



TONGANOXIE PLANNING COMMISSION

Agenda

June 4, 2020

7:00 p.m.

**City Council Chambers
321 S. Delaware St.**

REMOTE MEETING – See City of Tonganoxie website at www.tonganoxie.org for more information. There may be an audio recording of the meeting which will be utilized to prepare the meeting minutes.

CALL TO ORDER – Planning Commission Meeting

1. **APPROVAL OF PC MINUTES** – May 7, 2020
2. **OPEN AGENDA** is not available during this meeting. Comments received by the City Clerk or emailed to info@tonganoxie.org by 1:00 PM the day of the meeting will be reviewed and possibly shared for review by the Governing Body. Any public hearing comments or questions will also need to follow this submission process.
3. **NEW BUSINESS**
 - a) Public Hearing – Special Use Permit – Pupperazzi Dog Spa – Submitted by Brooke and Brandon Kesinger
 - b) Public Hearing – Consideration of Revisions to Zoning Regulations
4. **OLD BUSINESS**
 - a) Consideration and Discussion of Planning Commission By-Law Updates – Anna Krstulic, City Attorney
5. **GENERAL INFORMATION**
6. **ADJOURN**



TONGANOXIE PLANNING COMMISSION
Meeting Minutes
May 7, 2020, 7:00 p.m.
City Council Chambers, 321 S. Delaware St.

CALL TO ORDER

- Chair John Morgan opened the meeting at 7:00 p.m.
- Roll Call: Planning Commission ("Commission") members present via Zoom were Chair John Morgan, Vice Chair Monica Gee, Zach Stoltenberg, John Kirk, Patti Bitler, Crystal Henson and Jennifer McCutchen. No Commission members were absent. City Manager George Brajkovic, Assistant City Manager Dan Porter, City Attorney Anna Krstulic, Planning Clerk Melanie Bilby and City Planner Chris Brewster with Gould Evans were also present via Zoom.

1. APPROVAL OF PC AND BZA MINUTES – March 5, 2020

- Ms. Henson requested a modification to the March 5, 2020 Planning Commission and Board of Zoning Appeals minutes regarding the spelling of her name. She also requested a modification to the Board of Zoning Appeals minutes that indicated she was absent.
- Mr. Brajkovic replied that the Board of Zoning Appeals portion of the meeting only lasted a total of two minutes, and Ms. Henson was only indicated as absent for the Board of Zoning Appeals meeting, not the Planning Commission meeting.
- Ms. Henson acknowledged that she was approximately two minutes late. She asked if the absence for the Board of Zoning Appeals meeting would be counted against her.
- Mr. Brajkovic responded that the absence had not been presented to the City Council.
- Ms. Krstulic stated that she would not recommend it count as an absence.
- **Ms. Gee moved to approve the minutes from the March 5, 2020 Planning Commission meeting with a correction on the spelling of Crystal Henson.**
- **Ms. Bitler seconded.**
- **Vote of all ayes, motion carried.**
- **Ms. Gee moved to approve the minutes from the March 5, 2020 Board of Zoning Appeals meeting with a correction on the spelling of Crystal Henson.**
- **Ms. Bitler seconded.**
- **Vote of all ayes, motioned carried.**

2. OPEN AGENDA

- No members of the public spoke.

3. NEW BUSINESS

- a) Swearing in of New Planning Commissioner – Jennifer McCutchen
 - Mr. Dan Porter swore in new Planning Commissioner Jennifer McCutchen.

b) Site Plan – 300 E State Avenue – Tonganoxie High School Addition - Submitted by Loren Feldkamp of Tonganoxie USD 464

- Mr. Brewster presented the staff report. He discussed the zoning, setbacks and parking requirements. He stated that the requirements are a bit different for public buildings.
- Mr. Brewster noted that with the current design, it is difficult to meet the three-to-one ratio for the exterior elevations and building frontage, but he believes that the applicant is making every effort to do so.
- Ms. Krstulic asked the Commissioners if any of them had any ex parte communications about this matter. All Commissioners replied no.
- Mr. Feldkamp introduced Robyn O'Roark who would be representing USD 464.
- Ms. O'Roark stated that roof-top mechanical units would be screened and not visible to the public .
- Mr. Morgan asked if any of the Commissioners had questions.
- Mr. Stoltenberg replied that he had concerns about the large non-conforming walls composed of one material as well as the use of a larger sign. He said that the metal material was a cheaper option for the building and he would prefer to see brick. He also requested a traffic study, noting that there are currently a lot of issues with the elementary school.
- Mr. Morgan said that a traffic study was completed for the elementary school. He noted that the Commission reviewed the use of metal in the exterior of that project and it was allowed. He asked if the sign meets the regulations.
- Mr. Brewster replied that a sign permit will be required, and the applicant will have to provide the dimensions of the sign at that time, but the Commission is not approving the sign yet.
- Mr. Morgan said that the existing building is cream-colored brick with red accents and asked if there was a mistake on the renderings.
- Ms. O'Roark replied that their intention is to match the current brick colors. They also chose to add metal to the exterior in order to break up the exterior façade and bring more interest to the building.
- Mr. Stoltenberg asked if a traffic study had been completed for the high school since the parking will increase by 15% and there will be more traffic in and out of the lots.
- Erin Merrill replied that they discussed the traffic at length during the process of deciding the layout of the parking lot. They revised the flow of traffic on site to help control traffic, but no additional access points will be added to the current lots.
- Mr. Morgan asked if there were any additional comments.
- No additional questions or comments from Commissioners.
- **Ms. Gee moved to approve the Site Plan for Tonganoxie High School submitted by USD 464 with the recommendations presented by staff.**
- **Ms. Bitler seconded.**
- **Vote 5-2 (Z. Stoltenberg and C. Henson –no), motion carried.**

c) Site Plan – West Village Apartments – 00000 West Street (5.15 Acres) – Submitted by Tomica and Ljubinka Cvetkovic

- Mr. Brewster presented the staff report for this application. He noted that he will address the site plan and preliminary plat together although the Commission will consider them separately.
- Mr. Brewster reminded the Commissioners that they first considered this site plan in January and they continued the matter so applicant could address specific concerns. The applicant

addressed all but two comments. The applicant did not provide the Cox Street continuation, which staff does not think is necessary, and the applicant did not change the configurations of the dead-ends because they currently meet the Fire Code.

- Mr. Brewster stated that another requested item that was not addressed was the trail connector or amenity area, but a walkway around the property that connects to future walkways or nature trails may be added at a later date.
 - Mr. Brewster discussed the landscape plan, noting that the applicant may need to make some modifications to plant species and placement prior to obtaining building permits.
 - Ms. Krstulic asked the Commissioners if any of them had any ex parte communications about this project. All Commissioners replied no.
 - Mr. Morgan asked for comments from the applicant.
 - Mr. Randy Wilbanks replied that they will address all issues before getting permits.
 - Mr. Stoltenberg said that he would have preferred the applicant submit an updated landscape plan, and the elevations should have been updated prior to this meeting.
 - Mr. Brewster noted that the Commission can approve the site plan conceptually with the requirement that building permits will meet standards.
 - Mr. Brajkovic added that staff can work the applicant to ensure no substantial deviations from the plans presented.
 - Ms. Henson noted that she agreed with Mr. Stoltenberg's comments.
 - Ms. Gee asked Ms. Krstulic if the approvals of the elevations could be deferred to staff.
 - Ms. Krstulic replied yes, and the Commission can identify certain conditions that would require the applicant to return to the Commission.
 - Mr. Stoltenberg stated that he would not be comfortable approving the conceptual elevations for the attached houses. He said that he does not believe the applicant has met the minimum requirements for this application because the applicant did not submit 4 full-color copies of plans for the Commission's consideration.
 - Ms. Gee asked if the applicant would be willing to meet these requests from the Commission.
 - Mr. Wilbanks replied that they would be willing to come back before the Commission to present updated elevations.
 - **Mr. Stoltenberg moved to approve the Site Plan for West Village Apartments with staff recommendations 1, 3, 4 and 5 and an added condition that the elevations for the attached houses will be submitted to the Commission for review at a later date.**
 - **Ms. Henson seconded.**
 - **Vote of all ayes, motion carried.**
- d) Public Hearing - Preliminary Plat – West Village Apartments - 00000 West Street (5.15 Acres) – Submitted by Tomica and Ljubinka Cvetkovic
- Mr. Brewster stated that the application plans to split the site into two separate lots for the attached houses and the apartments. He reviewed the preliminary plat approval criteria and the staff recommendations.
 - Mr. Morgan invited the applicant to speak, and the applicant had no comments.
 - Mr. Morgan asked if there were any members of the public that wished to speak.
 - Mr. Brajkovic replied that no members of the public were participating in the public hearing and staff have not received any comments or concerns.
 - Mr. Morgan asked if any of the Commissioners had any questions.
 - Mr. Stoltenberg noted that he is concerned about Lot B maintaining public access since Cox Street will be a private road.
 - Mr. Brewster stated that Cox Street is being dedicated as a private access easement in the plat to address this.

