TONGANOXIE BOARD OF ZONING APPEALS

Agenda
February 6, 2020
7:00 p.m.
City Council Chambers
321 S. Delaware St.

1. **CALL TO ORDER**

2. **APPROVAL OF MINUTES**

3. **OLD BUSINESS**

4. **NEW BUSINESS**

   a) Variance Application – 404 E Hwy 24/40 – Submitted by Loren Feldkamp and Tonganoxie USD 464

5. **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.

6. **GENERAL INFORMATION**

7. **ADJOURN**

City of Tonganoxie, Kansas

PLANNING STAFF REPORT

Case#:	2020-001BZA
Application:	Request for Variance to sign standards for a sign for an institutional use in the R-SF zoning district
Action:	*A variance requires that the Board of Adjustments review the facts, and make findings of fact. The Board may grand a variance only on the findings that the facts meet all five criteria of the zoning ordinance.*
Date of Report:	July 30, 2020
Applicant Name:	Loren Feldkamp, Tonganoxie USD 464
Property Owner Name:	USD 464 Board of Education
Subject Property Address:	329 E. State Avenue, Tonganoxie, KS 66086
Property Size:	71.45 acres (3,112,310 s.f.)

Application:

Zoning District: R-SF, Residential Single Family
Type of Approval Desired: Variance to Sign Standards
Legal Description: Parts of Bury's Addition further defined by metes and bounds
Date of Application: June 22, 2020
Date of Public Hearing: August 6, 2020

Surrounding Property – Zoning and Use:

West: GBD – General Business District; vacant and a bank
South: R-SF – Residential Single Family; single-family houses
East: GBD General Business District, R-MF-2 Residential Multi-family 2, I-MT Moderate Industrial; bank and park.
North: GBD General Business District; various business, services and institutions
Vicinity: The property fronts on a highway on two sides at the transition between Tonganoxie's older traditional neighborhoods to the south and highway strip commercial to the north and west.

I. PROJECT DESCRIPTION

A. Subject Property. The property is a 71.45 acre parcel between Fourth Street, and the NW cure of U.S. 24/40 (24/40 bordering the north and west lot lines.) The lot contains Tonganoxie High School, some accessory and administrative buildings, large areas of parking and circulation for the campus layout, and athletic and practice fields. A site plan for a new addition to the school, including a new gymnasium east of the existing school building, was approved by the Planning Commission in April. All existing and proposed building are situated in the center of the property, and do not have a strong relationship to the surrounding streetscapes, and little impact on adjacent properties. Signs were not dimensioned or proposed with that site plan, and are handled through an administrative permitting process for any signs that meet the zoning ordinance standards.

B. Proposal. The applicant proposing a 684 square foot sign (9' x 76') on the north elevation of the new gymnasium, and a 643.86 square foot sign (30.66' x 21') on the east elevation of the new gymnasium. The gym is proposed on the east side of the site, between the existing school and 4th Street. The signs will face U.S. 24/40 and 4th Street, respectively. The building is approximately 200' from the right of way of U.S. 24/40 and approximately 800 feet from the right-of-way line on 4th Street. There is a large parking area and a landscape buffer between the lot line and the building (and an athletic field on the 4th street side), and there is a sidewalk and landscape area along the building facades where the proposed signs are located. ...

The sign ordinance allows the following in the R-SF zoning district relevant to this application:

- Public / Semi-public Buildings – Wall Sign = 1 per frontage; Lessor of 10% of facade or 100 square feet. [Section 25-015, Table 2, Tonganoxie Zoning Ordinance.]

In this case, the zoning ordinance limits the school to 1 wall sign per each frontage and up to 100 square feet (all of the facades are well over 1,000 square feet, making the 10% limit ineffective by the standards.)

The applicant did not provide a dimensioned drawing of the entire facades upon which each sign is located. However, the approximate size based on the parts that are dimensioned and the drawing scales are 6,200 square feet (north elevation with the proposed 684 square foot sign) and 6,000 square feet (east elevation with the proposed 643.86 square foot sign). Each facade is part of a larger elevation composition for other parts of the building complex.

II. REVIEW CONSIDERATIONS

The Board of Zoning Appeals is authorized in specific cases to grant a variance from the specific terms of the ordinance if the board finds that all of the following conditions are met. [Facts to analyze under each criteria are included below each point.]

1. That the variance request arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.

The property is a very large public institutional campus. 77.45 acres is over 200 times larger than typical lots in the R-SF, and substantially larger than typical public / institutional buildings that are found in the R-SF district. As a large regional high school, it is not imbedded into a residential neighborhood and instead boarders on a regional access highway. The closest residential district relationship is to the south where the rear of the school property back to the neighborhoods. This area is not well connected and is buffered by a large wooded area. The school site has stronger relationships with the commercial and institutional uses along the highway and across the highway, where even here the right-of-wayand street is very wide.

The sign is part of a proposed new gymnasium which creates very large facades due to the scale and nature of this building type. It is not a typical building in residential districts, and is also atypical for public and instructional buildings.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

   The proposed signs will not have any affect on adjacent residents, as each sign is visible only from the highway, and somewhat from 4th Street. These areas have a closer relationship to business across U.S. 24/40 and 4th street, and are over 450 to 500 feet away on U.S. 24/40, and over 1,000 feet away on 4th Street.

3. That the strict application of the provisions of this ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

   The ordinance establishes a system of regulating wall signs in proportion with the scale of the building (10% of the facade), presumably to preserve some human scale elements and keep signs from overwhelming a building and site. However, it also includes a flat maximum, regardless of the size of the wall to limit overly large signs. In this case, it would limit the signs to no more than 100' on each facade.

   In non-residential districts, the sign ordinance does allow a bonus in size (between 25% and 100%, depending on the setback) for wall signs where buildings are set back more than 200 feet [25.017.O.6., Tonganoxie Zoning Ordinance]. This provision does not apply to residential zoning districts, and the school is a public use permitted in the R-SF district.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and

   Sign ordinances typically balance the community desire for pleasant aesthetics, the avoidance of "sign clutter" that reduces the effectiveness of all signs and wayfinding, and the right of individuals, businesses and property owners to communicate and identify their locations. In this case, the wall sign limitations seek to balance those interests with a sliding scale percentage that is capped at a certain size in all districts (50 s.f. in the HBD, 100 s.f. in Commercial districts and public uses in residential districts; and 150 s.f. in industrial districts). The ordinance also has some provisions to relax these standards or entertain different options when these limits lead to unintended consequences on a particular site or location; however, none of those are applicable to a public use in the R-SF zoning district.

