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Welcome To Your City Commission Meeting - Please turn off all cell phones during the commission meeting.  
*Meetings are televised everyday on Channel 2 at noon, 7 p.m. and midnight*

**CALL TO ORDER - Pledge of allegiance followed by silent meditation**

**Presentations and Proclamations:**

1. Proclamations: Military Retiree Appreciation Day, October 29, 2016 (pg 2)

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**OLD BUSINESS:**

**Consideration of Previous Meeting Minutes:**

2. October 11, 2016 Regular Meeting Minutes **Action:** Motion (pg 3)
3. Bids for Demolition of 724-26 and 728-30 Pottawatomie (tabled from February 2016 and September 27, 2016) **Action:** Motion (pg 11)

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**NEW BUSINESS:**

**Citizens Participation** (*i.e. Items not listed on the agenda or receipt of petitions*)

**Resolutions:**

4. Resolution No. B-2151 PHA 2017 Annual Plan (Leavenworth Housing Planters II) **Action:** Motion (pg 12)

**Bids, Contracts and Agreements:**

5. Consider Lease of City Owned Property **Action:** Motion (pg 34)

**First Consideration Ordinances:**

6. First Consideration Ordinance Special Use Permit – Child Care Center 936 Osage **Action:** Consensus (pg 44)
7. First Consideration Ordinance Special Use Permit – Communications Tower – Olive St **Action:** Consensus (pg 72)
8. First Consideration Ordinance Consideration of Ordinance requiring two considerations **Action:** Consensus (pg 109)

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**Consent Agenda:**

Claims for October 8, 2016 through October 21, 2016 in the amount of \$936,561.26; Net amount for Pay #21 effective October 14, 2016 in the amount of \$299,240.09 (No Fire & Police Pension). **Action:** Motion

**Other Items:**

**Adjourn Action:** Motion



# Proclamation

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- Whereas,* Military retirees have served our country faithfully in times of peace and war; and
- Whereas,* military retirees have made significant sacrifices in defense of our freedom and liberty; and
- Whereas,* a large number of military retirees and their families live, work, and play in the Leavenworth community; and
- Whereas,* the Fort Leavenworth garrison will conduct a Retiree Appreciation Day on October 29, 2016.

*Now, Therefore,* I, Larry Dedek, Mayor of the City of Leavenworth, Kansas do hereby join the Fort Leavenworth garrison in recognizing the contributions, sacrifices, and loyalty of military retirees in our community by proclaiming October 29, 2016 as:

*“Military Retiree Appreciation Day”*

*In Witness Whereof,* I have hereunto set my hand this twenty-fifth day of October in the year of two thousand sixteen and caused this seal to be affixed.

\_\_\_\_\_  
Larry Dedek, Mayor

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk



**CALL TO ORDER** - The Governing Body met in regular session and the following commission members were present: Mayor Larry Dedeke, Mayor Pro-Tem Nancy Bauder, Commissioners Mark Preisinger, Charles Raney and Lisa Weakley.

**Others present:** City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Public Works Director Mike McDonald, Deputy Public Works Director Mike Hooper, Chief Building Inspector Hal Burdette, City Planner Julie Hurley, Community Development Coordinator Mary Dwyer, CVB Manager Kristi Lee, Finance Director Ruby Maline, Parks and Recreation Director Steve Grant, Public Information Officer Melissa Bower, City Attorney Tom Dawson, and City Clerk Carla K. Williamson

Mayor Dedeke opened the meeting with the pledge of allegiance followed by silent meditation.

**PRESENTATIONS AND PROCLAMATIONS:**

**Proclamation:**

**Domestic Violence Awareness Month October 2016:** Jennifer Cherrie was present to accept the Proclamation.

**Food Day October 24, 2016:** Bill Kromer was present to accept the Proclamation.

**Lights on After School October 20, 2016:** Annette Taylor was present to accept the Proclamation.

**OLD BUSINESS:**

**Consideration of Previous Meeting Minutes** – Commissioner Bauder moved to approve the September 27, 2016 Regular Meeting minutes and October 4, 2016 Special Meeting minutes as presented. Commissioner Preisinger seconded the motion and was unanimously approved.

**Second Consideration Ordinances:**

**Ordinance No. 8014 - Increasing the amount required for sealed proposals for Capital Improvements Projects** –City Manager Paul Kramer stated that there were no changes to the ordinance since the September 27, 2016 meeting.

Mayor Dedeke called for the roll call vote and Ordinance No. 8014 was unanimously approved.

**Ordinance No. 8015 - Wastewater Rate Increase** –City Manager Paul Kramer stated that there were no changes to the ordinance since the September 27, 2016 meeting.

Mayor Dedeke called for the roll call vote and Ordinance No. 8015 was unanimously approved

**Ordinance No. 8016 - Refuse Rate Increase** –City Manager Paul Kramer stated that there were no changes to the ordinance since the September 27, 2016 meeting.

Mayor Dedeke called for the roll call vote and Ordinance No. 8016 was unanimously approved

**NEW BUSINESS:**

**Citizen Participation:** none

**General Items and Resolutions:**

**Consider Construction of a Training Facility at Sherman Army Airfield / City Municipal Airport** – City Manager Paul Kramer reviewed the request from Dean Ayres, the Fixed Base Operator (FBO) at Sherman Army Airfield to construct a new building for training. Approval is still pending from Fort Leavenworth. Dean Ayres, the Fixed Base Operator (FBO) at Sherman Army Airfield/Municipal Airport spoke to the City Commission and requested approval to construct a new building for a training facility.

Commissioner Preisinger moved to approve the construction of a training facility building at Sherman Army Airfield as presented. Commissioner Raney seconded the motion and was unanimously approved.

**Public Hearing for Unsafe and Dangerous Structures:**

**Open Public Hearing-** Commissioner Preisinger moved to open the public hearing. Commissioner Bauder seconded the motion and was unanimously approved.

**Staff and Public Comments:** City Planner Julie Hurley reviewed each of the following structures that are unsafe or dangerous under K.S.A. 17-4759 and adopted by the City.

1. A one-story wood frame house and any accessory structures on the property located at **50 Logan Avenue**, legally described as Lot Twelve (12), in Block Thirty-three (33) in Southside Park Subdivision. CAMA NO. 1010104013009000.
  - a. City Planner Julie Hurley stated that the owner has contacted staff indicating intent to repair, no repairs made to date. There has been some fire damage to this structure.
  - b. Owner not present.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
2. A one-story wood frame house and any accessory structures on the property located at **426 Limit Street**, legally described as Lots 28 and 29, Block 6, Halsey Heights. CAMA NO. 1010104016007000.
  - a. City Planner Julie Hurley stated that all items noted on remediation agreement dated 6/10/16 completed. Windows have been replaced and are covered by plywood to ensure security of the house due to vandalism. The owner has a buyer for the property and once the house is occupied the plywood will be removed. Staff would recommend removal from the demolition list.
  - b. Owner Mario Munoz addressed the Commission and asked that this structure be removed. All repairs have been accomplished.
  - c. Mayor and Commissioners discussed the issue and agreed to remove the one-story wood framed house and any accessory structure from the demolition list.
3. A one-story wood frame house and any accessory structures on the property located at **655 South Street**, legally described as Lot Three (3), Four (4) and the East Twenty-six (26) feet of Lot Five (5), all in Block fourteen (14) in Fees, Doniphan and Thornton's Addition. CAMA NO. 1010102019002000.
  - a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.
  - b. Owner Diana Bartow addressed the Commission and stated that she had asked that the property be torn down and a lien be placed on the property. The owners combined income was too high to qualify for assisted demolition.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
4. A one-story wood frame house and any accessory structures on the property located at **776 Thornton Street**, legally described as all that part of Block 17, Marshall's Subdivision, City of Leavenworth, Leavenworth County, Kansas, described as follows: Beginning at the Southeast corner of said Block 17, thence West along the North side of Thornton Street 100 feet; thence due North to the right-of-way of the Atchison, Topeka and Santa Fe Railroad Company, thence Southeast along the said right-of-way to the East line of said Block, thence South to the place of beginning. CAMA NO. 1010201017021000.
  - a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.

- b. Owner not present.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
5. A two-story wood frame house and any accessory structures on the property located at **113 Chestnut Street**, legally described as Lot 13, Block 4, Clark and Rees Addition. CAMA NO. 0773601001003000.
- a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.
  - b. Owner not present.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the two-story wood framed house and any accessory structure on the property.
6. A one-story wood frame house and any accessory structures on the property located at **616 Spruce Street**, legally described as Lot 12 in Block 30 in Clark and Rees Addition. CAMA NO. 0773602042012000.
- a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.
  - b. Owner not present
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
7. A two-story brick house and any accessory structures on the property located at **717 Olive Street**, legally described as the West 20 feet of Lot 4 and the East 15 feet of Lot 5, all in Block 38, Clark and Rees' Addition. CAMA NO. 0773602040002000.
- a. City Planner Julie Hurley stated roof added to detached garage, no building permit issued, no contact from owner, as of today garage roof has been completed and garage has been painted.
  - b. Owner Kevin Lis address the Commission:
    - i. Repaired roof on garage and painted
    - ii. Did not get a permit because he said he gets a permit after the work
    - iii. Nothing has been done to the house
  - c. Chief Building Inspector Hal Burdette clarified that the practice of issuing permits after the fact is not for building permits only for electrical, mechanical, and plumbing with a city bond for contractors.
  - d. Mayor and Commissioners discussed the issue not a significant amount of work done in the time allowed, taxes not current, has had time to do work and waited until the day before to do minimal work. Agreed to demolish the two-story wood framed house and any accessory structure on the property.
8. A one-story wood frame house and any accessory structures on the property located at **717 Ottawa Street**, legally described as Lot 39, Block 98, Day and Macaulay's Subdivision. CAMA NO. 0772604107003000.
- a. City Planner Julie Hurley stated windows boarded up by owner to deter squatting activity, no other change.
  - b. Owner Scott Cross addressed the Commission:
    - i. He has owned the house for 5 years
    - ii. No utilities in the house
    - iii. Thinks \$3,000 to make house habitable
    - iv. Mr. Scott asked why he could not do a remediation agreement
    - v. Stated he was not aware of the process to repair the house.
  - c. Commissioner Preisinger asked Ms. Hurley the process of notification to the home owners; Ms. Hurley explained the notification process and explained that property owners are notified and must show funding to take care of the problems as part of the remediation agreement.
  - d. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
9. A one-story wood frame house and any accessory structures on the property located at **800 Osage Street**, legally described as Lots numbered One (1) and Two (2), in Block numbered One (1), Mix's Subdivision. CAMA NO. 0772604302024000.
- a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner. As of yesterday code enforcement staff noticed work and a permit issued for roof work.
  - b. Owner Kevin Lis addressed the Commission

- i. Stated that he had done work some work today.
    - ii. Uses the structure for storage; no water needed.
  - c. Mayor and Commissioners discussed the issue: Property was on the demolition list 6 years ago and work was never completed. There are 25 code violations on the property and the taxes are not current. Commission agreed to demolish the one-story wood framed house and any accessory structure on the property.
10. A one-story wood frame house and any accessory structures on the property located at **856 Cherokee Street**, legally described as Lots numbered One (1) and Two (2) in Block Two (2), in Central Subdivision. CAMA NO. 0773501007005000.
- a. City Planner Julie Hurley stated that this is on the same parcel as 860 Cherokee, signed remediation agreement. Building permit issued to remove and rebuild front stoop and for partial siding replacement. Work not completed. Signed a condemnation agreement in September and estimates 50% of the work is complete.
  - b. Peggy Hide appeared for the owner Tom Hide who is out of town. Provided a list of what is still to be completed and estimates 60 days to complete.
  - c. Mayor and Commissioners discussed the issue and agreed to 45 day extension for repairs.
11. A one-story wood frame house and any accessory structures on the property located at **860 Cherokee Street**, legally described as Lots numbered One (1) and Two (2) in Block Two (2), in Central Subdivision. CAMA NO. 0773501007005000.
- a. City Planner Julie Hurley stated that this is on the same parcel as 856 Cherokee, signed remediation agreement. Building permit issued to remove roof cover from front porch and replace roof. Work not completed.
  - b. Peggy Hide appeared for the owner Tom Hide who is out of town. Provided a list of what is still to be completed and estimates 60 days to complete.
  - c. Mayor and Commissioners discussed the issue and agreed to 45 day extension for repairs.
12. A one-story wood frame house and any accessory structures on the property located at **1107 N. 10<sup>th</sup> Street**, legally described as Lots Three (3), Four (4) and Five (5), Block Four (4), Hannon's Addition. CAMA NO. 0772602003014000.
- a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.
  - b. Owner not present; may be deceased.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.
13. A one-story wood frame house and any accessory structures on the property located at **1158 Kenton Street**, legally described as Lots 21 and 22, Block 3, Stilling's Subdivision. CAMA NO. 0773503003015000.
- a. City Planner Julie Hurley stated all items noted on remediation agreement dated 6/10/16 have been completed. Staff would recommend removal from the demolition list.
  - b. Owner Mr. Bateman said he signed a remediation agreement and completed the work.
  - c. Mayor and Commissioners discussed the issue and agreed to remove the one-story wood framed house and any accessory structure from the demolition list.
14. A one-story wood frame house and any accessory structures on the property located at **1261 High Drive**, legally described as Lots 24 and 25, Block 4, Maplewood Addition. CAMA NO. 0773502038002000.
- a. City Planner Julie Hurley stated that there have been no changes and no contact from the owner.
  - b. No owner present.
  - c. Mayor and Commissioners discussed the issue and agreed to demolish the one-story wood framed house and any accessory structure on the property.

**Close Public Hearing:** Commissioner Weakley moved to close the public hearing. Commissioner Bauder seconded the motion and was unanimously approved.

**Resolution B-2148 Demolition or Repair of Unsafe Structures** - Commissioner Preisinger moved to approve Resolution B-2148 to demolish the unsafe or dangerous structures except 426 Limit and 1158 Kenton to be

removed and 856 Cherokee and 860 Cherokee to allow an additional 45 days for repairs. Commissioner Raney seconded the motion and was unanimously approved.

**Public Hearing for Fire Damaged/Unsafe Structure at 1029 Ironmoulders Street:**

**Open Public Hearing-** Commissioner Preisinger moved to open the public hearing. Commissioner Weakley seconded the motion and was unanimously approved.

**Staff and Public Comments:**

- a. Public Works Director Mike McDonald and Chief Building Inspector Hal Burdette reviewed the progress on the structure. The structure has damaged by fire on June 19, 2016. The property owner Saluda Kitt applied for a building permit on June 30, 2016 for repair. Progress on the necessary repairs has been steady and has passed all inspections to date. The City received insurance proceeds which are to be used to remove the structure if the owner decides not to repair, or return proceeds to the property owner once repairs have progressed to a reasonable point or are completed and the structure is ready for occupancy. Hal stated that they have gone further than what is required. He has been in contact with the owner and contractor and not quite ready to release the funds. Typically we wait until electrical, mechanical and plumbing is complete and the structure is ready for sheet rock.
- b. Mayor and Commissioners discussed the issue and agreed to allow an additional 90 days for repairs and review again.

**Close Public Hearing:** Commissioner Bauder moved to close the public hearing. Commissioner Raney seconded the motion and was unanimously approved.

**Resolution B-2149 Demolition or Repair of Unsafe Fire Damaged Structure at 1029 Ironmoulders Street -**

Commissioner Preisinger moved to approve Resolution B-2149 allowing a 90 day extension. Commissioner Bauder seconded the motion and was unanimously approved.

**Retaining Wall at 3713 Lakeview Built on Public Property without Permit** – Public Works Director Mike McDonald presented information regarding a retaining wall built on public property without a permit at 3713 Lakeview. On August 30, 2016 City Staff observed a retaining wall that was being built approximately ten feet into the street right-of-way leaving approximately three feet between the curb to the face of the wall. Franchised utility companies were contacted regarding the wall and impact. Kansas Gas has expressed a desire to have an agreement so that they will not be responsible for costs associated with the wall if there are conflicts.

**Commission Comments:**

- These are difficult situations
- Discussion regarding areas that are designated as the right-of- way
- If others asked for this same permit they would not be able to get the permit
- Would like an agreement/legal document to be filed with the deed on the property holding the utility companies and the City harmless for any issues associated with the wall.

Kevin Wendt addressed the commission. He was hired by the owner to do inside work of her house. It was his understanding that if the retaining wall was less than 4 feet tall there was no need to have a permit.

Owner Pam Henderson discussed the grade of her driveway and the other homes in her area and similar structures in the area. She was not aware of the need for a permit. Is willing to sign an agreement regarding utility companies but hesitant to be accountable should the City be sued regarding the wall.

Attorney Tom Dawson recommended that the City pursue the agreement/legal documents and that Ms. Henderson should obtain counsel and have a document prepared for him to review.

Mr. McDonald said it might be proper for the homeowner to obtain a permit so that staff can look at what is required.

The City Commission agreed to table the item for a future date to look over the documents for approval.

**Mayor Dedeke called for a 10 Minute break**

**Mayor's Appointments:**

Mayor Dedeke moved to appoint Debi Denney to the Leavenworth Preservation Commission to a term ending 04/15/2019. Commissioner Preisinger seconded and the motion and was unanimously approved.

**Quarterly Report from the Convention and Visitors Bureau –** CVB Manager Kristi Lee presented an update of activities by the CVB.

- Staff plans to meet with Hotel representatives from the Fairfield Inn and Hampton Inn quarterly to share ideas
- Reviewed Social Media statistics July 1 – September 23, 2016
- Reviewed various print advertisings
- Reviewed Group Tours and Reunions booked
- Veterans Traveling Wall booked for October 23-30, 2016
- Looking Ahead
  - Tourism Grant Fund guidelines
  - New rack card for placement in and around the KC Metro area
  - Meeting Planners Guidebook
  - 2017 Visitors Guide

**Consider City Policy on Title VI –** Assistant City Manager Taylour Tedder presented the formal Title VI policy of the City of Leavenworth. The City has historically complied with the Title VI guidelines but has never formally adopted a plan. KDOT requires that all Cities have a plan on file with them. Title VI Plan consists of a report and supporting documents that provides evidence of the equitable distribution of services, promotion of full and fair participation in decision-making without regard to race, color, or national origin.

Commissioner Bauder moved to approve the Title VI Plan put together for the City of Leavenworth. Commissioner Raney seconded the motion and was unanimously approved.

**Zeck Ford Industrial Revenue Bonds (IRB):** City Manager Paul Kramer presented for consideration the Funding Agreement and Resolution B-2150 related to the request from Zeck Ford for Industrial Revenue Bonds for sales tax use only. The City Commission heard the request at the October 4, 2016 Study Session and provided a consensus to move forward with a non-binding resolution.

- **The Funding Agreement (Contract No. 2016-80)** provides for the payment of City incurred expenses by the Applicant, Zeck Brothers Development LLC.
- **Resolution B-2150** is a resolution expressing the intent of the City of Leavenworth to issue taxable Industrial Revenue Bonds in the maximum principle amount of \$9,000,000.

Commission Comments:

- Commissioner Preisinger reiterated that as discussed at the Study Session last week that funding stops if Zeck is not in compliance with the agreement as it relates to the South lot and work to be completed by the December 31, 2016 deadline. Mr. Maxwell, counsel for Zeck Ford confirmed that they were aware.
- Commissioner Weakley was not in favor of the project. The City has already approved three incentives to Zeck Ford and not in favor of offering any more incentives. Commissioner Preisinger stated again that funding dries up as of December 31, 2016 if they are not in compliance with the agreement.

Commissioner Preisinger moved to approve the Funding Agreement with Zeck Ford for the Sales Tax IRBs as presented. Commissioner Raney seconded the motion and was approved 4-1; Commissioner Weakley voting no.

