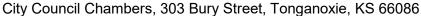
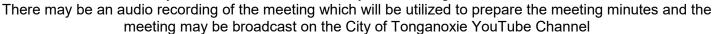
#### CITY OF TONGANOXIE

#### May 1, 2023

7:00 Regular Meeting





Honorable David Frese, Mayor Council Members

Jacob Dale Loralee Stevens Chris Donnelly Jennifer McCutchen Matt Partridge

#### Open Regular Meeting - 7:00 p.m.

- I. Pledge of Allegiance
- II. Approval of Minutes Regular meeting dated April 17, 2023
- III. Consent Agenda
  - a) Review bill payments
- IV. Old Business
- V. New Business
  - a) Wrestling State Title Recognition Braeden Moore
  - b) Consider Approval of 2023 Facility Temporary Use Lease for the Tonganoxie Water Park with Gretchen Meitler for the Tongie Tidal Waves Swim Team
  - c) Consider Approval of City Attorney and Municipal Court Judge Reappointments
  - d) Ordinance No. 1512 Consideration of Application to Rezone Stone Creek Addition No. 10 property generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086 from R-SF, R-MF3, GBD to R-SF-CUP
  - e) City Manager Agenda
  - f) City Attorney Agenda
  - g) Mayor Pro Tem Agenda
  - h) City Council Agenda
  - i) Mayor Agenda
  - 1. Executive Session Pursuant to the preliminary discussion of the acquisition of real property

#### VI. Adjourn

#### Council Meeting Minutes April 17, 2023 7:00 PM Meeting

#### I. Pledge of Allegiance

- Mayor Frese opened the meeting at 7:00 p.m.
- Mayor Frese led the pledge of allegiance.
- Mayor Frese, Mr. Partridge, Ms. McCutchen, Ms. Stevens, Mr. Donnelly and Mr. Dale were present.
- City Manager George Brajkovic, Assistant City Manager Dan Porter, City Attorney Anna Krstulic and Municipal Court Clerk Lindsay Huntington were also present.

#### II. Approval of Minutes – Regular meeting dated April 3, 2023

- Mr. Donnelly made a motion to approve draft minutes from the regular meeting dated April 3, 2023.
- Ms. McCutchen seconded the motion.
- Vote of all ayes, motion carried.

#### III. Consent Agenda

- a) Review bill payments
- Ms. McCutchen made a motion to approve the consent agenda.
- o Mr. Partridge seconded the motion.
- Vote of all ayes, motion carried.

#### IV. Old Business

- a) Review Revised Proposed City Procurement Policy Updates.
- Mr. Brajkovic stated as discussed at the previous Council meeting staff has proposed changes to the existing
  purchasing policy were primarily geared towards the monetary value limitations that have been in place for the
  past 17 years.
- Mr. Brajkovic stated a provision has been added regarding conflict of interest per the Councils recommendation.
   Mr. Brajkovic stated the policy section previously titled Accepting Gratuities Prohibited has been updated to Conflict of Interest with added extensive language addressing gratuities as well as language on conflict of interest.
- Mr. Brajkovic did confirm the updates have been review by the legal counsel.
- Mr. Donnelly made a motion to approve the revised proposed City procurement policy including the updated conflict of interest section.
- Ms. Stevens seconded the motion.
- Vote of all ayes, motion carried.

#### V. New Business

- a) Consider Approval of Leavenworth County Development Corporation 2023 Funding Distribution
- Mr. Brajkovic introduced Lisa Haack with LCDC and the LCDC Board Chair Jeremy Greenamyre.
- Mr. Brajkovic stated the LCDC presented their funding request during the development of the 2023 budget. The funding request was included in the budget for 2023.
- Ms. Haack stated that she has recently moved into the director role. Ms. Haack stated that she will now be focused
  on the marketing for business attraction and is excited about the development that has occurred with Hills and in
  the Urban Hess Business Center.
- Ms. Haack also that they have stood up the land search committee under the Port Authority. She is working with the new Chairs of that committee and Tonganoxie is represented.
- Mr. Dale made a motion to approve Leavenworth County Development Corporation 2023 funding distribution in an amount of \$19,840.00.
- Mr. Partridge seconded the motion.

- Vote of all ayes, motion carried.
  - b) Consider Approval of Water Utility Resiliency Improvements Purchases
- Mr. Porter stated this item has been divided into three parts and included purchases from two vendors. In preparation for the impact to the utilities from the new customer at the scale of Hills Pet Nutrition, ways to update the City's water utilities as a whole where reviewed.
- Mr. Porter stated the improvements under review are utility resiliency improvements. Specifically, there are two control values. One to be installed at the middle school water tower site underground by the public works staff. The second to be installed at the ground storage tank at the water plant near the public works facility. This will allow staff of the utility or the pressure of the system to control where water supply is directed.
- Mr. Porter stated when the new tower is online, holding water system pressure for City users will be maintained while the work is being done to install the value at the middle school. Staff will not be able to install the equipment without service interruptions. The control values will also allow the use of the full capacity at the new water tower. Without the equipment the top 10' of water at the new water tower at the business park would not be utilized.
- Mr. Porter stated two vendors are being used for the purchase of the equipment. It is proposed to purchase the values through ESI Water as they are currently the providers of several other similar values in the City's system. It is the Public Works Directors desire to stay with the same system for consistency in training and operation by staff. The bypass fittings are proposed to be purchased from Winwater for similar reasons.
- Mr. Porter stated the cost estimate was anticipated to be significantly more. It was budgeted in the Capital Improvement Plan for this year more than the combine total of the three purchases.
- Ms. Stevens made a motion to authorize purchase of a 12" altitude control valve, vault, associated appurtenances, a 6" control valve, and associated appurtenances from ESI Water for an amount not to exceed \$64,260.00.
- Ms. McCutchen seconded the motion.
- Vote of all ayes, motion carried.
- Ms. Stevens made a motion to authorize purchase of a 12" altitude control valve bypass fittings from Olathe Winwater Company for an amount not to exceed \$9,290.00.
- Mr. Partridge seconded the motion.
- Vote of all ayes, motion carried.
- c) Ordinance No. 1511 Consider Approval of West Washington Street Voluntary Annexation Petition
- Mr. Brajkovic stated the applicant's family currently owns property that is within the City limits and fronts Washington Street. They have purchased two larger tracks of ground that are irregular in shape and also have some frontage on Washington Street as well the second track has some frontage on 24-40. The family currently has no long-term development plans for the property. However, they would like to split a parcel from the property that is most adjacent to the east of their current property to create a building site.
- City staff has meet with the applicant regarding their desire to create this property and discussed the need to connect to City water and sanitary sewer services. The applicant has agreed to connect to the services however the sanitary sewer is located at a distance that is greater than is called for by City code to require connection.
- Mr. Brajkovic stated the applicant would need to create a parcel slightly larger than 3 acers which is the City's size limit to permit a sewer sceptic system.
- Mr. Brajkovic stated the County has approved their ability to remove 3 acers from the property. The applicant would now like to annexation this newly created parcel into the City limits and proceed with building a single family residence and make a connection to City water.
- Mr. Partridge made a motion to approve Ordinance No. 1511 including, incorporating and annexing certain land in Leavenworth County, Kansas, in Section 17, Township 11 South, Range 21 East, into the limits and boundaries of the City of Tonganoxie, Kansas.
- Ms. McCutchen seconded the motion.

