



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

Honorable Jason K. Ward, Mayor

Council Members

David Bennett Rocky Himpel Curtis Oroke Lisa Patterson Loralee Stevens

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

II. Approval of Minutes –Regular meeting dated May 6, 2019

III. Consent Agenda

- a) Review bill payments

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

V. Old Business

VI. New Business

- a) Ordinance 1471: Acceptance of Utility Easement and Temporary Construction Easements from Edward J. Gergick, Jr.
- b) Resolution 05-19-05: Findings of Fact and Conclusions concerning request to rezone certain property more commonly known as 704 E 4th Street from "I-LT" Industrial Light District to "HBD" Historic Business District
- c) Ordinance 1472: An Ordinance Amending the "Zoning Ordinance and Subdivision Regulations" Of The City Of Tonganoxie, Kansas, 2003, By Rezoning Certain Property In The City Of Tonganoxie, Kansas more commonly known as 704 E 4th Street from "I-LT" Industrial Light District to "HBD" Historic Business District
- d) Resolution 05-19-06: 2019 GAAP Waiver
- e) City Manager Agenda
 - 1. April 2019 Financial Report
 - 2. Urgent Needs Grant Update
 - 3. Library Project Update
- f) City Attorney Agenda
- g) Mayor Pro Tem Agenda
- h) City Council Agenda
- i) Mayor Agenda
 - 1. Executive session pursuant to discussion of matters related to security measures

VII. Information & Communications (No Action Required)

VIII. Adjourn

City Council Meeting Minutes
May 6, 2019
7:00 Regular Meeting

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

- Mayor Ward opened the meeting at 7:00 PM with the Pledge of Allegiance.
- Roll Call: Council members present were Mayor Ward, Mayor Pro Tem Himpel, Mr. Oroke, Ms. Patterson, and Mr. Bennett. Ms. Stevens was absent. City Manager George Brajkovic, Fire Chief John Zimbelman, Police Chief John Zimbelman, Public Works Director Kent Heskett and Assistant City Manager Dan Porter were also in attendance.

II. Approval of Minutes – Special meeting dated March 30, 2019; Regular meeting dated April 15, 2019; Special meeting dated April 24, 2019

- **Mr. Oroke made a motion to approve the minutes from the Special meeting dated March 30, 2019; Regular meeting dated April 15, 2019; and Special meeting dated April 24, 2019.**
- **Ms. Patterson seconded.**
- **Vote of all ayes, motion carried.**

III. Consent Agenda

- a) Review bill payments
- **Mr. Bennett made a motion to approve the consent agenda.**
- **Ms. Patterson seconded.**
- **Vote of all ayes, motion carried.**

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

- No members of the public addressed the City Council during open agenda.

V. Old Business

VI. New Business

- a) Public Hearing: Discuss the City's Submission of an Urgent Needs Grant Application through the Kansas Department of Commerce CDBG Program for Sanitary Sewer Aerial Crossing Repairs
 - Mr. Brajkovic introduced the item and delivered a short presentation on the City's potential application for CDBG Urgent Needs Funding.
 - Mayor Ward opened the public hearing.
 - No members of the public spoke at the public hearing opportunity.
 - Mayor Ward closed the public hearing.
- b) Resolution 05-19-01: Certifying Legal Authority to Apply for the 2019 Kansas Small Cities Community Development Block Grant (CDBG) Program from the Kansas Department of Commerce and Authorizing the Mayor to Sign and Submit Such an Application
 - **Mr. Himpel made a motion to approve Resolution 05-19-01.**
 - **Ms. Patterson seconded.**
 - **Vote of all ayes, motion carried.**

- c) Resolution 05-19-02: Assuring the Kansas Department of Commerce that Funds will be Continually Provided for the Operation and Maintenance of Improvements to the Sanitary Sewer Aerial Crossing System to be Financed with Community Development Block Grant Funds
 - **Mr. Himpel made a motion to approve Resolution 05-19-02.**
 - **Ms. Patterson seconded.**
 - **Vote of all ayes, motion carried.**

- d) Resolution 05-19-03: Authorizing Execution of a Contract with Governmental Assistance Services for the Preparation of an Urgent Needs CDBG Grant Application
 - **Mr. Himpel made a motion to approve Resolution 05-19-03.**
 - **Ms. Patterson seconded.**
 - **Vote of all ayes, motion carried.**

- e) Resolution 05-19-04: Tonganoxie Days Special Event Boundaries Authorization
 - Mr. Porter introduced the item and described the change from the prior year's approach being that a local vendor, Alberto Yaluk with 1866 Bar and Grill, would be providing the sale of alcohol at the event.
 - **Mr. Oroke made a motion to approve Resolution 05-19-04.**
 - **Mr. Bennett seconded.**
 - **Vote of all ayes, motion carried.**

- f) Consider Authorization of Replacement of Police Department Facility Entry Door
 - Mr. Porter introduced the item and described the purchase request as replacing the aged front entry door at the Police Station with a new transparent door.
 - **Ms. Patterson made a motion to approve replacement of the Police Department Facility Entry Door for a cost not to exceed \$3,737.**
 - **Mr. Oroke seconded.**
 - **Vote of all ayes, motion carried.**

- g) Consider Authorization of Proposed 2019 Street Infrastructure Maintenance Program and Associated RFP Publications
 - Mr. Brajkovic, Mr. Heskett, and Mr. Porter introduced the item and described the proposed projects utilizing budgeted levels of expenditures for street maintenance activities in the 2019 Budget. Staff requested a motion authorizing staff to go out to bid for each project later in the year.
 - **Mr. Himpel made a motion to approve the proposed 2019 Street Maintenance Program.**
 - **Mr. Bennett seconded.**
 - **Vote of all ayes, motion carried.**

- h) Consider Approval of Purchase of Upgraded Water Meter Transmitter and 32 Water Meters
 - Mr. Brajkovic, Mr. Heskett, and Mr. Porter introduced the item and described the proposed purchase of an upgrade for the water meter transmitter along with a special offer that would include the provision of 32 new water meters.
 - **Mr. Himpel made a motion to authorize the purchase of an upgraded water meter transmitter and 32 water meters from Mueller Systems in an amount not to exceed \$9,884.**
 - **Ms. Patterson seconded.**
 - **Vote of all ayes, motion carried.**

- i) City Manager Agenda
 1. 1st Quarter 2019 Financial Report
 - Mr. Porter delivered the Q1 2019 Financial Report to the City Council.
 2. Library Project Update
 - Mr. Brajkovic delivered the Q1 2019 Financial Report to the City Council.

j) City Attorney Agenda

k) Mayor Pro Tem Agenda

l) City Council Agenda

- Mr. Oroke mentioned that members of the public had approached him regarding possibly expanding the fireworks sales period into July 5 as done in other cities.
- Mr. Brajkovic noted that staff were evaluating the request.

m) Mayor Agenda

1. Executive session pursuant to consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship
- **Ms. Patterson made a motion that the City Council recess into executive session to discuss a Notice of Claim filed against the City pursuant to the attorney-client consultation exception, K.S.A. 75-4319(b)(2). The open meeting will resume in the City Council chamber at 8:04 p.m.**
 - **Mr. Oroke seconded.**
 - **Vote of all ayes, motion carried.**
 - ...
 - **Ms. Patterson made a motion to return from executive session and noted that no action was taken.**
 - **Mr. Oroke seconded.**
 - **Vote of all ayes, motion carried.**

VII. Information & Communications (No Action Required)

VIII. Adjourn

- **Ms. Patterson made a motion to adjourn the meeting.**
- **Mr. Oroke seconded.**
- **Vote of all ayes, motion carried. Meeting Adjourned at 8:05 PM.**