Commissioner Bauder moved to approve Resolution B-2015 as presented. Commissioner Raney seconded the motion and was approved 4-1; Commissioner Weakley voting no.

**Bids, Contracts and Agreements:**

**Ferguson Properties Request for Amendment to Development Agreement** – At the September 27, 2016 regular meeting the City Commission reviewed the request from Mr. Ferguson and made a motion to table the items for further review and consideration until the October 11, 2016 meeting. City Manager Paul Kramer reviewed the request from John Ferguson to amend Section 2.10, Item D, Subsection (iii) of the Development Agreement for construction of a hotel at the corner of 4<sup>th</sup> Street and Metropolitan Avenue (Second Hotel Project). The current agreement states that a building permit shall not be issued sooner than October 1, 2017. Mr. Ferguson has requested a change to allow a building permit to be issued sooner.

Mr. Ferguson addressed the Commission and discussed the need for hotel accommodations in the City. The Campus-setting he is building will accommodate the needs of the military.

Commissioner Preisinger:

- Very disappointed with the Hilton property in not starting their project
- Understands Mr. Ferguson has a lot of site work to be done
- Not sure that he could do all the site work by March 1 2017
- Would like to propose that the City issue a permit within 30 days once all site work has been completed and approved

Greg Mullenix from EQH-Leavenworth addressed the Commission:

- Does have an issue with moving the time line up
- Should be able to open per their schedule; lost three months due to Hilton and lenders
- Two similar hotels; Both extended stay
- Has always felt that they needed some time to get business operating appropriately before another hotel opens

Mr. Ferguson stated that hotels at the airport and legends are pulling business from Leavenworth. He is willing to take the challenge of the 30 days from completion to pull a building permit.

Commissioner Preisinger move to amend the agreement with Ferguson Properties to be able to pull a building permit 30 days after all site prep work is completed but no sooner than March 1, 2017 pending staff presenting a revised development agreement. Commissioner Bauder seconded and the motion was approved 4-1 with Commissioner Weakley voting no.

**Reject Bids for Wastewater Treatment Plant Dewatering Pad** - Public Works Director Mike McDonald reviewed the bids opened on October 5, 2016 for the Dewatering Pad. Bids came in substantially higher than the Engineer's Estimate. Staff recommends rejecting all bids. Bids were as follows:

<b>Company</b>	<b>City</b>	<b>Bid Total</b>
BKM Construction	Leavenworth KS	\$62,392.71
Mega Industries	N Kansas City MO	\$77,774.00
Pfefferkorn & Drury	Olathe KS	\$98,640.00
Engineer's Estimate		\$39,325.01

Commissioner Bauder moved to reject all bids for the WWTP Dewatering Pad Project and allow staff to re-evaluate. Commissioner Raney seconded the motion and was unanimously approved.

**Change Order No. 1 to Contract 2016-11 with R.A. Knapp Construction Company – Cherokee Bridge Project –** Public Works Director Mike McDonald presented for consideration a change order in the amount of \$22,359.88 increasing the amount of the contract to \$950,387.57.

Commissioner Bauder moved to approve the Change Order No. 1 for R.A. Knapp Construction Company for additional work in the amount of \$22,359.88. Commissioner Preisinger seconded the motion and was unanimously approved.

**Contract No. 2016-81 Bids for Performing Arts HVAC Project –** Parks and Recreation Director Steve Grant reviewed the bid for the Performing Arts Center HVAC Upgrade Phase I. One bid was received from D’Agostino Mechanical Contractors, Inc. Staff recommends accepting the following Bid and Add Alternates:

<b>Item</b>	<b>Cost</b>
Electrical Distribution Replacement	\$29,400.00
Tandom Scroll Compressor	\$32,700.00
Digital Temperature Control System	\$20,490.00
Construct Roof Hatch	<u>\$13,045.00</u>
Total	\$95,635.00

Commissioner Bauder moved to accept the bid from D’Agostino Mechanical to include the add alternate scroll type compressor in the amount not to exceed \$95,635.00. Commissioner Raney seconded the motion and was unanimously approved.

**CONSENT AGENDA:**

Claims for September 24, 2016 through October 7, 2016 in the amount of \$1,013,771.90; Net amount for Pay #20 effective September 30, 2016 in the amount of \$307,864.59 (No Fire & Police Pension). Commissioner Raney moved to approve the consent agenda, as presented. Commissioner Preisinger seconded the motion and was unanimously approved.

**Other Items:**

**Commissioner Comments:**

Commissioner Bauder: Sister Vickie would like a letter of support for the homeless shelter in applying for a grant. The Commission was in favor of having the City Manager prepare and sign a letter of support.

City Manager Kramer: October 13, 2016 at the Community Center KCPL and Westar will hold a meeting discussing their potential merger. The meeting is at 9:00 a.m.

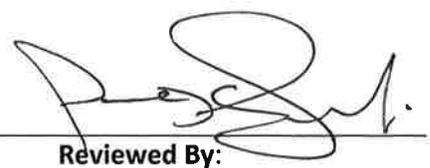
**Adjourn –** Commissioner Preisinger moved to adjourn the meeting. Commissioner Raney seconded the motion and was unanimously approved.

Time Meeting Adjourned 9:55 p.m.  
Minutes taken by City Clerk Carla K. Williamson, CMC

**POLICY REPORT**  
**Leavenworth City Commission**  
**Demolition 2015-07 for 724-26 Pottawatomie and 728-30 Pottawatomie**  
**October 25, 2016**

  
**Prepared By:**  
Mary Dwyer  
Community Development  
Coordinator

  
**Reviewed By:**  
Julie Hurley  
City Planner

  
**Reviewed By:**  
Paul Kramer  
City Manager

**DISCUSSION**

Bids were solicited for demolition of two 4-plex buildings, 724-726 Pottawatomie and 728-730 Pottawatomie. Five complete bids were received, and one bid was not read as it was incomplete. Bid totals are shown below. Award of the bid will be contingent on pending legal action.

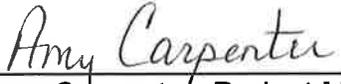
Company	Bid Amount
Diversified Builders and Developers	\$38,700.00
Remco Demolition	\$21,640.00
Dale Brothers	Not read, incomplete
Fredrick Excavating	\$38,825.00
Madget Demolition	\$34,000.00
Midland Wrecking	\$20,200.00

**RECOMMENDED ACTION**

Staff recommends acceptance of the lowest bid by Midland Wrecking for \$20,200.00. Sufficient funds are in the Community Development Block Grant for this contract.

**POLICY REPORT  
RESOLUTION SUBMITTING 2017 PHA ANNUAL PLAN  
OCTOBER 25, 2016**

**PREPARED BY:**

  
\_\_\_\_\_  
Amy Carpenter, Project Manager  
Leavenworth Housing Authority

**REVIEWED & APPROVED BY:**

  
\_\_\_\_\_  
Paul Kramer, Executive Director  
City Manager

**ISSUE:**

Consider a resolution adopting and submitting the 2017 PHA Annual Plan, and the Capital Fund Program Annual Statement/Performance and Evaluation Report for the Leavenworth Housing Authority to the U.S. Department of Housing & Urban Development for the operation of Planters II and Section 8.

**PLAN:**

The PHA Annual plan and the Capital Fund Program Annual Statement/Performance and Evaluation Report will be electronically submitted to the U.S. Department of HUD. A paper copy of the PHA Annual plan, CFP Annual Statement/Performance and Evaluation Report for years 2014 to 2016, and the Capital Fund Program Five-Year Action Plan (approved October 28<sup>th</sup>, 2014) are available at the Leavenworth Housing Authority office.

The plan is standard HUD format. It makes no changes to the operation of either Planters II or the Section 8 (Housing Choice Voucher) programs. Plan approval and submission to the U.S. Department of Housing & Urban Development is required annually. We currently enjoy a favorable status for both programs.

The Leavenworth Housing Authority was declared a High Performer in FY 2015.

**COMMISSION ACTION:**

Motion to approve the plan (by adoption of resolution) and authorize its submission to HUD.

**RESOLUTION NO. B-2151**

**BE IT RESOLVED BY THE LEAVENWORTH CITY COMMISSION ACTING AS THE LEAVENWORTH HOUSING AUTHORITY COMMISSION, CITY OF LEAVENWORTH, KANSAS, AS FOLLOWS:**

**Section 1.**

The Leavenworth City Commission is the legal Housing Authority for the City of Leavenworth, Kansas.

**Section 2.**

The PHA Annual Plan for 2017, Capital Fund Program Annual Statement/Performance and Evaluation Report, including all attachments and certifications are hereby approved and authorized for submission to the U.S. Department of Housing & Urban Development.

**Section 3.**

Policies and procedures identified in the plan have been appropriately adopted by Resolution of the Leavenworth City Commission on file and available for public inspection in the Leavenworth Housing Authority Office, 200 Shawnee Street, Leavenworth, Kansas.

**Section 4.**

This Resolution shall be effective from and after its passage as provided by law.

PASSED AND APPROVED this 25<sup>th</sup> day of October 2016.

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Larry Dedeke, Mayor

ATTEST:

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Carla K. Williamson, CMC, City Clerk

<b>Streamlined Annual PHA Plan</b> <i>(Small PHAs)</i>	<b>U.S. Department of Housing and Urban Development Office of Public and Indian Housing</b>	<b>OMB No. 2577-0226 Expires: 02/29/2016</b>
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**Purpose.** The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families

**Applicability.** Form HUD-50075-SM is to be completed annually by **Small PHAs**. PHAs that meet the definition of a Standard PHA, Troubled PHA, High Performer PHA, HCV-Only PHA, or Qualified PHA do not need to submit this form.

**Definitions.**

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both of the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, or at risk of being designated as troubled, and that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceeds 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment, and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceeds 550, and that was designated as a standard performer in the most recent PHAS or SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined, and is not PHAS or SEMAP troubled.

A. PHA Information.						
A.1	<b>PHA Name:</b> <u>Leavenworth Housing Authority</u> <span style="float: right;"><b>PHA Code:</b> <u>KS068</u></span> <b>PHA Type:</b> <input checked="" type="checkbox"/> Small <input type="checkbox"/> High Performer <b>PHA Plan for Fiscal Year Beginning:</b> <u>01/2017</u> <b>PHA Inventory</b> (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) <b>Number of Public Housing (PH) Units:</b> <u>105</u> <span style="margin-left: 100px;"><b>Number of Housing Choice Vouchers (HCVs):</b> <u>339 + 130 VASH</u></span> <b>Total Combined:</b> <u>444 (PH &amp; S8) ----- 574 (PH, S8, VASH)</u> <b>PHA Plan Submission Type:</b> <input checked="" type="checkbox"/> Annual Submission <input type="checkbox"/> Revised Annual Submission					
<p><b>Availability of Information.</b> In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information of the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.</p>						
<input type="checkbox"/> <b>PHA Consortia:</b> (Check box if submitting a Joint PHA Plan and complete table below)						
<b>Participating PHAs</b>		<b>PHA Code</b>	<b>Program(s) in the Consortia</b>	<b>Program(s) not in the Consortia</b>	<b>No. of Units in Each Program</b>	
					<b>PH</b>	<b>HCV</b>
Lead PHA:						

<b>B.</b>	<b>Annual Plan Elements Submitted with 5-Year PHA Plans.</b> Required elements for all PHAs completing this document in years in which the 5-Year Plan is also due. This section does not need to be completed for years when a PHA is not submitting its 5-Year Plan. See Section C for required elements in all other years (Years 1-4).
<b>B.1</b>	<p><b>Revision of PHA Plan Elements.</b></p> <p>(a) Have the following PHA Plan elements been revised by the PHA since its last <b>Five-Year PHA Plan</b> submission?</p> <p>Y N</p> <p><input type="checkbox"/> <input type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs.</p> <p><input type="checkbox"/> <input type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input type="checkbox"/> <input type="checkbox"/> Financial Resources.</p> <p><input type="checkbox"/> <input type="checkbox"/> Rent Determination.</p> <p><input type="checkbox"/> <input type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input type="checkbox"/> Substantial Deviation.</p> <p><input type="checkbox"/> <input type="checkbox"/> Significant Amendment/Modification</p> <p>(b) The PHA must submit its Deconcentration Policy for Field Office Review.</p> <p>(c) If the PHA answered yes for any element, describe the revisions for each element below:</p>
<b>B.2</b>	<p><b>New Activities.</b></p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y N</p> <p><input type="checkbox"/> <input type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input type="checkbox"/> <input type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input type="checkbox"/> <input type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Tenant Based Assistance.</p> <p><input type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Project-Based Assistance under RAD.</p> <p><input type="checkbox"/> <input type="checkbox"/> Project Based Vouchers.</p> <p><input type="checkbox"/> <input type="checkbox"/> Units with Approved Vacancies for Modernization.</p> <p><input type="checkbox"/> <input type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project based units and general locations, and describe how project basing would be consistent with the PHA Plan.</p>
<b>B.3</b>	<p><b>Progress Report.</b></p> <p>Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year Plan.</p>

<b>C.</b>	<b>Annual Plan Elements Submitted All Other Years (Years 1-4).</b> Required elements for all other fiscal years. This section does not need to be completed in years when a PHA is submitting its 5-Year PHA Plan.
<b>C.1.</b>	<p><b>New Activities</b></p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Conversion of Public Housing to Tenant-Based Assistance.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Project Based Vouchers.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process.</p> <p>(c) If using Project-Based Vouchers, provide the projected number of project-based units, general locations, and describe how project-basing would be consistent with the PHA Plan.</p> <p>(d) The PHA must submit its Deconcentration Policy for Field Office Review.</p>
<b>C.2</b>	<p><b>Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan</b></p> <p><i>Form 50077-SM, Certification of Compliance with PHA Plans and Related Regulations</i>, including Item 5 must be submitted by the PHA as an electronic attachment to the PHA Plan. Item 5 requires certification on whether plan elements have been revised, provided to the RAB for comment before implementation, approved by the PHA board, and made available for review and inspection by the public.</p>
<b>D Other Document or Certification Requirements for Annual Plan Submissions. Required in all submission years.</b>	
<b>D.1</b>	<p><b>Civil Rights Certification.</b></p> <p><i>Form 50077-SM-HP, Certification of Compliance with PHA Plans and Related Regulations</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
<b>D.2</b>	<p><b>Resident Advisory Board (RAB) Comments.</b></p> <p>(a) Did the RAB(s) provide comments to the PHA Plan?</p> <p>Y N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p>
<b>D.3</b>	<p><b>Certification by State or Local Officials.</b></p> <p><i>Form HUD 50077-SL, Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p>
<b>E Statement of Capital Improvements. Required in all years for all PHAs completing this form that administer public housing and receive funding from the Capital Fund Program (CFP).</b>	
<b>E.1</b>	<p><b>Capital Improvements.</b> Include a reference here to the most recent HUD-approved 5-Year Action Plan (HUD-50075.2) and the date that it was approved by HUD.</p>

# Instructions for Preparation of Form HUD-50075-SM Annual Plan for Small and High Performing PHAs

## A. PHA Information. All PHAs must complete this section.

**A.1** Include the full PHA Name, PHA Code, PHA Type, PHA Fiscal Year Beginning (MM/YYYY), PHA Inventory, Number of Public Housing Units and or Housing Choice Vouchers (HCVs), PHA Plan Submission Type, and the Availability of Information, specific location(s) of all information relevant to the public hearing and proposed PHA Plan. (24 CFR §903.23(4)(e))

**PHA Consortia:** Check box if submitting a Joint PHA Plan and complete the table. (24 CFR §943.128(a))

## B. Annual Plan. PHAs must complete this section during years where the 5-Year Plan is also due. (24 CFR §903.12)

### B.1 Revision of PHA Plan Elements. PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the “yes” box. If an element has not been revised, mark “no.”

**Statement of Housing Needs and Strategy for Addressing Housing Needs.** Provide a statement addressing the housing needs of low-income, very low-income and extremely low-income families and a brief description of the PHA’s strategy for addressing the housing needs of families who reside in the jurisdiction served by the PHA. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income), (ii) elderly families and families with disabilities, and (iii) households of various races and ethnic groups residing in the jurisdiction or on the waiting list based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. For years in which the PHA’s 5-Year PHA Plan is also due, this information must be included only to the extent it pertains to the housing needs of families that are on the PHA’s public housing and Section 8 tenant-based assistance waiting lists. (24 CFR §903.7(a)(1) and 24 CFR §903.12(b). Provide a description of the PHA’s strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. For years in which the PHA’s 5-Year PHA Plan is also due, this information must be included only to the extent it pertains to the housing needs of families that are on the PHA’s public housing and Section 8 tenant-based assistance waiting lists. (24 CFR §903.7(a)(2)(ii) and 24 CFR §903.12(b).

**Deconcentration and Other Policies that Govern Eligibility, Selection and Admissions.** Describe the PHA’s admissions policy for deconcentration of poverty and income mixing of lower-income families in public housing. The Deconcentration Policy must describe the PHA’s policy for bringing higher income tenants into lower income developments and lower income tenants into higher income developments. The deconcentration requirements apply to general occupancy and family public housing developments. Refer to 24 CFR §903.2(b)(2) for developments not subject to deconcentration of poverty and income mixing requirements. (24 CFR §903.7(b)) Describe the PHA’s procedures for maintaining waiting lists for admission to public housing and address any site-based waiting lists. (24 CFR §903.7(b)) A statement of the PHA’s policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV. (24 CFR §903.7(b)) Describe the unit assignment policies for public housing. (24 CFR §903.7(b))

**Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA’s anticipated resources, such as PHA operating, capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources. (24 CFR §903.7(c))

**Rent Determination.** A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units, including applicable public housing flat rents, minimum rents, voucher family rent contributions, and payment standard policies. (24 CFR §903.7(d))

**Homeownership Programs.** A description of any homeownership programs (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval. For years in which the PHA’s 5-Year PHA Plan is also due, this information must be included only to the extent that the PHA participates in homeownership programs under section 8(y) of the 1937 Act. (24 CFR §903.7(k) and 24 CFR §903.12(b).

**Substantial Deviation.** PHA must provide its criteria for determining a “substantial deviation” to its 5-Year Plan. (24 CFR §903.7(r)(2)(i))

**Significant Amendment/Modification.** PHA must provide its criteria for determining a “Significant Amendment or Modification” to its 5-Year and Annual Plan. Should the PHA fail to define ‘significant amendment/modification’, HUD will consider the following to be ‘significant amendments or modifications’: a) changes to rent or admissions policies or organization of the waiting list; b) additions of non-emergency public housing CFP work items (items not included in the current CFP Annual Statement or CFP 5-Year Action Plan); or c) any change with regard to demolition or disposition, designation, homeownership programs or conversion activities. See guidance on HUD’s website at: Notice PIH 1999-51. (24 CFR §903.7(r)(2)(ii))

If any boxes are marked “yes”, describe the revision(s) to those element(s) in the space provided.

PHAs must submit a Deconcentration Policy for Field Office review. For additional guidance on what a PHA must do to deconcentrate poverty in its development and comply with fair housing requirements, see 24 CFR 903.2. (24 CFR §903.23(b))

**B.2** **New Activities.** If the PHA intends to undertake any new activities related to these elements or discretionary policies in the current Fiscal Year, mark “yes” for those elements, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake these activities, mark “no.”