- Vote of all ayes, motion carried.
  - d) City Manager Agenda
    - 1. 2023-03 Financial Report
  - Mr. Porter shared the March 2023 financial report with the City Council.
- Mr. Porter requested that Council members review the list of materials regarding the Capital and Maintenance items for the CMIP work session on May 15, 2023. Mr. Porter also encouraged Council to let staff know of any project ideas they would like to add to the discussion prior to the meeting.
  - 2. Mr. Brajkovic provided to the Council the Spring Newsletter. He stated the newsletter is also available online.
  - 3. Mr. Brajkovic stated he has confirmed with Commissioner Mike Stieben there will be a work session between the County Commissioners and the Council on May 1<sup>st</sup> at 5:30.
- e) City Attorney Agenda
- f) Mayor Pro Tem Agenda
- Ms. Stevens announced that the local farmers market will resume on Thursday May 11<sup>th</sup> and it is a wonderful asset for our community.
- g) City Council Agenda
- Mr. Donnelly thanked the staff for repairs that were done at the park in the Stone Creek development and pointed out how the parks are an assist to our community.
- h) Mayor Agenda
  - 1. Proclamation for Economic Development Week from May 8 12
- Mayor Frese requested the Council approval to make the proclamation for economic development week from May 8-12.
- Mr. Donnelly made a motion to authorize the Mayor to execute or sign the proclamation for economic development week from May 8-12 2023.
- Mr. Partridge seconded the motion.
- Vote of all ayes, motion carried.

#### VI. Adjourn

- o Mr. Dale made a motion to adjourn the meeting.
- Ms. McCutchen seconded the motion.
- Vote of all ayes, motion carried.
- Meeting adjourned at 7:45 p.m.

Respectfully submitted,

Lundsay Huntington

Lindsay Huntington, Municipal Court Clerk



## City of Tonganoxie, KS

# My Check Report By Check Number

Date Range: 04/15/2023 - 04/28/2023

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	<b>Payment Amount</b>	Number
Bank Code: AP Bank-AP Bank						
0056	BLUE CROSS AND BLUE SHIELD	04/24/2023	Regular	0	43723.47	51266
0070	BROTHER' S MARKET	04/24/2023	Regular	0	578.16	51267
1319	CALDWELL TANKS, INC.	04/24/2023	Regular	0	142880	51268
0077	CARAWAY PRINTING CO., INC.	04/24/2023	Regular	0	200	51269
0098	CITY OF BASEHOR	04/24/2023	Regular	0	1100	51270
0099	CITY OF LEAVENWORTH	04/24/2023	Regular	0	7460.73	51271
0115	CONRAD FIRE EQUIPMENT	04/24/2023	Regular	0	360.84	51272
0150	DURKIN EQUIPMENT CO. INC	04/24/2023	Regular	0	13917	51273
1362	EQUIPMENTSHARE.COM	04/24/2023	Regular	0	27823.19	51274
0205	GALL'S LLC	04/24/2023	Regular	0	51.89	51275
0205	GALL'S LLC	04/24/2023	Regular	0	163.22	51276
0205	GALL'S LLC	04/24/2023	Regular	0	47.98	51277
1368	INNOVATIVE CONTROLS INC.	04/24/2023	Regular	0	334.64	51278
1327	INTEGRITY GLOBAL SOLUTIONS, LLC	04/24/2023	Regular	0	1046.4	51279
0059	Kansas City Board of Public Utilities	04/24/2023	Regular	0	23096.41	51280
0381	LADD SERVICE COMPANY	04/24/2023	Regular	0	70	51281
1112	Life-Assist, INC	04/24/2023	Regular	0	100.53	51282
0732	METLIFE	04/24/2023	Regular	0	421.68	51283
0857	MIDCONTINENT COMMUNICATIONS	04/24/2023	Regular	0	287.53	51284
0857	MIDCONTINENT COMMUNICATIONS	04/24/2023	Regular	0	262.28	51285
1032	Mid-States Organized Crime Information Cente	04/24/2023	Regular	0	150	51286
0491	OLATHE WINWATER WORKS	04/24/2023	Regular	0	933	51287
1367	PTG MISSOURI LLC	04/24/2023	Regular	0	247.68	51288
0542	QUILL	04/24/2023	Regular	0	244.93	51289
0542	QUILL	04/24/2023	Regular	0	189.45	51290
0548	RECORDNEWS	04/24/2023	Regular	0	616.5	51291
0594	SMITHEREEN PEST CONTROL	04/24/2023	Regular	0	109	51292
1127	THE PEAVEY CORPORATION	04/24/2023	Regular	0	140.72	51293
0651	USA BLUE BOOK	04/24/2023	Regular	0	848.95	51294

#### **Bank Code AP Bank Summary**

	Payable	Payment		
Payment Type	Count	Count	Discount	Payment
Regular Checks	31	29	0.00	267,406.18
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
-	31	29	0.00	267 406 18

## **All Bank Codes Check Summary**

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	31	29	0.00	267,406.18
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
	31	29	0.00	267,406.18

## **Fund Summary**

Fund	Name	Period	Amount
998	Gen Fund-Pooled Cash	4/2023	267406.18
			267406 18

# SPECIAL RECOGNITION BY THE CITY OF TONGANOXIE

Presented To

# **Braeden Moore**

on the 1st day of May, 2023

For outstanding sportsmanship and efforts which culminated in winning the 4A Individual State Wrestling Championship in 2023



David Frese, Mayor	



**DATE:** May 1, 2023

To: Honorable Mayor David Frese and Members of the City Council

FROM: Lindsay Huntington

**SUBJECT:** Lease Agreement with Gretchen Meitler on behalf of Tongie Tidal Waves Swim Team

#### **DISCUSSION:**

Gretchen Meitler submitted a request to the City to utilize the Tonganoxie Water Park for team practices and meets for the Tongie Tidal Waves, the local community swim team. For the past 13 years this group has rented the Water Park during the summer season, which typically runs from the end of May through the beginning of July. The nature of the proposed rental is a series of scheduled private events at the Water Park which will be periods of time the facility is closed to the general public.