Respectfully submitted,



Dan Porter, Assistant City Manager



City of Tonganoxie, KS

My Check Report

By Check Number

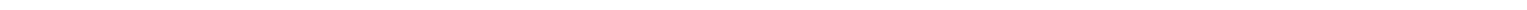
Date Range: 05/02/2019 - 05/16/2019

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
0250	HONEYCREEK DISPOSAL SERVICE	05/03/2019	Regular	0	26869.5	46177
0059	Kansas City Board of Public Utilities	05/10/2019	Regular	0	19627.6	46204
0671	WESTAR ENERGY	05/10/2019	Regular	0	12019.66	46218
0224	HAMM QUARRIES & LANDFILL	05/10/2019	Regular	0	5688.5	46202
1051	Clark Equipment Co.	05/03/2019	Regular	0	4837.4	46171
0579	SECURITY BENEFIT - 457	05/03/2019	Regular	0	2910.23	46185
0136	DELTA DENTAL PLAN OF KANSAS,IN	05/10/2019	Regular	0	2403.76	46198
1050	Donald Woolley	05/03/2019	Regular	0	2000	46173
0826	ANNA WOLF	05/10/2019	Regular	0	1755	46193
0185	FERRELLGAS	05/10/2019	Regular	0	1657.37	46200
0198	FRANK ROBISON	05/03/2019	Regular	0	1400	46174
0692	ZEP MANUFACTURING COMPANY	05/10/2019	Regular	0	1342.46	46219
0642	USPS	05/03/2019	Regular	0	1113.5	46190
0511	PHILLIPS PINEWOOD MULCH, INC.	05/03/2019	Regular	0	900	46182
0113	COMMERCIAL AQUATIC SERVICES	05/10/2019	Regular	0	866.84	46197
0443	MENARDS	05/10/2019	Regular	0	796	46210
0414	LINK-LITE NETWORKING, INC.	05/10/2019	Regular	0	672	46209
0548	RECORDNEWS	05/10/2019	Regular	0	652	46215
0549	REEVES-WIEDEMAN COMPANY	05/10/2019	Regular	0	610.05	46216
0596	GEOFF SONNTAG	05/03/2019	Regular	0	600	46175
0677	WILLIAM PRAY	05/03/2019	Regular	0	600	46191
0243	HIMPEL LUMBER & BUILDING SUPPL	05/03/2019	Regular	0	591.75	46176
0809	FREESTATE ELECTRIC COOPERATIVE INC	05/10/2019	Regular	0	561.86	46201
0025	APAC-KANSAS, INC	05/10/2019	Regular	0	527.54	46194
0500	OREILLY AUTO PARTS	05/10/2019	Regular	0	403.94	46213
1014	The League of Kansas Municipalities	05/10/2019	Regular	0	382.95	46217
0857	MIDCONTINENT COMMUNICATIONS	05/10/2019	Regular	0	339.89	46211
0614	T-MOBILE	05/03/2019	Regular	0	335.58	46186
0039	BAMFORD FIRE SPRINKLER CO	05/03/2019	Regular	0	334	46167
0542	QUILL	05/10/2019	Regular	0	331.25	46214
0015	ALL SEASONS CAR WASH	05/10/2019	Regular	0	313.5	46192
0846	Donald J Van Meter & Associates, Inc.	05/03/2019	Regular	0	300	46172
0757	KC CLEAN	05/10/2019	Regular	0	300	46206
0639	TRI-HULL CRANE RENTAL, LLC	05/03/2019	Regular	0	280	46188
1003	NAVY BRAND MFG CO	05/10/2019	Regular	0	271	46212
0410	LIBERTY NATIONAL	05/03/2019	Regular	0	224.71	46179
0400	LEAVENWORTH COUNTY CLERK	05/10/2019	Regular	0	186	46208
0166	EMERGENCY REPORTING	05/10/2019	Regular	0	181.33	46199
0111	COLEMAN EQUIPMENT INC	05/10/2019	Regular	0	176.44	46196
0360	KEY EQUIPMENT & SUPPLY CO	05/10/2019	Regular	0	167.24	46207
0496	KANSAS ONE CALL CONCEPTS	05/03/2019	Regular	0	162	46178
0749	BROADVOICE	05/10/2019	Regular	0	147.49	46195
0857	MIDCONTINENT COMMUNICATIONS	05/03/2019	Regular	0	114.53	46180
0064	BOUND TREE MEDICAL, LLC	05/03/2019	Regular	0	106.21	46169
0542	QUILL	05/03/2019	Regular	0	104.76	46183
0330	KANSAS GAS SERVICE	05/10/2019	Regular	0	88.33	46205
0476	NATIONAL SIGN COMPANY INC.	05/03/2019	Regular	0	79.95	46181
0034	AT&T ACCESS TRANSPORT SERVICES	05/03/2019	Regular	0	74.49	46166
1052	Brandon Marshall	05/03/2019	Regular	0	46.81	46170
1049	University of Kansas-KFRTI	05/03/2019	Regular	0	40	46189
0555	RICOH USA, INC.	05/03/2019	Regular	0	29.96	46184
0246	HEATHER HOLEK	05/10/2019	Regular	0	27.88	46203
0628	TODD'S TIRE LLC	05/03/2019	Regular	0	20	46187
0922	BORDER STATES INDUSTRIES	05/03/2019	Regular	0	16.82	46168

Vendor Number Vendor Name Payment Date Payment Type Discount Amount Payment Amount Number

Bank Code AP Bank Summary

Payment Type	Payable	Payment	Discount	Payment
	Count	Count		
Regular Checks	72	54	0.00	96,590.08
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	72	54	0.00	96,590.08



All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	72	54	0.00	96,590.08
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	72	54	0.00	96,590.08

Fund Summary

Fund	Name	Period	Amount
998	Gen Fund-Pooled Cash	5/2019	96590.08
			96590.08

ORDINANCE 1471

AN ORDINANCE APPROVING AND ACCEPTING A PERMANENT UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FROM EDWARD J GERGICK, JR.

WHEREAS, the City of Tonganoxie, Kansas (the "City") is a city of the second class and political subdivision duly organized and validly existing under the laws of the state of Kansas; and

WHEREAS, Edward J. Gergick, Jr., an individual ("Grantor"), owns certain real property located at 21874 Kansas Avenue, Tonganoxie, Leavenworth County, Kansas, Parcel No. 052-195-16-0-00-008.00-0 (the "Property"); and

WHEREAS, the City desires a certain permanent utility easement and a certain temporary construction easement through and under a portion of the Property for the purpose of laying, installing, replacing, removing, relocating, and maintaining a sewer line, and all facilities incident thereto; and

WHEREAS, Grantor wishes to dedicate such permanent utility easement and temporary construction easement, and the City wishes to accept the dedication of such permanent utility easement and temporary construction easement; and

WHEREAS, the Governing Body has determined that it is advisable to enter into the Right of Way and Easement Agreement with Grantor (the "Easement Agreement"), attached hereto as **Exhibit A**, and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

Section 1: That the Governing Body of the City hereby approves the Easement Agreement in substantially the form attached hereto.

Section 2: That the City Manager is hereby authorized to execute in the name of the City, the Easement Agreement, and that the Mayor, City Clerk, City Manager and other City employees are authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The Governing Body further directs that the Easement Agreement be duly and properly recorded in the office of the Leavenworth County Register of Deeds.

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

PASSED by the City Council this 20th day of May, 2019.

APPROVED by the Mayor this 20th day of May, 2019.

SEAL

Jason K. Ward, Mayor

ATTEST:

Patricia C Hagg, City Clerk

EXHIBIT A

Right of Way and Easement Agreement

RIGHT OF WAY AND EASEMENT AGREEMENT

THIS RIGHT OF WAY AND EASEMENT AGREEMENT, made this _____ day of May 2019, by and between Edward J. Gergick, Jr. ("Grantor"), the record owner of an approximate 75 acre tract located in the S ½ of S16, T11, R21E, in Leavenworth County, Kansas (the "Premises") and the City of Tonganoxie, a municipal corporation of the State of Kansas, (hereinafter referred to as the "City" or the "Grantee").

RECITALS:

- A. In order to lay, install, replace, remove, relocate and maintain a sewer line to the Tonganoxie Industrial Park, the City proposes to construct the sewer line through and under a portion of grantor's premises.
- B. In order for the City to construct and maintain the sewer line through and under a portion of the Grantor's Premises, the Grantee must obtain for the City certain permanent and temporary right-of-ways and easements for drainage and sewer drainage and water main purposes, under certain terms and conditions; and
- C. The parties desire to enter into an agreement for the grant of said right-of-way and easement; and

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. PERMANENT EASEMENT.

- a. Grantor, for and in consideration of the sum of Twenty One Thousand Five Hundred Forty Two Dollars and Thirty Five Cents(\$21,542.35) in lawful money, paid by the City at the time of execution of this Agreement, and for other good and valuable consideration, does hereby give, grant, convey, bargain and sell unto the City, its successors and assigns, the full, free and uninterrupted use, liberty and privilege of a perpetual drainage and sewer right-of-way and easement over, under, along and in the premises to wit:

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, BEING 10.00 FEET ON THE LEFT SIDE AND 10.00 FEET ON THE RIGHT SIDE OF THE FOLLOWING DESCRIBED LINE LOCATED IN "PARCEL 1" IN A CERTIFICATE OF SURVEY RECORDED IN DOCUMENT NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 16; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 16 S.88°36'10"W. (BEING AN ASSUMED BEARING) 1189.70 FEET THENCE N.31°01'45"E. 47.39 FEET TO THE POINT OF BEGINNING OF THE SAID LINE, BEING ON THE NORTH RIGHT-OF-WAY LINE OF KANSAS AVENUE A PUBLIC ROAD IN SAID LEAVENWORTH COUNTY; THENCE N.31°01'45"E. 294.56 FEET; THENCE N.30°35'28"E. 397.25 FEET; THENCE N.31°08'15"E. 397.61 FEET; THENCE N.39°16'51"E. 565.80 FEET; THENCE N.23°12'00"E. 399.43 FEET; THENCE N.27°23'22"E. 69.37 FEET TO THE TERMINUS OF THE SAID LINE, BEING ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 16, AND 829.75 FEET S.1°49'38"E. FROM THE CENTER OF SAID SECTION 16 THIS EASEMENT CONTAINS 0.975 ACRES OR 42,480 SQUARE FEET.