- **Mr. Stoltenberg moved to approve the Preliminary Plat for West Village Apartments with staff recommendations.**
- **Mr. Kirk seconded.**
- **Vote of all ayes, motion carried.**

e) Consideration of Amendments for Zoning Regulations – Anna Krstulic, City Attorney

- Ms. Krstulic presented the recommendations for amendments to the Zoning Regulations to address inconsistencies with the City Code. She explained the process of amending the Zoning Regulations, including the requirement for a public hearing. She stated that there is redundancy and some inconsistency between Chapter 16 of the City Code and Section 30 of the Zoning Regulations. The recommendation is to remove certain portions of Section 30.
- Mr. Stoltenberg stated that he felt that Section 30 addresses the items more clearly than Chapter 16, and if we keep Chapter 16, he would like to see items from Section 30 added. He said that he would like to see Chapter 16 in its entirety.
- Mr. Morgan and Mr. Kirk stated that they agreed with Mr. Stoltenberg.
- Mr. Morgan asked if the verbiage regarding appointments to the Commission, when those occur and so on is available anywhere else in the City Code.
- Ms. Krstulic responded that these provisions are in Chapter 16 of the City Code.
- Mr. Stoltenberg stated that they need to see those sections in order to make the comparison.
- Mr. Brajkovic noted that staff can email a link to Chapter 16, which is available on the City website.
- Mr. Morgan asked if there were any additional comments.
- Ms. Gee replied that she felt comfortable moving forward with the recommendations.
- Mr. Stoltenberg said that he would like more time to review and discuss. He referenced a question that was posed by the City Council about whether they are required to follow the Commission's recommendations for appointments or if they can make their own. He felt that the Commission could use this opportunity to clarify the appointment process.
- **Ms. Gee moved to set a public hearing on June 4, 2020 to consider amendments to the Zoning Regulations.**
- **Mr. Stoltenberg seconded.**
- **Vote of all ayes, motion carried.**

f) Consideration of Planning Commission Bylaws Updates – Anna Krstulic, City Attorney

- Ms. Krstulic presented proposed changes to the bylaws, including some clean-up along with new provisions regarding motions and voting, continuances, applicant absence, and conflicts of interest. She then asked for input from the Commissioners.
- Mr. Stoltenberg asked if there was a legal precedent for the conflict of interest items. He explained that he felt they would be hard to prove.
- Ms. Krstulic responded that there is case law and Kansas statutes in support of the conflicts identified.
- Mr. Morgan and Ms. Bitler felt that these would be good additions to the bylaws.
- Mr. Stoltenberg stated that he felt it should be up to the individual to determine if they can be unbiased in relation to applications and projects.
- Ms. Bitler responded that the conflict of interest provisions help give the appearance that a Commissioner is unbiased.

- Ms. Gee and Mr. Kirk agreed that it would be a good addition to the bylaws.
- Ms. Henson asked for clarification in regard to abstention. She asked if abstaining due to conflict of interest would be done prior to or after the discussion.
- Ms. Krstulic stated that an abstention must take place prior to any discussion on a matter and it is the duty of the Commissioners to determine if they need to abstain from any item prior to the meeting so that they do not participate in the discussion.
- Ms. Henson asked what a Commissioner should do if they participated in the discussion but have not been able to reach a determination for voting yes or no.
- Ms. Krstulic replied that the Commissioner should ask more questions until they can get comfortable with making a decision. She explained that it is a basic role of the Commissioners to make decisions on matters brought before them and if a Commissioner repeatedly declines to vote due to inability to decide, it may be worth considering whether the role of a Commissioner is a good fit for that person.
- Ms. Henson asked what should be expected of a Commissioner if they miss a meeting with a discussion that was continued to the next meeting.
- Ms. Krstulic responded that the Commissioner should review the minutes and the staff report, and ask questions at the next meeting.
- Mr. Stoltenberg asked if it would be possible to have the bylaws state that the packets will be available to Planning Commission members a week prior to the meeting and it should be the responsibility of the Commissioners to review these prior to the meeting.
- Mr. Stoltenberg also asked about the provision stating that two Commissioners should reside outside city limits. He said that he felt this has been more of a suggestion and not followed strictly. He suggested that it should read that two members can live outside city limits, but this is not required.
- Mr. Morgan and Ms. Gee responded that they both reside outside city limits. Mr. Morgan explained that it has always been five members within city limits and two outside but in the county.
- Ms. Krstulic added that this is a statutory requirement when a Commission plans for areas within 3 miles within city limits.
- Mr. Stoltenberg stated that the Commission does not currently do this.
- Mr. Brajkovic noted that during his time as City Manager, there have been a handful of properties that did wish to be annexed into city limits.
- Mr. Stoltenberg felt that it might be beneficial to codify the process for appointing new Commissioners.
- Ms. Krstulic stated that the bylaws are not part of the City Code.
- Mr. Morgan said that identifying these processes in the bylaws would be valuable to all parties.
- There were no further comments from the Commissioners.
- **The Commission offered direction to Ms. Krstulic for additional changes. She will make those modifications and discuss with the Commission at the June 4, 2020 meeting.**

4. OLD BUSINESS

a) Set date/time for Commission training provided by Gould Evans

- City staff and the Commissioners scheduled the training for May 28, 2020 at 6pm.

5. GENERAL INFORMATION

- a) Housing Reports – January 2020 Census, December 2019 and January 2020 Home Builder’s Association
- Mr. Morgan noted that the reports were not available in the packet.
 - Ms. Bilby indicated that she would distribute them electronically on Friday, May 8th.

6. ADJOURN

- **Ms. Gee moved to adjourn the meeting.**
- **Mr. Stoltenberg seconded.**
- **Vote of all ayes, motion carried.**
- **Meeting adjourned at 9:41 p.m.**

Respectfully submitted,

Melanie Bilby, Planning Clerk

DRAFT



City of Tonganoxie, Kansas

PLANNING STAFF REPORT

Case#: 2020-005P

Date of Report: May 29, 2020

Recommendation: Approval, based on conditions and specific findings of Planning Commission.

Applicant Name: Brooke and Brandon Kesinger

Property Owner Name: Brandon Kesinger, & Edward & Sylvia Kesinger

Subject Property Address: 615 E. 8th Street

Property Size: 14,447.84 s.f.

Zoning: Residential – Single -Family

Legal Description: WEST 30' OF LOT 7, AND PART OF LOT 6 BLOCK 43 RAILROAD ADDITION AND PART OF VACATED RAILROAD ROW.

Type of Approval Desired: SUP –Home Occupation

Date of Application: 4/21/2020

Date of Public Hearing: 6/7/2020

I. PROJECT DESCRIPTION

- A. Subject Property. Zoned R-SF, Single Family District
- B. Proposal. To initiate a home-based business for dog grooming.
- C. Nature of Application. Request for Special Use Permit to operate a home based business.

II. BACKGROUND

The applicant is seeking a Special Use Permit to operate a dog grooming business as a home-based business at 615 E. 8th Street. The property is zoned R-SF, and is being used as a single-family home in conformance with the zoning requirements. The R-SF zoning district allows home-based businesses subject to approval of a special use permit.

III. REVIEW CONSIDERATIONS

This property is zoned R-SF, Single Family District, and Section 22 of the Tonganoxie Zoning ordinance permits child daycare homes in any zoning district.

A. *General Considerations*

The zoning ordinance permits the Governing Body to approve special use permits, upon a recommendation of the Planning Commission, and based on general findings that the use will not injure adjacent property, meets the intent of the ordinance, and complies with all other standards of the applicable zoning district [Section 22-010]. Home occupations are allowed subject to a special use permit in the R-SF zoning district. [Section 5-010.F and 22-011.V.]