Attached for the City Council's consideration is a draft lease agreement, which defines the terms of private use, including; schedule, payments, insurance requirements, and pool rules. This year's agreement contains similar terms to the agreement's utilized in previous years.

Practices are anticipated to occur early Monday through Thursday mornings prior to public hours, with three home meets scheduled during the month of June. Total estimated rental time of the Water Park is approximately 55 hours, with 85 hours of total required lifeguard staff time factoring into the rental fee determination.

#### **BUDGET IMPACT:**

None. Revenues and expenditures for the Water Park are budgeted according to historical data and trends in usage. Historical data includes uses identical to this lease agreement.

#### **ACTION NEEDED:**

Make a motion to authorize the Water Park Manager to execute the lease agreement with Gretchen Meitler for the 2023 season.

#### **ATTACHMENTS:**

2023 Draft Lease Agreement and Schedule with Tongie Tidal Waves

cc: George Brajkovic, City Manager

Darren Shupe, Pool Manager

#### **FACILITY USE LEASE**

THIS LEASE is made this 1<sup>st</sup> day of May, 2023 (Effective Date), between the City of Tonganoxie (City), a constitutionally chartered municipal corporation in the state of Kansas, and Tongie Tidal Waves (Lessee), whereby Lessee shall lease the Tonganoxie Water Park (Premises) under the terms and conditions contained in this Lease.

In consideration of the covenants and agreements hereinafter set forth, it is hereby agreed as follows:

#### PART I SPECIAL TERMS AND CONDITIONS

#### Sec. 1 Leased Space

The City grants to Lessee permission to use the Premises upon the terms and conditions specified in this Lease and will otherwise close the Premises to the public. "Premises" is further defined as the Tonganoxie Water Park, which is bounded by 2<sup>nd</sup> Street on the north, Main Street on the west, Pleasant Street on the east, and 3<sup>rd</sup> Street on the south, including the buildings, swimming pool, furnishings, parking spaces, green spaces, and appurtenances.

#### Sec. 2 Lease Schedule

The event of the Lessee (Event) under the terms of this Lease on the Premises shall only take place upon the dates and specified times as defined in Addendum A.

#### Sec. 3 Payment

- A. The Lessee agrees to pay as and for rental of the Premises the rate(s) as defined in Addendum A. Lessee shall pay for any City staff time that is required beyond the time limits of this Lease at a rate of time and one half per half-hour increment due to any cause or act by Lessee or Lessee's guests.
- B. Rental includes the time that City staff open the Premises for the leased purposes until the Event is completed.
- C. A refundable cleaning and damage deposit of \$100.00 will be required upon execution of this Lease.
- D. Lessee will make payments in accordance with the terms of Addendum A.
- E. At 12:01 AM seven days prior to the first date of occupancy under the terms of this Lease, Lessee shall have no right to any refund of rent payments due to cancellation by Lessee. However, the City may refund the cleaning and damage deposit to the extent that Lessee or Lessee's guests made no use of the Premises.

#### Sec. 4 Cancellation

Lessee agrees and understands that the City has the right to cancel and terminate this Lease if the payment schedule or all other obligations of Lessee hereunder are not strictly performed. In the event of any cancellation or termination by the City or Lessee, the City has the right to retain the non-refundable deposit, not as liquidated damages but as payment for administrative costs associated with negotiation and preparation of this Lease. Otherwise, the deposit shall be applied against funds due the City under this Lease. Should Lessee cancel or fail to hold scheduled event, or if Lessee fails to make the necessary payments as provided

<u>herein, without prior written approval from the City Manager, all payments</u> <u>previously received from Lessee as a deposit or rental shall become the property of</u> the City and shall not be refunded or transferred.

#### Sec. 5 Notices

All notices required by this Lease shall be in writing sent by regular U.S. mail, postage prepaid or commercial overnight courier to the following:

#### To City:

Pool Manager P.O. Box 326 Tonganoxie, Kansas 66086

Phone: (913) 845-2620 Facsimile: (913) 845-9760

#### To Lessee:

Gretchen Meitler, Director Tongie Tidal Waves 402-689-6339 Gretchen@mciclay.com

All notices are effective on the date mailed or deposited with courier.

#### Sec. 5 Merger

This Lease consists of Part I, Special Terms and Conditions and any Attachments and any documents incorporated by reference; and Part II, Standard Terms and Conditions. This Lease, including any Attachments and incorporated documents, constitutes the entire Lease between the City and Lessee with respect to this subject matter.

#### Sec. 6 Conflict between Lease Parts

In the event of any conflict or ambiguity between the Special Terms and Conditions of Part I and the Standard Terms and Conditions of Part II of this Lease, Part I will be controlling.

#### Sec. 7 Term of Lease

This Lease shall begin on the Effective Date and shall terminate at the end of the day July 31, 2023. The term of this Lease may be extended by mutual, written consent of the City and Lessee for a time not to exceed the entirety of the 2023 season.

#### Sec. 8 Responsibilities of City

- A. The City will provide sufficient staff, as determined by the Pool Manager or Pool Manager's superior, to ensure the safety of guests of the Event.
- B. The City will provide for proper and adequate functionality of the Premises as is customary for general public use, including, but not limited to, water chemistry, showers and restrooms, utilities, and secure access.

#### Sec. 9 Attorney Services Certification

Lessee certifies that at the time of the issuance of the Lease, either in an individual or firm capacity, Lessee does not represent any part in litigation against the City, exclusive of representation in municipal court, exclusive of those attorneys employed by a not-for-profit legal services corporation and exclusive of where the City is named as a nominal part, where the litigation has been filed with the Lease of the City and the party represented by the attorney, or where the council has otherwise waived this requirement.