AND

A TRACT OF LAND IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, LOCATED IN "PARCEL 1" IN A "CERTIFICATE OF SURVEY" RECORDED IN DOCUMENTS NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE CENTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. (BEING AN ASSUMED BEARING) 829.75 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. 20.49 FEET; THENCE N.27°23'22"E. 339.14 FEET; THENCE N.62°04'17"E. 398.54 FEET; THENCE N.43°14'55"E. 151.18 FEET; THENCE N.71°44'16"E. 370.70 FEET; THENCE N.82°57'37"E. 231.52 FEET; THENCE N.88°09'17"E. 98.79 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 16 N.1°50'21"W. 139.83 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.88°27'03"W. 80.72 FEET; THENCE S.1°48'08"E. 90.24 FEET; THENCE S.88°09'17"W. 18.00 FEET; THENCE S.1°50'43"E. 29.92 FEET; THENCE S.82°57'37"W. 235.31 FEET; THENCE S.71°44'16"W. 377.74 FEET; THENCE S.43°14'55"W. 152.94 FEET; THENCE S.62°04'17"W. 389.53 FEET; THENCE N.35°10'10"W. 291.14 FEET; THENCE N.33°49'57"W. 3.44 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 AND THE EAST LINE OF SORENSEN ADDITION; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 AND THE EAST LINE OF SAID SORENSEN ADDITION S.1°49'38"E. 18.34 FEET; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 AND THE EAST LINE OF SAID SORENSEN ADDITION S.1°49'38"E. 18.19 FEET; THENCE S.35°10'10"E. 139.69 FEET; THENCE S.54°49'50"W. 50.00 FEET; THENCE S.35°10'10"E. 153.06 FEET; THENCE S.27°23'22"W. 244.08 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. 20.49 FEET TO THE POINT OF BEGINNING.

THIS EASEMENT CONTAINS 1.251 ACRES OR 54,476 SQUARE FEET.

- b. The right of way and easement hereby granted as "PERMANENT EASEMENT" is permanent and is granted to City for the use and purpose of laying, installing, replacing, removing, relocating, and maintaining on and upon said lands such sewer line.
- c. It is expressly understood and agreed that the rights and privileges herein granted to the City on the permanent easement shall not terminate, cease or diminish unless and until the City may surrender the same in writing, duly executed by its proper officers.

2. TEMPORARY EASEMENT

- a. Grantor, for and in consideration of the sum of Nine Thousand Seven Hundred Seventy Five dollars (\$9,775.00) lawful money, paid by the City at the time of the Tonganoxie City Council's acceptance of the dedication of the Temporary Construction Easement, and for other good and valuable consideration, does hereby give, grant, convey, bargain and sell unto the City, its successors and assigns, the full, free and uninterrupted use, liberty and privilege of a temporary construction and sewer right-of-way and easement over, under, along and in the premises to wit:

AN ADDITIONAL 10.00 FEET ON THE LEFT SIDE AND AN ADDITIONAL 10.00 FEET ON THE RIGHT SIDE OF THE ABOVE DESCRIBED "PERMANENT UTILITY EASEMENT"

THIS EASEMENT CONTAINS 0.496 ACRES OR 21,594 SQUARE FEET ON THE LEFT SIDE AND 0.480 ACRES OR 20,886 SQUARE FEET ON THE RIGHT SIDE.

AND

A TRACT OF LAND IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, LOCATED IN "PARCEL 1" IN A "CERTIFICATE OF SURVEY" RECORDED IN DOCUMENT NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE CENTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. (BEING AN ASSUMED BEARING) 324.18 FEET TO THE POINT OF BEGINNING; THENCE S.35°10'10"E. 138.69 FEET; THENCE S.54°49'50"W. 20.00 FEET; THENCE N.35°10'10"W. 109.30 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 N.1°49'38"W. 36.39 FEET TO THE POINT OF BEGINNING.

THIS EASEMENT CONTAINS 0.057 ACRES OR 2,490 SQUARE FEET.

ALSO:

A TRACT OF LAND IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, LOCATED IN "PARCEL 1" IN A "CERTIFICATE OF SURVEY" RECORDED IN DOCUMENT NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE CENTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. (BEING AN ASSUMED BEARING) 768.29 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. 40.97 FEET; THENCE N.27°23'22"E. 244.08 FEET; THENCE N.35°10'10"W. 22.54 FEET; THENCE S.27°23'22"W. 218.71 FEET TO THE POINT OF BEGINNING.

THIS EASEMENT CONTAINS 0.106 ACRES OR 4,628 SQUARE FEET.

ALSO:

A TRACT OF LAND IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, LOCATED IN "PARCEL 1" IN A "CERTIFICATE OF SURVEY" RECORDED IN DOCUMENT NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE CENTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. 850.24 FEET TO THE POINT OF BEGINNING; THENCE N.27°23'22"E. 339.14 FEET; THENCE N.62°04'17"E. 398.54 FEET; THENCE N.43°14'55"E. 151.18 FEET; THENCE N.71°44'16"E. 370.70 FEET; THENCE N.82°57'37"E. 231.52 FEET; THENCE N.88°09'17"E. 98.79 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°50'21"E. 20.00 FEET; THENCE S.88°09'17"W. 97.86 FEET; THENCE S.82°57'37"W. 228.65 FEET; THENCE S.71°44'16"W. 363.65 FEET; THENCE S.43°14'55"W. 149.41 FEET; THENCE S.62°04'17"W. 395.61 FEET; THENCE S.27°23'22"W. 368.65 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 N.1°49'38"W. 40.97 FEET TO THE POINT OF BEGINNING.

THIS EASEMENT CONTAINS 0.733 ACRES OF 31,937 SQUARE FEET.

ALSO:

A TRACT OF LAND IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. IN LEAVENWORTH COUNTY, KANSAS, LOCATED IN "PARCEL 1" IN A "CERTIFICATE OF SURVEY" RECORDED IN DOCUMENT NO. 2014S030 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS

COMMENCING AT THE CENTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 S.1°49'38"E. (BEING AN ASSUMED BEARING) 251.40 FEET TO THE POINT OF BEGINNING; THENCE S.35°10'10"E. 307.24 FEET; THENCE N.62°04'17"E. 368.60 FEET; THENCE N.43°14'55"E. 154.70 FEET; THENCE N.71°44'17"E. 384.78 FEET; THENCE N.82°57'37"E. 219.01 FEET; THENCE N.1°50'43"W. 31.65 FEET; THENCE N.88°09'17"E. 38.02 FEET; THENCE S.1°48'08"E. 20.00 FEET; THENCE S.88°09'17"W. 18.00 FEET; THENCE S.1°50'43"E. 29.92 FEET; THENCE S.82°57'37"W. 235.31 FEET; THENCE S.71°44'16"W. 377.74 FEET; THENCE S.43°14'55"W. 152.94 FEET; THENCE S.62°04'17"W. 389.53 FEET; THENCE N.35°10'10"W. 291.14 FEET; THENCE N.33°49'57"W. 3.44 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 16 N.1°49'38"W. 36.24 FEET TO THE POINT OF BEGINNING.

THIS EASEMENT CONTAINS 0.689 ACRES OR 30,019 SQUARE FEET.

- b. The right of way and easement hereby granted as "TEMPORARY EASEMENT" is temporary and shall expire within one year or upon the date of completion and acceptance of the Interceptor Sewer by the City of Tonganoxie, Kansas, whichever comes first. The "TEMPORARY EASEMENT" is to aid in the laying and installing of the sanitary sewer lines within the "PERMANENT EASEMENT".
3. OTHER COMPENSATION. The City shall pay to the Grantor other compensation in the amounts of Seventeen Thousand Nine Hundred Thirteen dollars (\$17,913.00) (pump station location) and Two Thousand Three Hundred Twelve dollars (\$2,312.00) (crop damage). Grantee releases and holds harmless the City from any and all liabilities, claims or expenses related to the current condition of the Pond on the Premises. This release does not pertain or adhere to any future damage that may be done to Grantor's pond by the City, its agents, contractors, or employees.
4. INGRESS AND EGRESS. Grantor hereby grants to the City, its officers, agents, employees and contractors, the right of access, ingress, and egress to and from the Premises using the easement through the property belonging to Warner H. Sorenson, Jr. and Judy Sorenson, CAMA No. 195160000005040 to the easement on the subject property. The City shall repair any damage to the Premises caused by its entry and, following any excavation, the City shall restore the surface of the Easement to its condition immediately prior to such excavation. The restoration shall include the replacement of the top soil in a manner that does not negatively impact agricultural operations. Before using the culvert crossing currently in existence on the easement, the City shall build it up, up to a depth of 12 inches. The crossing shall remain in the built up condition after the work is completed, however, the City shall not be required to perform ongoing maintenance of the built up crossing. If the City takes down the fence for any period of time, the City shall install temporary gates until the fencing is restored.
5. ABOVE GROUND STRUCTURES. Other than the substation at the Northeast corner of Grantor's property, the City shall not construct structures upon the surface of the Easement without the approval of Grantor, which

approval shall not be unreasonably withheld. Any manholes and similar structures, means of access and/or ventilation shall be underground and shall not obstruct vehicular or farm equipment passage.