In general, Special Use Permits are used for two circumstances: (1) to allow uses that are not universally appropriate for a district, but based on specific site, location, operation or design contingencies of an individual application may be appropriate; and/or (2) to allow uses that are not ideal for the long-range goals of a particular district, but are an appropriate interim improvement on a particular site that will not undermine the long-term investments on the site or in the district that are consistent with plans or the district intent.

This application meets the first circumstance referenced above for special use permits – to enable a use that due to its limited scale and intensity, and due to the specific location and circumstances of the proposed use, it is consistent with the zoning of the area.

B. *Specific Standards.*

In addition, the application must be reviewed against the following standards. After each consideration are staff comments. Staff has not had the benefit of hearing testimony; therefore the Planning Commission should discuss and indicate agreement or disagreement with these criteria prior to acting on the application. [22-011]

- (a) **The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon.**

The surrounding area consists of a primarily single-family homes on comparably sized lots. The immediate area includes a creek to the west that separates the neighborhood and intercepts the street network, placing this lot at the location where 8th Street terminates and continues south as Delaware Street., plus unincorporated large-lot residential and pastures to the east. The immediately adjacent properties and properties on the block are all single-family homes with a similar lot size.

- (b) **Accessibility of the property to police, fire, and refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.**

Although 8th Street terminates at this location due to the creek, the lot retains good access. This area is one of the more connected and older residential areas of the City, within the predominantly gridded street network. Both 8th Street to the west and Delaware Street to the south provide connections to multiple other streets, and to Pleasant Street and Washington Street as the primary connections to the area. The low-intensity nature of the proposed use will not implicate traffic flow, parking or other impacts on adjacent property. Drop-off and pick-up procedures for a low level of business activity proposed is similar in nature to residential traffic and can be accommodated by the site and street layout in the area.

- (c) **Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.**

All utilities are provided and the proposed special use will not have any significant impact on the continued services in this area, beyond normal residential activities.

- (d) **The location, nature and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.**

The application is proposed in an existing building with no perceived impact on the site or adjacent sites. Operations are proposed as "by appointment" only, so that long-term parking will not be required. Appointments will be limited to generally no more than 6 per day so that traffic and circulation will not be significantly beyond ordinary residential activity. Operations will be conducted in one room of the house with easy entrance and exits, and animals will not be kept on-site beyond appointments or outside for prolonged periods.

- (e) **The adequacy of required yard and open space requirements and sign provisions.**

This is an existing lot and building, and no alterations are proposed to the site to accommodate the business. Additionally, all activity associated with the use will be conducted inside the building. Animals being brought in for grooming will be scheduled to have minimum disruption, and any outside activity associated with the business would be comparable in scale and nature to ordinary residential uses of property.

- (f) **The general compatibility with adjacent properties, other properties in the district, and the general safety, health and comfort and general welfare of the community and surrounding neighborhood.**

The proposed use is compatible with residential zoning and the proposed use is compatible with the area provided the scale and intensity of the use is maintained at low, neighborhood-compatible levels. The house sits back from the street and at an unusual angle due to both the location of the building and the configuration of the lot. This provides opportunities for low levels of access, parking and drop off, and includes an orientation that does not significantly affect other homes in the neighborhood.

In considering these criteria, the Planning Commission "shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative that the proposed use conforms with the general standards set forth in this article. In no case shall an exception be granted if the proposed use will constitute a nuisance, public health, or safety hazard to adjacent properties or to the community at large." [Section 22-013.D.]

IV. STAFF RECOMMENDATION

Staff recommends approval of the special use permit subject to the following conditions:

- a. The Special Use Permit is limited for a period of 2 years following the date of City Council approval; upon renewal of the permit, the Planning Commission may consider longer periods if the circumstances warrant.
- b. The permit is not transferrable to another owner or operator of the business.
- c. The application shall be limited in scale and scope to the proposed operations. Specifically:

- 1) Employees are limited to residents of the house.
- 2) Hours of operation from 8AM to 5PM
- 3) Operations are by appointment only.
- 4) Generally no more than 6 appointments a day.
- 5) Animals and customers will not stay beyond scheduled appointment times, and no animals will be outside for prolonged periods.

Any expansion beyond this shall require amendment of the Special Use Permit subject to all applicable review criteria and considerations.

- d. No signs or other alterations to the property to support the business are permitted other than those that purely residential in nature.

V. EFFECT OF DECISION

- The Planning Commission decision is a recommendation to Governing Body; a final decision is made by the City Council. Following the consideration of any additional input from the applicant, City Staff, or the public, and based on the application and testimony at the hearing, the Planning Commission may take one of the following actions.
 - Recommend approval of the application.
 - Recommend approval of the application, subject to conditions;
 - Recommend denial of the application, or
 - Continue the application to another date for further consideration and additional information. If continued to a specific date, time and location, no new notice will be required.
- The City Council considers the application at the next meeting after 14 days .
- If a valid protest petition is filed with the City of Tonganoxie City Clerk within 14 days from the conclusion of the Planning Commission hearing, the City Council must approve the application by a $\frac{3}{4}$ majority of the governing body.

VI. PHOTOS AND MAPS (See next page)

Respectfully Submitted



Chris Brewster, AICP
Gould Evans

Site Location: 615 E. 8th Street



Zoning Map



Street view – 615 E. 8th Street (house in wooded background).



SPECIAL USE PERMIT APPLICATION

Filing Fee Required

In Accordance with Section 22-013, of the City of Tonganoxie's Zoning Ordinances, an application is hereby made for a Special Use Permit:

Date application filed: 4-21-20 Permit No.: _____

Applicant: Brooke and Brandon Kesinger

Address: 615 E 8th St City: Tonganoxie State: KS Zip: 66086

Telephone #: 913-414-3315 (Home) 913-634-9858 (Work)

(Cell) _____ (E-mail Address) _____

Property Owner(s): Brooke Brandon Edward, Sylvia Kesinger Phone 913-634-9858

Address: 615 E 8th St City: Tonganoxie State: KS Zip: 66086

Name of business proposed: Pupperazzi Dog Spa

Address of business: 615 E 8th St Tonganoxie, Kansas

Description of business: Dog Grooming

Hours of operation: 8am-5pm Days: Mon Tue Wed Thu Fri Sat Sun

of employee's 1 Family members? _____ Live on site? yes

If business is to be operated by someone other than the applicant or owner, give name and address:

Briefly describe the present use and character of the property: its Brooke and

Brandon's residential home.

Briefly describe the requested/proposed use of the property would like to groom

dogs out of one room in the house for a second income

Briefly describe what effect the requested use will have on the property and the surrounding area:

people will be dropping off their dog by appointment time only

and picking them up after they are groomed, so no one (customers) will

need long term parking. There will only be a max of 6 dogs a day. Dogs

will be leashed and not permitted to stay outside for long periods.

Brooke Kesinger Applicant Signature

Brandon Kesinger Signature Edward E. Kesinger

Brooke Kesinger Property Owner Signature if different from applicant Sylvia A Kesinger

AFFIDAVIT

CITY OF TONGANOXIE
COUNTY OF LEAVENWORTH
STATE OF KANSAS

WE, Brandon Kesinger AND Brooke Kesinger
(Print)
AND Edward Kesinger AND Sylvia Kesinger
(Print)

being duly sworn, depose and say that we are the owners of said property involved in this petition and that the foregoing signatures, statements, and answers herein contained in the information herewith submitted are in all respects true and correct to the best of our knowledge and belief.