5. That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.

The sign ordinance has the following stated purpose: "The purpose of this section is to recognize the community's need for effective individualized identification, to prevent confusing and objectionable clutter, to promote traffic safety, to protect property values by enhancing the harmony between residential and commercial uses, and to preserve, protect and promote the public health, safety and general welfare." [Section 25-010.A, Tonganoxie Zoning Ordinance]

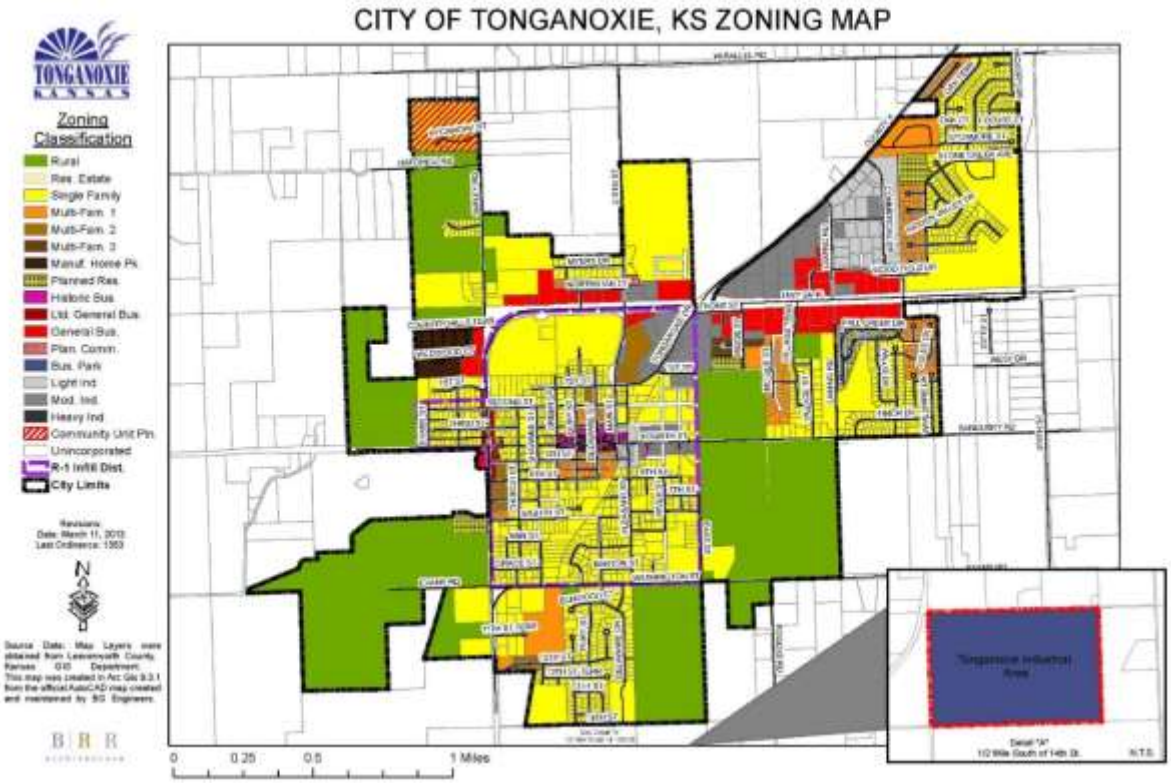
III. EFFECT OF DECISION

After reviewing the information submitted and consideration of the testimony during the public hearing, if the Board finds that all five conditions can be met as required by Section 26-011.D, then it can grant the variance or grant the variance with conditions or limitations that ensure the criteria are met. If the Board does approve the variance, it will run with the land and should be filed with the Leavenworth County Register of Deeds. If the board does not find that all five conditions are met it shall deny the variance request. Any person aggrieved by any decision of the Board will have 30 days to file an appeal of the final decision in district court.

Respectfully Submitted

_____

Chris Brewster, Contract City Planner
Gould Evans



Current City Zoning

Site

OFFICE USE ONLY

APPLICATION REVIEWED AND:

Filing Fee: _____ Date: _____

BZA Hearing Date _____

APPROVED _____ **DENIED** _____

TONGANOXIE
KANSAS
www.tonganoxie.org

City of Tonganoxie
Board of Zoning Appeals
Variance Application
913-845-2640
913-845-9760 Fax

Applicant Information

Applicant: Loren Feldkamp & USD 464 Phone: 913-416-1400
Address: 330 E Hwy 24-40 Fax:
Tonganoxie, KS 66086 Email lfeldkamp@tong464.org
Owner: Tonganoxie USD 464 Phone: 913-416-1400
Address: 330 E Hwy 24-40 Fax:
Tonganoxie, KS 66086 Email:

Property Information

Zoning residential - single family

Address/Location of Property: 330 E Hwy 24-40

Legal Description: See Attachment

ADJACENT PROPERTY AND LAND USE: **ZONING:**

North: office and retail — general business
South: vacant land and single family housing — residential - SF
East: Bank / park / vacant building — ~~RS~~ MF-2 (park)
West: vacant land / retail office — general business

Present Use of Property: High School - existing

Proposed Use of Property: High school - continued

Specific Section of the Zoning & Subdivision Regulations from which a Variance is being requested: Section 25 - Signs

Reason for Request: Allow signage that promotes school pride and a sense of entry and way finding for the community

Certified List of Property Owners is attached.

Tonganoxie Unified School District 464 a/k/a, Unified School District #464 a/k/a, Tonganoxie High School District #6 a/k/a, Rural High School #6

Tract 1

For a point of beginning, go on the South boundary line of the New No. 24 Highway 1020.00 feet East of the West boundary of Section 9, Township 11 South, Range 21 East of the 6th P.M.; thence running South parallel with the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 9 a distance of 200 feet; from such a point of beginning continue South and parallel with the West line of said Section 9 a distance of 250 feet; thence East and parallel with the North line of said Section 9 to the East boundary line of the Northwest 1/4 of the Northwest 1/4 of said Section 9; thence North on the East Boundary line of the Northwest 1/4 of the Northwest 1/4 of said Section 9, a distance of 250 feet; thence West and parallel with the North line of said Section 9 to the point of beginning, in Leavenworth County, Kansas.