6. GRANTOR'S USE OF EASEMENT. With the exception of the approximately 80'-100' wide by 140' long area used for the permanent pump station, upon completion of the installation of the sewer line, there shall be no unreasonable interference with the use of Grantor's premises for farming and agricultural purposes.
7. INDEMNIFICATION. To the extent allowed by law, the City shall indemnify and save harmless the Grantor, his successors and assigns against any and all losses, damages, liabilities, claims and expenses, including reasonable attorneys' fees resulting from any such construction, laying, installing, replacing, removing, relocating, and maintaining such sewer line.
8. FARMING OPERATION. With the exception of the approximately 80'- 100' wide by 140' long area used for the permanent pump station, Grantor hereby reserves the right on the permanent easement to implement erosion control procedures and practices and to drain standing water. Grantor may plant crops or hay upon the surface of the Easement, including the use of pesticides and fertilizers and use such premises generally as farm ground and for the passage or parking of vehicles or farm implements. Grantor shall have the right to keep the timber from any trees which are removed during the construction of the City sewer line.
9. GRADE AND ELEVATIONS. Grantor and City both covenant and agree that no change in grades or elevation within the lines of the Easement shall be made.
10. FEE SIMPLE. Grantor warrants that Grantor is the owner in fee simple of the Easements free and clear of liens, encumbrances, restrictions and other matters of record, has the power and is duly authorized to execute this Right of Way and Easement Agreement, and the City may peacefully and quietly exercise the rights granted hereunder free and clear of rights or consent of third parties.
11. NOTIFICATIONS.
 - a. The City shall notify Grantor in the event there is any break in the sewer line or any other circumstances that might damage his surrounding land.
 - b. All notices given under this Easement shall be in writing and shall be deemed to have been duly given if sent by United States certified registered mail, postage prepaid, enclosed in an envelope addressed to the party to be notified, at the following addresses:

If to Grantor at: Edward J. Gergick, Jr.
21874 Kansas Ave.
Tonganoxie, KS 66086-5027

If to Grantee at: George Brajkovic
City Manager
526 E 4th St
Tonganoxie, KS 66086

or to such other address as either party may give by notice to the other party.

12. MISCELLANEOUS CLAUSES.

- a. The terms and conditions hereof shall be binding upon and shall enure to the benefit of the parties hereto, their successors and assigns, and be covenants running with the land affected by the Easement.
- b. This Agreement may be executed in counterparts with signatures appearing on separate pages which shall have the same effect as if all signatures appeared on the same page.
- c. This is not a conveyance of the fee estate in the real estate within the Easement nor of any interest in the oil, gas and other minerals in, on or under the real estate covered hereby, but is a grant solely of rights-of-way and easement as described above.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused these presents to be duly executed the day and year first above written.

GRANTOR:

Edward J. Gergick, Jr.
 EDWARD J. GERGICK, JR.

GRANTEE:

 CITY OF TONGANOXIE, KS
 By George Brajkovic
 City Manager

Acknowledgment

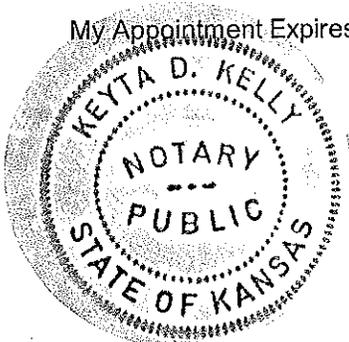
State of Kansas)
 County of Leavenworth) ss:

BE IT REMEMBERED, that on this 8th day of May, 2019, before me, a Notary Public in and for said State, came Edward J. Gergick, Jr., to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same for and on his behalf.

IN WITNESS WHEREOF, I have subscribed my name and affixed my official seal the day and year last above written.

Keyta D. Kelly
 Notary Public

My Appointment Expires: 12-01-2022



Acknowledgment

State of Kansas)
)ss:
County of Leavenworth)

BE IT REMEMBERED, that on this _____ day of _____, 2019, before me, a Notary Public in and for said State, came George Brajkovic, in his capacity as City Manager of Tonganoxie, Kansas, to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same for and on behalf of, and as the act of said municipality.

IN WITNESS WHEREOF, I have subscribed my name and affixed my official seal the day and year last above written.

Notary Public

My Appointment Expires: _____



Office of the City Manager
AGENDA STATEMENT

DATE: May 20, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Melanie Tweedy, Administrative Assistant
SUBJECT: Consider Approval of Rezone Application for 704 E 4th Street from Light Industrial to Historic Business District

DISCUSSION:

Staff received an application from Benjamin Robbins, Chris Gratton and Kay Soetaert to request a change in the zoning of property at 704 E 4th Street. The property is currently zoned Light Industrial and applicant is requesting a change to Historic Business District. This change would allow for different setbacks that the Light Industrial zoning, as well as expanding the options for development. The applicant is planning to encourage the development of a new business on the lot.

The Planning Commission heard this item during a public hearing held at the May 2, 2019 meeting. During that meeting, a motion was approved to recommend approval to the City Council of the rezoning request with the recommendations included in the staff report.

BUDGET IMPACT:

None.

ACTION NEEDED:

Two actions are requested for the approval of this item.

Make a motion to approve b) Resolution 05-19-05: Recognizing the Findings of Fact related to Rezoning Certain Property located at 704 E 4th Street in the City of Tonganoxie, Kansas from I-LT "Light Industrial" to HBD "Historic Business District."

Make a motion to approve Ordinance 1472: Amending the Zoning Ordinance and Subdivision Regulations of the City of Tonganoxie, Kansas, 2003, by Rezoning Certain Property located at 704 E 4th Street in the City of Tonganoxie, Kansas from I-LT "Light Industrial" to HBD "Historic Business District."

ATTACHMENTS:

Staff Report
Rezone Application
Zoning Exhibit Map
Planning Commission Draft Minutes 2019-05-02
Resolution 05-19-05
Ordinance 1472

cc: George Brajkovic, City Manager
Dan Porter, Assistant City Manager
File



City of Tonganoxie, Kansas

PLANNING STAFF REPORT

Case#: 2019-003P – Rezoning from I-LT to HBD

Date of Report: April 25, 2019

Applicant Name: Benjamin Robbins, Chris Gratton, Kay Soetaert

Property Owner Name: Benjamin Robbins, Chris Gratton, Kay Soetaert

Subject Property Address: 704 E. 4th Street

Legal Description: PT BLK 23; BEG NW COR, E108.4', SWLY 161.6', NWKT 50', B 129.8' TO POB

Application:

Zoning District: I LT Light Industrial

Type of Approval Desired: Rezoning from I-LT to HBD Historic Business District (approximately 0.25 acres on the southeast corner of Main Street and 4th Street)

Date of Application: April 3, 2019

Date of Meeting: May 2, 2019

Surrounding Property – Zoning and Use:

West: HBD (commercial / restaurant)

South: I-LT (commercial / The Depot store and shop building) & RMF 1 (residential / detached houses)

East: I-LT (industrial / storage lot)

North: HBD (institutional assembly / religious gathering) & I-LT – (industrial / storage building & lot)

Staff Recommendation: Approval

I. SUMMARY:

This application proposes to rezone approximately 0.25 acres on the southeast corner of 4th Street and Main Street from “I-LT” Light Industrial to “HBD” Historic Business District. The previous building has been demolished and the site is being prepared for future development. Historically the site and building were used for industrial purposes, however the building had a “street front” orientation with somewhat of a “main street / storefront” design. There are no immediate building plans and this request is to facilitate future development more in keeping with the context, and to enable uses compatible with downtown.

II. ANALYSIS

Rezoning applications must be reviewed against the following considerations (in bold italic text) as outlined by the City of Tonganoxie Zoning Ordinance, Section 27-011. Following each of the considerations are staff comments (in plain text). However, since staff has not had the benefit of considering testimony provided during the public hearing, the Planning Commission should consider each factor and the analysis in conjunction with testimony at the hearing prior to acting on the application. No one factor is necessarily controlling, nor do all factors need to be clearly established, but rather they are to be considered in balance as an overall evaluation of the application.

1. Character of the neighborhood:

The character of the surrounding area is a mix of small-scale commercial buildings. Most have a “street front” orientation with main street / storefront designs, even though they support a variety of different uses. This area transitions to industrial uses and development patterns immediately to the east (both sides of 4th Street) and to neighborhoods to the south and west. This location is a key corner at the entry to “downtown” and the downtown “main street” character and development pattern extends to the west..

2. Zoning and uses of properties nearby:

The surrounding property is a combination of HBD, I-LT and R-MF1 associated with the character of each of the areas identified in criteria 1 above. The HBD zoning exists on all of the other three corners of this intersection.

3. Suitability of subject property for the uses to which it has been restricted:

This property has been vacant in recent years (5 years according to the application) but was historically used for industrial uses. Although it is industrial zoning, the development pattern and building scale is consistent with downtown and the “main street” character, even when it was historically used for industrial uses.

4. Extent to which removal of the restrictions will detrimentally affect nearby property:

Nearby property, as well as the previous building on this lot, had development patterns similar to what would be required by the HBD district. The proposed zoning would reinforce patterns in the surrounding area as well as make better site design and development opportunities available on this small lot (primarily due to HBD building setbacks, and the small, corner orientation of this lot.