Signed and entered this 21st day of April, 2020

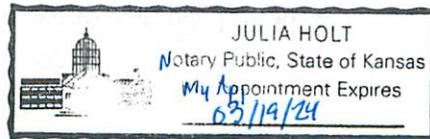
[Signature] Brooke Kesinger
Edward L. Kesinger Sylvia A. Kesinger

Subscribed and sworn to before me on this 21st day of April, 2020

Notary Public in and for the County of Leavenworth, Kansas

[Signature]

My Commission Expires: March 19, 2024



Special Use Permit Applicant Checklist

- Filing Fee** _____
- Parcel ID #** _____
- Parcel Size** _____
- Current Zoning of Property** _____
- Deed with legal description attached** _____
- Completed affidavit attached** _____
- Building Sketch with room layout** _____
- Outdoor Play Areas and Lot Dimensions** _____
- Location of Parking** _____
- State and/or County License** _____
- Number of Children Allowed** _____
- Local Business License** _____
- Fire Department Inspection** _____
- Police Department Inspection** _____
- City Building Inspection** _____
- Site plan attached with location of business indicated** _____
- Outdoor Sign Permit if applicable** _____

After recording return documents to:

FIRST AMERICAN TITLE CO.
400 Delaware
Leavenworth, KS 66048

File # 376891

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KANSAS WARRANTY DEED

Grantor(s): **Edward L. Kesinger and Sylvia A. Kesinger, husband and wife**

Grantee(s): **Brandon Kesinger, a single person and Edward L. Kesinger and Sylvia A. Kesinger, husband and wife as Joint Tenants with the right of survivorship and not as tenants in common**

Grantee(s) mailing address: 615 East 8th ST, Tonganoxie, KS 66086

In consideration of One Dollar and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor(s) **GRANT, BARGAIN, SELL AND CONVEY** to Grantee(s), the following described premises, to wit:

The West 30.00 feet of Lot 7 AND Part of Lot 6, Block 43, RAILROAD ADDITION AND Part of vacated Railroad R/W, to the City of Tonganoxie, described as follows: Beginning at the Southwest corner of Lot 7; thence North 89 degrees 36'38" West (assumed), 45.00 feet along the South line of Lot 6; thence North 13 degrees 04'02" West, 154.23 feet to the North line of Lot 6, extended West; thence South 89 degrees 36'38" East, 82.00 feet along said North line to the Northwest corner of Lot 7; thence South 00 degrees 48'47" West, 150.00 feet along the West line of Lot 7 to the point of beginning, less any part thereof taken or used for road purposes,

in LEAVENWORTH COUNTY, KANSAS

Subject to all easements, restrictions, reservations and covenants, if any, now of record

The Grantor(s) hereby covenanting that the Grantor(s), will **WARRANT AND DEFEND** the title to the premises unto the Grantee(s), against the lawful claims of all persons whomsoever.

Dated: June 8, 2004

Edward L. Kesinger
Edward L. Kesinger

Sylvia A. Kesinger
Sylvia A. Kesinger

File No.: 376891

BK 0919 PG 1046

STATE OF KANSAS
COUNTY OF LEAVENWORTH-SS
FILED FOR RECORD

STATE OF KANSAS)

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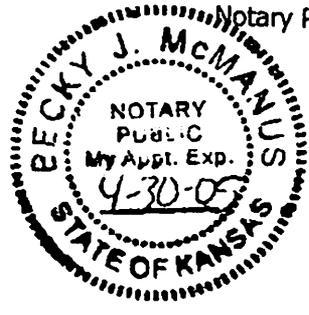
COUNTY OF LEAVENWORTH)

STACY R. BRISCOLL
REGISTER OF DEEDS

On June 8, 2004 this deed was acknowledged before me by
Edward V. Kesinger and Sylvia A. Kesinger, h/w, Grantor(s).

Becky J. McManus
Notary Public

My appointment expires:



Entered in the transfer record in my office this
9th day of June, 20 04
Linda A. Scheerby D. Cox
County Clerk



Brian + Kelly Griffith's house

88 feet

59 feet

112 feet

Kesinger front yard

Dog Salon

Sun Room

Kitchen

Bedroom

Dining Room

Living Room

Porch

Sidewalk

Custom parking

Kesinger Driveway

Kesinger Driveway

Kesinger house Garage

Kesinger Property line

117 feet

Mel and Pat Romier's house

Macintosh house

fence

fence

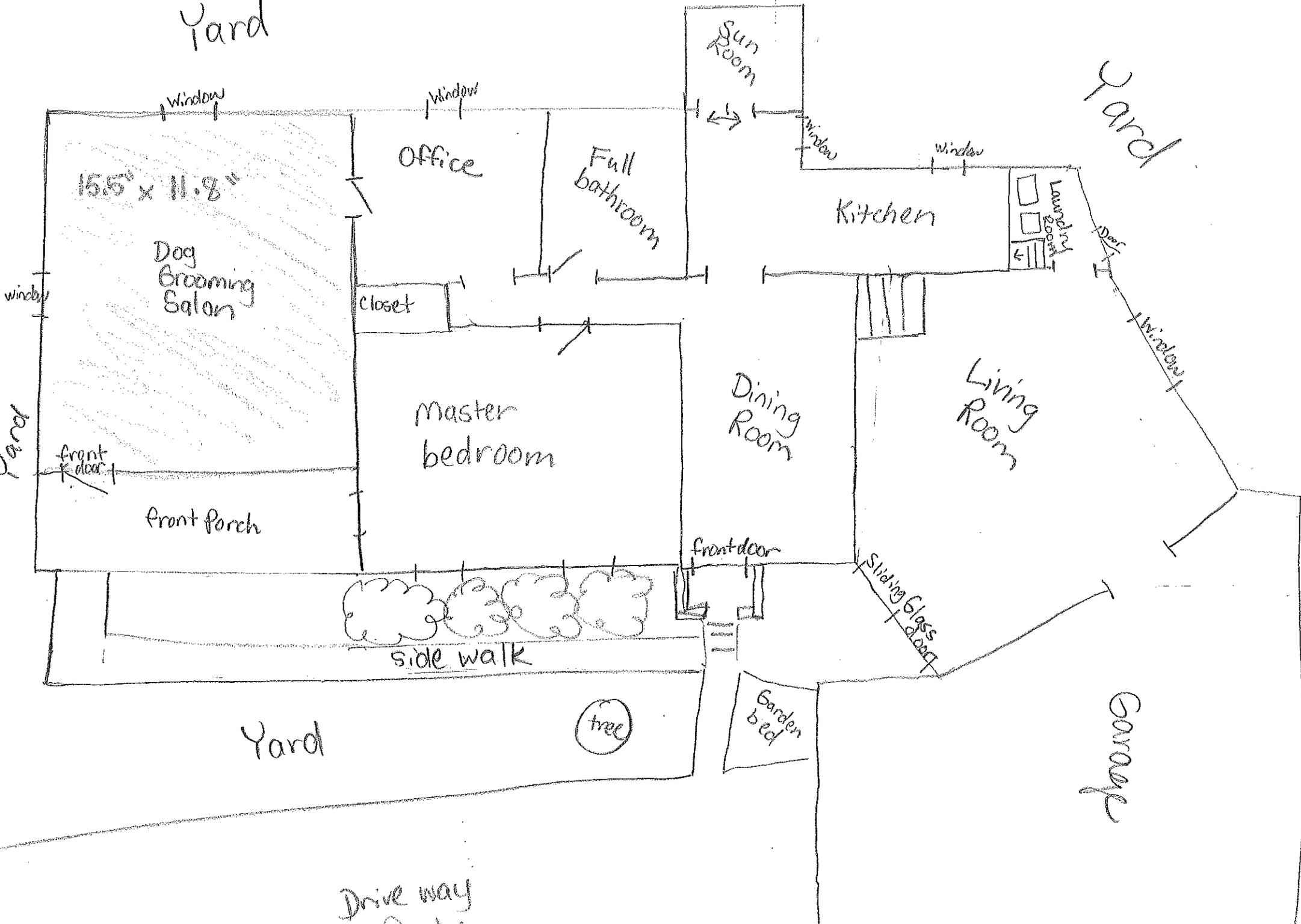
fence

Delaware St

E. 8th St

Yard

Yard



Drive way

Window

Office

closet

Bedroom

Bathing tub for dogs

Photography Station

15.5" x 11.8"

Pupperazzi Dog Spa

Grooming table

Reception Desk

kennels

Front Porch

Entry

After recording return documents to:

FIRST AMERICAN TITLE CO.
400 Delaware
Leavenworth, KS 66048

File # 376891

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KANSAS WARRANTY DEED

Grantor(s): **Edward L. Kesinger and Sylvia A. Kesinger, husband and wife**

Grantee(s): **Brandon Kesinger, a single person and Edward L. Kesinger and Sylvia A. Kesinger, husband and wife as Joint Tenants with the right of survivorship and not as tenants in common**

Grantee(s) mailing address: 615 East 8th ST, Tonganoxie, KS 66086

In consideration of One Dollar and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor(s) **GRANT, BARGAIN, SELL AND CONVEY** to Grantee(s), the following described premises, to wit:

The West 30.00 feet of Lot 7 AND Part of Lot 6, Block 43, RAILROAD ADDITION AND Part of vacated Railroad R/W, to the City of Tonganoxie, described as follows: Beginning at the Southwest corner of Lot 7; thence North 89 degrees 36'38" West (assumed), 45.00 feet along the South line of Lot 6; thence North 13 degrees 04'02" West, 154.23 feet to the North line of Lot 6, extended West; thence South 89 degrees 36'38" East, 82.00 feet along said North line to the Northwest corner of Lot 7; thence South 00 degrees 48'47" West, 150.00 feet along the West line of Lot 7 to the point of beginning, less any part thereof taken or used for road purposes,

in LEAVENWORTH COUNTY, KANSAS

Subject to all easements, restrictions, reservations and covenants, if any, now of record

The Grantor(s) hereby covenanting that the Grantor(s), will **WARRANT AND DEFEND** the title to the premises unto the Grantee(s), against the lawful claims of all persons whomsoever.