AND

Tract 2

A tract of land in the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Nine (9), Township Eleven (11), Range Twenty-one (21), more fully described as follows: Beginning at a point 1,225.42 feet East and 197.58 feet South of the Northwest corner of said Section 9, said point of beginning also being on the South right-of-way line of U.S. 24-40 Highway; thence East 100.00 feet more or less along said right-of-way line to a point in the East line of Northwest Quarter of the Northwest Quarter of said Section 9; thence South 200.00 feet to a point; thence West 100.00 feet more or less to a point South of the point of beginning; thence North 200.00 feet to the point of beginning.

AND

All of Blocks D and I lying West of the Public Highway extending North from the North end of Main Street, Original Town of Tonganoxie to Highways 24 and 40. All of Block K lying West of said Highway and South of Highways 24 and 40. All of Block L lying South of Highways 24 and 40. All of Block E except a tract 100 feet North and South and 170 feet East and West, abutting to the West and South sides of said Block.

All of Block H.

AND

Block F less a tract described as follows: Commencing at the Southeast corner of said Block F, thence North one hundred four (104) feet, thence West one hundred sixty (160) feet to place of beginning; All of Block G, Block M except 1.45 acres of the North end used for Highways 24 and 40. Such described tracts all being in Magdalena Bury's Addition to Tonganoxie.

Pursuant to the requirements of KSA 12-759, the BZA may grant a Variance from the Planning and Zoning Regulations provided that the BZA finds that all of the following conditions have been met. Please respond to the conditions listed below to help the BZA determine whether the conditions can be met [attach additional pages if necessary]:

1. Does the variance requested arise from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and which is not created by an action of the property owner or applicant? yes
Explain:

2. Will granting the variance adversely affect the rights of adjacent property owners or residents? no
Explain:

3. Will the strict application of the provision of the Zoning and Subdivision Regulations from which the variance is requested constitute unnecessary hardship upon the property owner represented in the application? yes
Explain:

4. Will granting the variance adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare? no
Explain:

5. Will granting the variance be opposed to the general intent and spirit of the Zoning and Subdivision Regulations? no
Explain:

Loren Feldkamp 7-1-2020
Applicant's Signature **Date**

Owner's Signature **Date**

City of Tonganoxie, Kansas
Board of Zoning Appeals
Variance Instructions and Application

The Board of Zoning Appeals is appointed by the governing body. The Board shall administer the details of appeal forms, or other matters referred to it. The Board of Zoning Appeals shall hear appeals; determine requests for variances, exceptions and requests for setback modifications all as set forth in the Tonganoxie Zoning and Subdivision Regulations. (Section 26, Tonganoxie Zoning Regulations)

Scheduled meetings of the Tonganoxie Board of Zoning Appeals are held the first Tuesday of each month. All meetings begin at 7:00 p.m. in the City Council Chambers, 321 S. Delaware.

Citizens may address the Board on items under discussion when recognized by the Chairman at the Public Hearing. Persons requiring any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend a Board meeting should notify City Hall at (913) 845-2620 no later than 48 hours prior to the start time of the Public hearing.

The following information and application is intended to assist in preparation and submission of the necessary papers for a Board of Zoning Appeals action.

Applications may be obtained at City Hall, 321 S Delaware or from the City website; www.tonganoxie.org. After completing the application, submit it with any supporting documents to City Hall along with the appropriate application fee.

The application will be reviewed by City Staff and the City Planner. The applicant will be advised if any other information is required. The application, and other material must be submitted to City Hall according to the timeline in the Planning and Zoning Application and Review Schedule.

A certified list of property owners, names and addresses, and CAMA numbers for all of the property which lies within 200 feet of the boundaries of the property within the City Limits and 1000 feet of the boundaries within the county area can be obtained from Leavenworth County GIS department.

The applicant or applicant's representative must be present at the BZA meeting to present the request. Please attach additional names, addresses and signatures if more than one property owner in involved with this application. Applicants may bring maps, photos, or other materials that might assist in explaining the request. Adjacent property owners and other interested parties will be allowed to speak at the public hearing when called upon by the chairperson.

The Board will decide to approve the request, deny the request, or defer the request for further study. Applicants will receive written notification of the BZA's decision.

If the request is denied, an applicant may appeal the decision to the Leavenworth County District Court. Such an appeal shall be filed within 30 days of the final decision of the Board.

Tonganoxie Zoning Regulations Section 26

Section 26-011 POWERS & DUTIES OF THE BOARD

d. Variance: The Board may authorize in specific cases a variance from the specific terms of this ordinance which will not be contrary to public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance, in an individual case, result in unnecessary hardship, and provided that the spirit of this ordinance shall be observed, public safety and welfare secured; and substantial justice done. Such variance shall not permit any use not permitted in the zoning ordinance in such district. A request for a variance may be granted in such case, upon finding of the board that all of the following conditions have been met (KSA 12-759):

1) That the variance request arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
2) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3) That the strict application of the provisions of this ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and
5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.

CHIEFTAINS
TONGANOXIE HIGH SCHOOL

CORNERSTONE FAMILY WORSHIP

STATE AVENUE US 24-40

EXISTING FIBER OPTIC CABLE (MIDCO)

EXISTING SANITARY SEWER MAIN (RE: SANITARY SEWER MAIN RELOCATION PLANS)

PROPOSED STORM SEWER

PROPOSED TONGANOXIE HIGH SCHOOL BUILDING ADDITION (56,808 S.F.)

PROPOSED ELECTRICAL POWER SERVICE

PROPOSED WATER SERVICE LINE

EXISTING GAS MAIN

EXISTING TONGANOXIE HIGH SCHOOL BUILDING TO REMAIN (57,510 S.F.)

EXISTING FIBER OPTIC CABLE (USD 464)

EXISTING UNDERGROUND ELECTRICAL POWER (TYP.)

PROPOSED GREASE INTERCEPTOR AND CONNECTION

EXISTING TONGANOXIE HIGH SCHOOL BUILDING TO REMAIN (71,911 S.F.)

PROPOSED TONGANOXIE HIGH SCHOOL BUILDING ADDITION (36,290 S.F.)

BLOCK "M" BURY'S ADD

BLOCK "G" BURY'S ADD

BLOCK "L" BURY'S ADD

BLOCK "H" BURY'S ADD

PROPOSED STORM SEWER

PROPOSED GREENHOUSE BUILDING (1,080 S.F.)