#### **PART II**

#### STANDARD TERMS AND CONDITIONS

#### Sec. 1. Indemnification: Definitions

A. For purposes of this Section 1 only, the following terms shall have the meanings listed:

- i. Claims means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the City in the enforcement of this indemnity obligation.
- ii. **Lessee's Agents** means Lessee's officers, employees, sub-consultants, sublessees, successors, assigns, invitees, and other agents.
- iii. City means City of Tonganoxie and its agents, officials, officers and employees.
- B. Lessee's obligations under this Paragraph with respect to indemnification for acts or omissions, including negligence, of the City, shall be limited to the coverage and limits of insurance that Lessee is required to procure and maintain under this Lease. Lessee affirms that it has had the opportunity to recover the costs of the liability insurance required in this Lease in its contract price.
- C. Lessee shall defend, indemnify and hold harmless the City from and against all claims arising out of or resulting from all acts or omissions in connection with this Lease caused in whole or in part by Lessee or Lessee's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of the City. Lessee is not obligated under this Section to indemnify the City for the sole negligence of the City.
- D. Nothing in this section shall apply to indemnification for professional negligence which is specified in a separate provision of this Lease.

#### Sec. 2. Independent Agency.

Lessee is an independent agent and is not the City's agent. Lessee has no authority to take any action or execute any documents on behalf of the City.

#### Sec. 3. Insurance.

- A. Unless otherwise waived by the City in writing, Lessee shall procure and maintain in effect throughout the duration of this Lease insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Lease, Lessee shall supply such insurance at the City's cost. Policies containing a Self-Insured Retention are unacceptable to the City.
- 1. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
  - a. Severability of Interests Coverage applying to Additional Insureds

- b. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$1,000,000
- c. No Contractual Liability Limitation Endorsement
- d. Additional Insured Endorsement, ISO form CG20 10, or its equivalent.
- 2. If applicable, Workers' Compensation Insurance, as required by statute, including Employers Liability with limits of:

Workers' Compensation Statutory Employers Liability \$100,000 accident with limits of: \$500,000 disease-policy limit \$100,000 disease-each employee

- 3. If applicable, Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Lease, by Lessee.
- 4. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
- A. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to the City, ten (10) days in the event of nonpayment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that the City and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Lease. Lessee shall provide to the City at execution of this Lease a certificate of insurance showing all required endorsements and additional insureds.
- B. All insurance coverage must be written by companies that have an A.M. Best's rating of "B+V" or better, and are licensed or approved by the State of Kansas to do business in Kansas.
- C. Regardless of any approval by the City, liability is the responsibility of Lessee and should maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of Lessee's failure to maintain the required insurance in effect, the City may order Lessee to immediately stop work, and upon ten (10) day notice and an opportunity to cure, may pursue its remedies for breach of this Lease as provided for herein and by law.

#### Sec. 4. Governing Law.

This Lease shall be construed and governed in accordance with the law of the State of Kansas. The parties submit to the jurisdiction of the courts of Leavenworth County and the State of Kansas and waive venue.

#### Sec. 5. Compliance with Laws.

Lessee shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Lease.

#### Sec. 6. Default and Remedies.

If Lessee shall be in default or breach of any provision of this Lease, the City may terminate this contract, suspend the City's performance, withhold payment or invoke any other legal or equitable remedy after giving Lessee notice and opportunity to correct such default or breach.

#### Sec. 7. Waiver.

Waiver by the City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Lease can be waived except by written consent of the City, and forbearance or

indulgence by the City in any regard whatsoever shall not constitute a waiver of same to be performed by Lessee to which the same may apply and, until complete performance by Lessee of the term, covenant or condition, the City shall be entitled to invoke any remedy available to it under this Lease or by law despite any such forbearance or indulgence.

#### Sec. 8. Modification.

Unless stated otherwise in this Lease, no provision of this Lease may be waived, modified or amended except in writing signed by the City.

#### Sec. 9. Headings; Construction of Lease.

The headings of each section of this Lease are for reference only. Unless the context of this Lease clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

#### Sec. 10. Severability of Provisions.

Except as specifically provided in this Lease, all of the provisions of this Lease shall be severable. In the event that any provision of this Lease is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Lease shall be valid unless the court finds that the valid provisions of this Lease are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Lease could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

#### Sec. 11. Audit.

- A. The City Manager or designee shall have the right to audit this Lease and all books, documents and records relating thereto.
- B. Lessee shall maintain all its books, documents and records relating to this Lease during the contract period and for three (3) years after the date of final payment.
- C. The books, documents and records of Lessee in connection with this Lease shall be made available to the City Manager or designee within ten (10) days after the written request is made.

#### Sec. 12. Assignability or Subcontracting

Lessee shall not subcontract, assign or transfer any part or all of Lessee's obligations or interests without the City's prior approval. If Lessee shall subcontract, assign, or transfer any part of Lessee's interests or obligations under this Lease without the prior approval of the City, it shall constitute a material breach of this Lease.

#### Sec. 13. Conflicts of Interest.

Lessee certifies that no officer or employee of the City has, or will have, a direct or indirect financial or personal interest in this Lease, and that no officer or employee of the City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Lessee in this Lease.

#### THIS LEASE CONTAINS INDEMNIFICATION PROVISIONS

IN WITNESS WHEREOF, Lessee and the City have caused this Facility Use Lease to be duly executed as set forth below.

Lessee I hereby certify that I have authority to execute this document	City of Tonganoxie, Kansas a constitutionally chartered municipal corporation		
By:	D		
Printed:	By: Darren Shupe Title: Water Park Manager		
Title:	Title. Water I aik Manager		