**Hope VI or Choice Neighborhoods.** 1) A description of any housing (including project name, number (if known) and unit count) for which the PHA will apply for HOPE VI; and 2) A timetable for the submission of applications or proposals. The application and approval process for Hope VI is a separate process. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

**Mixed Finance Modernization or Development.** 1) A description of any housing (including name, project number (if known) and unit count) for which the PHA will apply for Mixed Finance Modernization or Development; and 2) A timetable for the submission of applications or proposals. The application and approval process for Mixed Finance Modernization or Development is a separate process. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

**Demolition and/or Disposition.** Describe any public housing projects owned by the PHA and subject to ACCs (including name, project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and (2) A timetable for the demolition or disposition. This statement must be submitted to the extent that approved and/or pending demolition and/or disposition has changed. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at: [http://www.hud.gov/offices/pih/centers/sac/demo\\_dispo/index.cfm](http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm). (24 CFR §903.7(h))

**Conversion of Public Housing.** Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA is required to convert or plans to voluntarily convert to tenant-based assistance; 2) An analysis of the projects or buildings required to be converted; and 3) A statement of the amount of assistance received to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/centers/sac/conversion.cfm>. (24 CFR §903.7(j))

**Project-Based Vouchers.** Describe any plans to use HCVs for new project-based vouchers. (24 CFR §983.57(b)(1)) If using project-based vouchers, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan.

**Other Capital Grant Programs** (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).

**B.3 Progress Report.** For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year PHA Plan. (24 CFR §903.7(r)(1))

**C. Annual Plan.** PHAs must complete this section during years where the 5-Year Plan is not due. (24 CFR §903.12)

**C.1 New Activities.** If the PHA intends to undertake any new activities related to these elements in the current Fiscal Year, mark "yes" for those elements, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake these activities, mark "no."

**Hope VI or Choice Neighborhoods.** 1) A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Choice Neighborhoods; and 2) A timetable for the submission of applications or proposals. The application and approval process for Hope VI or Choice Neighborhoods is a separate process. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

**Mixed Finance Modernization or Development.** 1) A description of any housing (including project number (if known) and unit count) for which the PHA will apply for Mixed Finance Modernization or Development; and 2) A timetable for the submission of applications or proposals. The application and approval process for Mixed Finance Modernization or Development is a separate process. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm>. (Notice PIH 2010-30)

**Demolition and/or Disposition.** Describe any public housing projects owned by the PHA and subject to ACCs (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and (2) A timetable for the demolition or disposition. This statement must be submitted to the extent that approved and/or pending demolition and/or disposition has changed. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at: [http://www.hud.gov/offices/pih/centers/sac/demo\\_dispo/index.cfm](http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm). (24 CFR §903.7(h))

**Conversion of Public Housing.** Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA is required to convert or plans to voluntarily convert to tenant-based assistance; 2) An analysis of the projects or buildings required to be converted; and 3) A statement of the amount of assistance received to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at: <http://www.hud.gov/offices/pih/centers/sac/conversion.cfm>. (24 CFR §903.7(j))

**Conversion of Public Housing.** Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA plans to voluntarily convert to project-based assistance under RAD. See additional guidance on HUD's website at: [Notice PIH 2012-32](#)

**Project-Based Vouchers.** Describe any plans to use HCVs for new project-based vouchers. (24 CFR §983.57(b)(1)) If using project-based vouchers, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan.

**Units with Approved Vacancies for Modernization.** The PHA must include a statement related to units with approved vacancies that are undergoing modernization in accordance with 24 CFR §990.145(a)(1).

**Other Capital Grant Programs** (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).

**C.2 Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.** Provide a certification that the following plan elements have been revised, provided to the RAB for comment before implementation, approved by the PHA board, and made available for review and inspection by the public. This requirement is satisfied by completing form HUD-50077 SM-HP.

**D. Annual Plan.** PHAs must complete this section in all years.

**D.1 Civil Rights Certification.** Form HUD-50077 SM-HP, *PHA Certifications of Compliance with the PHA Plans and Related Regulation*, must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o))

**D.2 Resident Advisory Board (RAB) comments.** If the RAB provided comments to the annual plan, mark "yes," submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA's decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)

**D.3 Certification by State or Local Officials.** Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15)

**E. Statement of Capital Improvements.** PHAs that receive funding from the Capital Fund Program (CFP) must complete this section. (24 CFR 903.7 (g))

**E.1 Capital Improvements.** In order to comply with this requirement, the PHA must reference the most recent HUD approved Capital Fund 5 Year Action Plan. PHAs can reference the form by including the following language in Section C. 8.0 of the PHA Plan Template: "See HUD Form 50075.2 approved by HUD on XX/XX/XXXX."

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This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the 5-Year and Annual PHA Plan. The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low-income, very low-income, and extremely low-income families.

Public reporting burden for this information collection is estimated to average 16.64 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Privacy Act Notice.** The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

Annual Statement/Performance and Evaluation Report  
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 06/30/2017

<b>Part I: Summary</b>	
PHA Name: Leavenworth Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS01P06850116 Replacement Housing Factor Grant No: Date of CFFP:
FFY of Grant: 2016 FFY of Grant Approval:	

Type of Grant  
 Original Annual Statement     
 Reserve for Disasters/Emergencies     
 Revised Annual Statement (revision no: )  
 Performance and Evaluation Report for Period Ending:     
 Final Performance and Evaluation Report

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) <sup>3</sup>				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures	\$89,959.00			
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.  
<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.  
<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.  
<sup>4</sup> RHF funds shall be included here.

<b>Part I: Summary</b>					
<b>PHA Name:</b> Leavenworth Housing Authority	<b>Grant Type and Number</b> Capital Fund Program Grant No: KS01P06850116 Replacement Housing Factor Grant No: Date of CFFP:	<b>FFY of Grant:2016</b> <b>FFY of Grant Approval:</b>			
Type of Grant <input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)				
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director 		Date 03/14/2016		Signature of Public Housing Director	
				Date	

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHF funds shall be included here.









**Certification of Compliance with  
PHA Plans and Related Regulations  
(Small PHAs)**

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB No. 2577-0226  
Expires 02/29/2016

**PHA Certifications of Compliance with the PHA Plans and Related Regulations  
including Civil Rights and PHA Plan Elements that Have Changed**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the \_\_\_ 5-Year and/or X Annual PHA Plan for the PHA fiscal year beginning 2017, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Board or Boards in developing the Plan, and considered the recommendations of the Board or Boards (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA certifies that the following policies, programs, and plan components have been revised since submission of its last Annual PHA Plan (check all policies, programs, and components that have been changed):
  - \_\_\_ 903.7a Housing Needs
  - \_\_\_ 903.7b Deconcentration and Other Policies Governing Eligibility, Selection, Occupancy, and Admissions Policies
  - \_\_\_ 903.7c Financial Resources
  - \_\_\_ 903.7d Rent Determination Policies
  - \_\_\_ 903.7h Demolition and Disposition
  - \_\_\_ 903.7k Homeownership Programs
  - \_\_\_ 903.7r Additional Information
    - \_\_\_ A. Progress in meeting 5-year mission and goals
    - \_\_\_ B. Criteria for substantial deviation and significant amendments
    - \_\_\_ C. Other information requested by HUD
      - \_\_\_ 1. Resident Advisory Board consultation process
      - \_\_\_ 2. Membership of Resident Advisory Board
      - \_\_\_ 3. Resident membership on PHA governing board

The PHA provides assurance as part of this certification that:

- (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
  - (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
  - (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
  6. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
  7. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those programs, addressing those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.
  8. For a PHA Plan that includes a policy for site based waiting lists:
    - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2010-25);

- The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
  - Adoption of site-based waiting lists would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
  - The PHA shall take reasonable measures to assure that such waiting list is consistent with affirmatively furthering fair housing;
  - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
  10. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
  11. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
  12. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
  13. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
  14. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
  15. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
  16. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
  17. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
  18. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
  19. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
  20. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
  21. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

Leavenworth Housing Authority  
PHA Name

KS068  
PHA Number/HA Code

\_\_\_\_ 5-Year PHA Plan for Fiscal Years 20 \_\_\_\_ - 20 \_\_\_\_

Annual PHA Plan for Fiscal Year 2017

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official  Larry Dedke	Title  Mayor
Signature	Date

**Civil Rights Certification**  
***(Qualified PHAs)***

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0226  
Expires 02/29/2016

**Civil Rights Certification**

**Annual Certification and Board Resolution**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official, I approve the submission of the 5-Year PHA Plan for the PHA of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the public housing program of the agency and implementation thereof:*

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those program, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.

Leavenworth Housing Authority  
PHA Name

KS068  
PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Larry Dedeke	Mayor
Signature	Date

**Certification by State or Local  
 Official of PHA Plans Consistency  
 with the Consolidated Plan or  
 State Consolidated Plan  
 (All PHAs)**

U. S Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 2/29/2016

**Certification by State or Local Official of PHA Plans  
 Consistency with the Consolidated Plan or State Consolidated Plan**

I, Larry Dedeker, the Mayor  
*Official's Name Official's Title*

certify that the 5-Year PHA Plan and/or Annual PHA Plan of the

Leavenworth Housing Authority  
*PHA Name*

is consistent with the Consolidated Plan or State Consolidated Plan and the Analysis of  
 Impediments (AI) to Fair Housing Choice of the

City of Leavenworth/Leavenworth County  
*Local Jurisdiction Name*

pursuant to 24 CFR Part 91.

Provide a description of how the PHA Plan is consistent with the Consolidated Plan or State  
 Consolidated Plan and the AI.

The PHA plan is consistent with the Consolidated Plan in regards to reporting Affordable Housing,  
 Housing Market Analysis, Public and Assisted Housing, Special Needs Facilities and Services,  
 Barriers to Affordable Housing, needs of Public Housing and Housing Choice voucher holders,  
 Unit conditions and Market Conditions.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official Larry Dedeker	Title Mayor
Signature	Date

# Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Leavenworth Housing Authority

Program/Activity Receiving Federal Grant Funding

Planters II / City of Leavenworth

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

**2. Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here  if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official Larry Dedeke	Title Mayor
Signature X	Date

# Certification of Payments to Influence Federal Transactions

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

Applicant Name

Leavenworth Housing Authority

Program/Activity Receiving Federal Grant Funding

Planters II / City of Leavenworth

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Larry Dedeke

Title

Mayor

Signature

Date (mm/dd/yyyy)

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: <sup>4c</sup>	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b> N/A  Congressional District, if known:	
<b>6. Federal Department/Agency:</b> N/A	<b>7. Federal Program Name/Description:</b> N/A CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>  N/A	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>  N/A	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: <u>Larry Dedeker</u> Title: <u>Mayor</u> Telephone No.: <u>913-682-9201</u> Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**Policy Report**  
Lease of City-owned property  
October 25, 2016

Prepared by:



Paul Kramer  
City Manager

**Background:**

The City was approached this summer by Don and Sherie Brown, owners of The Depot restaurant, regarding some City owned property adjacent to the south side of their property. The Browns had been doing some cleanup and maintenance of the area, and inquired about purchasing the land from the City. The Browns plan to invest some funds in the cleanup as well as make the area available for use by their tenant at The Depot restaurant for some special events, and were concerned about doing this in a general use area.

Staff has determined that selling that property, with its location in the floodplain, would not be advisable, but that a lease would be appropriate given the Browns plans to improve the property.

Staff conferred with the League of Kansas Municipalities and determined that a 5-year lease was appropriate. The agreement was modeled off the arrangement the City has with the model airplane club at the former City landfill.

**Staff recommendation:**

Based on the conditions listed in the agreement, staff is in favor of executing the lease with the Browns for exclusive use of the City-owned property for a period of five years, subject to mutual renewal.

# LEASE AGREEMENT

## for Don and Sherry Brown owners of property in Leavenworth, Kansas

THIS AGREEMENT made and entered into this 25th day of October, 2016, by and between Don and Sherry Brown "BROWNS," and the City of Leavenworth, Kansas hereinafter referred to as the "CITY."

WHEREAS, the CITY owns and operates the area indicated in Attachment A "PROPERTY," which is in part to be used for a companion area for The Depot restaurant; and

WHEREAS, the BROWNS and the CITY have discussed certain agreements by which the BROWNS will lease the PROPERTY from the CITY for 5 years for the sum of \$10.00 and whereas the lease may be renewed for an additional five years upon written agreement of the parties, and/or automatically renewing unless either party provides written notification within 30 days of expiration; and

WHEREAS, the CITY and the BROWNS have jointly agreed for the use and operation of the PROPERTY upon the terms and conditions set forth herein. A map attached to this agreement marked as exhibit A will define the property subject to this lease agreement. Exhibit A will identify approved operating areas.

NOW, THEREFORE, in order to clarify and set forth the duties and responsibilities of each party, the parties hereto agree as follows:

1. TERM. This Agreement shall commence on Nov. 1, 2016, and continue as set forth above requiring a written renewal after the initial five-year period, and/or automatically renewing unless either party provides written notification within 30 days of yearly expiration.
2. USE OF PROPERTY. The CITY hereby grants to the BROWNS the right to use and operate the PROPERTY, as if they held ownership in regards to pruning, trimming, mowing and other City authorized vegetation control and general use, all in adherence with City, State and Federal regulations.
3. GENERAL USE AND CONDITIONS OF THE PROPERTY. The PROPERTY shall be used by the BROWNS under the following general conditions:

- (a) The PROPERTY may be used for the following park and/or recreational purposes only, and no others: To allow pedestrian gatherings, general pedestrian traffic to accommodate patrons of the Depot, for public and private events.
- (b) The BROWNS and/or authorized agents are granted the sole responsibility of operating, managing, and supervising all activities conducted at the PROPERTY.
- (c) Before any person may use the PROPERTY and as an express condition of continued use, the BROWNS or authorized user must have and present to the CITY satisfactory proof of current in force insurance as set forth hereafter. All insurance issues must be submitted to the City and approved by the City Clerk after consultation with the Insurance Carriers for the City of Leavenworth, Kansas.
- (h) Notwithstanding anything contained herein to the contrary, the CITY expressly reserves the right to close the PROPERTY, either temporarily or on a permanent basis, in the event that it determines that there are dangerous and/or repeated violations of the terms of this agreement.
- (i) Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the CITY's designated official who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the BROWNS. The decision of the designated official shall be final and conclusive unless, within 10 days from the date of receipt of such copy, the BROWNS mail or otherwise furnish to the designated official a written appeal. The decision of the designated official or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by reasonable evidence. In connection with any appeal proceeding under this condition, the BROWNS shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the BROWNS shall proceed diligently with the performance of the Agreement and in accordance with the designated official's decision.
- (j) This condition does not preclude consideration of the law questions in connection with decisions provided for in the immediately preceding, provided that nothing in this Condition shall be construed as making final the decision of any administrative official, representative, or board on a question of law.
- (k) The right is hereby expressly reserved to the CITY, its officers, agents, and employees to enter upon the PROPERTY at any time and for purposes necessary or convenient for its purposes, and/or make any other use thereof as may be necessary

in connection with its purposes, and the BROWNS shall have no claim for damages of any character on account thereof against the CITY or agent, officer, or employee thereof.

4. BROWNS DUTIES AND RESPONSIBILITIES. the BROWNS, shall assume the following duties and responsibilities:
  - (a) The BROWNS shall keep the PROPERTY and surrounding premises in good order and in a clean, sanitary, and safe condition and in a condition satisfactory to the CITY.
  - (b) If the BROWNS desire to make any capital improvements to the PROPERTY during the term of this agreement the BROWNS shall prepare and provide to CITY at least ninety (90) days in advance of any proposed capital improvements a detailed capital improvement plan for the PROPERTY. The written consent of the designated official of the CITY must be obtained before any such improvements are made. Unless otherwise agreed to in writing by CITY, any such improvements shall be at the sole expense of the BROWNS and the BROWNS shall timely pay for such improvements. Any and all such improvements shall become the sole property of the CITY, subject to the right of the BROWNS to use such improvements during the term of this agreement.
  - (c) The BROWNS shall not allow any lien, judgment, encumbrance against, or assessment on the CITY or any property of the CITY.
  - (d) Any property of the CITY damaged or destroyed by the BROWNS or its members or guests incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the BROWNS to the satisfaction of the CITY.
  - (e) The BROWNS acknowledge that it has inspected the PROPERTY, knows its current condition, and understands that the same is granted without any representation or warranties whatsoever and without obligation on any part of the CITY.
  - (f) The BROWNS shall not permit or allow any vendors, sales, or solicitations at the FIELD or during its activities without the prior written approval of the CITY.
  - (g) The BROWNS shall comply with all Policies and Procedures adopted from time to time by CITY and with all applicable Federal, State, and Municipal laws, rules, ordinances, and regulations governing operation of its activities and agrees to and shall hold the CITY, its directors, agents and employees harmless from any loss or damage occasioned by violation thereof. The BROWNS further agrees to obtain all required licenses and permits and maintain same for the term of this Agreement.
  - (h) The BROWNS shall not use the PROPERTY or permit it to be used for any illegal or

immoral business or purpose: there shall not be carried on or permitted upon the PROPERTY any activity which would constitute a nuisance.

- (i) The BROWNS shall commit no waste of any kind, nor in any manner substantially change the contour or condition of the PROPERTY, except as may be authorized by the CITY.

5. CITY'S DUTIES.

- (a) The CITY agrees to provide the space and location for the activity as set forth in Exhibit A.

6. INDEMNITY. The CITY shall not be responsible for damages to property or injuries to persons that may arise from or be incident to the exercise of the privileges herein granted, or for the damages of the property of the BROWNS or its members or guests, or for damages to the property or injuries to the person of the BROWNS officers, agents, or employees or others who may be at or on the PROPERTY or related facilities at their invitation or the invitation of any one of them, arising from or incident to any CITY activities at or on the PROPERTY or related facilities, and the BROWNS shall hold the CITY harmless from all such claims.

The BROWNS agree to indemnify, defend, and hold harmless the CITY from and against claims, demands, judgments, loss, expense or liability on account of or arising from any accident, injury, or damage to any person or property on or about the PROPERTY where such accident, injury, or damage results from any act, omission, or negligence on the part of the BROWNS, its officers, employees, agents, invitees or guests, including payment of reasonable attorney's fees and litigation expenses incurred by CITY.

7. INSURANCE. The BROWNS shall obtain, and continuously maintain in full force from and after the commencement of this agreement through the term of this Agreement, a Commercial General Liability Insurance Policy, with coverage on an occurrence basis, written by an insurance company duly authorized to do business in the State of Kansas. The CITY shall be named as an "Additional Insured" for all liability coverage, including any claim or suit of any kind or nature arising from the BROWNS use of the property, or from any activities or actions of the BROWNS in conducting its activities or otherwise arising under any obligation of the BROWNS pursuant to this agreement. Said policy, if mutual, shall be non-assessable. The BROWNS shall provide the CITY with a Certificate of Insurance providing the following:

- (a) The Commercial General Liability coverage shall include Broad Form Contractual

Liability, Broad Form Property Damage, Personal Injury, and Independent Contractor's Coverage. Said policy shall provide for a bodily injury, property damage, and products liability limit of not less than \$500,000.00 per accident or occurrence with an aggregate limit of not less than \$1,000,000.00.

(b) The form of the policy shall be acceptable to CITY and the BROWNS shall provide CITY with a copy of the proposed policy as soon as possible. The BROWNS shall provide CITY with a certificate evidencing the issuance of such policy and shall require the insurance company to provide thirty (30) days advance written notice to the CITY in advance of any lapse, termination, or cancellation of the policy or any substantial impairment of the coverage. Notwithstanding any other provision contained herein to the contrary, the failure of the BROWS to provide and continuously maintain such insurance coverage shall be grounds for immediate termination of this agreement by the CITY sending notice of such termination to the BROWNS. The BROWNS shall promptly notify CITY of any claim in connection with such insurance, including full details thereof and an estimate of the amount of loss or liability. The CITY will only accept coverage from an insurance carrier who offers proof that it:

- i. is licensed to do business in the State of Kansas
- ii. carries a Best's policyholder rating of A-IX or better or
- iii. is a company mutually agreed upon by the CITY and the BROWNS

(c) A copy of said Certificate of Insurance shall be filed with the CITY. The premium shall be paid by the BROWNS.

