

**LEAVENWORTH COUNTY PLANNING COMMISSION  
MINUTES OF THE REGULAR MEETING  
December 11, 2019**

**Meeting called to order at 6:00 pm**

**Pledge of Allegiance**

**Members present:** Steve Rosenthal-Chairman, Mark Denney, A.W. Himpel, John Matthews, Janette Labbee-Holdeman, Wolf Schmidt, Terry Bartkoski and Jeff Spink

**Members absent:** Alex DeMoro

**Staff present:** Krystal Voth-Interim Director, Stephanie Sloop-Planning Coordinator, David Van Parys-Senior County Counselor

**Approval of Minutes:**

*A motion was made by Commissioner Schmidt and seconded by Commissioner Bartkoski to approve the November Planning Commission minutes.*

***Motion passed, 8-0, 1 absent***

**Secretary's Report:**

Krystal Voth informed the Planning Commission that there were two items on the consent agenda, and with approval of the agenda, those items would be approved as well. She also informed the Planning Commission one case was being continued to January 8, 2020, Planning Commission Meeting.

David Van Parys addressed the Commission about Case DEV-19-099. He asked the Commission to consider continuing the case to allow himself to work with staff on resolving some concerns that have been addressed. He stated that there are several citizens here about the case and suggested that they should be allowed to share their concerns, and then the Commission could table the case to a later date.

***A motion was made by Commissioner Schmidt to approve the agenda. Commissioner Labbee-Holdman seconded the motion.***

***Motion passed, 8-0, 1 absent***

**Declarations: No Declarations**

**Case No. DEV-19-103**

**Consideration of an application for a Special Use Permit for the operation of a Kennel (Pupachinos Doggy Daycare) on a tract of land located in Section 16, Township 8 South, Range 22 E, East of the 6<sup>th</sup> P.M., in Leavenworth County, Kansas.**

**Request submitted by Katherine de la Cruz**

**\*\*Public Hearing Required\*\***

Krystal Voth presented the staff report for Case DEV-19-103, an application for a Special Use Permit for the operation of a Kennel. She reminded the Commission they heard this case last month and that the Commission had asked her to provide conditions for the permit should the Commission decide to approve it. Ms. Voth explained that the conditions that she attached to this permit are the standard conditions that are given with all kennel operations in Leavenworth County.

Chairman Rosenthal stated that the public comment portion of the hearing was open and closed last month and didn't need to be opened again. The applicant, Ms. Cruz, came forward and asked to speak about the concerns. She did agree that she cannot meet the condition about the dB level of barking at the property line. She brought a petition that she had adjoining property owners sign in support of her use. Ms. Cruz explained

her plans for trying to mitigate the noise. Commissioners asked her about the disposal of waste, and she explained her process for that.

**Commissioner Bartkoski moved that the proposed Special Use Permit outlined in Case DEV-19-103 be approved, rather than denied, that the findings on the golden factors, as set forth in the staff report don't cover everything the way I think it could be worked around, and as substantiated by the facts, testimony and evidence presented, be adopted by this board and that the conditions set forth in the staff report be made part of this Special Use Permit and all 14 requirements, outside of the noise issue. I think we can get around that with the neighbors signing the petition. If all the neighbors are happy, there was one anonymous complaint, no one came to this meeting and said they didn't want this. If someone didn't want it they should have come here, I can view the complaint as someone being vindictive. Commissioner Labbee Holdeman seconded the motion.**

Krystal Voth asked for clarification about if the motion was to omit condition 14. The motion was made for the conditions to be as written.

## **ROLL CALL VOTE**

*Commissioner Matthews – No, based on the recommendations of professional staff and the noise issue.*

*Commissioner Bartkoski – Yes.*

*Commissioner Denney – No, the reasoning is he doesn't see how they can pass something where the conditions can't be met. Even though she has the support of her current neighbors, five years is a long time, and property owners can change.*

*Commissioner Schmidt – No, I agree with what other Commissioners have said.*

*Commissioner Himpel – No, I agree with the reasons already given.*

*Commissioner Labbee-Holdeman – Yes.*

*Commissioner Spink – Yes.*

*Chairman Rosenthal – No, for the same reasons. I think they have a great business, but it is not right for this area.*

**Motion 3/5 motion to approve fails. Motion is denied.**

The Board of County Commissioners will consider this item on **January 8, 2019 at 9:00 A.M** in the Leavenworth County Courthouse.

**Any person wishing to file a protest petition must contact the Planning & Zoning Office. Protest petitions must be filed with Leavenworth County within two weeks of this meeting. To be valid, the protest petition must be signed by owners of 20% of the land area in the notification area.**

### **Case No. DEV-19-110**

**Consideration of an application for a Special Use Permit for an auto service station and repair on a tract of land beginning at a point eight hundred eighty feet south of the northeast corner of the northwest quarter of Section 15, Township 10 south, Range 22E, East of the 6<sup>th</sup> P.M., in Leavenworth County, Kansas.**

**Also known as 15911 Fairmount Rd**

**Request submitted by Dale Stamp**

**\*\*Requires public hearing\*\***

Krystal Voth presented the staff report for Case DEV-19-110, an application for a Special Use Permit for an auto service station & repair. Ms. Voth went through the Golden Factors as they pertain to this case.