#### Addendum A

#### Sect. 1 Usage Schedule

Lessee will reserve and use the Premises the following date(s) and hour(s):

```
May 30th
                 = 2 hours @ $14.00 = $28.00
                 = 2 hours @ $14.00 = $28.00
May 31st
June 1st
                 = 2 hours @ $14.00 = $28.00
June 2nd
                 = 2 hours @ $14.00 = $28.00
                 = 2 hours @ $14.00 = $28.00
June 5th
June 6th
                 = 2 hours @ $14.00 = $28.00
June 7th
                 = 2 hours @ $14.00 = $28.00
June 8th
                 = 2 hours @ $14.00 = $28.00
June 9th
                 = 5 hours with 3 guards @ $14.00 =$210.00
June 12th
                 = 2 hours @ $14.00 = $28.00
June 13th
                 = 2 hours @ $14.00 = $28.00
                 = 2 hours @ $14.00 = $28.00
June 14th
                 = 2 hours @ $14.00 = $28.00
June 15th
June 19th
                 = 2 hours @ $14.00 = $28.00
                 = 2 hours @ $14.00 = $28.00
June 20st
June 21nd
                 = 2 hours @ $14.00 = $28.00
June 22rd
                 = 2 hours @ $14.00 = $28.00
                 = 5 hours with 3 guards @ $14.00 =$210.00
June 23th
                 = 2 hours @ $14.00 = $28.00
June 26th
                 = 2 hours @ $14.00 = $28.00
June 27th
June 28th
                 = 2 hours @ $14.00 = $28.00
June 29th
                 = 2 hours @ $14.00 = $28.00
                 = 5 hours with 3 guards @ $14.00 =$210.00
June 30st
Total hours
                 = 85 staff hours @ $14.00 = $1,190.00 (55 facility rental hours)
```

1st half of payment of \$595.00 2nd half of payment of \$595.00

#### Sect. 2 Fee Rate

The total fee for reserving the Premises will be \$1,190.00

#### Sect. 3 Payment Schedule

Payment will be made in two installments -  $\frac{1}{2}$  (\$595.00) due prior to the start time of the first day of the rental and  $\frac{1}{2}$  (\$595.00) due within 15 days of the conclusion of the final rental date.

#### Sect. 4 Rain Provision

If the City Manager or Pool Manager determines that inclement weather or an act of God would unduly hinder or pose unreasonable risk to holding the Event or part of the Event, the City will reduce the total amount of rent due by Lessee in applicable hourly increments for such determined time. However, if the Lessee schedules, with City approval, an alternate day and time in lieu of the missed time, the Lessee will not be entitled to reduced rent.

If the Lessee believes that this Rain Provision applies to the Event, the Lessee must call by telephone or e-mail, with reasonable expediency, the Pool Manager (dshupe@tonganoxie.org) and either the Assistant City Manager (dporter@tonganoxie.org) or the City Manager (gbrajkovic@tonganoxie.org) to request a cancellation pursuant to Section 4 herein. The City will make the final determination of the applicability of this Rain Provision and respond to Lessee as promptly practicable.

#### Sect. 5 Water Park Rules

- A. The following are **prohibited on the Premises**:
  - 1. Fighting
  - 2. Stealing
  - 3. Inappropriate language
  - 4. Skate boarding
  - 5. Throwing people into the pool
  - 6. Disobeying lifeguards
  - 7. Flotation devices in the deep end

- 8. "Chicken" fighting
- 9. Dunking
- 10. Over-sized rafts
- 11. Running on the pool deck
- 12. Drinking alcoholic beverages
- 13. Smoking
- B. The following are **required on the Premises**:
  - 1. Following all diving rules
  - 2. Following all slide rules
  - 3. Respect for all staff and visitors
- C. Lifeguards are authorized to expel any Event participant (swimming or not swimming) to leave the Premises for not obeying the Water Park Rules. Likewise, lifeguards may also expel an entire party if the participants cause sufficient risk that law enforcement has to be notified. Cancellation due to behavior is not eligible for any refund.
- D. The Pool Manager and Pool Manager's superiors have the final authority of enforcement of the Water Park Rules.
- E. Absolutely no alcoholic beverages are permitted on the Premises, and any individuals found under the influence of alcohol or other controlled substances will be required to immediately leave the Premises and may be subject to applicable law enforcement.



**DATE:** May 1, 2023

To: Honorable Mayor David Frese and Members of the City Council

FROM: George Brajkovic, City Manager

**SUBJECT:** Consider Appointment of Municipal Court Judge and City Attorney Positions

#### **DISCUSSION:**

K.S.A. 14-201 requires the Mayor, by and with the consent of the City Council, to appoint certain city officers in May of each year. The City of Tonganoxie Charter Ordinance 26 gives the Mayor, by and with the consent of the City Council, the authority to appoint two officers on an annual basis - the Municipal Court Judge and City Attorney.

The incumbent for each position has expressed their interest in continuing in the role for an additional year and City staff support reappointment for both positions.

#### **BUDGET IMPACT:**

There is no anticipated impact on the 2023 budget. The City currently has an agreement with Municipal Judge Kenneth Moore to pay \$800 per month for services rendered. No change is anticipated with this appointment. The City currently has an agreement with Stinson LLP to pay \$4,200 per month for services rendered. No change is anticipated with this appointment.

#### **ACTION NEEDED:**

- 1. Mayor Frese requesting the City Council's consent to reappoint Kenneth Moore as Municipal Court Judge.
- 2. Mayor Frese requesting the City Council's consent to reappoint Anna Krstulic as City Attorney.

#### **ATTACHMENTS:**

Engagement Letter from Judge Moore Reappointment Letter from Anna Krstulic

**cc:** Dan Porter, Assistant City Manager

City of Tonganoxie www.tonganoxie.org (913) 845-2620

Kenneth J. Moore Attorney at Law KS 11398 3209 N 131st Street Kansas City, KS 66109-4245 (913) 209-9426 kenmoore66401@gmail.com

April 23,2023

George Brajkovic
City Manager
City of Tonganoxie Kansas
Via email gbrajvovic@tonganoxie.org

Re: Reappointment as Municipal Court Judge

Dear Mr. Brajkovic,

My current term serving as the Tonganoxie Municipal Court Judge expires May 31, 2023. I trust my service since December 2021 has been satisfactory, and I have enjoyed doing it. I would appreciate being considered for another one-year term under the current terms and conditions.

Please advise if further action on my part is necessary at this time. I appreciate your consideration.

Sincerely,

/s/ Kenneth J Moore

Kenneth J Moore



#### Anna M. Krstulic **PARTNER**

DIRECT: 816.691.2426 OFFICE: 816.842.8600

anna.krstulic@stinson.com

April 26, 2022

#### **Via Electronic Mail**

George Brajkovic City Manager City of Tonganoxie, Kansas 526 E. 4<sup>th</sup> Street Tonganoxie, Kansas 66086

Email: gbrajkovic@tonganoxie.org

City Attorney Reappointment Re:

Dear Mr. Brajkovic:

I am writing to request reappointment as City Attorney for the City of Tonganoxie, Kansas for another year. It is a pleasure to work with City elected and appointed officials and staff, and I would be honored to continue this service. Thank you for your consideration.