8. TERMINATION FOR CONVENIENCE. This agreement may be terminated at any time by either party upon ninety (90) days advance written notice.

9. DEFAULT. The BROWNS shall be in default hereunder if (1) The BROWNS sell any property adjacent to the PROPERTY (2) the BROWNS shall fail to observe, keep or perform any other provision of this Agreement; or (3) the BROWNS filing of any bankruptcy action by or against the BROWNS, the insolvency of the BROWNS, or the general assignment by the BROWNS of its assets for the benefit of its creditors. CITY shall be in default hereunder if it shall fail to observe, keep or perform any provision of this Agreement, and such failure shall continue for a period of ten (10) days after written notice is given by the BROWNS.

10. REMEDIES. If the BROWNS are in default and such default shall continue for a period of

ten (10) days after written notice is given by the CITY (except for the failure by the BROWNS to maintain insurance which shall require no notice and shall be the basis for immediate default and termination), the CITY shall have the right to exercise any one or more of the following remedies, concurrently or separately, and without any election of remedies being deemed to have been made: (a) the CITY may terminate this Agreement and retain as damages any and all payments made by the BROWNS; (b) the CITY may pursue any other remedy available by law or in equity. No right or remedy herein conferred upon or reserved to the CITY is exclusive of any other right or remedy herein, or by law or by equity provided or permitted, but each shall be cumulative of every other right or remedy given herein or now or hereafter existing by law or equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time. No single or partial exercise by the CITY of any right or remedy hereunder shall preclude any other or further exercise of any other right or remedy.

If the CITY is in default and such default shall continue for a period of ten (10) days after written notice is given by the BROWNS, the BROWNS shall have the right to pursue any remedy available by law or in equity. No right or remedy herein conferred upon or reserved to the BROWNS is exclusive of any other right or remedy herein, or by law or by equity provided or permitted, but each shall be cumulative of every other right or remedy given herein or now or hereafter existing by law or equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time. No single or partial exercise by the BROWNS of any right or remedy hereunder shall preclude any other or further exercise of any other right or remedy.

11. NOTICE. Any notices of demand to be given by one party to the other as required by this Contract or otherwise shall be delivered by the deposit thereof in the United States mail, postage prepaid, certified, with return receipt requested by personal delivery or by facsimile (with the original being mailed by certified mail) to the parties at the addresses listed below unless, in the event of any change of address, the other party shall have been notified promptly in writing of a change of address. Said notice shall become effective on the date postmarked or the date of delivery (in the case of notice personally delivered or sent by facsimile).

**TO CITY:**

City Clerk for the City of Leavenworth  
Leavenworth City Hall  
100 N. 5<sup>th</sup> Street  
Leavenworth, Kansas 66048  
913-682-9201

**TO BROWNS:**

Don and Sherry Brown  
c/o Kansas Country Store  
728 Cherokee Street  
Leavenworth, Kansas 66048  
913-651-6761

13. ASSIGNMENT. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns, PROVIDED, HOWEVER, that the BROWNS shall not transfer or assign its rights or liabilities hereunder to any other party without the express written consent of the CITY.
14. VERBAL STATEMENTS NOT BINDING. It is understood and agreed that the written terms and provisions of this agreement shall supersede all prior verbal statements of any and every official and/or other representative of the BROWNS and the CITY, and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any way whatsoever, the written agreement.
15. PROVISIONS SEPARABLE. It is the intent of the parties hereto in the preparation and execution of the agreement to avoid a conflict with the applicable laws or regulations of the State of Kansas; and if any provision herein is found to be in conflict with the regulation, it is the intent of the parties hereto that such provision shall have no force and effect, and the remainder of the agreement shall be valid as though such conflicting provision had not been written or made a part hereof.
16. APPLICABLE LAW. This Agreement shall be construed under the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth below.

**City of Leavenworth Kansas**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor Larry Dedeker, City of Leavenworth

Attest:

\_\_\_\_\_  
City Clerk Carla Williamson

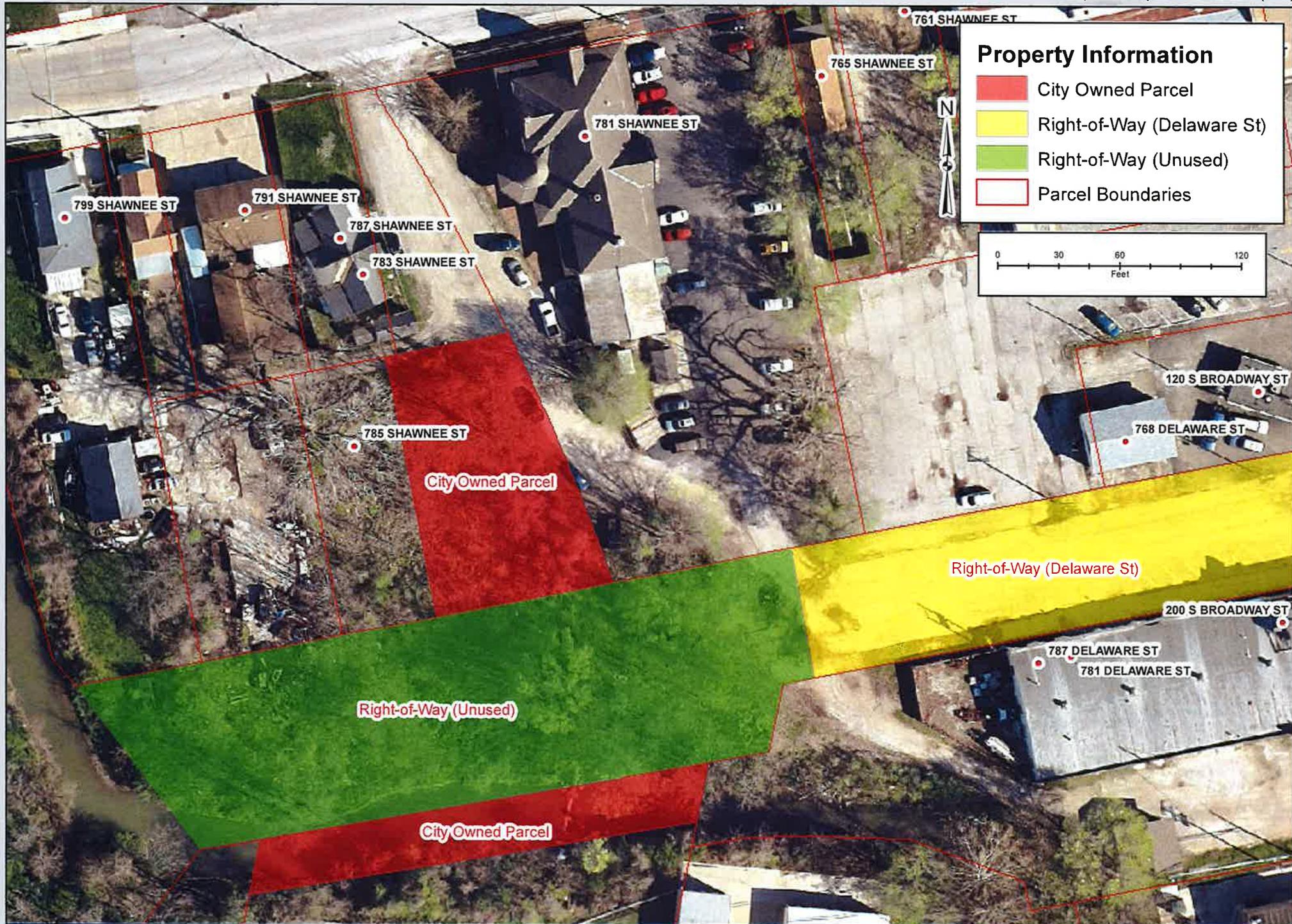
APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas M. Dawson, City Attorney, Leavenworth

**The BROWNS**

Dated: \_\_\_\_\_

\_\_\_\_\_

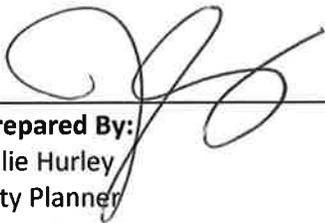


**POLICY REPORT**  
**First Consideration Ordinance**  
**936 Osage Street**

**OCTOBER 25, 2016**

**SUBJECT:**

Place on first consideration ordinance a Special Use Permit to allow a Child Care Center at 936 Osage Street

  
\_\_\_\_\_  
**Prepared By:**  
Julie Hurley  
City Planner

  
\_\_\_\_\_  
**Reviewed By:**  
Paul Kramer  
City Manager

**DISCUSSION**

On October 3, 2016, the Planning Commission considered an application for a Special Use Permit to allow a Child Care Center in a residence located at 936 Osage Street. The property is currently zoned R1-6 (Higher-Density Single Family Residential). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit. The child care has been in operation for approximately 8 years, and the applicant was unaware until recently of the need to obtain a Special Use Permit.

The applicant has indicated that she is licensed to care for a maximum of 12 children with 8 currently in her care, and operates between the hours of 7am – 5pm, Monday-Friday.

**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.  
*Osage Street is designated on the Major Street Plan Map as a residential street, not an arterial 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 property includes an approximately 3,000 square foot back yard enclosed by a wooden privacy fence, in excess of the 1,200 square foot minimum space required.*

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

*One off-street parking space is provided in the rear of the home off of an alley. Within the surrounding neighborhood, the majority of the homes do not currently have any type of driveway or off-street parking area in the front of the home. The Development Regulations do not allow for the installation of a parking surface in a front yard that does not lead to a garage or other parking area, and no garage exists on the property. With the relatively low volume of drop-offs and pick-ups occurring at an in-home child care center, and the existing residential nature of the street traffic, staff feels that the provided on-street parking provides an adequate loading zone for the safe picking up and discharge of passengers.*

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

*The applicant has provided a copy of her Group Day Care Home permit from the Kansas Department of Health and Environment.*

5. All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.  
*The applicant currently resides in the home at 936 Osage Street.*

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

*The applicant has not indicated that she intends to display a sign, but any signage displayed at a later date would be required to comply with this provision.*

### **COMMISSION FINDINGS**

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

*Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.*

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

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

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

*Staff does not feel that the proposed Child Care Center will cause any substantial injury to the value of other property in the neighborhood.*

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are

such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

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

The Planning Commission held a public hearing and no one spoke in opposition to the request. After the conclusion of the public hearing, the Planning Commission voted unanimously to recommend approval of the issuance of the Special Use Permit.

**ACTION/OPTIONS:**

Place an ordinance on first consideration to grand a Special Use Permit for a Child Care Center located at 963 Osage Street.

**ATTACHMENTS**

October 3, 2016 Planning Commission policy report and packet

October 3, 2016 Planning Commission minutes excerpt

**ORDINANCE NO. XXXX**

**AN ORDINANCE ALLOWING A SPECIAL USE FOR DAY CARE CENTER TO BE LOCATED AT 936 OSAGE STREET IN THE CITY OF LEAVENWORTH, KANSAS.**

**WHEREAS**, under the 2016 Development Regulations of the City of Leavenworth, Kansas, as amended, the Governing Body of the City of Leavenworth, Kansas was given the power to locate special uses in each zoning district by ordinance; and

**WHEREAS**, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on October 3, 2016 in the Commission Chambers, 1<sup>st</sup> Floor of City Hall, 100 N. 5<sup>th</sup> Street, Leavenworth, Kansas the official date and time set out as was published in the Leavenworth Times newspaper; and

**WHEREAS**, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request for a child care center at 936 Osage Street, Leavenworth, Kansas.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**Section 1.** That a special use permit be issued for a childcare center on the following described property: Lots 18 and 19, Block 2, Mix's Subdivision, City of Leavenworth, Leavenworth County, Kansas more commonly known as 936 Osage Street in an R1-6 (High Density Single Family Residential) District.

**Section 2.** That this special use permit is subject to the following:

- a.) To operate a childcare center for up to twelve (12) children.
- b.) Five (5) days a week Monday through Friday from 7:00 a.m. to 5:00 p.m.
- c.) This property is not on an arterial street.
- d.) Site shall provide 100 square feet of open space per child and 100% enclosed by a four (4) foot fence or wall.
- e.) Site shall provide loading zone to accommodate at least one (1) automobiles for discharge and pick-up of children.
- f.) Site development shall be in accordance with the proposal submitted and conform to all requirements of the State of Kansas reference childcare licensing.
- g.) No additional home occupations may be carried out at the resident.

**Section 3.** That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

Passed by the Leavenworth City Commission on this 8th day of November, 2016.

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Larry Dedeke, Mayor

ATTEST:

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Carla K. Williamson, CMC, City Clerk

Summary Published in The Leavenworth Times  
Date of Publication: November 12, 2016

**PLANNING COMMISSION AGENDA ITEM  
2016-12 SUP  
936 Osage Street**

**OCTOBER 3, 2016**

**SUBJECT:**

A request for a Special Use Permit to allow the operation of a Child Care Center at 936 Osage Street..

  
Prepared By:  
Julie Hurley  
City Planner

  
Reviewed By:  
Paul Kramer  
City Manager

**NATURE OF REQUEST**

The applicant, Annie Schmalbeck, is requesting a Special Use Permit to allow the operation of Child Care Center in her home located at 936 Osage Street. The property is currently zoned R1-6 (Higher-Density Single Family Residential). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit. The child care has been in operation for approximately 8 years, and the applicant was unaware until recently of the need to obtain a Special Use Permit.

The applicant has indicated that she is licensed to care for a maximum of 12 children with 8 currently in her care, and operates between the hours of 7am – 5pm, Monday-Friday.

**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.  
*Osage Street is designated on the Major Street Plan Map as a residential street, not an arterial 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 property includes an approximately 3,000 square foot back yard enclosed by a wooden privacy fence, in excess of the 1,200 square foot minimum space required.*

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

*One off-street parking space is provided in the rear of the home off of an alley. Within the surrounding neighborhood, the majority of the homes do not currently have any type of driveway or off-street parking area in the front of the home. The Development Regulations do not allow for the installation of a parking surface in a front yard that does not lead to a garage or other parking area, and no garage exists on the property. With the relatively low volume of drop-offs and pick-ups occurring at an in-home child care center, and the existing residential nature of the street traffic, staff feels that the provided on-street parking provides an adequate loading zone for the safe picking up and discharge of passengers.*

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

*The applicant has provided a copy of her Group Day Care Home permit from the Kansas Department of Health and Environment.*

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

*The applicant currently resides in the home at 936 Osage Street.*

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

*The applicant has not indicated that she intends to display a sign, but any signage displayed at a later date would be required to comply with this provision.*

#### **COMMISSION FINDINGS**

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

*Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.*

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

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

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

*Staff does not feel that the proposed Child Care Center will cause any substantial injury to the value of other property in the neighborhood.*

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are

such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

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

**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. The operation shall be limited to a maximum of 12 children.
2. 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.

**Attachments:**

Application materials  
Location map



**SPECIAL USE PERMIT**  
CITY OF LEAVENWORTH, KANSAS

2016-12 SUP

App# 1041

01590.5392 Z03  
\$350.00

Filing Date  
Fees Paid/Date

08/19/2016

Publishing Date: 9/9/16  
OCT 3, 2016 hearing date

R1-6

As provided in Section 2.06 of the 2011 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a:

CHILD CARE CENTER

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

Address: 9310 Osage street

Legal Description: Mix's Subdivision, S26, T08, R22E, block 2, Lot 18-19  
*SEE attached*

Real Estate PID # 077-26-0-34-01-005.00-0 Zoning: R1-6

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

Name(s) of Owner (print or type): Annic N. Schmalbeck

Address: 9310 Osage street

Contact No. (913) 636-2388 Email Address: anicole9799@yahoo.com

Signature of Owner(s): Annic Schmalbeck

State of Kansas )  
County of Leavenworth )

This instrument was acknowledged before me on \_\_\_\_\_ Date: 8/19/16 By: Carla K. Williams

My appointment expires: 7-1-2017

If business is operated by someone other than the owner, provide name and address of operator(s):

Name(s) of Applicant:

Address:

Contact No: ( ) Email Address:

**NOTE:** All signatures must be in ink. Signature of owner(s) must be secured and notarized.  
**Check list below...**

1. Non-Refundable Fee of \$350.00 is due at time of application
2. Attach list of the owners for property within two hundred (200) feet of the above property
3. Site Plan drawn to scale (See General Instructions)
4. Supporting documentation (see General Instructions)



**Kansas Department of Health and Environment  
Amended License**

Group Day Care Home  
Amended License No. 0064179-010

Licensee: Annie Niocle Schmalbeck

Facility: Lil Rascals

Located at: 936 Osage St  
Leavenworth, KS 66048



01/31/2017

In the county of: Leavenworth

Having complied with the laws and regulations of the State of Kansas governing Group Day Care Homes, Annie Nicole Schmalbeck is hereby authorized to care for a maximum of 12 children, under one of the following options:

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

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

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

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

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

This license is effective 08/24/2016 and remains in effect until the expiration date noted by the above sticker unless invalidated by a change of owner, operator, location or it is administratively closed.

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

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

A handwritten signature in black ink that reads "Susan K. Mueni".

Secretary  
Kansas Department of Health and Environment

# All About Our Day

7:00-8:00 Arrival

8:00-8:30 Breakfast

8:30-9:00 Clean Up and Restroom Break

9:00-9:30 Flash Cards/Story Time

9:30-10:00 Preschool Activities

10:00-10:15 Snack Time

10:15-11:00 Projects

11:00-11:45 Free Play (Outside/Inside)

11:45-12:00 Clean Up

12:00-12:45 Lunch

12:45-1:00 Clean Up and Restroom Break

1:00-2:30 Nap/Rest Time

2:30-3:15 Free Play (Outside/Inside)

3:15-3:30 Clean Up and Restroom Break

3:30-3:45 Snack Time

3:45-5:00 Free Play

# Tiny Finger's Tiny Toes Daycare

## Supervision Plan

- A copy of this plan will be provided for each parent or legal guardian with initial enrollment paperwork. Any parent or legal guardian will be able to view this supervision plan at any time upon request.
- I will use the main level of my home to provide care for your child. These rooms include the playroom, living room, bathroom, kitchen, and back yard. These rooms will be used for playing, learning, eating, and napping.
- I will always keep a close watch of all children by being in the same area or hearing distance away from them while they eat, sleep, work, and play.
- I will update this plan when ever changes are made to any of the listed requirements.
- I will follow this supervision plan as well as any other substitutes or emergency providers, as we are all trained using the same methods and materials.
- I will ensure that supervision is provided as necessary to protect the health, safety, and well-being of each child in my care by following all safety guidelines, attending all mandated trainings, and educating myself and my staff in all areas pertaining to keeping children safe.
- Each child in my care shall be under the supervision of myself or a substitute provider who is responsible for the child's health, safety and well-being.
- I shall be aware at all times of the location of each child in my care and the activities in which the child is engaged. I will visibly check on the children, do a head count and make sure that everyone is accounted for to assure the child's safety, health and well-being.