5. Length of time the subject property has remained vacant as zoned:

The application indicates the previous building has been vacant for approximately 5 years. The building was recently demolished through a demolition permit issued by the City. Leavenworth GIS data indicates the building was built in 1950.

6. Relative gain to the public health, safety and welfare by the destruction of the value of the landowner’s property as compared to the hardship imposed upon the landowner:

Rezoning to HBD will require development patterns and building scales more appropriate to this context (the edge/gateway corner of downtown, with transitions to neighborhoods and industrial uses). The rezoning will also result in better development opportunities on this small corner site, due to setback requirements and other site design principles. Future buildings on the site will require a site plan review by the Planning Commission, meeting the standards and criteria for the HBD district.

7. *Conformance of the requested change to the adopted or recognized comprehensive plan of Tonganoxie, Kansas:*

This area is located in the downtown area and is designated for expansion of downtown (all 4 corners of this intersection) on the Future Land Use Map in the Comprehensive plan. Therefore, the proposed use and the development pattern is generally in conformance with the plan.

The plan also includes a number of different policies regarding development on 4th Street and in the Downtown and Mixed Use Area (pages 1-6 and 1-7 of the Comprehensive Plan). In particular:

- Maintaining the HBD fringe areas as mixed-use gateways to downtown with a similar “sense of place” character. (mix of uses, CBD design guidelines, “street-oriented” development).

The 2017 Comprehensive Plan updates also includes a “Downtown Mixed (DM)” Land Use Category that supplements the development patterns in this area. It includes land use and development criteria that should be used in evaluating future site plans for development proposals in the HBD District. (These primarily include street-front building placement, pedestrian scale facades, mixing uses with retail and commercial or other “active” uses on ground floors, and supplemental or secondary uses on upper or remote areas.

8. *Recommendations of professional staff:*

[see below]

III. EFFECT OF DECISION

The Planning Commission recommends rezoning requests to the Governing Body. Based on the record and other findings of the testimony at the public hearing, the Planning Commission may:

1. Recommend approval,
2. Recommend approval with conditions
3. Recommend denial for rezoning request.

The Governing Body reviews the request in light of the Planning Commission’s recommendation. They may accept the recommendation based on a simple majority of the Governing Body, they may refer the application back to the Planning Commission with direction for specific further discussions or consideration, or they may modify or override the Planning Commission recommendation by a 2/3 vote of the entire Governing Body.

Subsequent to any decision on this particular request to rezone, before any development can occur, a site plan will need to be prepared to demonstrate that all development standards and design criteria are met.

IV. RECOMMENDATION.

Staff recommends approval of the rezoning from “I-LT” Rural District to “HBD” Historic Business District, subject to the following:

1. Future development on the site shall require site plan review by the Planning Commission as is required for new buildings in the HBD District.

- The standards of the HBD District shall be supplemented with the development and design criteria in the Downtown Mix land use category and/or Downtown / Central Business District Design Guidelines to ensure the development serves the “downtown gateway” principles, and is compatible with the scale, patterns and design of other buildings in the HBD district.



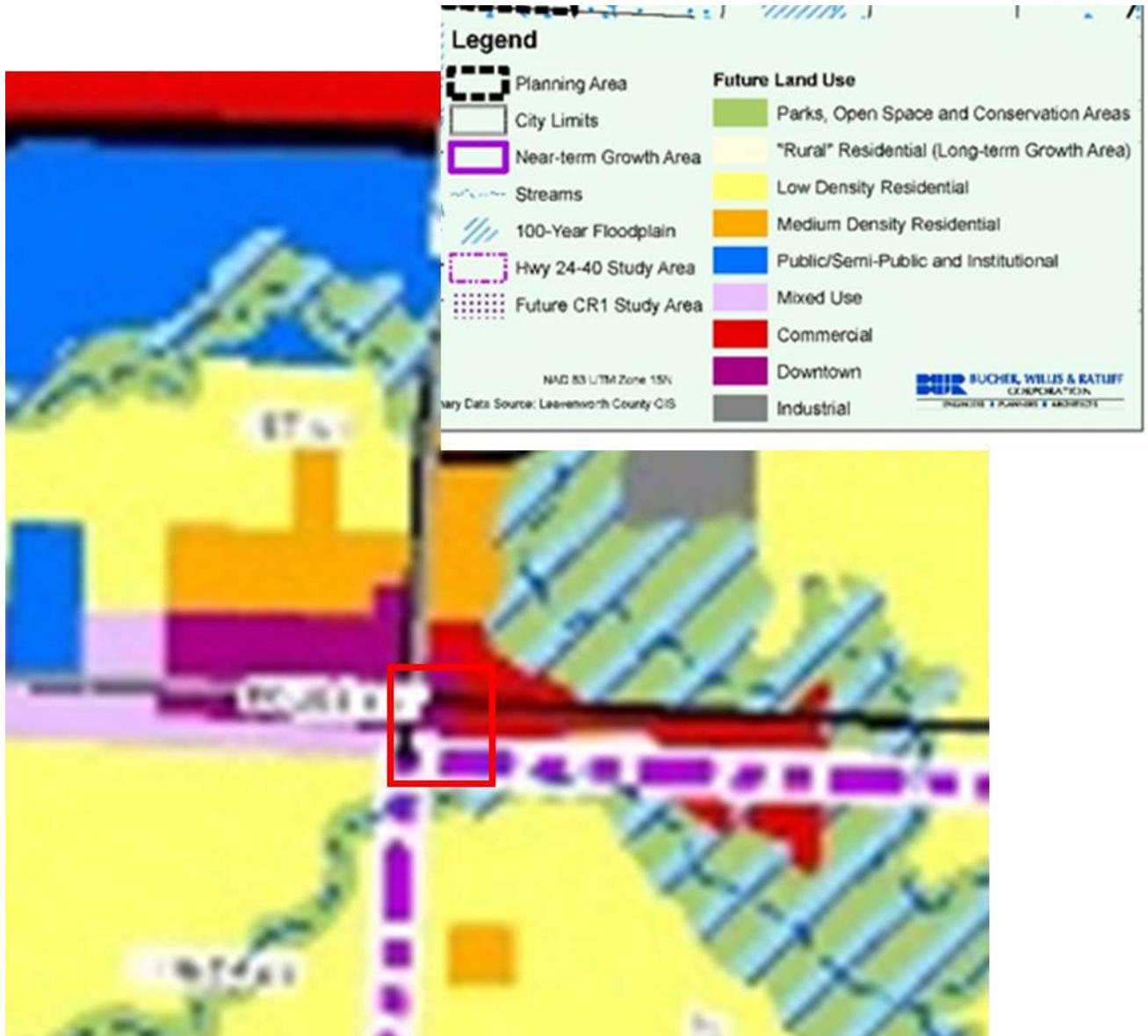
Chris Brewster
Contract City Planner



Current City Zoning (property in red box now zoned I-LT)



Property



Future Land Use (Tonganoxie Comprehensive Plan 2006)



CITY OF TONGANOXIE
CHANGE OF ZONE REQUEST AND PROCEDURES

Date Received: 4-3-19
Fee Paid: 150.00
Received By: HHA

ZONE CHANGE APPLICATION

REQUESTED REZONING FROM: Lt. Industrial TO: H. B. D.
PRESENT ZONING DISTRICT PROPOSED ZONING DISTRICT

SITE ADDRESS OR PROPERTY LOCATION 704 E. 4th, Tonganoxie Ks.

SIZE OF SITE (ACRE/SQUARE FEET) Entire parcel per map

ASSESSOR'S TAX PARCEL NUMBER 2018 1-18222

APPLICANT: Benjamin Robbins, Chris Gratton, Kay Soetaert

MAILING ADDRESS: P.O. Box 480 Tonganoxie Ks 66086

PHONE NUMBER : 913-704-9754 (daytime) 913-231-6177 (cell) EB (fax)

EMAIL ADDRESS: kaysoetaert@gmail.com

LANDOWNER OF RECORD (If different than applicant): _____

ADDRESS: _____

PHONE NUMBER : _____ (daytime) _____ (cell) _____ (fax)

EMAIL ADDRESS: _____

AGENT or ARCHITECT/ENGINEER/LAND PLANNER: _____

BUSINESS ADDRESS: _____

PHONE NUMBER : _____ (daytime) _____ (cell) _____ (fax)

EMAIL ADDRESS: _____

Required materials needed to file this application:

- Application and fee
- A signed affidavit
- A copy of the current deed for the property and an electronic copy (Microsoft Word)
- Site plan drawn to scale showing the dimensions of the property
- The existing streets and utilities serving the area
- New proposed streets and/or utilities
- Any improvements proposed,
- Surrounding property owners list
- Four (4) folded copies of all plans
- One (1) reduced copy (11"x17") of all plans
- One (1) electronic copy of all plans (PDF)

In accordance with Section 27-011 of the City of Tonganoxie Zoning Ordinance, please describe how the requested application is consistent with the following considerations for approving or disapproving a rezoning application:

Briefly describe the present use and character of this property and the surrounding neighborhood.