Sincerely,

**Stinson LLP** 

Anna M. Krstulic

ann th Krotulu

AMK:



**DATE:** May 1, 2023

To: Honorable Mayor David Frese and Members of the City Council

FROM: Lindsay Huntington

SUBJECT: Ordinance No. 1512 - Rezoning for Stone Creek Addition No. 10

#### **DISCUSSION:**

At the April 6, 2023 Planning Commission meeting, the Planning Commission approved rezoning for Stone Creek Addition No. 10 property generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086 from R-SF, R-MF3, GBD to R-SF-CUP.

This application is to rezone 33.7 acres from R-SF (5.35 Acres), R-MF-3 (8.24 acres) and GBD (12 acres), to R-SF-CUP, Residential Single-Family, Community Unit Plan.

Based on the CUP plan, the applicant is proposing all single-family lots, with a range of lot sizes resulting in the following:

- 114 single-family lots ranging in size from approximately 6,000 square feet to 14,000 square feet
- Lot widths ranging from 45 feet to 60 feet
- · Minimum front setbacks of 25'
- · Larger and smaller dimensions typical result for the block configuration or on corner lots.
- All other R-SF standards for lots and buildings will be met, except for some potential rear setback adjustments on lots to be specified by the applicant to address utility and drainage easement issues in relation to the lot patterns and buildable area of specific lots.

#### **BUDGET IMPACT:**

None.

#### **ACTION NEEDED:**

Pass Ordinance No. 1512 amending the zoning of certain property for Stone Creek Addition No. 10 property generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086 from R-SF, R-MF3, GBD to R-SF-CUP. The proposed rezoning becomes effective upon publication of the adopting ordinance.

Pursuant to Section 27-012(A), when the Planning Commission submits a recommendation of approval of rezoning and the reasons therefore, the Governing Body may:

- (1) Adopt the recommendation by ordinance;
- (2) Override the recommendation by 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.

If the Governing Body returns the Planning Commission's recommendation, the Planning Commission may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon receipt of the recommendation, the Governing Body, by simple majority, may adopt or may revise or amend and adopt the recommendation by ordinance, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receiving the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

#### **ATTACHMENTS:**

Ordinance No. 1512
Stone Creek Addition No. 10 Rezone Application
Staff Report
Excerpt of Draft April 6, 2023 Planning Commission Meeting Minutes

**cc:** George Brajkovic, City Manager

Dan Porter, Assistant City Manager

Anna Krstulic, City Attorney

#### **ORDINANCE NO. 1512**

AN ORDINANCE REZONING APPROXIMATELY 33.7 ACRES OF REAL PROPERTY GENERALLY LOCATED NORTH OF STATE AVENUE/US-24/40 AND WEST OF EAST WOODFIELD DRIVE AND STONE CREEK AVENUE WITH AN ADDRESS OF 00000 STATE AVENUE, IN TONGANOXIE, KANSAS FROM "R-SF" SINGLE FAMILY DISTRICT, "R-MF3" MULTIPLE FAMILY III DISTRICT AND "GBD" GENERAL BUSINESS DISTRICT TO "R-SF-CUP" RESIDENTIAL SINGLE FAMILY COMMUNITY UNIT PLAN.

**WHEREAS**, pursuant to K.S.A. 12-757 and Section 27 of the Tonganoxie Zoning and Subdivision Regulations (the "Zoning Regulations"), the Governing Body of the City of Tonganoxie, Kansas (the "City") has the power to amend, revise or change existing zoning district boundaries within the City;

**WHEREAS**, pursuant to K.S.A. 12-755 and Section 19 of the Zoning Regulations, the Governing Body of the City has the power to provide for planned unit developments, including a community unit plan ("<u>CUP</u>") for residential purposes, within the City;

WHEREAS, Stone Creek Development, L.L.C., a Kansas limited liability company ("Owner"), submitted an application to the City to request a change in the zoning of approximately 33.7 acres of certain real property generally located north of State Avenue/US-24/40 and west of East Woodfield Drive and Stone Creek Avenue with an address of 00000 State Avenue in the City, as legally described on Exhibit A attached hereto (the "Property"), from "R-SF" Single Family District, "R-MF3" Multiple Family III District, and "GBD" General Business District to "R-SF-CUP" Residential Single Family Community Unit Plan, along with a development plan for the proposed CUP and a preliminary plat for the Property;

**WHEREAS**, the City Clerk set a public hearing on April 6, 2023 at 7:00 p.m. at the City Council Chambers for the Planning Commission to consider Owner's request for the proposed rezoning, CUP development plan, and preliminary plat for the Property;

**WHEREAS**, the City Clerk mailed notices on March 6, 2023 to all owners of record of real property within 200 feet of the Property, and caused notice of the public hearing to be published on March 8, 2023 in *The Mirror*, the official City newspaper, all in accordance with K.S.A. 12-757(b) and Section 27-011 of the Zoning Regulations;

**WHEREAS,** the City Planner prepared a Planning Staff Report dated March 31, 2023, a copy of which is attached hereto as **Exhibit B** (the "Staff Report");

WHEREAS, on April 6, 2023, the Planning Commission held a public hearing on Owner's request for the proposed rezoning, CUP development plan and preliminary plat for the Property, and considered the Staff Report along with the matters set forth in Sections 19-010 and 27-011 of the Zoning Regulations;

**WHEREAS**, the Planning Commission recommended approval of Owner's request for the proposed rezoning, CUP development plan and preliminary plat for the Property, and caused

an accurate written summary to be made of the proceedings in the meeting minutes attached hereto as **Exhibit C**;

WHEREAS, no protest petition against the proposed rezoning of the Property and/or CUP development plan 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 Zoning Regulations; and

WHEREAS, the Governing Body has considered Owner's request for rezoning and CUP development plan for the Property, reviewed the Staff Report and all testimony and evidence submitted in connection with Owner's request, and hereby adopts the Planning Commission's recommendation.

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

**SECTION 1.** The Property is hereby rezoned from "R-SF" Single Family District, "R-MF3" Multiple Family III District, and "GBD" General Business District to "R-SF-CUP" Residential Single Family Community Unit Plan in accordance with the CUP development plan included with, and subject to the staff recommendations in, the Staff Report.

**SECTION 2.** The "Official Zoning District Map" adopted under Section 1-015 of the Zoning 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.** This Ordinance shall take effect and be in force from and after its publication, or the publication of a certified summary thereof, in the official City newspaper.