**I shall perform the following:**

- **Interact with the child and attend to the child's needs by playing with him/her individually and as a group, being there to comfort, and guide and educate the child.**
- **Respond immediately if the child is crying or in distress to determine the cause and provide comfort and assistance by talking to him/her to determine the problem, address any issues or concerns the child may have, identify if he/she is hurt in any way requiring medical attention, and provide affection to the child until he/she is comforted and feeling better.**
- **Investigate immediately any changes in the activity or noise level of the child by visibly assessing the situation, listening for sounds or noises, and asking the child/children questions about what they are doing.**
- **Respond immediately to any emergency that could impact the health, safety and well-being of the child by following practiced emergency procedures. (Fire Alarm, Tornado Drills, First Aid/CPR, etc.)**

**I shall not engage in business, social, or personal activities that interfere with the care and supervision of children.**

### **Indoor Supervision Requirements**

**When any child is indoors, I shall ensure all of the following requirements are met:**

- **For each child that is under 2 1/2 years of age and who is awake, I shall be within sight of and in proximity to the child, watching and overseeing the activities of the child by being in the same room as the child or within viewing range of the child.**

**When I am attending to personal hygiene needs or engaging in other child care duties and I am temporarily unable to remain within sight of the child, I shall meet the following conditions:**

- I will first ensure the safety of each child by visibly checking on them, asking them if they are ok and if they need anything and my staying in close proximity to be able to hear all that is going on. All of the children will be in the playroom right outside of the bathroom door while I use the restroom.
- I will be able to respond immediately to any child in distress by being close by at all times, able to hear the children at all times, and by staying in the same room as each child unless it is absolutely necessary for me to step away for a moment (ex: Restroom).
- I will remain within hearing distance of each child at all times by remaining in the same areas as each child. (Open floor plans of my home allow for this to be possible.)

For each child 2 1/2 years of age and older, who is awake, the child will have the option to quietly watch a Disney movie, read a book, work on letters, coloring, drawing, or puzzles.

### Napping and Sleeping

I will ensure that supervision is provided for each child who is napping or sleeping.

- Each child who is napping or sleeping shall be within sight or hearing distance of me and shall be visibly checked on at least once every 15 minutes. Each child shall sleep on a mat at least 1/2 inch thick that is covered in a washable sheet or pillowcase and will be spaced at least 25 inches apart on the living room and play room floors. Clean individual bedding, including a top cover shall be provided for each child. I will wash all bedding at the end of each week unless a child soils his/her bedding, in which it will be sent home with the child for the parent to wash and return the following school day.
- I will meet all of the requirements of K.A.R.28-4-116a for any child that is under 12 months of age and is napping or sleeping.
- I will follow these sleep safe practices in my childcare facility.
- Each child who is 12 months of age or older shall sleep on a bed or pad over a carpet or area rug on the floor.

- **When a child age 12 months or older indicates that he/she is ready to transition to a nap mat we shall prepare a nap mat with the proper bedding and sit with the child, rubbing his/her back if necessary, until the child falls asleep. This shall be done until the child is able to lay on the mat and sleep as the older children do.**

**When a child is napping or sleeping in a room separate from myself, the door to that room shall remain open.**

**When a child awakens and is ready to get up, I shall attend to the child's needs and assist the child in moving to another activity such as coloring, quiet reading, drawing, etc in the kitchen or living room area.**

### **Outdoor Supervision Requirements**

**When any child is outdoors, I shall ensure that all of the following requirements are met:**

- **For each child under 5 years of age, I will be outdoors at all times and remain within sight of and in proximity to each child, watching and directing the activities of the child by providing the child with toys, bikes, balls, and safe climbing, swinging, and sliding structures to play on or with. I will play with the children while outside, ensuring their safety and well being while having fun and getting exercise.**

**No kids go outside unless accompanied by a provider. It's an everybody in or out policy.**

## Sleep Safe Practices

I will ensure that the following requirements are met for each child who is in care and is under 12 months of age:

- The child shall nap in a pack and play playpen.
- If the child falls asleep on a surface other than a playpen, the child shall be moved to a playpen.
- The child shall not nap in the same playpen as that occupied by another child at the same time.
- The child will always be placed on the child's back to nap or sleep.
- When the child is able to turn over independently, the child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.
- The child shall sleep in a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers and toys.
- The head of the child shall remain uncovered. The child may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

## Napping or sleeping surface

- Clean, individual bedding shall be provided for each child. Because it is important that the child have a clean, safe sleeping area.
- Each surface used for napping or sleeping shall be kept clean, of safe construction, and maintained in good repair. All mats are checked for tears on a daily basis, they are also wiped down with disinfecting wipes and sprayed with Lysol to kill all germs. Each child's bedding will be kept in his/her own cubby to assure that your child's bedding is his/her own and will not be mixed with other children's bedding.
- Each playpen shall be used only for children who meet the manufacturers recommendations for use, including any age, height, or weight limitation. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file at the childcare facility. A sticker with the child's name will be used to identify which playpen belongs to each infant. This will

also help substitute staff identify which playpen belongs to each infant without causing any confusion.

- Each crib or playpen shall have a firm, tight fitting mattress and a fitted sheet. The mattress shall be set at its lowest point when any child using the crib or playpen becomes able to either sit up or pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.
- On or after December 28, 2012 I will ensure that no crib be used in the facility that was purchased before June 28, 2011. We only use playpens at Tiny Fingers Tiny Toes Daycare.
- We are using nap Premium Nap Pads from North Shore. Each pad used for napping or sleeping is 1/2 inch thick, washable and enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.
- Playpens and nap mats, when in use for napping shall be separated by at least 24 inches in all directions except when bordering a wall.
- When not in use, playpens, nap mats, and bedding shall be stored in a clean and sanitary manner. All bedding will be stored in each child's cubby. Nap mats will be wiped down with disinfecting wipes and sprayed with Lysol to kill all germs and mats will be placed in a bin, stored in the closet. Playpens will be wiped down and sprayed with Lysol, then folded up and stored in the closet.

Consumer warning or recall. I will make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or playpen as soon as the warning or recall is known.

Transition from crib to playpen. The determination of when a child that turns 12 months of age or older is ready to transition from a crib or playpen to another napping or sleeping surface shall be made by the parent or guardian and myself. The requirements of paragraphs C.(3) and (4) for a child using a crib or playpen shall apply.

8/19/16

To Whom It May Concern:

Annie Schmalbeck has been my daycare provider for 4 years. Her services are over the top extraordinary! My son loves coming to daycare to learn & play.

The house is always clean & in order & opening for them to learn easily.

Her attention to detail is impeccable & her manorism with the children is top notch! They all love her!

Thank you,

Jessica Skaggs

To Whom It May Concern,

I have my 2 children Alivia (4) and Elijah (3) in Tiny Finger Tiny Toes Daycare with Annie Schmalbeck.

This has been a great asset for my children her learning curriculum is amazing, my children have exceled in so many things. My daughter just started Pre-K they are learning to count to 5 she can count to 35, she can write her name. My son can count and is able to work on enough letters for me to figure out his name. They have homework, they go on field trips for education and social skills. Annie has a schedule for all meals, naptime ,playtime ,movie day, and playing outdoors and making being inside an adventure. I would recommend her Daycare to anyone who was looking for a positive, safe and wonderful experience for their children.

Christopher Clayton

My name is Jessica Pettis and my son Jordan has been at Tiny Fingers Tiny Toes Daycare for 4 ½ years. He will stay with Annie Schmalbeck and her daycare until he no longer needs childcare. We love our Annie! She does it all for these kids! Preschool, Field Trips, Art Projects, she plays with them, she treats them as her own. We refer everyone we know looking for daycare to her. She keeps the daycare clean, bright and friendly. Changing themes and making it fun for all of the kids. Every area of childcare is covered when we drop off Jordan so we never have to worry about anything. From safety, stability, and structure. Jordan was able to count to 40, say, identify and write his ABC's and his first and last name and phone number all before starting kindergarten. She stresses that education is first and foremost her main priority. She wants nothing more than to see all of the kids at her daycare succeed and she does everything that she can to make that happen. I also know that she takes them with her to Wal-Mart and places like that where they are constantly receiving compliments on their behavior. That has to say she is doing something right because most people can't even control their own children in public and here she is with 7+ kids and they are all behaving well. I could go on and on but I think this gives you an idea of how much we love and appreciate our Annie.

Jessica Pettis

913-306-7225

To whom it may concern,

Annie has been nothing but amazing since the day we toured the daycare. My daughter started halfway through the 2015-2016 school year and Annie made sure she had preschool activity books for her. Annie is not required to teach preschool activities but does. My daughter took speech class 2xs a week for 30 mins. Annie didn't have to accommodate to this and was not doing Lansing school district pick-ups at this point. She knew that it was important for my daughter and wanted her to do nothing but succeed in speech. Annie has continued to work with her on her speech through summer and she no longer is needing speech.

Annie truly loves the kids and makes sure they are always having fun no matter the weather. She will plan picnics inside on raining days to nature walks and everything in between. She takes them on field trips and receives compliments every time they go anywhere. Annie ensures the kids are reaching their fullest potential. She keeps parents updated throughout the day. With this school year starting, she had kids who wouldn't be going to her daycare. She made sure to call them on their first day to wish them happy first day of school. She is not just a daycare but family.

Sincerely,

A handwritten signature in blue ink, appearing to read "Annie".

# References

Claudia Butter - (913) 306-3202

Adalyssa Fryman - (913) 704-7231

Brandy Barkley - (913) 306-0572

Dave Brantley - (913) 683-3242

Jessica Pettis - (913) 306-7225

Lynae Denny - (913) 306-2554

Alizabeth McLaren - (913) 608-6853

Jessica Skaggs - (913) 240-2037

Corina Fryman - (913) 306-7684

Parents have parking in back driveway and on the street in front of the house.

2 exits in the backyard through gate doors.

Property has privacy fence.

Upstairs will be used as business office + storage.

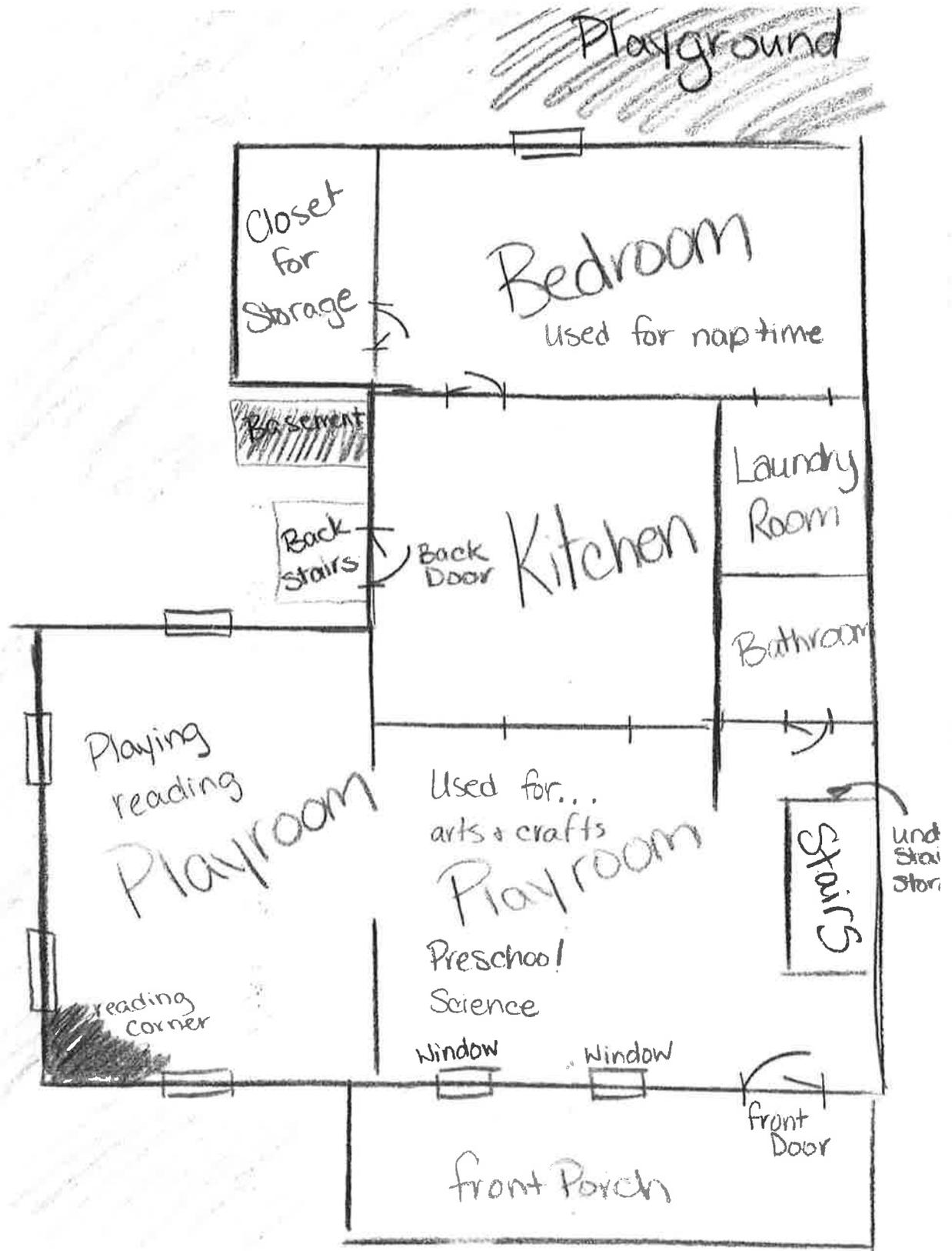
Transportation to all Leavenworth schools is provided.

Contracted through DCF

Part of the Family Conservancy food program.

## Main Floor -

- Bedroom will be used for sleeping.
  - nap mats
  - cots
  - playpens  
for each child.
- Closet will be used to store excess supplies.
- Living Room will be used as the play room with a reading corner.
- Playroom will have tables and chairs. This room will be used for eating snacks + meals, preschool activities, arts + crafts, science experiments, and homework for school age students.





**CITY OF LEAVENWORTH PLANNING COMMISSION**

**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048

**REGULAR SESSION**  
**Monday, October 3, 2016**  
7:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Jay Byrne  
Claude Wiedower  
Mike Burke  
John Karrasch  
Linda Bohnsack

**Commissioners Absent**

Pat McGlinn  
Frank Wenzel

**City Staff Present**

Julie Hurley  
Michelle Baragary

Chairman Byrne called the meeting to order and noted a quorum was present.

**APPROVAL OF MINUTES: September 12, 2016**

Mr. Byrne asked for comments or a motion on the minutes presented for approval: September 12, 2016. Mr. Burke moved to accept the minutes as presented, seconded by Mr. Wiedower. The minutes were approved by a unanimous vote of 5-0

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**1. 2016-12-SUP – 936 OSAGE STREET – CHILD CARE CENTER**

Conduct a public hearing for Case No. 2016-12-SUP, 936 Osage Street. The petitioner, Annie Schmalbeck, is requesting consideration for a Special Use Permit to allow for the operation of a Child Care Center at the subject property.

Chairman Byrne called for the staff report. City Planner Julie Hurley stated the property is currently zoned R1-6 (Higher-Density Single Family Residential). Child Care Centers are allowed in the R1-6 zoning district with issuance of a special use permit. The child care has been in operation for approximately 8 years, and the applicant was unaware until recently of the need to obtain a Special Use Permit. The applicant has indicated she is licensed to care for a maximum of 12 children with 8 currently in her care, and operates between the hours of 7am – 5pm, Monday-Friday. Ms. Hurley also noted the applicant has provided drawings showing utilization of indoor and outdoor space. Included in the packet is a copy of the applicant's license showing specifics regarding number of children and age range, etc.

City Planner Hurley reviewed the Conditions of Determination and read through each condition/comment. She noted that 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 Childcare 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.

***Osage Street is designated on the Major Street Plan Map as a residential street, not an arterial 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 property includes an approximately 3,000 square foot back yard enclosed by a wooden privacy fence, in excess of the 1,200 square foot minimum space required.***

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

***One off-street parking space is provided in the rear of the home off of an alley. Within the surrounding neighborhood, the majority of the homes do not currently have any type of driveway or off-street parking area in the front of the home. The Development Regulations do not allow for the installation of a parking surface in a front yard that does not lead to a garage or other parking area, and no garage exists on the property. With the relatively low volume of drop-offs and pick-ups occurring at an in-home child care center, and the existing residential nature of the street-traffic, staff feels that the provided on-street parking provides an adequate loading zone for the safe picking up and discharge of passengers.***

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

***The applicant has provided a copy of her Group Day Care Home permit from the Kansas Department of Health and Environment.***

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

***The applicant currently resides in the home at 936 Osage Street.***

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

***The applicant has not indicated that she intends to display a sign, but any signage displayed at a later date would be required to comply with this provision.***

Ms. Hurley went on to review the Commission Findings/comments.

#### **COMMISSION FINDINGS:**

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

**Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.**

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

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

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

**Staff does not feel that the proposed Childcare Center will cause any substantial injury to the value of other property in the neighborhood.**

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

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

Ms. Hurley stated staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. The operation shall be limited to a maximum of 12 children.
2. 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.

Chairman Byrne called for questions and comments from board members. Mr. Byrne requested clarification that since the majority of unloading and loading of children will occur on Osage Street that this meets the requirements of the Development Regulations. Ms. Hurley state staff is comfortable with the loading/unloading of children on Osage Street as this is a low traffic volume street. She further stated there is one off-street parking space in the rear of the home off the alley that can be utilized.

With no further questions, the Chairman opened the public hearing.

With no further comments, the chairman closed the public hearing. He called for any further comments or discussion among board members. Ms. Bohnsack asked if the parking space in the rear of the home is available during the day because the apartment complex across the street may use a lot of the off-street parking. The applicant, Annie Schmalbeck, stated the daycare van is parked on the street in front of the house and that two vehicles can park in the parking space in the rear of the home. Ms. Bohnsack stated the applicant has a well thought-out plan of action for her daycare center.

With no further discussion, Chairman Byrne called for a motion. Mr. Karrasch moved to recommend for approval the request for a Special Use Permit to allow for the operation of a home childcare center at 936 Osage Street with the following staff recommended conditions: 1) the operation shall be limited to a maximum of 12 children, and 2) no additional home occupations may be carried out at the residence. The motion was seconded by Ms. Bohnsack and passed by a unanimous vote of 5-0.

**POLICY REPORT**  
**First Consideration Ordinance**  
**Olive Street**  
**PID# 0773501023007000**  
**North of Spruce Street, east of Railroad Ave**

**OCTOBER 25, 2016**

**SUBJECT:**

Place on first consideration ordinance a Special Use Permit to allow a communication tower.

  
\_\_\_\_\_  
**Prepared By:**  
Julie Hurley  
City Planner

  
\_\_\_\_\_  
**Reviewed By:**  
Paul Kramer  
City Manager

**DISCUSSION**

On October 3, 2016, the Planning Commission considered an application for a Special Use Permit to allow a communication tower on a vacant property located north of Spruce Street, east of Railroad Avenue. Scott Goble on behalf of EcoSite, Inc. and the subject property owner, is requesting a Special Use Permit to allow a 100 foot tall monopole type communication tower and related ground equipment. The subject property is zoned GBD, General Business District and is currently vacant.

The proposed 100' tower is commissioned by T-Mobile to serve customers in the Leavenworth area, with space available for 3 additional carriers to co-locate. The maximum height of a tower and antenna when two or more antennas are co-located by two or more companies on a single tower is 170'. The proposal includes a 65' x 65' fenced area to enclose the tower and related ground equipment. Access will be provided by a paved 12' wide access drive off the existing alley to the south.

The Development Regulations require that for each foot of tower height there shall be a minimum of 1.05 foot of setback from any property line. This would require a minimum 105' setback from all property lines for the proposed tower. The location of the proposed tower provides a 64' setback to the north, a 96' setback to the east, a 76' setback to the south, and a 106' setback to the west. The Development Regulations allow the Planning Commission to consider an exception to the setback requirement for properties zoned GBD, provided the evidence supports the following conclusions:

- a. The exception will not cause any injury to surrounding property and/or values or adversely affect the rights of adjoining property owners;
- b. The exception will help reduce the structure's domination of the immediate neighborhood and may result in improved safety, order or convenience for the general public;

- c. The exception will accommodate a more desirable development pattern for the immediate neighborhood and/or will enhance development of drainage, public utility or other facilities necessary for future development;
- d. The exception will not oppose the general spirit or intent of the Development Regulations. The exception and its justification shall be submitted as part of the application for the Special Use Permit and shall be valid when incorporated into the language of the ordinance granting the Special Use permit adopted by the City Commission.