Building to be demoed by end of April.
Permit attached.

Briefly describe the compatibility with the zoning and uses of properties nearby.

Extension of Fourth Street current zoning to east, Not light industrial across street to north.

Briefly describe the suitability of this property for uses to which it has been restricted.

Since it is adjacent property to current HBD it would allow business which fits that zoning.

Briefly describe the extent to which the removal the restrictions will detrimentally affect nearby property.

We do not think rezoning will affect any nearby property.

Briefly describe the length of time the subject property has remained vacant as zoned:

Approximately 5 years.

Briefly describe why you feel that the proposed change is suitable for this property and is the best use of this land:

As stated earlier, it is natural extension of current HBD zoning. Also: HBD zoning across street.

Briefly describe the adequacy of public utilities and infrastructure:

All utilities easily available at location

Briefly describe how the requested change is in conformance to the adopted or recognized comprehensive plan of Tonganoxie KS

Extension of HBD ~~to~~ ~~is~~ and the main business district.

Kay Soetaert
Signatures of owner(s):

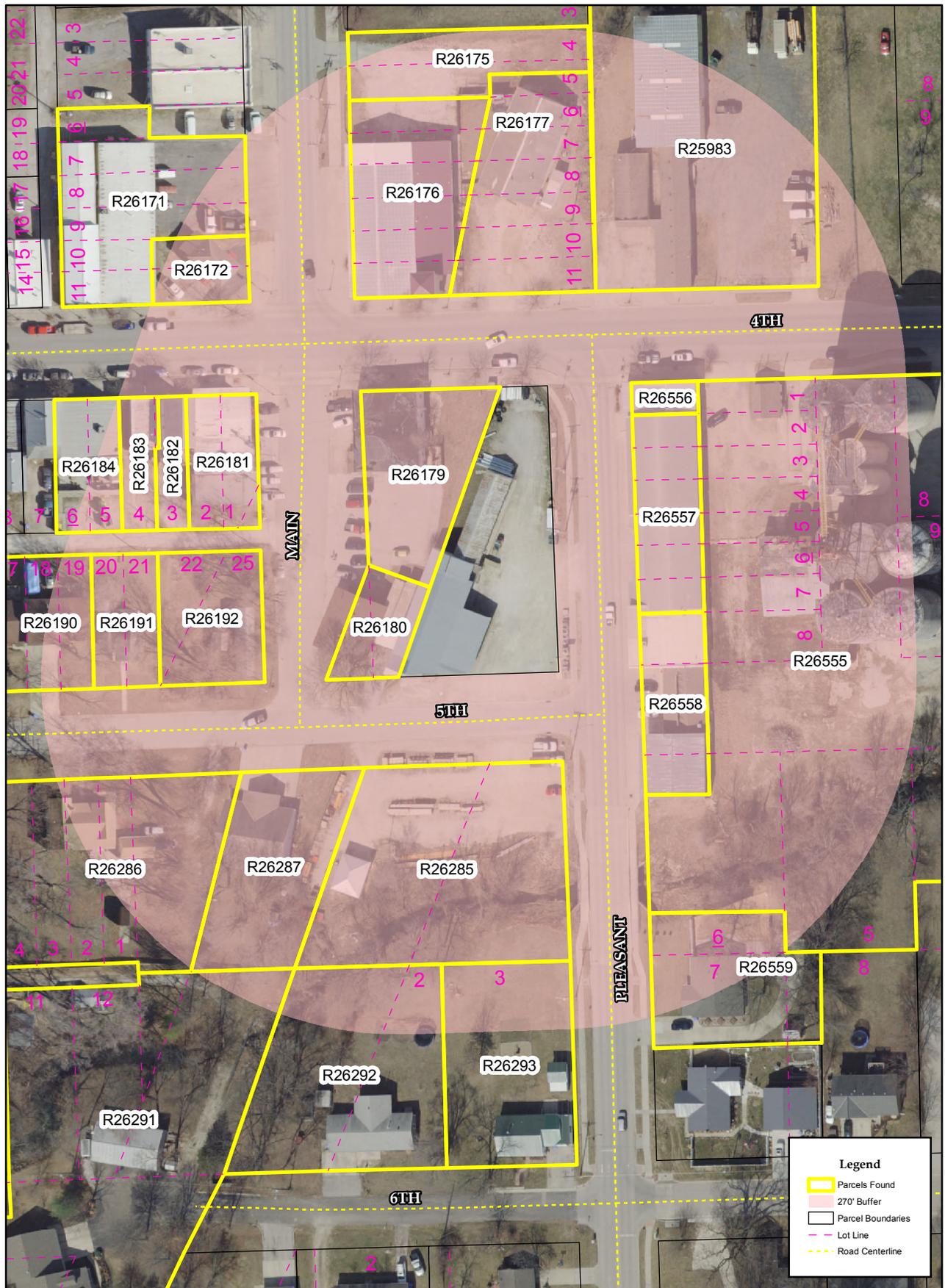
Kay Soetaert
Print Name

[Signature]
Signatures of owner(s):

BENJAMIN ROBBINS
Print Name

City of Tonganoxie Radius Search

200' + 70' ROW



Site Address: 704 E. 4th St. Tonganoxie KS 66086
PID: 192-09-0-30-01-001.00-0

2018 Aerial Photo

1 inch = 106 feet

This map is projected in real world coordinates. However, it is not intended for legal purposes. Accuracy is not guaranteed.



Planning Commission Meeting Minutes

May 2, 2019

7:00 p.m. Regular Meeting



CALL TO ORDER

- Vice Chairman Gee opened the meeting at 7:00 p.m.
 - Roll Call: Planning Commissioners present were Monica Gee, Jacob Dale, and Kevin Harris. Ms. Henson, Ms. Gabel, Mr. Morgan and Mr. Stoltenberg were absent. City Manager George Brajkovic, Planning Clerk Melanie Tweedy, Assistant City Manager Dan Porter and City Planner Chris Brewster with Gould Evans were also in attendance.
1. **OPEN AGENDA** – In order to speak during open agenda, you must sign in **before the meeting**. Please give your name and address to the City Clerk or designee. Comments will be limited to 3 minutes. Please wait to be recognized by the Chair and before speaking **state your name and address** for the record.
- Kay Soetaert, 124 W 1st Street, addressed the Planning Commission on the subject of the rezone of 704 E 4th Street in the agenda. As an applicant for the rezone, Ms. Soetaert explained the reasoning herself and the other owners felt rezoning was a logical idea.
 - Jeff Hooper, 804 E Main Street, addressed the planning commission with questions regarding the rezone and terminology surround the Historic Business District. Mr. Brewster explained that rezoning to Historic Business District did not classify the lot as a historic site, but was rather only the name of the zoning district.
 - No other members of the public addressed the Planning Commission.
 - Vice Chairman Gee closed the open agenda portion of the meeting.

Commissioner Crystal Henson arrived at 7:10 PM.

- Ms. Soetaert briefly explained the reasoning for the rezone application from the owners to Ms. Henson.

2. NEW BUSINESS

- Public Hearing – Rezone Application – “I-LT” (Light Industrial) to “HBD” (Historic Business District) at 704 E 4th Street.
- Mr. Brewster delivered a presentation on the item. He explained that based on the future land use study, the four corners of 4th Street and Main Street should all eventually be zoned as “HBD.” 704 E 4th Street is the last corner to be rezoned. He explained that “I-LT” would not allow for a lot of future development while “HBD” will allow for more options with Development. Mr. Brewster noted that that staff would recommend approval of the rezone application. He also noted that council will hear this rezone before being finalized and that any development of the lot would require a site plan, which would come to the Planning Commission for approval.

- Ms. Henson asked what the biggest difference between “I-LT” and “HBD”.
- Mr. Brewster explained that the largest difference was the required set backs.
- No further comments or questions from the Planning Commission.
 - **Mr. Dale made a motion to approve the rezone application, subject to the following staff conditions:**
 1. Future development on the site shall require site plan review by the Planning Commission as is required for new buildings in the HBD District.
 2. The standards of the HBD District shall be supplemented with the development and design criteria in the Downtown Mix land use category and/or Downtown / Central Business District Design Guidelines to ensure the development serves the “downtown gateway” principles, and is compatible with the scale, patterns and design of other buildings in the HBD district.
 - **Mr. Harris seconded the motion.**
 - **Vote of all ayes. Motion carried.**

City Council will consider the rezone application for 704 E 4th Street at the regular meeting on May 20th at 7PM in the Council Chambers, located at 321 S Delaware St.

