, demolition or abandonment of automobiles, or other vehicles, or machinery or parts thereof

Junkyard, Salvage Yard: The location of a dismantling business where wrecked or decommissioned vehicles or other scrap is brought, their usable parts are sold for use in operating vehicles, while the unusable metal parts, known as scrap metal parts, are processed and sold to metal-recycling companies.

Kansas Register/State Register: The current State Register of Historic Places as prepared, approved and amended by the State Historic Sites Board of Review and authorized by KSA 75-2701, et.seq.

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

Table A1-1, TABLE OF PERMITTED USES

P = Permitted, S = Special Use Permit Required

Use Category	Residential										Non-Residential						Overlay		
	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG	
RESIDENTIAL USES																			
Household Living																			
Dwelling, Single-Family Detached	P	P	P	P		P	S	P	P							P	S		
Dwelling, Two-Family	S	S	S	S	S			P	P							P	S		
Dwelling, Townhouse				P	P			P								P	P		
Dwelling, Multi-Family					P			P								P	P		
Dwelling in Mixed-Use Structure Note [1]								P	P	P	P					P	P	P	
Dwelling, Live/Work								P	P	P						P	P	P	
Dwelling, IBC/IRC Modular Home							P												
Manufactured/ Mobile Home Community							P												
Group Living																			
Assisted Living Facility	S	S	S	S				S								S	S	S	
Convent/Monastery	P	P	P	P	P	P	P	P											
Dormitory	S	S	S	S															
Fraternity/Sorority Home	S	S	S	S	S														
Group Home: Disabled (K.S.A. 12-736)	P	P	P	P	P	P	P	P								S	S	S	
Nursing Home/Hospice	S	S	S	S							P					S	S	S	
Senior Housing	S	S	S	S				S								S	S	S	
Shelter, Domestic Violence	P	P	P	P					P	P	P					P	P	P	
Student Housing							P	P											
PUBLIC AND INSTITUTIONAL USES																			
Community Services																			
Cemetery	S	S	S	S															
Mausoleum	P	P	P	P							P	P							
Civic, Social, and Fraternal Organizations	S	S	S	S				S								P	S	P	
Community Centers											P	P				P	P	P	

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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Use Category	Residential										Non-Residential							Overlay		
	R-1-25	R-1-9	R-1-7.5	R-1-6	R-MF	R-4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG		
Subcategory																				
Specific Use Type																				
Airport																				
Bus Garage and Equipment Maintenance																				
Bus Terminal																				
Heliport																				
Railroad Terminal																				
Taxi Dispatch																				
Truck Terminal, Freight, Air Courier Services																				
Utility																				
Private Wind Energy Systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Private Solar Collection Systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Commercial Wind Energy Systems	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Commercial Solar Collection Systems	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Communication Tower – Alternative Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Communication Facility on Existing Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Water Storage	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
COMMERCIAL USES																				
Animal Sales and Service																				
Animal Day Care	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Animal Confinement and Feed Operations	S																			
Kennel	S	S																		
Pet Shops									P								P	P		
Pet Grooming	S	S	S	S													S	S		
Veterinary Clinic with Boarding									S	S	P	P	P	P		S	S	P		
Veterinary Clinic without Boarding									S	S	P	P	P	P		P	P	P		
Assembly																				
<u>Assembly Hall</u>									P	P	P	P								

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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Use Category	Residential										Non-Residential							Overlay			
	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG			
Subcategory																					
Specific Use Type																					
Auction Establishment																					
Membership Clubs					S																
Event Venue																					
Financial Service																					
Financial Institution, with Drive-thru																					
Financial Institution, without Drive-thru								P													
Food and Beverage Services																					
Food and Beverage General																					
Bars or Taverns																					
Restaurant, with Drive-in or Drive-thru								S													
Restaurant, without Drive-in or Drive-thru																					
Office																					
Administrative and Professional Offices																					
Offices for Nonprofit, Community Health, and Welfare Service Organizations																					
Recreation and Entertainment, Outdoor																					
Amphitheater	S																				
Arena and Field House																					
Country Club	S	S	S	S																	
Marina	S																				
Outdoor Commercial Recreation	S																				
Racing Facilities	S																				
Riding Academies/Stables	S																				
Sports/Entertainment Arena or Stadium	S	S	S	S																	
Athletic Facilities	S	S	S	S																	
Non-Residential Swimming Pools	S	S	S	S																	
Public or Private Membership																					