Chairman Rosenthal opened the public comment portion of the hearing and asked the applicant to come forward. Mr. Stamp came forward and explained the nature of his business and his request. He did make a request to be able to put up a sign to help customers and deliveries find his location because he sits so far back from the road. Commissioner Bartkoski asked for clarification if a modification could be made to staff recommendations.

Chairman Rosenthal asked if there was anyone that wished to speak in favor of the case. Several residents spoke in favor of the case. Chairman Rosenthal asked if there was anyone present that wished to speak in opposition of the request. No one came forward. Chairman Rosenthal closed the public comment.

***Commissioner Bartkoski moved that the proposed Special Use Permit outlined in Case DEV-19-110 be approved, that the findings on the golden factors, as set forth in the staff report and as substantiated by the facts, testimony and evidence presented, be adopted by this board and that the conditions set forth in the staff report be made part of this rezoning with the exception of item 6, that he can be allowed to have a sign. Commissioner Schmidt seconded the motion.***

## **ROLL CALL VOTE**

**Motion passed 8/0 to approve. 1 absent.**

The Board of County Commissioners will consider this item on **January 8, 2019 at 9:00 A.M** in the Leavenworth County Courthouse.

**Any person wishing to file a protest petition must contact the Planning & Zoning Office. Protest petitions must be filed with Leavenworth County within two weeks of this meeting. To be valid, the protest petition must be signed by owners of 20% of the land area in the notification area.**

### **Case No. DEV-19-114**

**Consideration of an application for a Special Use Permit for a small limited business for a bait and tackle shop on a tract of land in the southwest quarter of Section 26, Township 10 South, Range 20 East of the 6<sup>th</sup> P.M., in Leavenworth County, Kansas.**

**Also known as 25054 Leavenworth Road**

**Request submitted by Mark Barron.**

**\*\*Public Hearing Required\*\***

Krystal Voth presented the staff report for Case DEV-19-114, an application for a Special Use Permit for a bait and tackle shop. Ms. Voth went through the Golden Factors as they pertain to this case.

Chairman Rosenthal asked if the applicant would come forward. Mr. Barron came forward and explained the nature of his request. Chairman Rosenthal asked Mr. Barron about a sign, right now in the conditions it states no sign is requested, would he like to change this condition. Mr. Barron did indicate he would like a sign.

Chairman Rosenthal asked for anyone wishing to speak in favor of this request come forward. Several residents came forward to speak in favor of the use. Chairman Rosenthal asked for anyone wishing to speak in opposition of this request, no one came forward. With no additional information to be presented the public comment portion of the hearing was closed.

***Commissioner Himpel made a motion for Case DEV-19-114 that the proposed Special Use Permit as outlined in case DEV-19-114 be approved, that the findings on the golden factors, as set forth in the staff report and as substantiated by the facts, testimony and evidence presented, be adopted by this Board and that the conditions set forth, modifying Condition number 6 to allow for signage in accordance with Article 25 of the Zoning and Subdivision Regulations, in the staff report be made part of this request. Commissioner Matthews seconded the motion.***

The Board of County Commissioners will consider this item on **January 8, 2019 at 9:00 A.M** in the Leavenworth County Courthouse.

**Any person wishing to file a protest petition must contact the Planning & Zoning Office. Protest petitions must be filed with Leavenworth County within two weeks of this meeting. To be valid, the protest petition must be signed by owners of 20% of the land area in the notification area**

**ROLL CALL VOTE**

**Motion passed 8/0 to approve. 1 absent.**

**Case No. DEV-19-121**

**Consideration of an application for a Special Use Permit for a Bed and Breakfast (Sacred Hearts Healing Center) on a tract of land located in the southeast quarter of Section 14, Township 11 South, Range 20 east and a tract of land located in the southeast quarter of Section 13, Township 11 south, Range 20, East of the 6<sup>th</sup> P.M. located in Leavenworth County, Kansas.**

**Also known as 17468 246<sup>th</sup> Street**

**Request submitted by Janna and Cecil Fackrell**

**\*\*\*Public Hearing Required\*\*\***

Krystal Voth presented the staff report for Case DEV-19-110, an application for a Special Use Permit for an auto service station & repair. Ms. Voth went through the Golden Factors as they pertain to this case.

Krystal Voth presented the staff report for Case DEV-19-121, an application for a Bed and Breakfast. Ms. Voth went through the Golden Factors as they pertain to this case.

Chairman Rosenthal opened the public comment portion of the hearing and asked if the applicant would come forward. Mr. and Mrs. Fackrell came forward and explained the nature of their request. Chairman asked for clarification on the County's regulations regarding secondary dwellings.