### **COMMISSION FINDINGS**

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

*Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.*

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

*A communication tower will provide numerous benefits to the economic development, welfare and convenience of the public through improved cellular communication capabilities.*

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

*Staff does not believe that the proposed communication tower will cause substantial injury to the value of other property in the neighborhood. The Development Regulations require a 1.05 foot setback for each foot of tower height, which the applicant is requesting an exception to. If the exception is granted, there are no other structures within 105 feet of the base of the tower (the "fall zone") which would be impacted in the event of a collapse of the tower. The location of the tower on this parcel will generate a minimal amount of traffic, with no negative impact to the surrounding properties.*

*Staff has received comments from the owner of the property located a 784 Spruce street regarding concerns that the existing alley to be used for access to the subject site appears to cross the corner of their property.*

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

*The location and size of the proposed communication tower are such that it will not dominate the neighborhood and prevent development and use of neighboring property. The subject property has no street access, it is only accessible by alleys, thus making it unsuitable for commercial or residential development. A communication tower, generating minimal traffic, is an appropriate use for this otherwise undevelopable parcel.*

The Planning Commission held a public hearing and three neighboring property owners spoke in opposition to the request. The primary concerns noted include use of the existing alley to access the site, impact on neighboring historic properties, and ongoing safety and noise concerns. At the conclusion of the public hearing, the Planning Commission voted unanimously to recommend approval of the issuance of the Special Use Permit with the following condition:

1. The developer of the communication tower shall agree to repair any damage imposed on public or private property during the construction of the tower.

After the conclusion of the public hearing, Mr. Bernie Bristow, owner of 784 Spruce Street, collected signatures from other property owners within the required notification area in opposition to the granting of the Special Use Permit. That information is included in this packet.

**ACTION/OPTIONS:**

Place an ordinance on first consideration to grant a Special Use Permit for a Communication Tower.

**Attachments:**

October 3, 2016 Planning Commission policy report and packet

October 3, 2016 Planning Commission minutes excerpt

Information submitted by Bernie Bristow

**ORDINANCE NO. XXXX**

**AN ORDINANCE ALLOWING A SPECIAL USE FOR A COMMERCIAL COMMUNICATIONS TOWER LOCATED AT 00000 OLIVE STREET IN THE CITY OF LEAVENWORTH, KANSAS.**

**WHEREAS**, under the 2016 Development Regulations of the City of Leavenworth, Kansas, as amended, the Governing Body of the City of Leavenworth, Kansas was given the power to locate special uses in each zoning district by ordinance; and

**WHEREAS**, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on October 3, 2016 in the Commission Chambers, 1<sup>st</sup> Floor of City Hall, 100 N. 5<sup>th</sup> Street, Leavenworth, Kansas the official date and time set out as was published in the Leavenworth Times newspaper; and

**WHEREAS**, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request for a Commercial Communications Tower located at 00000 Olive Street, Leavenworth, Kansas.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**Section 1.** That a special use permit be issued for a Solar Collection System on the following described property:

Lots 14, 15, 16, 17, 18& 19 in Block 1 of Latta's Addition in the City of Leavenworth Kansas, Leavenworth County Kansas 0773501023007000 more commonly known as 00000 Olive Street in an GBD District.

**Section 2.** That the commercial communications tower shall be constructed and maintained in accordance with the provision of the Ordinance of the City of Leavenworth, Kansas and that this special use permit is subject to the following special conditions:

- a) Comply with all applicable building and electrical codes contained in the city's adopted building code. The Communications Tower 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
- b) Comply with Site Plan as approved by the Planning Commission on October 3, 2016.

**Section 3.** That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

Passed by the Leavenworth City Commission on this 8th day of November, 2016.

\_\_\_\_\_  
Larry Dedeke, Mayor

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk

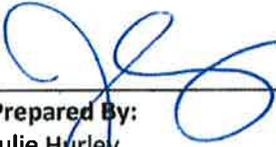
Summary Published in The Leavenworth Times

**PLANNING COMMISSION AGENDA ITEM  
2015-13-SUP  
Olive Street  
PID# 0773501023007000  
North of Spruce Street, east of Railroad Ave**

**OCTOBER 3, 2016**

**SUBJECT:**

A request for a Special Use Permit to allow a 100 foot tall monopole type communication tower and related ground equipment.

  
Prepared By:  
Julie Hurley  
City Planner

  
Reviewed By:  
Paul Kramer  
City Manager

**NATURE OF REQUEST**

Scott Goble on behalf of EcoSite, Inc. and the subject property owner, is requesting a Special Use Permit to allow a 100 foot tall monopole type communication tower and related ground equipment. The subject property is zoned GBD, General Business District and is currently vacant.

The proposed 100' tower is commissioned by T-Mobile to serve customers in the Leavenworth area, with space available for 3 additional carriers to co-locate. The maximum height of a tower and antenna when two or more antennas are co-located by two or more companies on a single tower is 170'. The proposal includes a 65' x 65' fenced area to enclose the tower and related ground equipment. Access will be provided by a paved 12' wide access drive off the existing alley to the south.

The Development Regulations require that for each foot of tower height there shall be a minimum of 1.05 foot of setback from any property line. This would require a minimum 105' setback from all property lines for the proposed tower. The location of the proposed tower provides a 64' setback to the north, a 96' setback to the east, a 76' setback to the south, and a 106' setback to the west. The Development Regulations allow the Planning Commission to consider an exception to the setback requirement for properties zoned GBD, provided the evidence supports the following conclusions:

- a. The exception will not cause any injury to surrounding property and/or values or adversely affect the rights of adjoining property owners;
- b. The exception will help reduce the structure's domination of the immediate neighborhood and may result in improved safety, order or convenience for the general public;
- c. The exception will accommodate a more desirable development pattern for the immediate neighborhood and/or will enhance development of drainage, public utility or other facilities necessary for future development;

- d. The exception will not oppose the general spirit or intent of the Development Regulations. The exception and its justification shall be submitted as part of the application for the Special Use Permit and shall be valid when incorporated into the language of the ordinance granting the Special Use permit adopted by the City Commission.

#### **COMMISSION FINDINGS**

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

*Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.*

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

*A communication tower will provide numerous benefits to the economic development, welfare and convenience of the public through improved cellular communication capabilities.*

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

*Staff does not believe that the proposed communication tower will cause substantial injury to the value of other property in the neighborhood. The Development Regulations require a 1.05 foot setback for each foot of tower height, which the applicant is requesting an exception to. If the exception is granted, there are no other structures within 105 feet of the base of the tower (the "fall zone") which would be impacted in the event of a collapse of the tower. The location of the tower on this parcel will generate a minimal amount of traffic, with no negative impact to the surrounding properties.*

*Staff has received comments from the owner of the property located a 784 Spruce street regarding concerns that the existing alley to be used for access to the subject site appears to cross the corner of their property.*

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

*The location and size of the proposed communication tower are such that it will not dominate the neighborhood and prevent development and use of neighboring property. The subject property has no street access, it is only accessible by alleys, thus making it unsuitable for commercial or residential development. A communication tower, generating minimal traffic, is an appropriate use for this otherwise undevelopable parcel.*

**STAFF RECOMMENDATION:**

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

**ACTION/OPTIONS:**

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

**Attachments:**

Application materials

Development Regulations Section 10.03

Location map



**SPECIAL USE PERMIT**  
CITY OF LEAVENWORTH, KANSAS

2016-13 SUP

APP #1042

Z03  
\$350.00

Filing Date  
Fees Paid/Date

8/18/16  
8/18/16

Hearing Date 10/3/16 Publication Date 9/9/16

As provided in Section 2.06 of the 2011 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: 100 foot tall monopole type communications tower & related ground equipment. Proposed tower would be designed for four sets of antennas. in accordance with the attached site plan on the following described property:

Address:	Olive Street (this vacant property has not been assigned a street number)		
Legal Description:	Lots 14, 15, 16, 17, 18 & 19 in Block 1 of Latta's Addition in Leavenworth		
Real Estate PID #	0773501023007000	Zoning:	GBD

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

Name(s) of Owner (print or type): Ronald J. and Kathleen G. Trexler

Address: 815 Railroad Avenue, Leavenworth, KS 66048

Contact No. ( ) 913-682-7960

Email Address: a1autorepair@kcurr.com

Signature of Owner(s):

Ron:

Kathleen:

State of Kansas  
County of Leavenworth

This instrument was acknowledged before me on

Date: 8-17-16

By: Ronald J. & Kathleen G. Trexler

Linda S. Carmoah

Notary Public

My appointment expires:

May 18, 2018

If business is operated by someone other than the owner, provide name and address of operator(s).

Name(s) of Applicant: Scott Goble on behalf of EcoSite, Inc. and the above property owners.

Address: 574 S Barnstable St., Nixa, MO 65714

Contact No. ( ) 417-848-7584

Email Address: scott.goble@sbcglobal.net

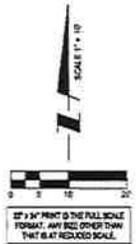
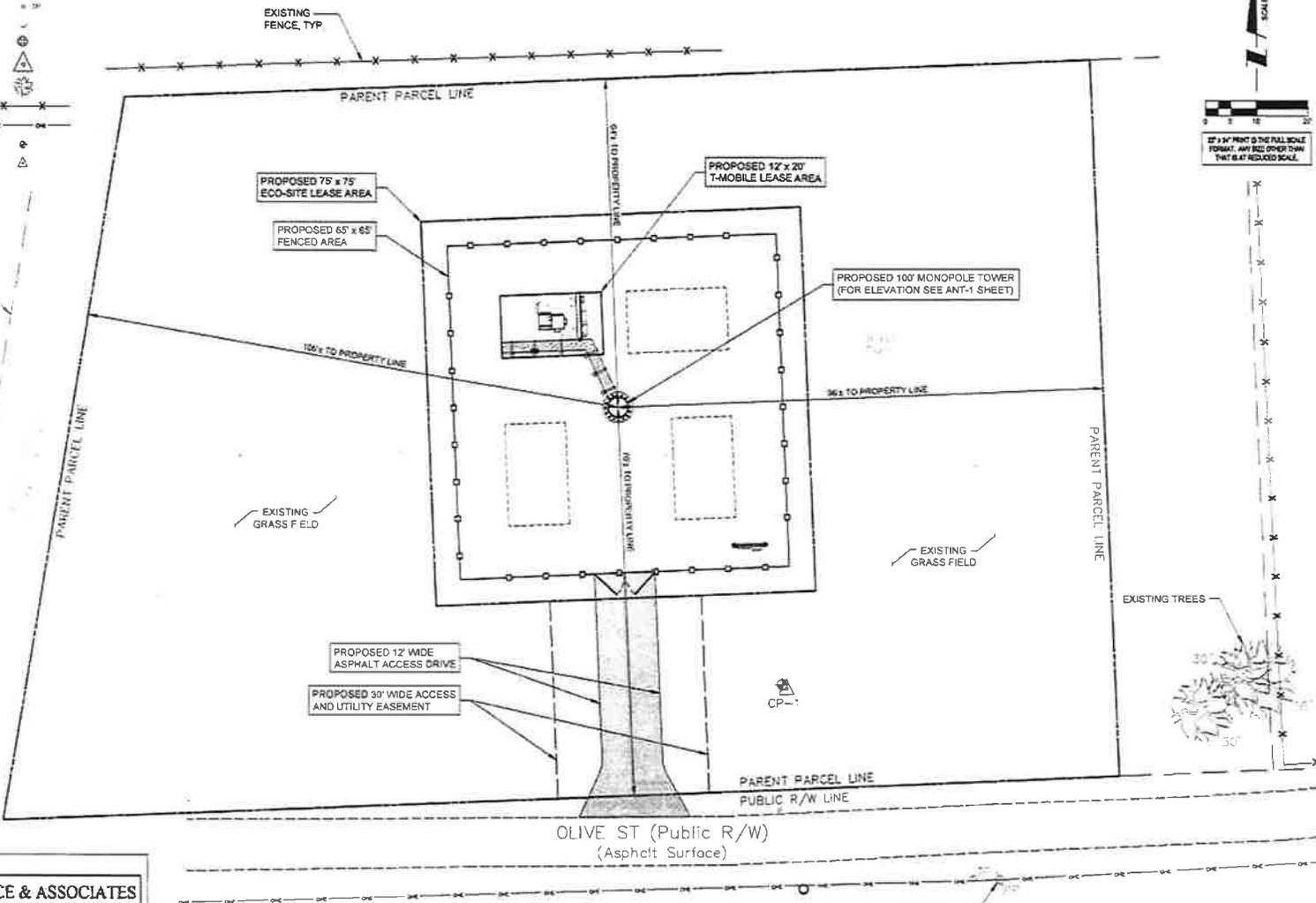
**NOTE:** All signatures must be in ink. Signature of owner(s) must be secured and notarized.  
**Check list below...**

1. Non-Refundable Fee of \$350.00 is due at time of application
2. Attach list of the owners for property within two hundred (200) feet of the above property
3. Site Plan drawn to scale (See General Instructions)
4. Supporting documentation (see General Instructions)



**LEGEND**

- UTILITY POLE
- TELEPHONE/PEDESTAL
- ANCHOR
- MANHOLE (SAN STORM TEL)
- PROPOSED TOWER
- TREE (SH)
- FENCE
- OVERHEAD POWER LINE
- BENCHMARK
- CONTROL POINT



**Eco-Site**  
 2701 EIGHTH AVE. SUITE 100  
 DURHAM, NC 27707  
 ECO-SITE.COM

**TERRA**  
 SURVEYING & MAPPING  
 1000 S. W. 10TH AVE. SUITE 100  
 MIAMI, FL 33135  
 PH: 305-888-4000  
 FAX: 305-888-4001

NO.	DATE	BY	DESCRIPTION

**SITE: KS-0005**  
  
**SPRUCE**  
  
 OLIVE STREET  
 LEAVENWORTH, KS 66046

DRAWN BY:	SDH
CHECKED BY:	AJB
DATE:	06/19/16
PROJECT #:	150216

SHEET TITLE  
**LOCATION PLAN**

SHEET NUMBER  
**LP**

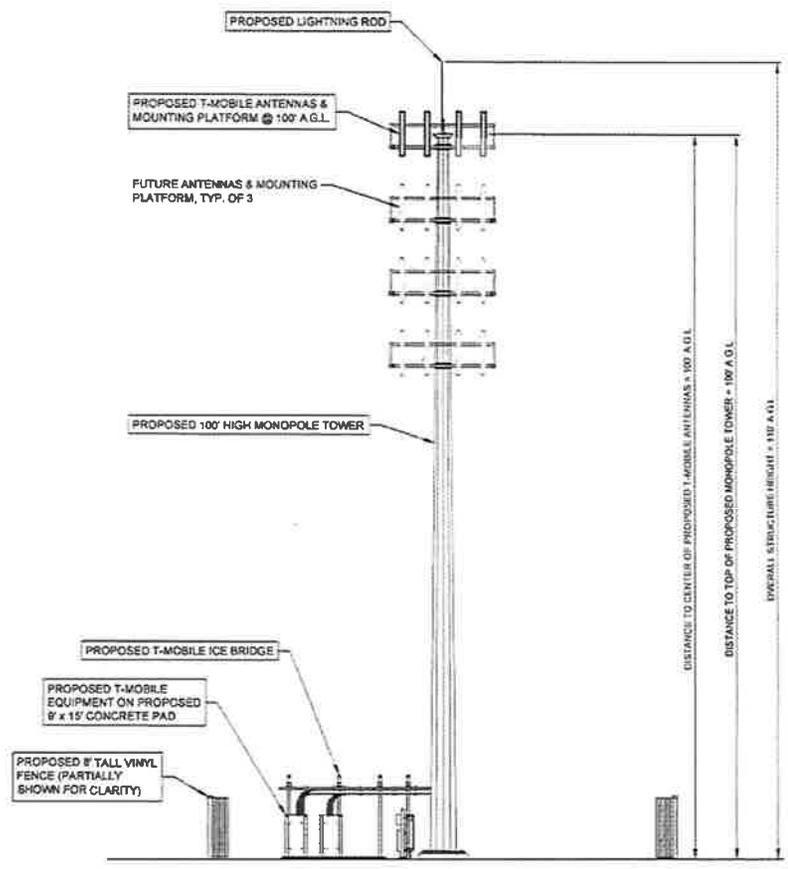
**KANSAS ONE-CALL SYSTEM, INC.**  
 CALL BEFORE YOU DIG - DRILL - BLAST  
 800-344-7233  
 (DIG-SAFE)  
 (JTS) 687-3753  
 (FAX)

**SURVEY PERFORMED BY:**

**LA** **LOVELACE & ASSOCIATES**  
 Land Surveying - Land Planning  
 Telecommunications Surveys  
 929 SE 3rd Street Lee's Summit, Missouri 64063  
 Phone: (816) 347-9997 Fax: (816) 347-9979

**1 LOCATION PLAN**  
 SCALE 1"=10'


  
 SCALE: 1/8" = 1'-0"
   
 25% OF PRINT IS THE FULL SCALE
   
 FORMAT: ANY SIZE OTHER THAN
   
 THIS IS AT RISK TO THE USER



1 SOUTH ELEVATION
   
 SCALE: 1/8" = 1'-0"

**Eco-Site**  
 2861 STEUBEN ROAD  
 SUITE 115  
 DUNSMUIR, ND 58707  
 ECO-SITE.COM

**TERRA**  
 SURVEYING & ENGINEERING  
 1000 W. 10TH ST. SUITE 100  
 BISMARCK, ND 58102  
 701.223.4444

NO.	DATE	BY	DESCRIPTION

SITE: KS-0005

SPRUCE

OLIVE STREET  
LEAVENWORTH, KS 66048

DRAWN BY	ZCH
CHECKED BY	AJD
DATE	08/19/18
PROJECT #	150-010

SHEET TITLE  
SITE ELEVATION

SHEET NUMBER  
**ANT-1**

KS-0005 SPRUCE  
PART OF THE NE 1/4, SECTION 35, T8S, R22E,  
IN LEAVENWORTH COUNTY, KANSAS

PROPERTY DESCRIPTION: Parent Parcel as Proposed

A PORTION THAT PARTS OF LAND IN LEAVENWORTH COUNTY, STATE OF KANSAS, AS MORE FULLY DESCRIBED IN DEED DOC # 2010R0453, 104 077-25-0-10-23-007 09-0, BEING KNOWN AND DESIGNATED AS FOLLOWS: LOTS 14, 15, 16, 17, 18, 19, BLOCK 1, LATTI'S ADDITION, CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS.

BY FEE SIMPLE DEED FROM JOHN P. LEAKE, A SINGLE PERSON AND CINDY L. SCHALDENBERG, A SINGLE PERSON AS SET FORTH IN DOC # 2010R0453 DATED 11/05/2010 AND RECORDED 11/05/2010, LEAVENWORTH COUNTY RECORDS, STATE OF KANSAS.

NOTE: The parent parcel graphically shown herein, in full or in part, is the same as that shown on the

Property Information shown herein was provided by AMC Settlement Services, Order No. 11470136, effective 6-10-2016.