[Remainder of page intentionally left blank; signature page follows.]

# PASSED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS, AND APPROVED BY THE MAYOR ON THIS 1ST DAY OF MAY, 2023.

SEAL	
	David Frese, Mayor
A TEXTS OF	
ATTEST:	
Daniel Porter, Acting City Clerk	
APPROVED AS TO FORM:	
A M W at 12 Give A tr	
Anna M. Krstulic, City Attorney	

#### **EXHIBIT A**

#### **Legal Description of the Property**

The East One-Half (E/2) of the Southeast one-fourth (SE/4) of Section Three (3), Township Eleven (11), Range Twenty-One (21), excepting the East One-Fourth (1/4) of the East One-half (E/2) of the Southeast One-fourth (SE/4) of Section three (3), Township Eleven (11), of Range Twenty-one (21), and excepting that portion thereof condemned for highway purposes, and also the West one-half (W/2) of the Southeast one-fourth (SE/4) of Section 3, Township 11, Range 21 excepting that portion thereof heretofore condemned for highway purposes, and also except that portion heretofore deeded to the Rural Water District, all in Leavenworth County, Kansas.

## **EXHIBIT B**

# Planning Staff Report dated April 6, 2023

[Attached on following pages.]

### **EXHIBIT C**

## Minutes of the April 6, 2023 Tonganoxie Planning Commission Meeting

[Attached on following pages.]

DESCRIPTION: (Title Commitment)

That Part of the East 1/2 of the Southeast 1/4 of Section 3, Township 11, Range 21, Excepting the East 1/4 of the East 1/2 of the Southeast 1/4 of Section 3, Township 11, Range 21, and excepting that portion thereof and heretofore condemned for highway purposes and also excepting any part thereof taken or used for road purposes, all in Leavenworth County, Kansas.

ALSO EXCEPT any portion thereof in the Stone Creek Addition No. 1, a subdivision in the City of Tonganoxie, Leavenworth County, Kansas.

ALSO EXCEPT any portion thereof in the Stone Creek Addition No. 4A, a subdivision in the City of Tonganoxie, Leavenworth County, Kansas.

ALSO EXCEPT any portion thereof in the Stone Creek Addition No. 6, a subdivision in the City of Tonganoxie, Leavenworth County, Kansas.

ALSO EXCEPT any portion thereof in the Stone Creek Addition No. 9, a subdivision of land in the City of Tonganoxie, Leavenworth County, Kansas.

ALSO EXCEPT any portion thereof in the Stone Creek Business Center, a Replat of Stone Creek Addition No. 6, a subdivision in the City of Tonganoxie, Leavenworth County, Kansas.

Subject to easements and restrictions of record.



## City of Tonganoxie, Kansas

#### **PLANNING STAFF REPORT**

Case#: 2023-002P, Rezone from R-MF-3, R-SF, and GBD to R-SF-CUP; &

**Preliminary Plat** 

Date of Report: March 31, 2022

Application: Rezone R-SF-CUP / Preliminary Plat

Date of Application: 2/23/23 (via email)

Date of Meeting: 4/6/2023

**Action:** A preliminary plat requires review and approval by the Planning

Commission. If the preliminary plat meets the general layout and preliminary planning and design standards of the subdivision

regulations, the Planning Commission shall approve the preliminary plat.

A CUP Plan requires review and recommendation by the Planning Commission, and final approval by the City Council. The Planning

Commission may make its recommendation based on the

Comprehensive Plan, and based on reviewing the facts and evaluating a criteria in the zoning ordinance. The City Council may make its decision

on these same criteria, and consideration of the Commission

recommendation.

Applicant Name: Rausch Coleman Homes, Kyle Jones; SMH Consultants, Ben Gasper

**Property Owner Name:** Stone Creek Development, LLC

**Subject Property** 

Address: West of Woodfield Drive and Stone Creek Avenue (General Location)

Property Size: 33.7 acres

Zoning: R-SF, R-MF-3, and GBD

Legal Description: Meets and bounds – unplatted but subject to approved preliminary plat

**Surrounding Property – Zoning and Use:** 

West: R-MF-2 and GBD; duplexes and commercial

North: R-SF; single-family houses (Leavenworth County); large lot housing

East: R-R; undeveloped rural property

South: RR-2.5 (County); rural and large lot residential

**Recommendation:** Approve preliminary plat; recommend approval of rezoning from R-SF,

R-MF-3 and GBD to R-SF-CUP subject to conditions to be considered at

final pat.

#### I. SUMMARY

This application is to rezone 33.7 acres from R-SF (5.35 Acres), R-MF-3 (8.24 acres) and GBD (12 acres), to R-SF-CUP, Residential Single-Family, Community Unit Plan. The Community Unit Plan tool is a provision in the zoning ordinance used to provide flexibility and creativity for mixing uses, providing different neighborhood patterns, creating a range of housing types, and/or altering lot and development standards. It requires rezoning based on a concept plan that determines the overall uses and development yield but permits different arrangements of uses, lots and buildings based on a plan. Associated with this application is a preliminary plat, that indicates the block and lot patterns proposed as part of the plan.

This property is part of the Stone Creek Development. It includes what was last presented to the city as "Phases 2, 3 (R-SF), 5 (R-MF-3), 6 and 7 (GBD) when final plats and revised preliminary plats were approved by the City for the northern portions of the development in August 2015, December 2018, and January 2021. There have been nine final plats for the northern portions which have resulted in construction of single-family homes, duplexes and apartments. This property has been zoned R-SF, R-MF-4 and GBD since the original rezoning and has only been conceptually planned and platted as future development tracts in prior proposals.

Base on the CUP plan, the applicant is proposing all single-family lots, with a range of lot sizes resulting in the following:

- 114 single-family lots ranging in size from approximately 6,000 square feet to 14,000 square feet
- Lot widths ranging from 45 feet to 60 feet
- Minimum front setbacks of 25'
- Larger and smaller dimensions typical result for the block configuration or on corner lots.
- All other R-SF standards for lots and buildings will be meet, except for some potential rear setback adjustments on lots to be specified by the applicant to address utility and drainage easement issues in relation to the lot patterns and buildable area of specific lots.

The preliminary plat includes a street and block layout that continues Woodfield Drive, Rock Creek Drive, and Valley View Drive to the east. However, Woodfield Drive deviates from the previously planned "frontage road" connection as it transitions to support residential uses and neighborhood patterns. The internal connectivity within the street plan creates a series of block and lots with minimal cul-de-sacs ant then continues to a stub at the east property boundary reflected in Rose Hill Drive.