Chairman Rosenthal asked for anyone wishing to speak in favor of this request to come forward. One resident came forward to speak in support of this request. One resident came forward to speak about the application. Chairman Rosenthal asked for anyone wishing to speak in opposition to this request.

With no additional information to be presented, the public comment portion of the hearing was closed.

***Commissioner Himpel made a motion for Case DEV-19-121 to be approved, that the findings on the Golden Factors, as set forth in the staff report, as adopted by the Planning Commission and as substantiated by the Facts, Testimony and Evidence presented and that the conditions set forth in the staff report be made part of this request. Commissioner Matthews seconded the motion. With no further discussion we will have a roll call vote with Commissioners present.***

**ROLL CALL VOTE**

**Motion passed 8/0 to approve, 1 absent**

**Case No. DEV-19-125**

**Consideration of an application for a Text Amendment to amend:**

**Article 3 – Definitions**

**Request submitted by Leavenworth County Planning and Zoning**

**\*\*\*Public Hearing Required\*\*\***

Krystal Voth presented the staff report for DEV-19-125, a proposed amendment to the Leavenworth County Zoning and Subdivision Regulations. The change is to amend the definition for 'group home' to bring it into compliance with the State Regulations. Staff recommends approval of this request.

Commissioner Denney asked if this wording was taken from the State. Ms. Voth confirmed it was taken from the State Statue and also another County similar to ours. Clarification was given on what a group home was and the different "types" of group homes. Ms. Voth said the reason behind this change was to comply with State regulations.

County Counselor David Van Parys let them know that the current definition that we use for group homes does not comply with State statutes. He let the Commission know that he supported the staff's decision to make this change.

Chairman Rosenthal opened the public comment portion of the hearing and asked for anyone wishing to speak in favor of this request come forward. Chairman Rosenthal asked for anyone wanting to speak in opposition to this request. With no additional information to be presented, the public comment portion of the hearing was closed.

***Commissioner Himpel stated that after the recommendation of the County Counselor he wanted to make a motion for Case DEV-19-125 be approved, that the findings on the golden factors, as set forth in the staff report and as substantiated by the facts, testimony and evidence presented, be adopted by this Board and that the conditions set forth in the staff report be made part of this amendment.***

***Commissioner Schmidt seconded the motion.***

***With no further discussion we will have a roll call vote with Commissioners present.***

## **ROLL CALL VOTE**

**Motion is passed 8/0. 1 Absent.**

### **Case No. DEV-19-099**

**Consideration of an application for a Text Amendment to amend:**

**Article 19 – Table of Uses**

**Request submitted by Leavenworth County Planning and Zoning**

**\*\*\*Public Hearing Required\*\*\***

Krystal Voth presented the staff report for DEV-19-099. This case is being continued from last month. Last month there was a work session where the Planning Commission was given a copy of the Table of Uses. Part of the reason for the changes to the Table of Uses is several uses need to be cleaned up. Several uses are listed in the table multiple times.

Commissioner Bartkoski asked about changes to the animal hospital use.

Chairman Rosenthal opened the public comment portion of the hearing and asked for anyone wishing to speak in favor of this request come forward. Chairman Rosenthal asked for anyone wanting to speak in opposition to this request. Several residents came forward to speak in opposition to this request. *(Public comment in opposition lasted for approximately an hour with each speaker being limited to 3 minutes.)*

With no additional information to be presented, the public comment portion of the hearing was closed.

Discussion was had about how public notification is made and where agenda packets can be found on the County website.

Commissioner Bartkoski stated that Legal Counsel recommended tabling this matter at the beginning of the meeting. He noted that the use of mining was a big issue. He also said that based on what the opposition tonight mentioned, several issues needed to be looked at.

Commissioner Labbee-Holdeman requested further work sessions to understand the changes and the reasons for the changes fully.

Commissioner Himpel stated until he started looking into this deeply, he wasn't aware of some of the changes. As a commissioner, he said he is not comfortable deciding on this without further review.

***Mr. Chairman, Members of the Commission, I wish to move that the consideration of the Case DEV-19-125, Table of Uses, be continued over until the February 12, 2020 meeting. This Table of Uses will directly impact all other regulations of the County, and it is work taking our time to ensure that we do it properly. I have several questions on the table that I would like to discuss with staff, and I want to have adequate time to work through this. I would like to see more work sessions on this as well. I also would like the public hearing continued too. Commissioner Schmidt seconded the motion.***

Commissioner Denney inquired if instead of continuing it to February if we could continue it to a later date, I am not sure if February gives us enough time.

David Van Parys asked that it be continued to a specific time. It was decided it would be continued to March 11, 2020.

***Commissioner Himpel amended his motion.***

**ROLL CALL VOTE**

**Motion is passed 7/1 to table. 1 Absent.**

*(Commissioner Matthews voted no because he wanted to have this heard in February.)*

**Planning Commission is adjourned at 8:26 pm.**