EXISTING WATER MAIN (RE: WATER MAIN RELOCATION PLANS)

ZONE A

BLOCK "E" BURY'S ADD

BLOCK "F" BURY'S ADD

GOULD ST

N BRICE ST

DELAWARE ST 60'

BLOCK 1 PEARSONS SUBDIV.

LEAVENWORTH COUNTY BENCHMARK:

LEAVENWORTH COUNTY VERTICAL CONTROL NETWORK. LVCO-401.

ELEVATION = 907.7

PROJECT BENCH MARK

SECTION 09-11-21

LOCATION MAP
SCALE 1" = 2000'

SCALE: 1" = 50'

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SCHLAGEL
ENGINEERS PLANNERS SURVEYORS LANDSCAPE ARCHITECTS

TONGANOXIE HIGH SCHOOL

TONGANOXIE USD 464

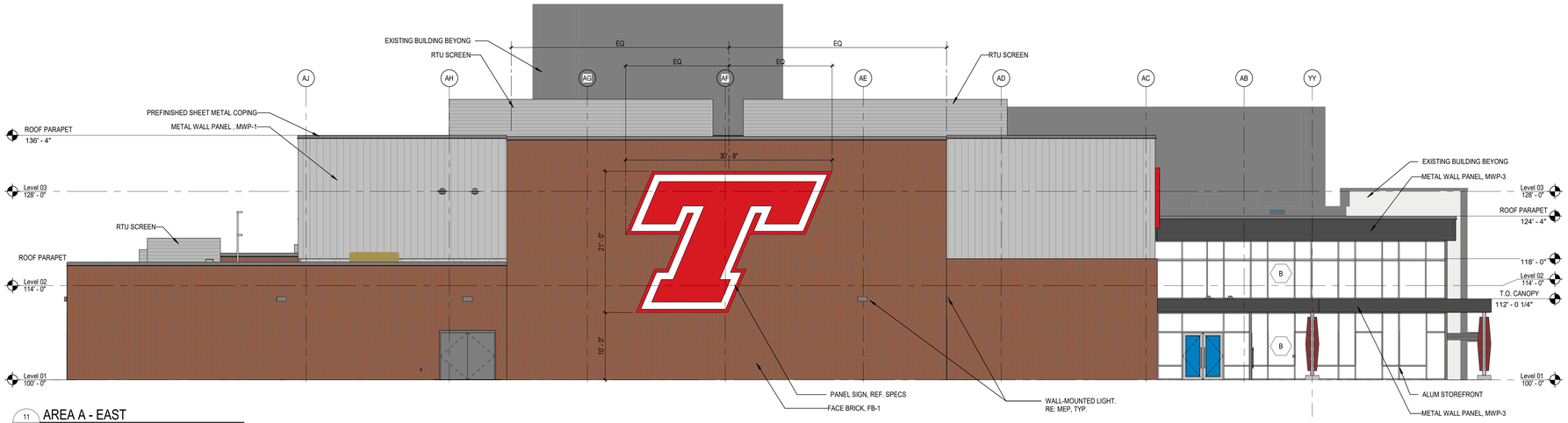
300 East Sate Avenue, Tonganoxie, KS 66086