Dated: June 8, 2004

Edward L. Kesinger
Edward L. Kesinger
Sylvia A. Kesinger
Sylvia A. Kesinger

File No.: 376891

BK 0919 PG 1046

STATE OF KANSAS)
) ss.
COUNTY OF LEAVENWORTH)

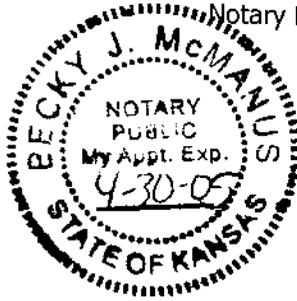
2004 JUN -9 P 1:36 P

STACY R. BRISCOLL
REGISTER OF DEEDS

On June 8, 2004 this deed was acknowledged before me by
Edward J. Kesinger and Sylvia A. Kesinger, h/w, Grantor(s).

Becky J. McManus
Notary Public

My appointment expires:



Entered in the transfer record in my office this
9th day of June, 2004
Linda A. Scheer, Jr. Clerk
County Clerk

Text







Delaware St
E 8th St
E 8th St
E 8th St
E 8th St

















Memorandum

To: Melanie Bilby
George Brajkovic
Dan Porter

From: Anna M. Krstulic

Re: Revisions to Sections 26-010 and 30-010 of the Zoning Regulations

Date: April 23, 2020

City staff have discovered certain inconsistencies between the Code of the City of Tonganoxie, Kansas (the "City Code") and the Tonganoxie Zoning and Subdivision Regulations (the "Zoning Regulations") regarding the procedure for appointments to the Planning Commission (the "Commission"), which also serves as the Board of Zoning Appeals ("BOZA"). Currently, there are provisions in both the City Code and the Zoning Regulations that govern the Commission/BOZA:

1. City Code Section 16-101 *et seq.*

Section 16-101 of the City Code specifies the composition of the Commission.

Section 16-102 provides for appointment of Commission members by the Mayor with the consent of the Governing Body at the first regular meeting in **May** of each year. Newly-appointed Commission members take office at the next regular meeting of the Commission. Commission members are appointed to have staggered terms of 3 years each, and the terms of the 2 members who reside outside City limits must not expire in the same year.

Section 16-103 allows the Commission to adopt bylaws for its transaction of business and hearing procedures, and addresses the requirements for Commission meetings, officers and records.

Section 16-104 sets forth the Commission's powers and duties.

Section 16-105 provides for the Commission to serve as the BOZA, allows the BOZA to adopt bylaws for its operation and hearing procedures, and addresses the requirements for BOZA meetings and records.

2. Zoning Regulations Sections 26-010 and 30-010

Section 26-010 provides for the composition, appointments, and replacement of BOZA members primarily by reference to Section 30-010. Section 26-010 also identifies BOZA officers and duties, adoption of bylaws, meeting and record requirements, and staff support.

Section 30-010 of the Zoning Code identifies appointments, terms and vacancies of Commission members. Section 30-010.B states that terms begin in **April** and end in **March**, which conflicts with Section 16-102.

RECOMMENDATION

The language in Sections 26-010 and 30-010 is duplicative and unnecessary. In addition, portions of Section 30-010 are inconsistent with Section 16-102. Staff recommends compliance with Section 16-101 *et seq.* of the City Code and amendments to the Zoning Regulations to eliminate the inconsistency and duplication. Upon motion unanimously approved, the Governing Body requests that the Commission consider the following amendments to the Zoning Regulations:

26-010 Reserved.BOARD OF ZONING APPEALS

~~A. Appointment: A Board of Zoning Appeals is hereby created. The Board shall consist of the members of the Planning Commission and may also include Members of the Public at Large. (Amended by Ordinance # 1184 5/9/05). Appointment procedures shall be the same as observed by that body. (See Section 30, Planning Commission.) All requirements regarding quorums and majorities shall be based on the planning commission requirements outlined in Section 30 of this ordinance. (Ordinance #906 8/22/94)~~

~~B. The board shall consist of seven (7) members appointed by the Mayor with approval by the Governing Body for the City of Tonganoxie. Members of the Board shall serve without compensation. (Amended by Ordinance # 1184 5/9/05)~~

~~C. Replacement of Board Members: All replacement of Board members shall be accomplished by the procedure outlined in Section 30 of this ordinance (Ordinance #906 8/22/94).~~

~~Officers and Duties: The Board of Zoning Appeals shall annually elect a chairman and a vice-chairman. The chairman, or in his absence the vice-chairman, shall preside at all meetings and shall decide all points of order or procedure.~~

~~Rules and Meetings: The Board may adopt rules to govern its proceedings in accordance with the provisions of this ordinance. Meetings of the board shall be held at any time at the call of the Chairman and at such other times as the board may determine. All meetings of the Board shall be held at such place or places within the City as the Board may designate. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board, and the vote upon each question. Records of all official actions of the board shall be filed with the City Clerk at City Hall and shall be a public record.~~

~~Staff Support: Staff members for the Board of Zoning Appeals shall consist of the City Planner and a Secretary, which shall be employees of the City.~~

30-010 Reserved.PLANNING COMMISSION

~~A. Appointment The Planning Commission shall consist of seven (7) members of which five members shall be residents of the city and two members shall reside outside the city limits, but within the designated~~

~~planning area of the city which is within at least three miles of the corporate limits of the city. K.S.A 12-744(a). The members of the Planning Commission shall be appointed by the Mayor with approval of the Governing Body for the City of Tonganoxie. Members of the Commission shall serve without compensation.~~

~~Terms and Vacancies: Terms for Commissioners shall be three (3) years, with the members divided as evenly as possible so that terms end on alternating years. Vacant, unexpired terms shall be filled by appointment by the Mayor with the consent of the Governing Body and such appointment shall be for the remainder of the unexpired term. Terms shall begin in April and expire in March. The Governing Body should provide by Ordinance or Resolution for the term of the members of the Planning Commission and for the filling of vacancies.~~

PROCEDURE

Amendment of the Zoning Regulations requires consideration and recommendation of the Commission following a public hearing pursuant to state law (K.S.A. 12-749, 12-757) and Section 27-011 of the Zoning Code, which sets forth the following procedures:

- a. Governing Body or Commission files recommendations for amendment with the City Clerk;
- b. City Clerk submits the recommendations to the Commission;
- c. Commission considers the recommendations and if approved (with or without revision), sets the matter for public hearing;
- d. City Clerk publishes notice 20 days prior to public hearing stating the time and place and providing a description of the proposed amendment along with a statement that the proposed amendment is available at the City Clerk's office;
- e. Commission holds public hearing to allow interested parties to be heard, and then submits recommendations to Governing Body;
- f. Governing Body may: (1) adopt by ordinance, (2) override by 2/3 vote (i.e., 4 votes, including Mayor), or (3) return recommendation to Commission with statement specifying basis for failure to approve/disapprove. In the event of (3):
 - o Commission must consider at next regular Commission meeting, and either resubmit original recommendation or submit new and amended recommendation to Governing Body;
 - o Governing Body may, by simple majority: (1) adopt or (2) amend and adopt the recommendation by ordinance, or (3) take no action.