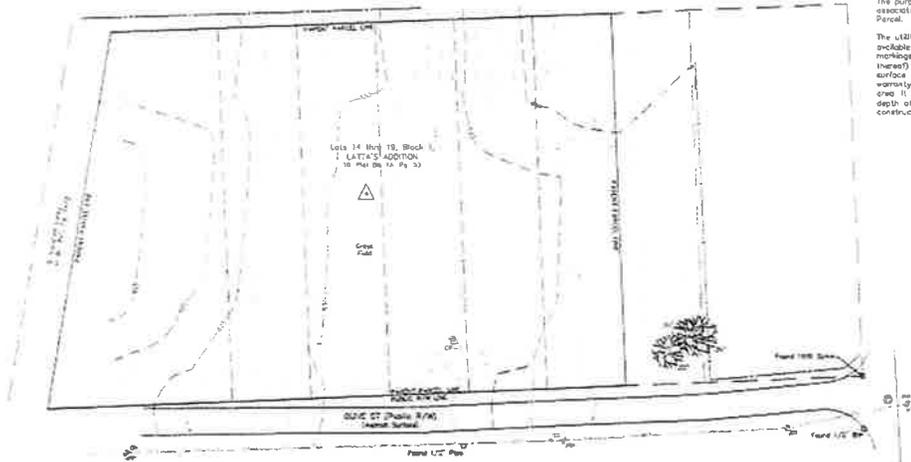
Schedule 2-8 information.

IS SUBJECT TO ORDINANCE NO. 1574 VACATING THE ALLEY BETWEEN LOTS 25 THROUGH 24, BLOCK 1, LATTI'S ADDITION AND LOT 18, BLOCK 1, LATTI'S ADDITION AS SET FORTH IN BOOK 811, PAGE 1170 RECORDED 08/26/2013, LEAVENWORTH COUNTY RECORDS (Shown)

IS SUBJECT TO ANY MATTERS AS SHOWN ON PLAT OF LATTI'S ADDITION AS SET FORTH IN PLAT BOOK 1A, PAGE 53 RECORDED IN LEAVENWORTH COUNTY RECORDS. (Shown)

**LEGEND**

ADJACENT PROPERTY	○ PP
ELECTRIC FEEDLINE	—
WATER	—
WATER MAIN	—
WATER MAIN TOWER	○
WATER MAIN TOWER	△
TREE (D.A.)	—
FENCE	—
INDICATED PROPERTY LINE	—
BOUNDARY	—
CONCRETE POST	△



PROPOSED CELL TOWER DATA  
Center of Tower  
Lat 38°52'30.52" North  
Long 94°55'23.98" West  
Ground Elevation = 831ft

BENCH MARK  
Top of 1/2" Iron Bar w/  
Colored Cap of C-1  
Elevation = 831.94ft

**Notes**

Bearings shown herein are referenced to Grid North of the Kansas State Plane Coordinate System of 1983 (NAD 83) (2011 ADJ), North Zone. Obtained by static GPS observations and files via submission for NGS Data Submission.

Vertical Datum = NAVD83 using GEOID12

The purpose of this survey is to establish and describe a Lease Area and associated Right of Way. This is not a boundary survey of the Parent Parcel.

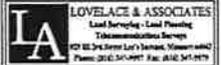
The utilities as shown on this drawing were developed from the information available (existing utility maps, aboveground observations and/or surface markings located on the ground by the utility company or a representative thereof). This company has made no attempt to excavate or go below surface to locate utilities and does not warrant or imply a warranty or warranty as to the exact location or complete mastery of utilities on the ground. It shall be the contractor's responsibility to verify the location and depth of all utilities (whether shown or not) prior to excavation or construction and to protect said utilities from damage.

**PRELIMINARY**

JEFFREY B. LOVELACE KS-LS1326  
DATE \_\_\_\_\_

08-29-18 ADDED TITLE AND REV. JOB NAME





**SURVEY COORDINATED BY:**  
LOVELACE AND ASSOCIATES, LLC  
1001 S. 10th St., Suite 100  
Leavenworth, KS 66048  
Phone: 785.842.1234  
Fax: 785.842.1234

**SURVEY PROVIDED BY:**  
LOVELACE AND ASSOCIATES, LLC  
1001 S. 10th St., Suite 100  
Leavenworth, KS 66048  
Phone: 785.842.1234  
Fax: 785.842.1234

**SURVEY PROVIDED FOR:**  
TERRA CONSULTING GROUP, LTD.  
1001 S. 10th St., Suite 100  
Leavenworth, KS 66048

**SCALE:** 1" = 20'

**FLOOD NOTE:**  
According to the Administration of Community Planning and Development of the Flood Hazard Risk Map for Leavenworth County, Kansas, FEMA 27600-01-01, the subject property is in Flood Zone "A", which is determined to be outside the 0.2% annual chance flood.

**SITE ID:** KS-2018  
**SITE NAME:** SPRUCE  
**SITE LOCATION:** QUAIL ST LEAVENWORTH, KS 66048  
**LA PROJECT NO.:** 16220  
**DRAWN BY:** JBL  
**CHECKED BY:** JBL  
**DATE:** 07-28-18  
**FILED/REV. DATE:** 07-03-18

**SHEET NUMBER**  
1 OF 1

CAREFULLY RE-EXAMINE DRAWING FOR ERRORS







BEFORE



AFTER

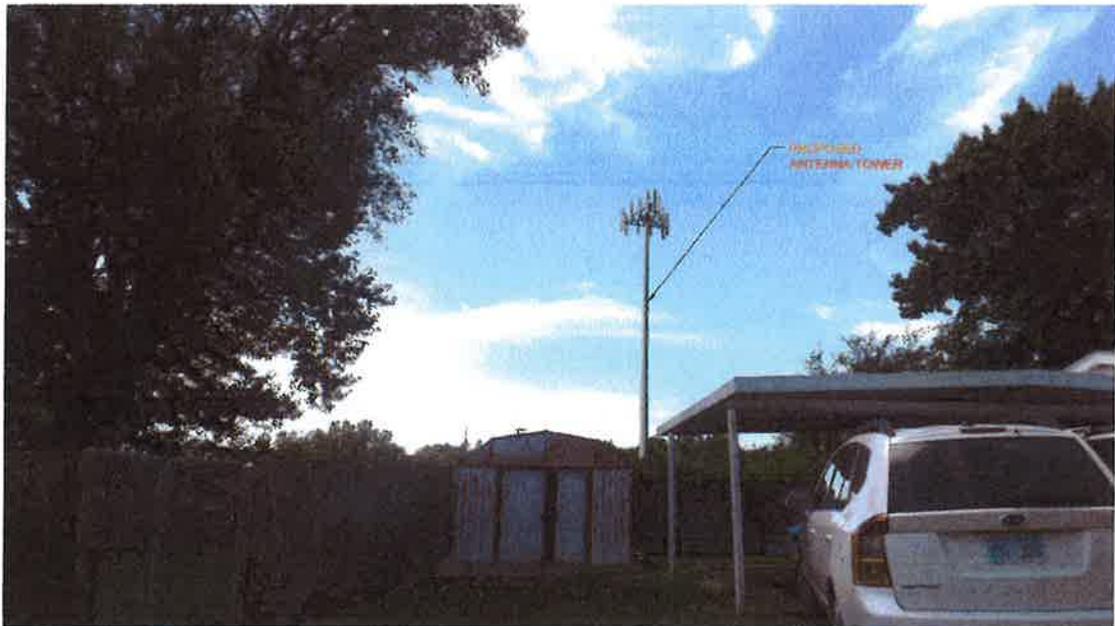
## KS-0005 Spruce

View Looking Northeast  
(Distance at 380')





BEFORE



AFTER

## KS-0005 Spruce

View Looking West  
(Distance at 190')



## 2. 2016-13-SUP – OLIVE STREET – CELLULAR COMMUNICATION TOWER

Conduct a public hearing for Case No. 2016-13-SUP, Olive Street north of Spruce Street and east of Railroad Avenue. The petitioner, EcoSite, Inc., is requesting consideration for a Special Use Permit to allow for the construction of a 100' monopole type communication tower and related ground equipment.

Chairman Byrne called for the staff report. City Planner Julie Hurley stated the subject property is zoned GBD, General Business District and is currently vacant. The proposed 100' tower is commissioned by T-Mobile to serve customers in the Leavenworth area, with space available for 3 additional carriers to co-locate. The maximum height of a tower and antenna when two or more antennas are co-located by two or more companies on a single tower is 170'. The proposal includes a 65' x 65' fenced area to enclose the tower and related ground equipment. Access will be provided by a paved 12' wide access drive off the existing alley to the south.

The Development Regulations require that for each foot of tower height there shall be a minimum of 1.05 foot of setback from any property line. This would require a minimum of 105' setback from all property lines for the proposed tower. The location of the proposed tower provides a 64' setback to the north, a 96' setback to the east, a 76' setback to the south, and a 106' setback to the west. The Development Regulations allow the Planning Commission to consider an exception to the setback requirement for properties zoned GBD, provided the evidence supports the following conclusions:

- a. The exception will not cause any injury to surrounding property and/or values or adversely affect the rights of adjoining property owners;
- b. The exception will help reduce the structure's domination of the immediate neighborhood and may result in improved safety, order or convenience for the general public;
- c. The exception will accommodate a more desirable development pattern for the immediate neighborhood and/or will enhance development of drainage, public utility or other facilities necessary for future development;
- d. The exception will not oppose the general spirit or intent of the Development Regulations. The exception and its justification shall be submitted as part of the application for the Special Use Permit and shall be valid when incorporated into the language of the ordinance granting the Special Use Permit adopted by the City Commission.

Ms. Hurley went on to review the Commission Findings/comments.

### COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

*Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.*

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

*A communication tower will provide numerous benefits to the economic development, welfare and convenience of the public through improved cellular communication capabilities.*

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

*Staff does not believe that the proposed communication tower will cause substantial injury to the value of other property in the neighborhood. The Development Regulations require a 1.05 foot setback for each foot of tower height, which the applicant is requesting an exception to. If the exception is granted, there are no other structures within 105 feet of the base of the tower (the "fall zone") which would be impacted in the event of a collapse of the tower. The location of the tower on this parcel will generate a minimal amount of traffic, with no negative impact to the surrounding properties.*

*Staff has received comments from the owner of the property located at 784 Spruce Street regarding concerns that the existing alley to be used for access to the subject site appears to cross the corner of their property.*

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

The location and size of the proposed communication tower are such that it will not dominate the neighborhood and prevent development and use of neighboring property. The subject property has no street access; it is only accessible by alleys, thus making it unsuitable for commercial or residential development. A communication tower, generating minimal traffic, is an appropriate use for this otherwise undevelopable parcel.

Ms. Hurley stated staff recommends approval of the Special Use Permit request based on the analysis and findings included herein.

Mr. Byrne called for questions and comments from board members.

Mr. Karrasch asked if any other sites were proposed. Ms. Hurley stated the Olive Street property is the only property the applicant proposed to the city; however, the applicant did do reconnaissance within the city but she does not know the extent of it.

Ms. Bohnsack asked if the maximum height for a cellular tower within the city limits is 100'. Ms. Hurley stated the maximum height is 170' if there will be more than one antenna. The proposed tower provides space for four (4) antennas, so the proposed tower is well under the maximum height.

Mr. Byrne inquired about the setbacks and the possibility of the tower hitting the parking lot to the west in the event it ever collapsed. Ms. Hurley responded saying the setback to the west, which is 106', is the only side which meets the setback requirements. Mr. Byrne asked that if sometime in the future this land is developed

have we now made the first 64' to the north undevelopable because it is within the 100' setback requirement. Ms. Hurley stated that would be the case; however, any property that is developed does have frontage requirements for street access and the portion of land directly north of the cell tower site is an extension of the residence on Broadway. Therefore, if it was ever to be parceled off, there would need to be right-of-way dedicated through there; Olive Street would have to be dedicated as the right-of-way. Ms. Hurley further stated she does not see this as a likely scenario; however, if this did occur, then the cell tower fall zone would need to be considered. Mr. Byrne asked if the adjacent property owners have voiced concern with the city about the setbacks. Ms. Hurley stated that none of the correspondence received was in relation to the setbacks.

Mr. Wiedower asked how often the special use permit is revisited. Ms. Hurley responded saying special use permits are renewable annually through the City Clerk's Office and every year the city will verify the regulations are still being met. If the regulations were not being met or there was a development plan then the special use permit would be revisited at that time, since it is renewed annually.

Mr. Byrne asked what restrictions the city has on cell towers. Ms. Hurley stated just this year the State Legislator passed new regulations on what restrictions cities have with cell towers. Cities cannot prohibit cell towers from co-locating; however, cities can make sure it's a good fit and not fall onto adjacent structures. Other than that, the city is limited on its regulations over cell towers.

With no other questions or comments, Chairman Byrne opened the public hearing.

Scott Goble is the applicant. He represents the property owner, Ron Trexler, and also represents T-Mobile and Eco-Site, Inc. Mr. Goble stated he has been in the business for over 16-years and is very familiar with mobile phone company processes and is familiar with the various tower companies. T-Mobile's reasoning for the cell tower in the City of Leavenworth is 1) trying to get ahead of the new 5G technology and 2) to correct the significant loss of service coverage in the Leavenworth area. Mr. Goble clarified T-Mobile is his first client over EcoSite. He stated that if a co-locatable structure currently exists which is tall enough above ground that a T-Mobile antenna can be added then EcoSite would remove their self from the equation as their services would not be needed. Since no structure was suitable for a T-Mobile antenna in the designated search area of Lawrence Avenue and Spruce Street, a ground search began to locate property to build a cell tower. Another area that was looked at were two towers south about 1-1/2 miles away at Tower Hill but there was too much dense residential in that area. The proposed property on Olive Street was the most suitable because it is approximately 20' higher in ground elevation than Westar and the ground to the West and North does fall away at an elevation above sea level.

Mr. Wiedower asked about environmental safety, compliance and inspections for building and maintaining cell towers. Mr. Goble responded by saying there are no regulatory entities that require an annual inspection; however, their towers are inspected regularly. He further stated they operate within FCC regulations. If another carrier wants to add their antenna to the tower, EcoSite requires the carrier to run a full structural analysis, which is completed by a Kansas licensed engineer.

Mr. Claude asked Mr. Goble, since he has been doing this for 16 years, does he have confirmation there is no negative health impact. Mr. Goble stated there are always two concerns with cell towers: 1) health concerns and 2) property value concerns. Regarding health concerns, all carriers Mr. Goble has dealt with work with the constraints of FCC licensing. The FCC monitors health studies on a regular basis and has set exposure levels for radiation. The carriers work well within the limits required by the FCC; in most cases the exposure is one-tenth of what is allowed by the FCC. Mr. Goble recommends the board members visit the following websites for additional health information: FCC, World Health Organization and OSHA.

Mr. Goble went on to discuss the affects to property values. He stated he believes one of the most important requirements for people looking at purchasing a home is if they will have good cellular coverage at that address. Therefore, he does not believe a cell tower would negatively affect property values.

Mr. Byrne asked what the level of improvement would be for T-Mobile customers. Although no numbers are available to provide to the board, Mr. Goble responded by saying the level of improvement within a two mile radius of the proposed location would be significantly increased.

Mr. Burke asked how long would construction last and what type of disruption are the citizens in that area expected to endure during construction. Mr. Goble stated construction from start to finish is typically less than three weeks. A crane would be setup on the property and equipment would be brought in by a semi-truck. There will definitely be activity during construction but they will work closely with property owners and the city to keep everyone in the loop.

Mr. Goble also mentioned it is his understanding there is concern about possible damage occurring to the alley. He recommends making it a condition to the special use permit that any damage due to construction activities be repaired.

Mr. Karrasch asked if the tower could be extended or if a new tower would have to be installed if added height is needed. Mr. Goble responded that the tower could be extended.

Mr. Byrne asked if anyone else wanted to speak for or against the proposed special use permit.

Mr. Bernie Bristow approached the podium to speak in opposition of the proposed special use permit. Mr. Bristow is co-owner of MBAR LLC, located at 784 Spruce Street. Mr. Bristow provided the board members and the City Planner an informational packet on FCC regulations pertaining to cell towers. His discussion is attached as Exhibit A.

Mr. Byrne asked for questions.

Mr. Karrasch asked Mr. Bristow if he knew of any environmental issues within the neighborhood, endangered species, or any other historic sites besides the property to the north. Mr. Bristow responded by saying he knew of no other historic sites and is not aware of any endangered species in the area.

Mr. Wiedower asked Mr. Bristow if EcoSite used a different access point other than the alley, if Mr. Bristow would then be acceptable to installation of the tower. Mr. Bristow responding by saying he is not in favor of the tower; however, if the tower did get approved, he would prefer the point of entry to be north on Railroad Avenue and then east behind A-One Auto Repair located at 815 Railroad Avenue.

Ms. Bohnsack commented that she understands Mr. Bristow's concerns about the use of the alley; however, cell towers receive infrequent general maintenance and the tower is only 100 feet, which is of minimal size for a communication tower. She further stated there will be an impact to the properties surrounding the cell tower but not nearly the negative impact that the auto repair shop has; and the communication tower does provide a positive impact on the community. Ms. Bohnsack also does not believe the historic properties on South Broadway will be negatively impacted.

Mr. Karrasch asked Mr. Bristow if he has had a chance to look at the site plans and if he was aware of the eight foot tall, 65' x 65' privacy fence that will be installed around the tower. Mr. Bristow responded that he did

look at the site plans. Mr. Karrasch stated he believes the enclosure should cover most of the safety issues that Mr. Bristow mentioned.

Mr. Byrne thanked Mr. Bristow and asked if there was anyone else who wished to speak for or against the proposed cell tower.

Mr. Pernel Peters, owns property at 722 S Broadway Street, approached the podium. He stated he purchased the home in May 2015 and he never would have considered purchasing this property if he knew a cell tower was going to be installed behind his property. He stated he paid a premium for this property and does not want the property value damaged.

Mr. Byrne asked if the board had any questions for Mr. Peters.

With no questions from the board members, Mr. Byrne asked if anyone else would like to speak in favor or opposition of the proposed tower.

William R. Allen Sr. M.D., owns the property at 714 S Broadway St, approached the podium. Dr. Allen stated his property was placed on the National Register of Historic Places in 1977. Dr. Allen's concern is that the assessment required by Section 106 of the National Historic Preservation Act (NHPA) was not completed. He further stated it is his belief that all the properties in that area will be negatively impacted.

Mr. Byrne requested Mr. Goble approach the podium to clarify questions the board members may have.

Mr. Byrne asked if a distributed antenna system (DAS) or other small-cell system was considered when meeting the requirements. Mr. Goble responded by saying a DAS system is a specific application and for it to work in a dense residential neighborhood there would need to be an antenna on every utility pole within that area. DAS systems are designed for urban environments.

Mr. Byrne asked about the NHPA and how it pertained to Dr. Allen's property. Mr. Goble stated wireless entities are one of the most highly regulated entities in the United States. Because it is a federally licensed entity there are litany of regulatory steps that are required. One of these steps is approval by the Kansas State Historic Preservation Office (SHPO). Mr. Goble stated he does not believe they are that far along in the process yet but approval is required prior to commencing construction. Mr. Goble stated the SHPO has criteria they take into account, such as, line of sight and screening. Mr. Goble believes the natural screening by the mature trees will hide the tower from the majority of surrounding properties. Using his photo simulations, Mr. Goble discussed the surroundings and various street views of the proposed property.

Referring back to Mr. Bristow's discussion about EcoSite's corporate policy about meeting with neighbors, Mr. Byrne asked Mr. Goble if any of the neighbors were contacted. Mr. Goble responded saying they only meet with neighbors when the jurisdiction makes that request or when EcoSite believes that a tower will cause a big impact. Mr. Goble did not feel this specific tower would cause a significant negative impact.

Mr. Byrne asked about the backup power for the tower and the impact it will have on neighboring properties. Mr. Goble stated T-Mobile's first backup is a battery and then propane. Some carriers, such as Verizon, use diesel; however, natural gas can also be used. Mr. Goble stated the generator will only be used in the case of a power outage, which would normally not last a significant length of time.