100% DESIGN DEVELOPMENT
05/08/2020
REVISIONS

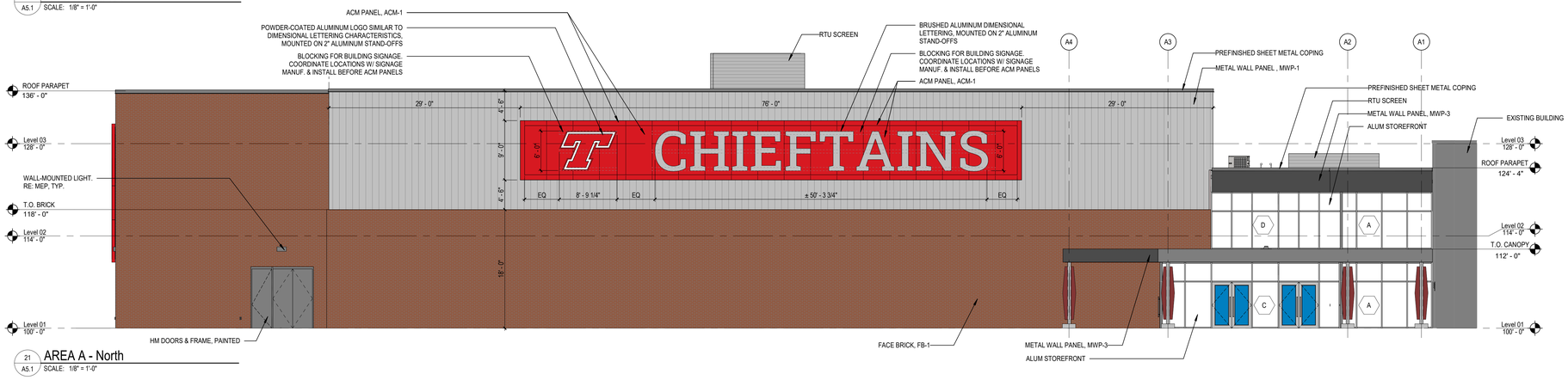
12-19109-00

GENERAL LAYOUT

C2.0



11 A5.1 AREA A - EAST
SCALE: 1/8" = 1'-0"



21 A5.1 AREA A - North
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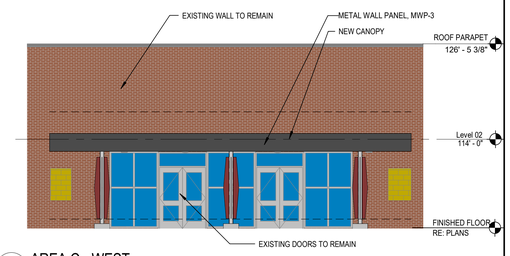

14 A5.1 AREA C - WEST
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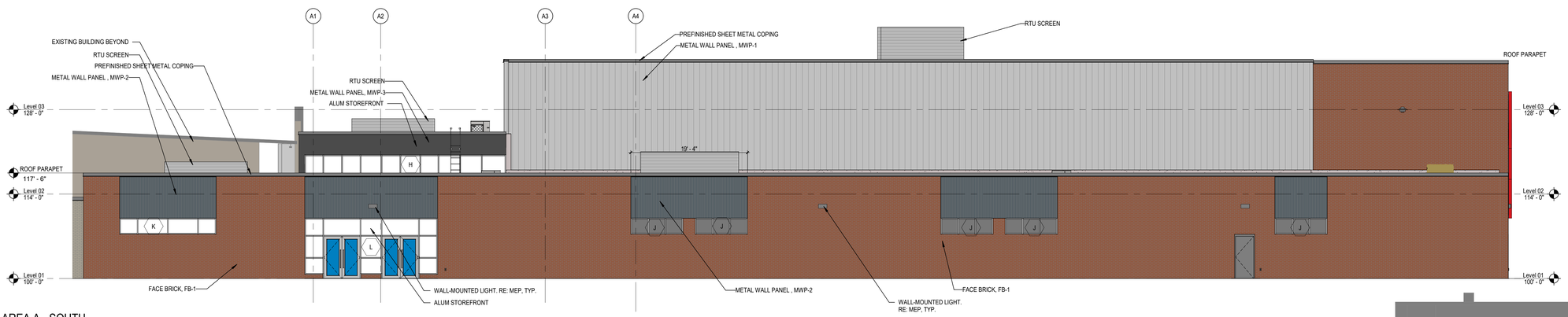

31 A5.1 AREA A - SOUTH
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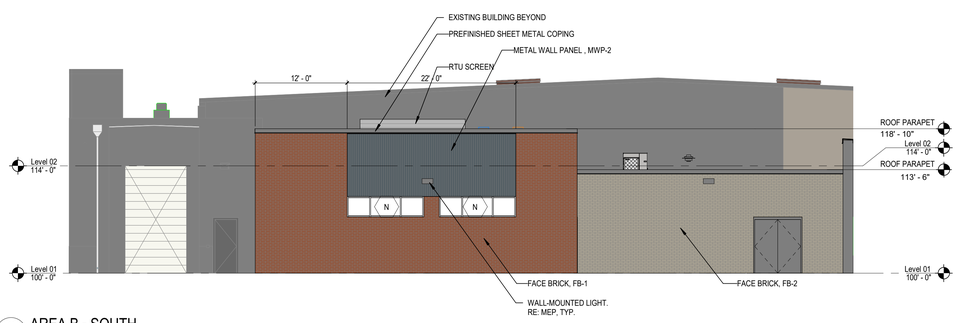

41 A5.1 AREA B - SOUTH
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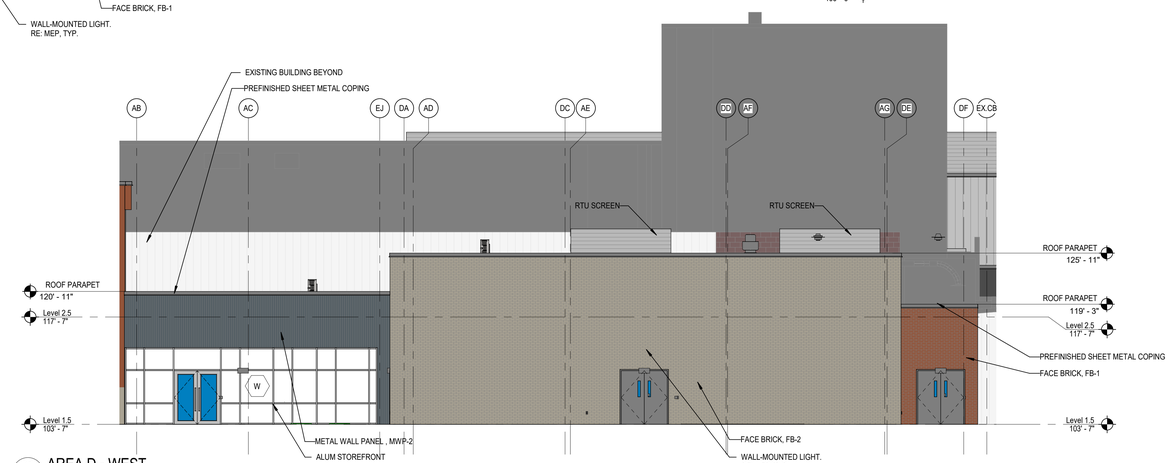

42 A5.1 AREA D - WEST
SCALE: 1/8" = 1'-0"

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TONGANOXIE HIGH SCHOOL

TONGANOXIE HIGH SCHOOL

TONGANOXIE USD 464

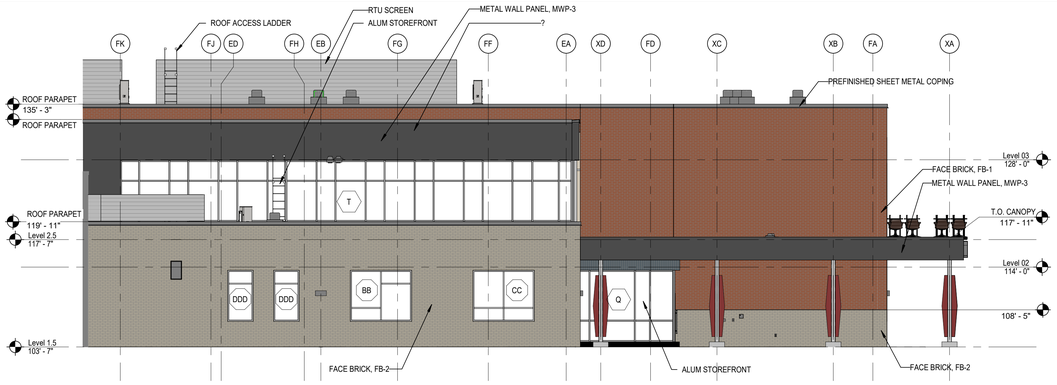
300 East Sate Avenue, Tonganoxie, KS 66086