AMK:

TONGANOXIE PLANNING COMMISSION BYLAWS

~~May~~June 2020

I. MEMBERSHIP, POWERS AND DUTIES OF THE COMMISSION

- A. **Membership.** The Commission shall consist of seven (7) members of which five (5) members shall be residents of the City and two (2) members shall reside outside the City limits, but within the designated planning area of the City which is within at least three (3) miles of the corporate limits of the City. Members of the Commission serve without compensation.
- B. **Appointments; Terms** ~~and Vacancies.~~ The members of the Commission shall be appointed by the Mayor with approval of the Governing Body in May of each year and take office at the next regular meeting of the Commission. All members shall be appointed for staggered terms of three (3) years each, with terms beginning in June and expiring in May. The appointments shall be made so that the terms of office of the members residing outside City limits do not expire within the same year.
- C. **Vacancies.** Vacant, unexpired terms shall be filled by appointment by the Mayor with the consent of the Governing Body and such appointment shall be for the remainder of the unexpired term. City staff will publicly post a request for applications for the vacancy, and the Commission shall review the applications in order to make a recommendation to the Governing Body.
- D. **Powers and Duties.** The powers and duties of the Commission shall be those authorized by the Tonganoxie City, Code, the Tonganoxie Zoning and Subdivision Regulations (the "Zoning Regulations"), and Article 7 of Chapter 12 of the Kansas Statutes Annotated, all as amended from time to time.
- E. **Actions.** In all formal matters, the Commission shall act by motion, unless a resolution is required by the Zoning Regulations or other law. All notices required by law to be given by publication shall be published in the official City newspaper.

II. OFFICERS

- A. **Officers.** The Commission shall elect from its membership a Chair, Vice-Chair and Secretary at the regular meeting in June. Each officer shall serve for one (1) year and until a successor is elected. Any vacancy may be filled at a regular or special meeting after such vacancy.
1. **Chair:** The Chair shall preside at all meetings of the Commission and decide all points of order or procedure; sign all resolutions and other official papers and documents; appoint committees; and call special meetings and workshops; and perform such other duties specified in these bylaws.

2. Vice-Chair: The Vice-Chair shall perform the duties of the Chair during the absence or disability of the Chair. In the absence of both the Chair and the Vice-Chair, the members shall choose a Presiding Officer from among the members present, who shall have for the duration of the meeting all the authority and restrictions held by the Chair.
 3. Secretary: The Secretary shall sign approved plats and perform the duties of the Chair during the absence or disability of the Chair and Vice-Chair.
- B. **Recording Secretary**. The Chair shall recommend a recording secretary who is not a member of the Commission to the Mayor for appointment with the consent of the Governing Body. The recording secretary shall:
1. Notify members of all meetings;
 2. Publish notices of all meetings and applications as required by the Zoning Regulations and Kansas statutes;
 3. Propose meeting agendas;
 4. Record the minutes of each meeting showing evidence presented, findings of fact, decisions, and the vote upon each question, and furnish copies of the minutes to the Commission and other appropriate persons as soon as practical for approval;
 5. Coordinate committee meetings and when required, attend committee meetings, record the minutes thereof, and furnish copies of the minutes to the committee members and other appropriate persons as soon as practical; and
 6. Keep a file of all official records, minutes and reports of the Commission; and
 7. Attend to all correspondence of the Commission.

III. MEETINGS

- A. **Regular Meetings**. The Commission shall meet regularly on the first Thursday of each month at 7:00 p.m. in the City Council Chambers, unless that Thursday is a holiday in which event the monthly meeting shall be held on the first Wednesday of the month. The Commission may, by a vote at a preceding regular or special meeting, elect not to have a regular meeting on the first Wednesday preceding the holiday, or, for good cause, to cancel or change the date, time or place of a regular meeting.
- B. **Special Meetings**. Special meetings may be held at the call of the Chair (or Vice-Chair in the absence of the Chair) for whatever time or purpose determined. The Chair shall call a special meeting at the request of any three (3) or more Commission members submitted in writing. If the Chair fails to comply with such a request, the meeting shall be called by the requesting members, all of whom shall

sign the notice. No matters other than those enumerated in the notice and call shall be considered at a special meeting.

- C. **Workshop Meetings.** The Commission will hold workshop meetings as necessary for discussion and training purposes or any other business deemed appropriate by the Chair.
- D. **Quorum.** At least the majority of the members of the Commission shall be necessary to constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present shall be required for the exercise of powers or functions conferred or imposed upon the Commission, but less than a majority of the members may meet and adjourn from time to time until a quorum is present.
- E. **Order of Business.** At the appointed hour, the Chair shall call to order each meeting and upon the appearance of a quorum, the Commission shall proceed to consider the items set in the agenda in the following order:
 - 1. Roll Call;
 - 2. Approval of the minutes of the previous meeting;
 - 3. Open Agenda (no item shall be discussed at this time which should be legally published, or which necessitates notification of adjoining property owners);
 - 4. Old Business;
 - 5. New Business;
 - 6. Information & Communications (No Action Required);
 - 7. Adjourn.
- F. **Agenda.** Items to be heard by the Commission must be submitted in accordance with the annually updated Application and Review Schedule. The agenda shall be prepared one week prior to the date of the meeting and be available to the public by the Friday preceding the meeting. The order of items on the agenda shall be at the discretion of the recording secretary. The Chair may, for reasons stated to all in attendance, vary from the order of the agenda. An item may be added to the published agenda only by affirmative vote of majority of the members present.
- G. **Meetings Open to the Public.** All meetings of the Commission shall be open to the public in accordance with the requirements of K.S.A. 75-4317 *et seq.* (the Kansas Open Meetings Act). A meeting may be closed to the public and adjourned into an executive session until a specified time by a formal motion made and carried in accordance with applicable law. No binding action shall be taken by vote in an executive session.

- H. **Minutes.** The recording secretary shall record the proceedings of all Commission meetings. The recording secretary may use a recording device to assist with the preparation of minutes. Any recording will be retained for a minimum of sixty (60) days after approval of the minutes derived therefrom, unless a longer period is otherwise requested or required by law. The proposed minutes of each regular or special meeting shall be distributed to the Commission and other appropriate persons as soon as practical for approval. The original of the approved minutes shall be placed in the Commission's permanent record and shall become official records of the City.
- I. **Robert's Rules of Order.** Unless otherwise specifically stated in these Bylaws, Robert's Rules of Order shall apply to all Commission procedures, motions and public hearings.

IV. MOTIONS AND VOTING

- A. **Motions.** Following closing of a public hearing or comment, a motion may be made to recommend approval or denial of the application to the Governing Body. A motion to continue the application to a date certain before the Commission may also be made. The maker of the motion should include a brief statement of the reason(s) for the motion, as well as any stipulations relative to the application, plans, development procedure, etc. Upon receiving the second, the motion may be discussed and, upon call for the question or at the discretion of the Chair, brought to a vote.
- B. **Voting.** Votes shall be by voice or by the raising of hands or by roll call, at the discretion of the Chair. Any member may call for a roll call vote on any issue. Any motion may be tabled or amended in accordance with Robert's Rules of Order. If the Commission feels that delaying an action would be in the best interests of the parties involved, the hearing may be continued to a date certain and the motion for continuance shall include the reason for the action. All motions require a majority vote of those present.

V. CONTINUANCES

Any applicant or authorized agent shall have the right to two (2) continuances of a public hearing before the Commission, provided that a written request outlining the need for the continuance is submitted to City staff prior to the scheduled hearing. The Commission may grant additional continuances for good cause shown. All motions to grant a continuance shall state the date on which the matter is to be heard.

VI. APPLICANT NOT IN ATTENDANCE

In case an applicant or the applicant's agent is not in attendance when an item is called, the Chair may, at the Chair's discretion, set the item over to the end of the agenda. At the time the item is again called, if the applicant is still not represented, the Commission may continue, approve or deny the application as it sees fit.

VII. CONFLICT OF INTEREST

- A. **Conflicts of Interest.** A member shall not participate or vote on an item before the Commission if:
1. The member has a substantial interest in a particular item as defined by state law, including but not limited to K.S.A. 75-4301a *et seq.*;
 2. The member has expressed an individual opinion on the determination of a quasi-judicial matter or otherwise expressed him/herself in a way that infers an opinion has been formed prior to the Commission's hearing on the item; and/or
 3. The member owns property or is a prospective purchaser of property included in an application or within the statutory notification area.
- B. **Procedure.** When a member of the Commission has a conflict of interest on a particular item before the Commission, the member shall so state for the record. In such event, the member shall leave the room, and shall not participate in the hearing or discussion or vote on the item. If the vacation of a chair due to a conflict of interest will eliminate a quorum, then the Commission shall continue the hearing to the next regular meeting.
- C. **Ex Parte Contacts.** Prior to any motion on an application, members of the Commission should disclose the nature of any ex parte contacts and of any information obtained through those contacts that may have a bearing on their decisions.