3. APPROVAL OF PC MINUTES –April 4, 2019

- **Vice Chairman Gee requested to revisit the approval of the Planning Commission meeting minutes from April 4th as more commission members were now present.**
- **Ms. Henson motioned to approve the Planning Commission meeting minutes from April 4th, 2019.**
- **Mr. Dale seconded.**
- **Vote of all ayes, motion carried.**

4. OLD BUSINESS

- Mr. Brajkovic addressed the commission in regards to the Downtown Design Standards. He stated that our planning staff reviewed those and found them to be guidelines more that standards and could not be used as an enforcement tool. The guidelines themselves are also approximately 20 years old.
- Ms. Gee asked if there was a way for some of the guidelines to become enforceable.
- Mr. Brewster stated that we would be able to enforce the guidelines, but that staff would need to provide direction.
- Ms. Gee stated that she was concerned about mirrored glass windows being a safety hazard downtown.
- Mr. Brewster informed that with a specific issue, we would be able to obtain a quicker solution. In this case, Planning Commission and City Council would need to pass an ordinance restricting the use of mirrored glass.
- Mr. Harris stated that our guidelines were written during a changing time in Tonganoxie and he feels that those guidelines should be revisited.

- Mr. Brajkovic addressed that our Fire Department and Police Department are conducting inspections on local businesses. During these inspections they are able to assess and potential safety hazards and present those to the business owners.
- Ms. Gee complimented the work of our Fire Department and Police Department.

5. GENERAL INFORMATION

- No items.

6. ADJOURN

- **Mr. Dale made a motion to adjourn the meeting.**
- **Mr. Harris seconded the motion.**
- **Vote of all ayes, motion carried.**
- **Meeting adjourned at 7:32 p.m.**

Respectfully submitted,

Melanie Tweedy, Planning Clerk

DRAFT

RESOLUTION 05-19-05

A RESOLUTION ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS TO APPROVE THE REZONING OF CERTAIN PROPERTY MORE COMMONLY KNOWN AS 704 EAST 4TH STREET, TONGANOXIE, KANSAS FROM LIGHT INDUSTRIAL TO HISTORIC BUSINESS DISTRICT.

WHEREAS, Benjamin Robbins, Chris Gratton and Kay Soetart (collectively, "Applicant") submitted an application to the City of Tonganoxie, Kansas (the "City") to request a change in the zoning of the property generally located at 704 East 4th Street in the City, as legally described on Exhibit A attached hereto (the "Property"), from "I-LT" Light Industrial District to "HBD" Historic Business District; and

WHEREAS, the City Clerk set a public hearing on May 2, 2019 at 7:00 p.m. at the City Hall Council Chambers for the Planning Commission to consider Applicant's request for the proposed rezoning of the Property; and

WHEREAS, on April 10, 2019, notice of the public hearing was published in *The Mirror*, the official City newspaper, and on April 4, 2019, notices were mailed to all owners of record of real property within the Property and within two hundred feet (200') of the Property, all in accordance with K.S.A. 12-757(b) and Section 27-011 of the Tonganoxie Zoning and Subdivision Regulations; and

WHEREAS, on May 2, 2019, the Planning Commission held a public hearing on the Applicant's request for the proposed rezoning of the Property and considered the matters set forth in Section 27-011 of the Tonganoxie Zoning and Subdivision Regulations; and

WHEREAS, the Planning Commission recommended approval of the Applicant's request for the proposed rezoning of the Property in an accurate written summary of the proceedings submitted to the Governing Body; and

WHEREAS, the Governing Body wishes to adopt certain Findings of Fact and Conclusions made by the Planning Commission in support of the decision to approve the proposed rezoning of the Property.

NOW, THEREFORE BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

Section 1: That the Governing Body hereby adopts the following Findings of Fact and Conclusions regarding the request to rezone the Property. These Findings of Fact and Conclusions represent the basis of the Governing Body's approval of the rezoning pursuant to its authority under K.S.A. 12-741 *et seq.* and Section 27 of the Tonganoxie Zoning and Subdivision Regulations, and all other applicable laws.

FINDINGS OF FACT

REQUEST TO REZONE PROPERTY

MEETING/PUBLIC HEARING DATE: Planning Commission meeting, dated May 2, 2019, at 7:00 PM at the Tonganoxie City Council Chambers.

SUBJECT: A request to rezone the Property from "I-LT" Light Industrial District to "HBD" Historic Business District.

1. History and Current Status of Property:

Applicant filed an application to change the zoning classification of the Property from "I-LT" Light Industrial District to "HBD" Historic Business District. All owners of record of real property within the Property and within two hundred feet (200') of the Property were notified of the public hearing, and notice was published in *The Mirror*, the official City newspaper. The public hearing was held by the Planning Commission on May 2, 2019. Applicant proposes to rezone the property so they are in compliant with current zoning classifications.

Review Considerations:

Section 12 of the Tonganoxie Zoning and Subdivision Regulations define the "HBD" Historic Business District and permitted uses as follows:

General Description:

This district provides for small-scale retail, entertainment, municipal and personal service uses that meet the regular needs of the City. Uses that require larger scale structures or spaces than those generally found in the district or that will generate excessive parking needs should locate in one of the General Business Districts. All uses shall preserve the structural fabric and scale of the district. To preserve or recapture the original character and integrity of this district, all new development or rehabilitation of existing structures shall be held to the standards defined in the Design Guidelines for Tonganoxie's Central Business District.

Uses Permitted:

A. Residential Uses

1. Limited lodging facilities such as bed & breakfast, rooming or boarding house
2. Residential use shall be allowed in the form of apartment(s) as an accessory use with the following limitations:
 - a. When the apartment(s) occurs on the same level as the store front, the apartment shall not consist of more than 50% of the gross floor area.
 - b. The apartment(s) shall not be accessible from the common store front entrance.

- c. The width of the store front may not be reduced to add an apartment(s) except for accommodating access to an upper, lower or rear apartment.
3. Accessory uses as subordinate, incidental and compatible to the efficient operation of the main use of the site.
4. Please refer to Appendix A for a list of suggested, permitted uses.

B. Institutional:

1. General uses such as museum, library, art center, church, lodge or fraternal organization, mortuary or funeral home
2. Educational uses such as private or group instruction in the arts or athletics, technical and professional training classes, university or college satellite classes.
3. Municipal and governmental service offices or centers

C. Commercial:

1. Retail, office and service businesses such as medical or dental office or clinic, legal and administrative services, financial institution, restaurant, retail outlet, clothing store, specialty shop, tradesmen, and other similar uses.

D. Prohibited:

1. Any business using highly flammable or hazardous material is prohibited unless the business files an approved Fire Plan with the City Fire Department.

CONCLUSIONS

Section 27-011 of the Tonganoxie Zoning and Subdivision Regulations require consideration of the following matters in a request for rezoning. Following each of the required considerations are staff comments.

1. Character of the neighborhood:

The character of the surrounding area is a mix of small-scale commercial buildings. Most have a "street front" orientation with main street / storefront designs, even though they support a variety of different uses. This area transitions to industrial uses and development patterns immediately to the east (both sides of 4th Street) and to neighborhoods to the south and west. This location is a key corner at the entry to "downtown" and the downtown "main street" character and development pattern extends to the west.

2. Zoning and uses of properties nearby:

The surrounding property is a combination of HBD, I-LT and R-MF1 associated with the character of each of the areas identified in criteria 1 above. The HBD zoning exists on all of the other three corners of this intersection.

3. Suitability of subject property for the uses to which it has been restricted:

This property has been vacant in recent years (5 years according to the application) but was historically used for industrial uses. Although it is industrial zoning, the development pattern and building scale is consistent with downtown and the "main street" character, even when it was historically used for industrial uses.

4. Extent to which removal of the restrictions will detrimentally affect nearby property:

Nearby property, as well as the previous building on this lot, had development patterns similar to what would be required by the HBD district. The proposed zoning would reinforce patterns in the surrounding area as well as make better site design and development opportunities available on this small lot (primarily due to HBD building setbacks, and the small, corner orientation of this lot.

5. Length of time the subject property has remained vacant as zoned:

The application indicates the previous building has been vacant for approximately 5 years. The building was recently demolished through a demolition permit issued by the City. Leavenworth GIS data indicates the building was built in 1950.

6. Relative gain to the public health, safety and welfare by the destruction of the value of the landowner's property as compared to the hardship imposed upon the landowner:

Rezoning to HBD will require development patterns and building scales more appropriate to this context (the edge/gateway corner of downtown, with transitions to neighborhoods and industrial uses). The rezoning will also result in better development opportunities on this small corner site, due to setback requirements and other site design principles. Future buildings on the site will require a site plan review by the Planning Commission, meeting the standards and criteria for the HBD district.

7. Conformance of the requested change to the adopted or recognized comprehensive plan of Tonganoxie, Kansas:

This area is located in the downtown area and is designated for expansion of downtown (all 4 corners of this intersection) on the Future Land Use Map in the Comprehensive Plan. Therefore, the proposed use and the development pattern is generally in conformance with the Comprehensive Plan. The Comprehensive Plan also includes a number of different policies regarding development on 4th Street and in the Downtown and Mixed Use Area (pages 1-6 and 1-7 of the Comprehensive Plan). In particular:

Maintaining the HBD fringe areas as mixed-use gateways to downtown with a similar "sense of place" character (mix of uses, CBD design guidelines, "street-oriented" development).

The 2017 Comprehensive Plan updates also includes a "Downtown Mixed (DM)" Land Use Category that supplements the development patterns in this area. It includes land use and development criteria that should be used in evaluating future site plans for development proposals in the HBD District. (These primarily include street-front building placement, pedestrian scale facades, mixing uses with retail and commercial or other "active" uses on ground floors, and supplemental or secondary uses on upper or remote areas.)