100% DESIGN DEVELOPMENT
05/08/2020
REVISIONS

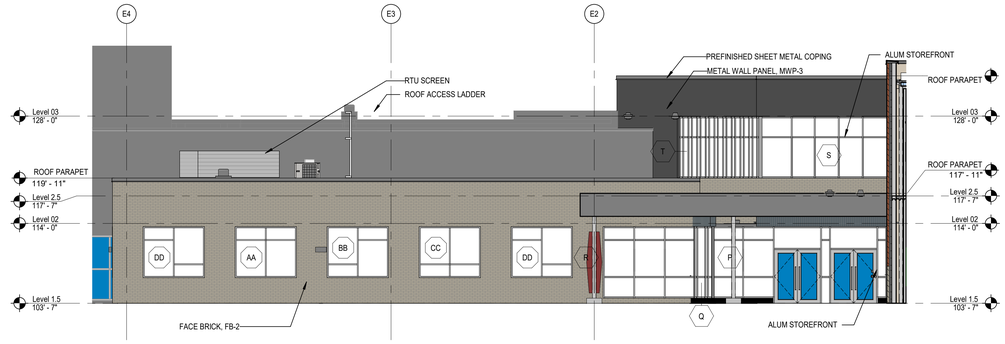
12-19109-00

EXTERIOR ELEVATIONS

A5.1



11 AREA E - EAST
A5.2 SCALE: 1/8" = 1'-0"



12 AREA E - NORTH
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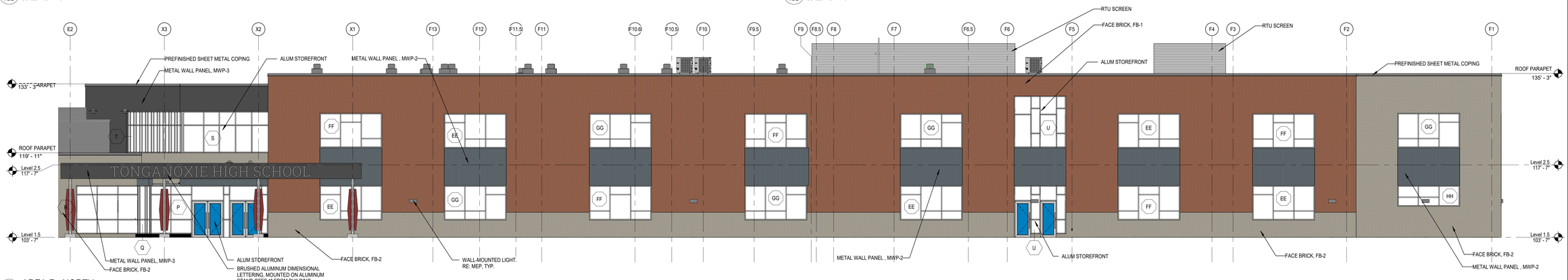
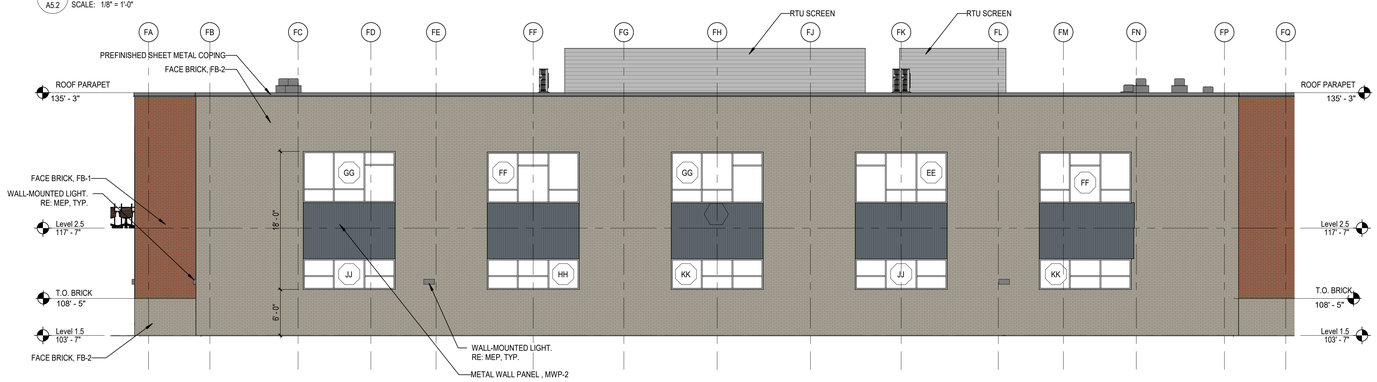
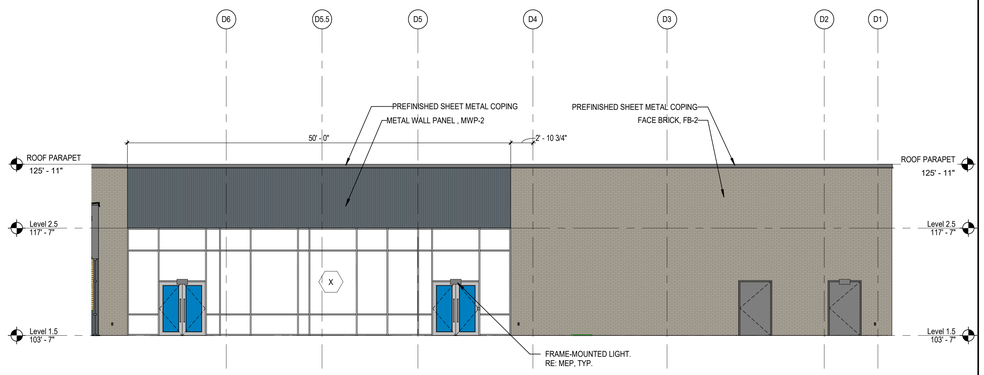


21 AREA F - NORTH
A5.2 SCALE: 1/8" = 1'-0"



31 AREA F - WEST
A5.2 SCALE: 1/8" = 1'-0"



32 AREA D - NORTH
A5.2 SCALE: 1/8" = 1'-0"

41 AREA F - SOUTH
A5.2 SCALE: 1/8" = 1'-0"

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TONGANOXIE HIGH SCHOOL

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TONGANOXIE USD 464

300 East Sate Avenue, Tonganoxie, KS 66086

100% DESIGN DEVELOPMENT
05/08/2020
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EXTERIOR ELEVATIONS

A5.2

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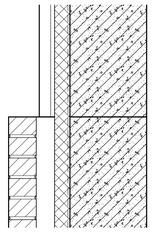
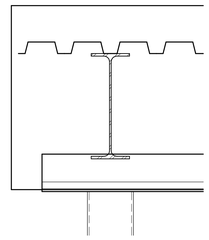


13 / A10.6 B.D. TRANSITION AT BRICK TO MWP ON CMU
SCALE: 1 1/2" = 1'-0"