VIII. COMMITTEES

- A. **Appointment.** The Commission may appoint committees to advise or assist in its activities. The Chair shall appoint, with approval of the Commission, two (2) Commission members to a committee. Any interested persons are invited to provide input to the committee. The Chair shall appoint one member of the committee as the chairperson thereof, and the committee shall meet at such times and places as directed by the chairperson of the committee.
- B. **Committee Reports.** When a committee originates a report, it must be complete when presented. All committee reports should close with definite recommendation(s). Committee reports shall be presented to the Commission by the chairperson of the committee.

IX. MEMBERS' ABSENCE

- A. **Notice to Mayor.** If any member of the Commission fails to attend three (3) meetings in a rolling calendar year, the recording secretary shall notify the Mayor in writing, giving the name of the individual and the dates of the meetings missed.
- B. **Consideration by Governing Body.** The Mayor shall cause the matter to be placed on the agenda for consideration by the Governing Body at its next regular meeting or shortly thereafter. The Assistant City Manager or City Clerk shall

notify the Commission member of the date and time of the meeting at which the Governing Body will consider the member's attendance record.

- C. **Action by Governing Body.** The Mayor, with the consent of the Governing Body, may declare a vacancy and proceed to appoint a successor for the remaining term of the vacant position. The Governing Body may continue the consideration of the vacancy or the appointment of a successor.

X. AMENDMENT OF BYLAWS

These Bylaws may be amended or repealed for stated reasons by affirmative vote of two-thirds (2/3) of the Commission members. These Bylaws, and any amendments thereto, are subject to approval of the Governing Body.

Summary report:	
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Intelligent Table Comparison: Active	
Original DMS: iw://EDMS/CORE/158037190/3	
Modified DMS: iw://EDMS/CORE/158037190/4	
Changes:	
Add	11
Delete	7
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	18

CITY CODE

CHAPTER XVI. ZONING AND PLANNING

ARTICLE 1. CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

16-101. COMMISSION ESTABLISHMENT.

The Tonganoxie City Planning Commission which is composed of seven members of which five members shall be residents of the city and two members shall reside outside the city, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. The planning commission was originally created by Ordinance No. 514 which was passed and approved on July 20, 1959. (Code 2003)

16-102. MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.

The members of the planning commission shall be appointed by the mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the commission. All members shall be appointed for staggered terms of three years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the city do not expire within the same year. By the establishment of the commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the commission shall be made of the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the commission, he or she shall be disqualified to discuss or vote on the matter. The governing body may adopt rules and regulations providing for removal of members of the commission. Members of the commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the governing body. (Code 2003)

16-103. MEETINGS, OFFICERS AND RECORDS.

The members of the planning commission shall meet at such time and place as may be fixed in the commission's bylaws. The commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected. A secretary shall also be elected who may or may not be a member of the commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The commission shall adopt bylaws for the transaction of business and hearing procedures. All actions by the commission shall be taken by a majority vote of the entire membership of the commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. A proper record of

all the proceedings of the commission shall be kept. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission. (Code 2003)

16-104. POWERS AND DUTIES.

The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Leavenworth County in which the city is located, which in the opinion of the commission forms the total community of which the city is a part. The commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the commission to undertake other assignments related to planning and land use regulations. (Code 2003)

16-105. BOARD OF ZONING APPEALS.

The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. (Code 2003)

I. 16-106. BUDGET.

The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Code 2003)

ZONING CODE

SECTION 26. BOARD OF ZONING APPEALS

26-010 BOARD OF ZONING APPEALS

A. Appointment: A Board of Zoning Appeals is hereby created. The Board shall consist of the members of the Planning Commission and may also include Members of the Public at Large. (Amended by Ordinance # 1184 5/9/05). Appointment procedures shall be the same as observed by that body. (See Section 30, Planning Commission.) All requirements regarding quorums and majorities shall be based on the planning commission requirements outlined in Section 30 of this ordinance. (Ordinance #906 8/22/94)

B. The board shall consist of seven (7) members appointed by the Mayor with approval by the Governing Body for the City of Tonganoxie. Members of the Board shall serve without compensation.(Amended by Ordinance # 1184 5/9/05)

C. Replacement of Board Members: All replacement of Board members shall be accomplished by the procedure outlined in Section 30 of this ordinance (Ordinance #906 8/22/94).

D. Officers and Duties: The Board of Zoning Appeals shall annually elect a chairman and a vice-chairman. The chairman, or in his absence the vice-chairman, shall preside at all meetings and shall decide all points of order or procedure.

E. Rules and Meetings: The Board may adopt rules to govern its proceedings in accordance with the provisions of this ordinance. Meetings of the board shall be held at any time at the call of the Chairman and at such other times as the board may determine. All meetings of the Board shall be held at such place or places within the City as the Board may designate. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board, and the vote upon each question. Records of all official actions of the board shall be filed with the City Clerk at City Hall and shall be a public record.

F. Staff Support: Staff members for the Board of Zoning Appeals shall consist of the City Planner and a Secretary, which shall be employees of the City.

ZONING CODE

SECTION 30. CITY PLANNING COMMISSION

30-010 PLANNING COMMISSION

A. Appointment The Planning Commission shall consist of seven (7) members of which five members shall be residents of the city and two members shall reside outside the city limits, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city.

K.S.A 12-744(a).The members of the Planning Commission shall be appointed by the Mayor with approval of the Governing Body for the City of Tonganoxie. Members of the Commission shall serve without compensation.

B. Terms and Vacancies: Terms for Commissioners shall be three (3) years, with the members divided as evenly as possible so that terms end on alternating years. Vacant, unexpired terms shall be filled by appointment by the Mayor with the consent of the Governing Body and such appointment shall be for the remainder of the unexpired term. Terms shall begin in April and expire in March. The Governing Body should provide by Ordinance or Resolution for the term of the members of the Planning Commission and for the filling of vacancies.

**TONGANOXIE PLANNING COMMISSION
BYLAWS**

June 2020

I. MEMBERSHIP, POWERS AND DUTIES OF THE COMMISSION

- A. **Membership.** The Commission shall consist of seven (7) members of which five (5) members shall be residents of the City and two (2) members shall reside outside the City limits, but within the designated planning area of the City which is within at least three (3) miles of the corporate limits of the City. Members of the Commission serve without compensation.
- B. **Appointments; Terms.** The members of the Commission shall be appointed by the Mayor with approval of the Governing Body in May of each year and take office at the next regular meeting of the Commission. All members shall be appointed for staggered terms of three (3) years each, with terms beginning in June and expiring in May. The appointments shall be made so that the terms of office of the members residing outside City limits do not expire within the same year.
- C. **Vacancies.** Vacant, unexpired terms shall be filled by appointment by the Mayor with the consent of the Governing Body and such appointment shall be for the remainder of the unexpired term. City staff will publicly post a request for applications for the vacancy, and the Commission shall review the applications in order to make a recommendation to the Governing Body.
- D. **Powers and Duties.** The powers and duties of the Commission shall be those authorized by the Tonganoxie City, Code, the Tonganoxie Zoning and Subdivision Regulations (the "Zoning Regulations"), and Article 7 of Chapter 12 of the Kansas Statutes Annotated, all as amended from time to time.
- E. **Actions.** In all formal matters, the Commission shall act by motion, unless a resolution is required by the Zoning Regulations or other law. All notices required by law to be given by publication shall be published in the official City newspaper.

II. OFFICERS

- A. **Officers.** The Commission shall elect from its membership a Chair, Vice-Chair and Secretary at the regular meeting in June. Each officer shall serve for one (1) year and until a successor is elected. Any vacancy may be filled at a regular or special meeting after such vacancy.
1. **Chair:** The Chair shall preside at all meetings of the Commission and decide all points of order or procedure; sign all resolutions and other official papers and documents; appoint committees; and call special meetings and workshops; and perform such other duties specified in these bylaws.
 2. **Vice-Chair:** The Vice-Chair shall perform the duties of the Chair during the absence or disability of the Chair. In the absence of both the Chair and the Vice-Chair, the members shall choose a Presiding Officer from among the

members present, who shall have for the duration of the meeting all the authority and restrictions held by the Chair.