8. Recommendations of professional staff:
(See Item IV.)

III. EFFECT OF DECISION

The Planning Commission recommends rezoning requests to the Governing Body. Based on the record and other findings of the testimony at the public hearing, the Planning Commission may:

1. Recommend approval, or
2. Recommend denial of the rezoning request.

The Governing Body reviews the request in light of the Planning Commission's recommendation. They may:

1. Adopt the recommendation by ordinance,
2. Override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body, or
3. Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

Subsequent to any decision on this particular request to rezone, before any development can occur, a site plan will need to be prepared to demonstrate that all development standards and design criteria are met.

IV. RECOMMENDATION.

Staff recommends approval of the rezoning from "I-LT" Light Industrial District to "HBD" Historic Business District, subject to the following:

1. Future development on the site shall require site plan review by the Planning Commission as is required for new buildings in the HBD District.
2. The standards of the HBD District shall be supplemented with the development and design criteria in the Downtown Mix land use category and/or Downtown/Central Business District Design Guidelines to ensure the development serves the "downtown gateway" principles, and is compatible with the scale, patterns and design of other buildings in the HBD district.

Section 2: That the Governing Body has considered the Applicant's request for rezoning the Property, reviewed all testimony and evidence submitted for the request, and does hereby adopt the foregoing Findings of Fact and Conclusions as the basis for its decision to approve the Rezoning.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE,
KANSAS, AND APPROVED BY THE MAYOR ON THIS 20TH DAY OF MAY,
2019.**

Jason K. Ward, Mayor

(SEAL)

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

Legal Description of the Property

A parcel of land situated in Block 23, Railroad Addition to the City of Tonganoxie, Leavenworth County, Kansas, more particularly described as follows:

Commencing at the center of Section 9, Township 11 South, Range 21 East; thence Westerly along the East-West centerline of said Section 9, a distance of 52.8 feet to a point on the centerline of abandoned main track of the Leavenworth Branch of the Union Pacific Railroad Company, as formerly constructed and operated; thence Southwesterly along said centerline of abandoned main tract, which forms an angle of 67° 20' from West to Southwest with said East-West centerline of Section 9, a distance of 48.76 feet, more or less, to the North line of Block 23 and the true point of beginning; thence continuing Southwesterly along said centerline of abandoned main track, a distance of 161.6 feet; thence Northwesterly at right angles, a distance of 50 feet to a point in the West line of Block 23; thence Northerly along said West line of Block 23, a distance of 129.8 feet more or less to the Northwest corner of Block 23; thence Easterly along the Northerly line of said Block 23, a distance of 108.4 feet, more or less, to the true point of beginning, in LEAVENWORTH COUNTY, KANSAS. More commonly known as 704 East 4th Street, Tonganoxie, Kansas.

ORDINANCE 1472

AN ORDINANCE AMENDING THE TONGANOXIE ZONING AND SUBDIVISION REGULATIONS BY REZONING CERTAIN PROPERTY MORE COMMONLY KNOWN AS 704 EAST 4TH STREET, TONGANOXIE, KANSAS FROM LIGHT INDUSTRIAL TO HISTORIC BUSINESS DISTRICT.

WHEREAS, pursuant to the Tonganoxie Zoning and Subdivision Regulations, the Governing Body of the City of Tonganoxie, Kansas (the "City"), has the power to amend, supplement or change existing zoning regulations within the City; and

WHEREAS, Benjamin Robbins, Chris Gratton and Kay Soetart (collectively, "Applicant") submitted an application to the City to request a change in the zoning of the property generally located at 704 East 4th Street in the City, as legally described on **Exhibit A** attached hereto (the "Property"), from "I-LT" Light Industrial District to "HBD" Historic Business District; and

WHEREAS, the City Clerk set a public hearing on May 2, 2019 at 7:00 p.m. at the City Hall Council Chambers for the Planning Commission to consider Applicant's request for the proposed rezoning of the Property; and

WHEREAS, on April 10, 2019, notice of the public hearing was published in *The Mirror*, the official City newspaper, and on April 4, 2019, notices were mailed to all owners of record of real property within the Property and within two hundred feet (200') of the Property, all in accordance with K.S.A. 12-757(b) and Section 27-011 of the Tonganoxie Zoning and Subdivision Regulations; and

WHEREAS, on May 2, 2019, the Planning Commission held a public hearing on the Applicant's request for the proposed rezoning of the Property and considered the matters set forth in Section 27-011 of the Tonganoxie Zoning and Subdivision Regulations; and

WHEREAS, the Planning Commission recommended approval of the Applicant's request for the proposed rezoning of the Property in an accurate written summary of the proceedings submitted to the Governing Body; and

WHEREAS, no protest petition against the proposed rezoning of the Property has been filed in the City Clerk's office within the required time period set forth in K.S.A. 12-757(f) and Section 27-012.C of the Tonganoxie Zoning and Subdivision Regulations; and

WHEREAS, on May 20, 2019, pursuant to Resolution 05-19-05, the Governing Body adopted Findings of Fact and Conclusions supporting its decision to approve the proposed rezoning of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

SECTION 1. That the Property is hereby rezoned from "I-LT" Light Industrial District to "HBD" Historic Business District.

SECTION 2. That the "Official Zoning District Map" adopted under Section 1-015 of the Tonganoxie Zoning and Subdivision Regulations shall be changed to reflect the rezoning of the Property, and Section 1-015 is hereby amended to reincorporate the "Official Zoning District Map" as amended by this Ordinance.

SECTION 3. That this Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

PASSED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS, AND APPROVED BY THE MAYOR ON THIS 20th DAY OF MAY, 2019.

SEAL

Jason K. Ward, Mayor

ATTEST:

Patricia C Hagg, City Clerk

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Office of the City Manager
AGENDA STATEMENT

DATE: May 20, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Dan Porter, Assistant City Manager
SUBJECT: Resolution 05-19-06: GAAP Waiver for 2019

DISCUSSION:

K.S.A. 75-1120(a) requires municipalities to use Generally Accepted Accounting Principles (GAAP) in the preparation of financial statements and reports. The GAAP requirement provides for a fixed asset accounting system in lieu of an inventory system, as well as other financial reporting requirements. Proposing the action to exempt the City from these principles is taken based on past recommendations of the auditors that the GAAP requirements would cost the City additional funds to prepare the City's annual audit and would not provide any additional substantive benefit to the City. The governing body of any municipality may waive this statutory requirement, and it has been common practice for the City of Tonganoxie and many other municipalities that are not among the largest in the State of Kansas. In order to waive the GAAP requirement, the governing body must pass a resolution for each fiscal year.

A waiver from the GAAP-prescribed financial statements permits a municipality to prepare its financial statements on a basis of accounting which demonstrates compliance with the cash basis and budget laws of Kansas. The proposed waiver indicates that the City of Tonganoxie has found that financial statements and financial reports prepared in conformity with GAAP are not relevant to the requirements of the cash basis budget laws of Kansas and are of no significant value to the preparation of financial statements and reports, which shall be prepared on the basis of cash receipts and disbursements in accordance with budget laws of Kansas.

BUDGET IMPACT:

None. Failing to pass a GAAP waiver resolution would require additional funding to be allocated in the 2020 budget for accounting and auditing services.

ACTION NEEDED:

Make a motion to accept the Resolution 05-19-06, waiving the GAAP requirement for 2019.

ATTACHMENTS:

Resolution 05-19-06

cc: George Brajkovic, City Manager

RESOLUTION 05-19-06

A RESOLUTION FINDING THAT FINANCIAL STATEMENTS AND FINANCIAL REPORTS PREPARED IN CONFORMITY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) AS REQUIRED BY K.S.A. 75-1120a(a) ARE NOT RELEVANT TO THE REQUIREMENTS OF THE CASH BASIS LAW AND BUDGET LAWS OF THE STATE OF KANSAS AND ARE OF NO SIGNIFICANT VALUE TO THE GOVERNING BODY OR MEMBERS OF THE GENERAL PUBLIC OF THE CITY OF TONGANOXIE, KANSAS.

WHEREAS, the Governing Body of the City of Tonganoxie, Kansas (the "City"), has determined that financial statements and financial reports for the year ending 2019 prepared in conformity with the requirements of K.S.A. 75-1120a(a) are not relevant to the requirements of the cash basis and budget laws of the State of Kansas and are of no significant value to the Governing Body or the members of the general public of the City; and

WHEREAS, there are no revenue bond ordinances or resolutions or other ordinances or resolutions of the City which require financial statements and financial reports to be prepared in conformity with the requirements of K.S.A. 75-1120a(a) for the year ending 2019.

NOW, THEREFORE BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

Section 1: That the Governing Body hereby requests the director of accounts and reports to waive the requirements of K.S.A. 75-1120a(a).

Section 2: That, if granted the requested waiver, the Governing Body shall cause the financial statements and financial reports of the City to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of the State of Kansas.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS, ON THIS 20TH DAY OF MAY, 2019.

Jason K. Ward, Mayor

ATTEST:

Patricia C. Hagg, City Clerk