14 / A10.6 B.D. CANOPY FASCIA
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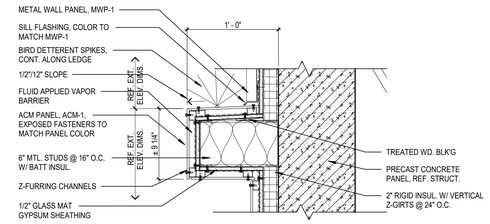
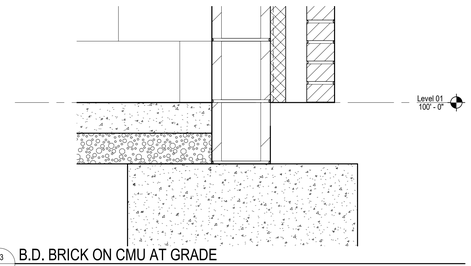
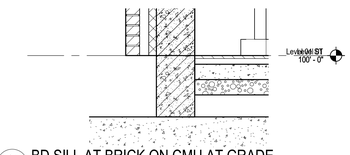


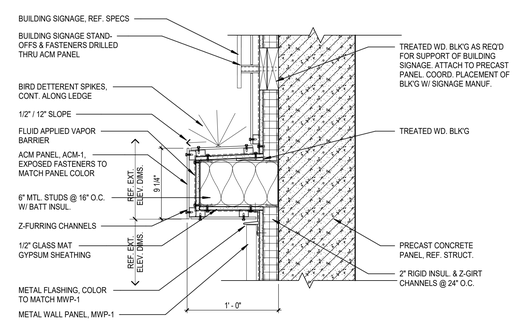
16 / A10.6 B.D. GYM SIGNAGE AT MWP HEAD
SCALE: 1 1/2" = 1'-0"



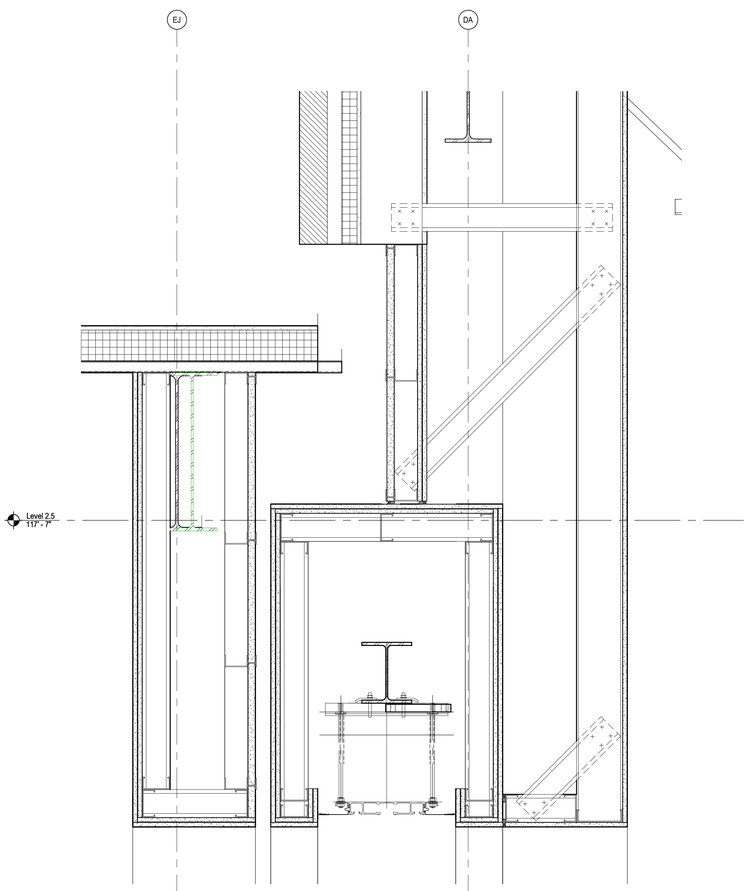
23 / A10.6 B.D. BRICK ON CMU AT GRADE
SCALE: 1 1/2" = 1'-0"



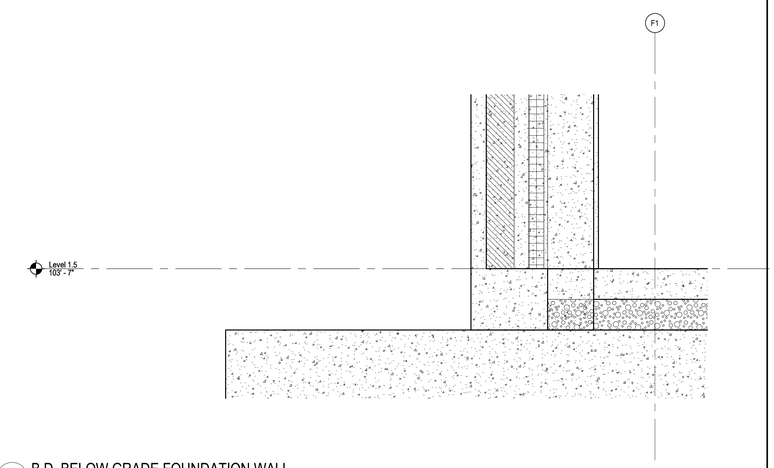
24 / A10.6 BD SILL AT BRICK ON CMU AT GRADE
SCALE: 3/4" = 1'-0"



26 / A10.6 B.D. GYM SIGNAGE AT MWP SILL
SCALE: 1 1/2" = 1'-0"



51 / A10.6 OPENING DETAIL-OVERHEAD FIRE DOOR HEAD
SCALE: 1 1/2" = 1'-0"



36 / A10.6 B.D. BELOW GRADE FOUNDATION WALL
SCALE: 1 1/2" = 1'-0"

DLR Group
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- NOT FOR CONSTRUCTION -

SCHLAGEL
ENGINEERS PLANNERS SURVEYORS LANDSCAPE ARCHITECTS

TONGANOXIE HIGH SCHOOL
TONGANOXIE USD 464
300 East Sate Avenue, Tonganoxie, KS 66086

100% DESIGN DEVELOPMENT
05/08/2020
REVISIONS

12-19109-00

SECTION DETAILS

A10.6

BIM 360://12-19109-00 Tonganoxie High School/12-19109-00_Tonganoxie High School_AR_2019.rvt
6/15/2020 1:43:46 PM

TONGANOXIE PLANNING COMMISSION

Agenda
August 6, 2020
7:00 p.m.
City Council Chambers
321 S. Delaware St.

*Note – This meeting may be transmitted via Facebook Live on the City of Tonganoxie page

CALL TO ORDER – Planning Commission Meeting

1. **APPROVAL OF PC MINUTES –** June 4, 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. **OLD BUSINESS**

4. **NEW BUSINESS**

   a) Discussion of Upcoming Term Expirations and Appointments

5. **GENERAL INFORMATION**
   a) Housing Reports –

6. **ADJOURN**

TONGANOXIE PLANNING COMMISSION
Meeting Minutes
June 4, 2020, 7:00 p.m.