3. **Secretary:** The Secretary shall sign approved plats and perform the duties of the Chair during the absence or disability of the Chair and Vice-Chair.

- B. **Recording Secretary.** The Chair shall recommend a recording secretary who is not a member of the Commission to the Mayor for appointment with the consent of the Governing Body. The recording secretary shall:

1. Notify members of all meetings;
2. Publish notices of all meetings and applications as required by the Zoning Regulations and Kansas statutes;
3. Propose meeting agendas;
4. Record the minutes of each meeting showing evidence presented, findings of fact, decisions, and the vote upon each question, and furnish copies of the minutes to the Commission and other appropriate persons as soon as practical for approval;
5. Coordinate committee meetings and when required, attend committee meetings, record the minutes thereof, and furnish copies of the minutes to the committee members and other appropriate persons as soon as practical; and
6. Keep a file of all official records, minutes and reports of the Commission; and
7. Attend to all correspondence of the Commission.

III. MEETINGS

- A. **Regular Meetings.** The Commission shall meet regularly on the first Thursday of each month at 7:00 p.m. in the City Council Chambers, unless that Thursday is a holiday in which event the monthly meeting shall be held on the first Wednesday of the month. The Commission may, by a vote at a preceding regular or special meeting, elect not to have a regular meeting on the first Wednesday preceding the holiday, or, for good cause, to cancel or change the date, time or place of a regular meeting.

- B. **Special Meetings.** Special meetings may be held at the call of the Chair (or Vice-Chair in the absence of the Chair) for whatever time or purpose determined. The Chair shall call a special meeting at the request of any three (3) or more Commission members submitted in writing. If the Chair fails to comply with such a request, the meeting shall be called by the requesting members, all of whom shall sign the notice. No matters other than those enumerated in the notice and call shall be considered at a special meeting.

- C. **Workshop Meetings.** The Commission will hold workshop meetings as necessary for discussion and training purposes or any other business deemed appropriate by the Chair.
- D. **Quorum.** At least the majority of the members of the Commission shall be necessary to constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present shall be required for the exercise of powers or functions conferred or imposed upon the Commission, but less than a majority of the members may meet and adjourn from time to time until a quorum is present.
- E. **Order of Business.** At the appointed hour, the Chair shall call to order each meeting and upon the appearance of a quorum, the Commission shall proceed to consider the items set in the agenda in the following order:
1. Roll Call;
 2. Approval of the minutes of the previous meeting;
 3. Open Agenda (no item shall be discussed at this time which should be legally published, or which necessitates notification of adjoining property owners);
 4. Old Business;
 5. New Business;
 6. Information & Communications (No Action Required);
 7. Adjourn.
- F. **Agenda.** Items to be heard by the Commission must be submitted in accordance with the annually updated Application and Review Schedule. The agenda shall be prepared one week prior to the date of the meeting and be available to the public by the Friday preceding the meeting. The order of items on the agenda shall be at the discretion of the recording secretary. The Chair may, for reasons stated to all in attendance, vary from the order of the agenda. An item may be added to the published agenda only by affirmative vote of majority of the members present.
- G. **Meetings Open to the Public.** All meetings of the Commission shall be open to the public in accordance with the requirements of K.S.A. 75-4317 *et seq.* (the Kansas Open Meetings Act). A meeting may be closed to the public and adjourned into an executive session until a specified time by a formal motion made and carried in accordance with applicable law. No binding action shall be taken by vote in an executive session.
- H. **Minutes.** The recording secretary shall record the proceedings of all Commission meetings. The recording secretary may use a recording device to assist with the preparation of minutes. Any recording will be retained for a minimum of sixty (60) days after approval of the minutes derived therefrom, unless a longer period is otherwise requested or required by law. The proposed minutes of each regular or

special meeting shall be distributed to the Commission and other appropriate persons as soon as practical for approval. The original of the approved minutes shall be placed in the Commission's permanent record and shall become official records of the City.

- I. **Robert's Rules of Order.** Unless otherwise specifically stated in these Bylaws, Robert's Rules of Order shall apply to all Commission procedures, motions and public hearings.

IV. MOTIONS AND VOTING

- A. **Motions.** Following closing of a public hearing or comment, a motion may be made to recommend approval or denial of the application to the Governing Body. A motion to continue the application to a date certain before the Commission may also be made. The maker of the motion should include a brief statement of the reason(s) for the motion, as well as any stipulations relative to the application, plans, development procedure, etc. Upon receiving the second, the motion may be discussed and, upon call for the question or at the discretion of the Chair, brought to a vote.
- B. **Voting.** Votes shall be by voice or by the raising of hands or by roll call, at the discretion of the Chair. Any member may call for a roll call vote on any issue. Any motion may be tabled or amended in accordance with Robert's Rules of Order. If the Commission feels that delaying an action would be in the best interests of the parties involved, the hearing may be continued to a date certain and the motion for continuance shall include the reason for the action. All motions require a majority vote of those present.

V. CONTINUANCES

Any applicant or authorized agent shall have the right to two (2) continuances of a public hearing before the Commission, provided that a written request outlining the need for the continuance is submitted to City staff prior to the scheduled hearing. The Commission may grant additional continuances for good cause shown. All motions to grant a continuance shall state the date on which the matter is to be heard.

VI. APPLICANT NOT IN ATTENDANCE

In case an applicant or the applicant's agent is not in attendance when an item is called, the Chair may, at the Chair's discretion, set the item over to the end of the agenda. At the time the item is again called, if the applicant is still not represented, the Commission may continue, approve or deny the application as it sees fit.

VII. CONFLICT OF INTEREST

- A. **Conflicts of Interest.** A member shall not participate or vote on an item before the Commission if:
 1. The member has a substantial interest in a particular item as defined by state law, including but not limited to K.S.A. 75-4301a *et seq.*;

2. The member has expressed an individual opinion on the determination of a quasi-judicial matter or otherwise expressed him/herself in a way that infers an opinion has been formed prior to the Commission's hearing on the item; and/or
 3. The member owns property or is a prospective purchaser of property included in an application or within the statutory notification area.
- B. **Procedure.** When a member of the Commission has a conflict of interest on a particular item before the Commission, the member shall so state for the record. In such event, the member shall leave the room, and shall not participate in the hearing or discussion or vote on the item. If the vacation of a chair due to a conflict of interest will eliminate a quorum, then the Commission shall continue the hearing to the next regular meeting.
- C. **Ex Parte Contacts.** Prior to any motion on an application, members of the Commission should disclose the nature of any ex parte contacts and of any information obtained through those contacts that may have a bearing on their decisions.

VIII. COMMITTEES

- A. **Appointment.** The Commission may appoint committees to advise or assist in its activities. The Chair shall appoint, with approval of the Commission, two (2) Commission members to a committee. Any interested persons are invited to provide input to the committee. The Chair shall appoint one member of the committee as the chairperson thereof, and the committee shall meet at such times and places as directed by the chairperson of the committee.
- B. **Committee Reports.** When a committee originates a report, it must be complete when presented. All committee reports should close with definite recommendation(s). Committee reports shall be presented to the Commission by the chairperson of the committee.

IX. MEMBERS' ABSENCE

- A. **Notice to Mayor.** If any member of the Commission fails to attend three (3) meetings in a rolling calendar year, the recording secretary shall notify the Mayor in writing, giving the name of the individual and the dates of the meetings missed.
- B. **Consideration by Governing Body.** The Mayor shall cause the matter to be placed on the agenda for consideration by the Governing Body at its next regular meeting or shortly thereafter. The Assistant City Manager or City Clerk shall notify the Commission member of the date and time of the meeting at which the Governing Body will consider the member's attendance record.
- C. **Action by Governing Body.** The Mayor, with the consent of the Governing Body, may declare a vacancy and proceed to appoint a successor for the remaining term of the vacant position. The Governing Body may continue the consideration of the vacancy or the appointment of a successor.

X. AMENDMENT OF BYLAWS

These Bylaws may be amended or repealed for stated reasons by affirmative vote of two-thirds (2/3) of the Commission members. These Bylaws, and any amendments thereto, are subject to approval of the Governing Body.