Mr. Goble proceeded to discuss the noise levels of the generators. The propane and gas generators are virtually silent and diesel generators are very quiet. Mr. Goble stated he could get specifications on the decibel levels for the generators. Mr. Byrne stated the specifications need to be supplied to staff.

Mr. Byrne then asked about lighting around the tower. Mr. Goble stated more than likely there will be lighting inside the compound, similar to a porch light.

Mr. Byrne asked if it was feasible to change the route of construction access. Mr. Goble stated he would need to meet with his team to see if changing the route of construction access is even a possibility. He further stated it is his understanding that Mr. Trexler has the legal right to use the alley to access his property; therefore, any of Trexler's lessees should also have access to use the alley as well. Mr. Goble said they would replace any damage that was caused by construction.

During his discussions, Mr. Bristow provided information indicating harmful effects to property values of properties near cell towers or antennas. Mr. Byrne asked Mr. Goble if he had any data on the impact on property values. Mr. Goble responded by saying he has seen articles showing positive impact on property values and has seen articles showing negative impact on property values.

Mr. Wiedower asked how many miles of improved coverage will be afforded to T-Mobile customers if the cell tower is approved. Mr. Goble stated the most improved coverage would be approximately a two mile radius.

Mr. Karrasch asked the City Planner if the National Historic Preservation Act applied to the property or to the home and property. Ms. Hurley stated she would need to pull the register nomination, which would contain a legal description. However, according to the GIS mapping system, it is just for the parcel with the house on it; not the rear parcel behind it. Mr. Goble also stated the SHPO will identify properties on the historic preservation list.

Mr. Wiedower asked if there was a secondary site such would achieve T-Mobile's objective. Mr. Goble stated he did research numerous other sites but for one reason or another (e.g. elevation too low, access issues, etc.) the other sites would not work.

Mr. Goble proceeded to address the ice issue which was mentioned earlier by stating he has never seen an issue with ice causing damage. He stated any ice which may form on the tower typically melts off as water.

Deanne Montgomery approached the podium to ask about the landlord/tenant relationship. Mr. Goble responded by saying EcoSite will be the tenant to the property owner, Ron Trexler. The lease agreement between EcoSite and Mr. Trexler allows EcoSite to sublease to future co-location tenants.

Mr. Byrne asked if there were any other questions. With no one else wishing to speak, Mr. Byrne closed the public hearing.

Chairman Byrne stated the board has three options available to them: 1) motion, based upon findings as stated to recommend approval to the City Commission, 2) motion, to recommend denial to the City Commission, and 3) table the issue for additional information/consideration. Mr. Karrasch moves to approve the Special Use Permit for the cell tower with the condition the developer agrees to repair any damage imposed to the street or alley from the equipment needed to construct the facility. Ms. Hurley suggested the condition be reworded to damage to any public or private property that occurs during construction. The motion was seconded by Mr. Wiedower and passed by a unanimous vote 5-0.

**Special Use Permit 2015-13-SUP** is a request for a 100' cell tower (with a 10' lightening rod) and ground equipment in the City of Leavenworth

I'm **Bernie Bristow** a co-owner of the property at **784 Spruce**. Exhibits **A1-A5** are signatures of **twenty-two(22)** owners, renters, or both representing **seventeen (17)** properties in close proximity to the proposed cell tower site. We ask that you deny this Special Use Permit. Exception to the setback requirement is contrary to the "spirit" of the Development Regulations. There are demonstrable concerns about safety, negative property values, and domination of the visual landscape. As well, by granting an exception to the established setback requirement in the City of Leavenworth Development Regulations the exception will place the property of a home on the National Register of Historic Places with the greatest cell tower "fall zone" encroachment.

The following are the Articles pertinent to the request for denial;

**Article 1.01(B)(1&2) of the OVERVIEW indicate the Purposes of the regulations;**

- 1. *To promote the health, safety, comfort and economic development of the city*
- 2. *To preserve and protect property values throughout the city*

**Article 10.03(A)(1) COMMERCIAL COMMUNICATION TOWERS AND ANTENNAE** requires applicant to submit;

- 1. **Evidence of its effort to co-locate the proposed tower on an existing tower or structure....**  
*Considered site at "Tower Hill" was too densely residential. Is the new tower location any less densely residential?*

**Article 10.03(B)(4)** requires;  
**In all zoning districts, for each foot of height there shall be a minimum of 1.05 foot of setback from any property line. (105' for a 100' tower)**

*The setback requirement is met on only the West side as indicated on the site plan. (Exhibit B)*

**Article 10.03(B)(5)** allows the Planning Commission to consider an exception to the setback requirement whenever applicants are able to **demonstrate a significant public benefit**, provided evidence supports;

*The applicant indicated there would be significantly increased improvement to T-Mobile customers within a two mile radius. However, **there are no numbers available to provide to the City**. How many complaints has the City received concerning poor cell service?*

- a. **The exception will not cause any injury to surrounding property and/or**

**Special Use Permit 2015-13-SUP** is a request for a 100' cell tower (with a 10' lightning rod) and ground equipment in the City of Leavenworth

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**Article 10.03(A)(1) COMMERCIAL COMMUNICATION TOWERS AND ANTENNAE** requires applicant to submit;

1. **Evidence of its effort to co-locate the proposed tower on an existing tower or structure....**

*Applicant indicated no collocatable structure currently exists within the site area.*

**Article 10.03(B)(4)** requires;

**In all zoning districts, for each foot of height there shall be a minimum of 1.05 foot of setback from any property line. (105' for a 100' tower)**

*The setback requirement is met on only the West side as indicated on the site plan. (Exhibit B)*

**Article 10.03(B)(5)** allows the Planning Commission to consider an exception to the setback requirement whenever applicants are able to **demonstrate a significant public benefit**, provided evidence supports;

*The applicant indicated there would be significantly increased improvement to T-Mobile customers within a two mile radius. However, **there are no numbers available to provide to the City**. How many complaints has the City received concerning poor cell service?*

- a. **The exception will not cause any injury to surrounding property and/or**

*which would be impacted in the event of a collapse of the tower.” fails to indicate all of the other items that **are in the fall zone: the public right of way** (the alley) which area residents use to walk with children and pets, the alley that is the access to the parking areas behind their homes; **the existing power lines** that supply power to the adjacent properties; **the existing fence**, and **the property of the “premiere” Leavenworth historic mansion of Dr. William Allen Sr.** at 714 South Broadway. (“fall zone” is 41’ into Dr. Allen’s property, 51’ including the lightening rod, and 51.5’ to 61.5’ per the following paragraph) (Exhibit E1-2)*

*If approved and constructed, the owner of the tower, by FCC regulations, may come back in the future and ask that the tower be raised 10% in height. The FCC does not allow the City to deny the increase. That would add 10.5 more feet of “fall zone” into the adjacent properties. (FCC 14-153, par. 192)*

**d. The exception will not oppose the general spirit or intent of the Development Regulations. ...**

*Please refer to Article 1.01(B)(1&2) of the Development Regulations*

An article in the Leavenworth Times E-Edition entitled “Commissioners unable to block cellphone tower” might lead the Commission to think you may not deny this application. County Counselor David Van Parys was quoted as saying, “Quite frankly, the federal government has tied your hands on this issue.” That quote may be accurate for the tower discussed in that article. It is not accurate for all tower siting situations.

The following is a list of references that are pertinent to understanding the requirements state and local governments must follow when denying a cell tower siting.

FCC “TOWER AND ANTENNA SITING” guidelines

Section 332(c)(7) of the Telecommunications Act of 1996

Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012

FCC-14-153 “Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, et al. Oct. 17, 2014

T-MOBILE SOUTH, LLC v CITY OF ROSWELL, GEORGIA Supreme Court of the United States January 14, 2015

“Wireless Facilities Siting in the Wake of the Spectrum Act and Roswell”; Tillman L. Lay, Jessica R. Bell, Spiegel & McDiarmid LLP, April 25, 2015

“Commissioners unable to block cellphone tower”, The Leavenworth Times E-Edition, Posted Friday, Sep. 30,2016 at 8:55AM

I OPPOSE THE SPECIAL USE PERMIT TO INSTALL A CELL TOWER AT LOTS 14, 15, 16, 17, 18 & 19 IN BLOCK 1 OF LATTA'S ADDITION, IN THE CITY OF LEAVENWORTH, LEAVENWORTH, KS FOR SAFETY, AESTHETIC, MAINTENANCE OF LOCAL LAND VALUE, AND SET-BACK REASONS.

PRINTED NAME

SIGNATURE

ADDRESS

PRINTED NAME	SIGNATURE	ADDRESS
VICKIE MURNANE	Vickie Murnane	780 Spruce St.
ARLENE WHITAKER	Arlene Whitaker	768 Spruce St Leavenworth, KS
JACQUE McCARTER	Jacque McCarter	810 Columbia Ave Lv, KS
TAMMY LIVELY	Tammy Lively	800 Columbia Ave Lv, KS
BETTY L. KOPP	Betty L. Kopp	801 Columbia Ave
Mary Lane	Mary Lane	809 Columbia Ave.
GARY HOSLUND	Gary Hoslund	809 Columbia Ave
MARK BORN	Mark Born	805 Columbia Ave.
Roxi Bailes	Roxi Bailes	818 Columbia Ave APTA Lv, KS
Keith Richardson	Keith R	818 Columbia Ave APT B Lv, KS
Michael Maldonado	Michael Maldonado	813 Columbia Ave
Shilea Rardin	Shilea Rardin	813 Columbia Ave
Cory Fryman	Cory Fryman	778 Spruce St
Shelbie Coleman	Shelbie Coleman	778 Spruce St
JEFF HURLEY	Jeff Hurley	804 Columbia
David Brightwell	David Brightwell	822 - Columbia
WILLIAM R. ALLEN SR M.D.	William R. Allen Sr	714 S Broadway Leav.

EXHIBIT A1



EXHIBIT A3



September 9, 2016

LEAVENWORTH CITY PLANNING COMMISSION

NOTICE TO NEIGHBORING PROPERTY OWNERS

STATE LAW REQUIRES THIS NOTICE BE SENT TO YOU SO YOU MAY BE AWARE OF A PROPOSED ACTION BEFORE THE CITY PLANNING COMMISSION

THIS NOTICE DOES NOT DIRECTLY INVOLVE YOUR PROPERTY

A petition has been filed by Scott Goble on behalf of EcoSite, Inc. and Ronald J and Kathleen G Trexler requesting a Special Use Permit to install and operate a communications tower and related ground equipment at the following legally described property:

Lots 14, 15, 16, 17, 18 & 19 in Block 1 of Latta's Addition, in the City of Leavenworth, Leavenworth, Kansas

Because you own property within a 200-foot radius of the above location, Kansas State Statute requires us to notify you of this proposed action.

A public hearing will be held by the Leavenworth City Planning Commission in the Commission Chambers of City Hall, 100 N 5<sup>th</sup> St. on October 3, 2016 at 7:00 p.m. on this request.

If you desire, you may appear in support or opposition, in person or by agent or attorney. This hearing is not limited to those receiving this notice. If you know of any neighbor or property owner who might have an interest in the proposed action, please inform them of this hearing. The application may be reviewed in the office of the City Planner at City Hall, 100 N. 5th Street, Leavenworth, Kansas.

Sincerely,

Julie Hurley  
City Planner

City of Leavenworth 100 North 5<sup>th</sup> Street Leavenworth, Kansas 66048 913 680-2626 www.hks.org

You recently received this letter from the City of Leavenworth. I oppose this petition to install a communications tower as described. An article in *RealtorMag*, the official magazine of the National Association of Realtors, dated July 25, 2014 indicated, "of the 1,000 survey respondents, 79 percent said that under no circumstances would they every purchase or rent a property within a few blocks of a cell tower or antennas, and almost 90 percent said they were concerned about the increasing number of cell towers and antennas in their residential neighborhood."

This petition would allow a 100' monopole cell tower (110' including lightning rod) to be constructed within 200' of your property. I will appear at the meeting to oppose the permit. If you are unable to attend, and wish to oppose the permit, please complete the information below and return to me in the enclosed postage paid envelope and I will present it to the Planning Commission, or you may mail it directly to Julie Hurley, City Planner at the address on the letter.

Thank you, Bernie Bristow, MBar, LLC

I oppose the above named petition: Matthew Warrell

Owner of the property located at: 902 9th AVE LV KS 66048



September 9, 2016

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Sincerely,

Julie Hurley  
City Planner

City of Leavenworth 100 North 5th Street Leavenworth, Kansas 66048 913 680-2626 www.lwks.org

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Thank you, Bernie Bristow, MBar, LLC

Aitkens Contracting

I oppose the above named petition:

Ron Aitkens Ron Aitkens

Owner of the property located at:

740 Chestnut  
818 COLUMBIA AVE



September 9, 2016

**LEAVENWORTH CITY PLANNING COMMISSION**

**NOTICE TO NEIGHBORING PROPERTY OWNERS**

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Sincerely,

Julie Hurley  
City Planner

City of Leavenworth 100 North 5<sup>th</sup> Street Leavenworth, Kansas 66048 913 680-2626 www.lvs.org

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I oppose the above named petition: Delores D Simpson

Owner of the property located at: 774+ 778 Spruce

# Leavenworth County, KS



- Legend**
- Address Point
  - Parcel
  - Parcel Number
  - Subdivisions
  - Lot Line
  - City Limit Line
  - Major Road
  - <all other values>
  - 70
  - Road
  - + Railroad
  - Section
  - County Boundary

**Notes**

\*\*\*BLUE DOT indicates owner or renter signature opposing tower location

ORANGE CIRCLE is proposed tower site\*\*\*

252.2 0 126.10 252.2 Feet

1 in. = 126ft.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

**THIS MAP IS NOT TO BE USED FOR NAVIGATION**



**EXHIBIT D1**



**BEFORE**



**AFTER**

**KS-0005 Spruce**

View Looking Northeast  
(Distance at 380')



**EXHIBIT D2**



**BEFORE**

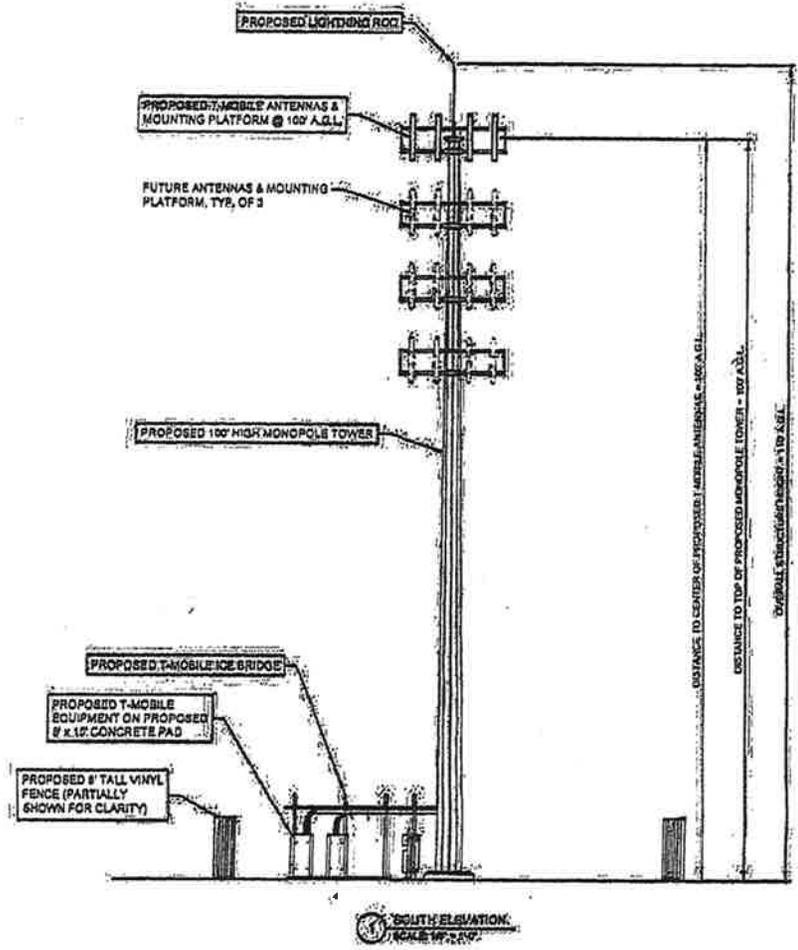


**AFTER**

**KS-0005 Spruce**

View Looking West  
(Distance at 190')





SCALE: 1/4" = 1'-0"  
IF A PRINT IS THE FULL SCALE  
TOWER, ALL HEIGHTS TO THE  
TOP OF THE REDUCED SCALE

Eco-Site  
THE PROFESSIONAL RADIO  
COMMUNICATIONS GROUP  
www.eco-site.com



REV	DATE	BY	CHK	DESCRIPTION

SITE: KS-0005

SPRUCE

CLIVE STREET  
LEAVENWORTH, KS 66041

DRAWN BY	SDH
CHECKED BY	AG
DATE	06/10/18
PROJECT #	115-046

SHEET TITLE  
SITE ELEVATION

SHEET NUMBER  
**ANT-1**

# Leavenworth County, KS



**Legend**

- Parcel
- Parcel Number
- Subdivisions
- Subdivision Boundaries
- Lot Line
- Plat Block Number
- City Limit Line
- Major Road
- <all other values>
- 70
- Road
- Railroad
- Section
- County Boundary

**Notes**

EXHIBIT E1 6 0 209.32 418.6 Feet

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This property was placed on the **National Register of Historic Places November 17, 1977**. This should limit what is done with the property

*Since to proceed the  
county might required to  
get approval of the  
National Register of Historic  
places. WRA Sr.*

**POLICY REPORT  
FIRST CONSIDERATION ORDINANCE  
CHAPTER 2 ADMINISTRATION, ARTICLE II GOVERNING BODY ADDING SECTION 2-34  
CONSIDERATION OF ORDINANCE AT PUBLIC MEETINGS**

**October 25, 2016**

Prepared by:



Carla K. Williamson, CMC  
City Clerk

Reviewed by:



Paul Kramer  
City Manager

**ISSUE:**

The issue before the City Commission is to consider an ordinance regarding the passing of ordinances.

**BACKGROUND:**

At the October 4, 2016 Study Session the issue of requiring an ordinance to have a first and second consideration was discussed. In 2012 K.S.A. 12-3001 was amended and the language that prohibited Cities of the First Class from passing ordinance on the date of introduction with exception of emergencies was removed. Most larger Cities kept this requirement in place and passed local ordinances requiring two considerations.

At the October 4, 2016 there was a consensus by the City Commission to adopt such an ordinance for the City of Leavenworth to require two considerations except for emergencies and an emergency would be determined and declared by a majority vote of the Governing Body.

**ATTACHMENTS:**

Draft Ordinance

**ACTION REQUIRED:**

Consensus to place an ordinance on first consideration.

**ORDINANCE NO. XXXX**

**AN ORDINANCE AMENDING LEAVENWORTH CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II GOVERNING BODY, ADDING SECTION 2-34 CONSIDERATION OF ORDINANCES AT PUBLIC MEETINGS, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING SECTIONS IN CONFLICT.**

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**Section 1.** Code of Ordinances, Chapter 2, Article II. Governing Body, adding Sec. 2-34 Consideration of Ordinances at Public Meetings to read as follows:

**Section 2-34. Consideration of Ordinances at Public Meetings.**

Consideration of Ordinances cannot be passed on the date of introduction with exception of emergencies. The Governing Body shall determine and declare an emergency by a majority vote.

**Section 2. Publication; Effective date.** The ordinance shall take effect and be in full force and effect immediately following its adoption and publication as provided by law.

Passed by the City of Leavenworth City Commission on this 8th day of November, 2016.

\_\_\_\_\_  
Larry Dedeke, Mayor

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk

Summary Published in The Leavenworth Times  
Date of Summary Publication: November 12, 2016