CALL TO ORDER

- Chair John Morgan opened the meeting at 7:01 p.m.
- Roll Call: Planning Commission ("Commission") members present 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, 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 MINUTES – May 7, 2020

- **Ms. Gee moved to approve the minutes from the May 7, 2020 Commission meeting.**
- **Mr. Stoltenberg seconded.**
- **Vote of all ayes, motion carried.**

2. OPEN AGENDA

- No members of the public submitted and questions or comments for the open agenda portion of the meeting.

3. NEW BUSINESS

a) Public Hearing – Special Use Permit – 615 E. 8th Street - Pupperazzi Dog Spa – Submitted by Brooke and Brandon Kesinger

- Mr. Brewster presented the planning report for the application. He explained the requirements for the project and the zoning requirements, as well as the limitations of the special use permit. He noted that there are no signs proposed with this application and said that any proposed signage must be submitted with a sign permit application. He discussed the applicant's business proposal, including hours of operation and how the proposed business would affect the surrounding neighborhood. He stated that staff recommends approval off a two-year special use permit.
- Mr. Morgan asked if the applicant wished to address the Planning Commission.
- Ms. Kesinger replied that it has been a long-term goal to open her own business in her home. She said that safety is her primary concern and she plans to see one customer at a time so that customers will not overlap. She stated that she has spoken with her neighbors and they were all supportive.
- Mr. Morgan asked for any comments from the commissioners.
- Mr. Kirk asked if any signs for the business would need to come back before the commissioners or if that would be approved at staff level.
- Mr. Brewster responded that an application is required and it would likely be approved at the staff level.

- Ms. Krstulic asked the Planning Commissioners if anyone had any ex parte communication in regard to this application.
- Ms. Gee replied that she spoke with Mr. Porter about this application to ask if it would be necessary to note in the motion that the applicant must require rabies vaccination records.
- Ms. Krstulic stated that it would be an appropriate condition for a motion.
- Mr. Stoltenberg asked the applicant to confirm that the business would be grooming services only and not boarding or exercise.
- The applicant responded that it will be grooming and pet photography only.
- Mr. Morgan stated that he would entertain a motion.
  - **Ms. Gee made a motion to recommend approval to City Council of the Special Use Permit for Pupperazzi Dog Spa located at 615 E. 8th Street submitted by Brooke and Brandon Kesinger with the recommendations by staff and the added condition that applicant require rabies vaccination records for her clients.**
  - **Mr. Kirk seconded motion.**
  - **Vote of all ayes, motion carried.**

b) Public Hearing – Consideration of Revisions to Zoning Regulations – Anna Krstulic. City Attorney

- Ms. Krstulic reviewed the proposed modifications to the Zoning Regulations regarding Commission appointments and explained the procedure for amendment.
- Mr. Morgan opened the public hearing. There were no comments submitted by residents.
- Mr. Morgan closed the public hearing.
- Ms. Gee and Ms. Bitler felt that the revisions presented addressed the comments from the last meeting.
- Mr. Stoltenberg stated that there should be a notice requirement for resignation of commissioners. He also noted that it would be better to have the annual training meeting take place after annual appointments.
- Ms. Bitler stated that she felt that it would be difficult to enforce a notice requirement for commissioner resignation.
- Mr. Morgan agreed with Ms. Bitler and stated that historically, it has been difficult to predict resignations.
- Ms. Krstulic suggested that the Commission consider addressing resignations in the Bylaws.
- Mr. Morgan asked for a motion.
  - **Mr. Stoltenberg made a motion to recommend adoption of the proposed changes to the Zoning Regulations to the City Council.**
  - **Ms. Bitler seconded motion.**
  - **Vote of all ayes, motion carried.**

4. OLD BUSINESS

a) Consideration and Discussion of Updates to Planning Commission ByLaws – Anna Krstulic, City Attorney

- Ms. Krstulic referred to the redline of the Bylaws in the packet and stated that she addressed the commissioners' comments from the last meeting.
- Mr. Morgan noted that the Bylaws state that old business should be addressed prior to new business, but the Commission typically addresses new business first.
- The commissioners discussed the preferred order of the agenda.
- Mr. Kirk asked how far in advance a posting is made for an opening on the Commission.
- Mr. Brajkovic replied that staff try to post any opening as soon as possible and leave the application process open for 30 days.
- Ms. Henson stated that a minimum posting period of 30 days is appropriate.
- Mr. Stoltenberg asked for clarification as to whether these Bylaws only serve the Commission or if they include the Board of Zoning Appeals.

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DRAFT

- Ms. Krstulic replied that the Commission and Board of Zoning Appeals are the same body pursuant to City Code so she can make clear that the Bylaws apply to both bodies.
- Mr. Morgan asked for a motion.
  - **Mr. Stoltenberg made a motion to recommend to the City Council adoption of the proposed changes to the Bylaws as written with the revision of the title to clarify that the Bylaws apply to both the Commission and the Board of Zoning Appeals and the addition of the 30-day requirement for open position postings.**
  - **Mr. Kirk seconded motion.**
  - **Vote of all ayes, motion carried.**

5. GENERAL INFORMATION

6. ADJOURN

- **Ms. Gee moved to adjourn the meeting.**
- **Mr. Stoltenberg seconded.**
- **Vote of all ayes, motion carried.**
- **Meeting adjourned at 7:46 p.m.**

Respectfully submitted,

Melanie Bilby, Planning Clerk

DRAFT

TONGANOXIE PLANNING COMMISSION/BOARD OF ZONING APPEALS*
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 for at least thirty (30) days, and the Commission will review the applications and 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

* Section 16-105 of the Tonganoxie City Code designates the Planning Commission to serve as the Board of Zoning Appeals. All references to "Commission" in these Bylaws includes the Board of Zoning Appeals.

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.

PC Member	Office	Term Expires	Notes
John Morgan - County	Chairman	August 21, 2020	
Monica Gee - County	Vice Chairman	July 16, 2021	
Zach Stoltenberg	Secretary	August 21, 2020	
Crystal Hensen		July 21, 2021	
John Kirk		August 5, 2022	
Patti Bitler		August 5, 2022	
Jennifer McCutchen		August 21, 2020	Replaced Kevin Harris