#### II. ANALYSIS —PRELIMINARY PLAT

The purpose of a preliminary plat is to show general and conceptual compliance with the City's subdivision design standards prior to completing final engineering and more technical drawings to divide lots and construct improvements. The preliminary plat is a coordinating document to guide the design and build out of development over time and to coordinate projects with other development in surrounding areas.

Plat applications must be reviewed against the following considerations (in bold italic text) as outlined by the City of Tonganoxie Subdivision Regulations, Section 4.1 and 4.2 Planning Commission shall approve the plat if it meets the City's criteria for the following required improvements:

a. Street Systems - provision for the continuation of existing streets, connections to adjoin areas, and adequate internal streets; internal circulation; and proposed streets extended to the boundaries.

The original preliminary plats and phasing plans for this property only included conceptual development plans for the R-MF-3 and GBD areas (6 lots of 1.86 to 1.95 acres), and 30 single-family lots in the R-SF portion. It did include a direct connection of Woodfield Drive across the entire property to the east, consistent with City and K-DOT policies for frontage road concepts, and to support the GBD zone district and commercial uses along US-24/40.

The proposed plat includes a continuation of all streets from previous plats connecting to this area, except Woodfield Drive is proposed to deviate to a series of separate but connected streets that convert planned commercial uses to a residential block structure, with residential lots backing to the US-24/40 corridor.

The preliminary plat provides an appropriate street system for the proposed uses and includes both internal and external connectivity integrating with the surrounding developed and undeveloped property.

Two issues that should be considered as the street layout and specific designs are considered are:

- 1. The phasing plan in relation to connections to existing streets, and specifically emergency access and the need for temporary turn-arounds between phases; and
- 2. The new alignment of Woodfield Drive to the east.

While each of these may be acceptable in concept, continued discussions with K-DOT and the City's emergency response provides should continue to refine the specific prior to final plat. (See City Engineer report dated March 16, 2023).

b. Lots – the lot arrangement provides building sites meeting the standards of the city regulations and proposed zoning.

The original plats included large commercial lots and a large unplanned multi-family tract (8.24 acres permitting 29 units per acre, and 6,000 to 10,000 square foot lots in the north east area of the property. The preliminary plat – associated with the proposed rezoning and CUP plan includes 114 single-family lots in the 6,000 to 14,000 square foot range. The lots as proposed in the preliminary plat will meet all R-SF standards except for the minimum lot width (45' proposed rather than the 65' required), the front setback (25' proposed rather than the 30' required), and some specified deviations in setback and building area based on utility and drainage easement issues on certain lots. These deviations are part of the planned flexibility of the CUP plan (reviewed below), which on approval by the Planning Commission and City Council would then comply with the city regulations and proposed zoning.

c. Character of Development – Minimum requirements on the character of development (both within the proposed project and in relation to surrounding property) may be included in the required project.

This application reflects a continuation of a single-family neighborhood to the north, which includes a mix of housing types on the western edge. The south boundary now creates a transition of residential to the US-24/40 corridor which should include landscape buffers to transition between the neighborhood and busy corridor. Other than the proposed change from portions of this area from multi-family and commercial to single-family, this is consistent with the character of the previous plan and existing development to the north and west.

development originally proposed on the subject property, other than the changed street network, block pattern, and lot configuration. (See streetscape and landscape comments associated with the CUP / rezoning review below.)

#### d. Utilities and Easements

The proposed utilities and easements appear acceptable at a planning and conceptual level. The City Engineer has reviewed the preliminary plat (March 16, 2023 report) and recommends approval subject to some specific details on grading, sanitary sewers and associated utility facilities to be addressed in the final plat. Approval of construction plans according to all City specifications is required for all improvements, and construction plans for streets, storm sewer and sanitary sewer hill need to be submitted in coordination with the final plat. Based on a technical review of these plans, adjustments to easements in the final plat may be advised.

# e. Open Spaces and Community Assets – parks, school sites and other civic assets, other than streets.

The project does not propose any parks or school sites. The majority of the "community space" and assets will be the public streetscapes and areas directly associated with the streets. Neither the previous preliminary plat nor original plan. (See streetscape and landscape comments associated with the CUP / rezoning review below.)

#### f. Suitability of the Land

The land is undeveloped but has been planned for a mix of commercial and residential development for several years. Although this plat is associated with a proposed shift in the mix and extent of land uses, this area is suitable for the proposed uses.

#### III. ANALYSIS – REZONE / CUP PLAN

The Tonganoxie Zoning Ordinance includes an option for a "Community Unit Plan" [Section 19]. The objective of this section is to allow more creative applications, allow development more specifically tailored to a particular location, or allow a greater mix of different uses integrated into a community. There are few requirements in the ordinance for Community Unit Plans (procedural or substantive), except a minimum threshold of 20 acres and the review criteria mentioned below.

In light of this, and based on common planning practices, staff has interpreted this section as a planned zoning overlay, that allows deviations from base standard according to a specific plan. In general, specific plans should provide broader community benefits and planning concepts in exchange for flexibility of development that could otherwise not occur under the standard regulations. In this regard, approval of plans and deviations from the standards generally follow the same process as rezoning.

This application requests an amendment to the current base zoning from a combination of R-SF (5.35 Acres), R-MF-3 (8.24 acres) and GBD (12 acres), to all R-SF, and then a CUP Plan that:

- amends the minimum lot width from 65' to 45',
- amends the minimum front setback from 30' to 25'; and
- includes some lot specific adjustments to other setbacks and building envelopes in specific locations to address utility and drainage easement issues.

**CUP Criteria.** The general criteria for a Community Unit Plan supplement the rezoning criteria analyzed below, and are [19-010]:

A. That property adjacent to the area included in the plan will not be adversely affected.

This plan is similar to the previous approved plan and zoning for the property, except the conversion of some multi-family areas and commercial areas to single-family uses. This use is consistent with property to the north, although in reflects a different lot pattern. It is also consistent with and below the residential development yield that would be provided under the current zoning, and offer potential new price point for home ownership within the same overall neighborhood pattern. Additionally, the conversion of commercial frontages on US-24/40 to residential property backing to the corridor may have some benefits in (a) reducing the amount of un-built "strip commercial" zoning along the corridor that was inconsistent with city plans; (b) potentially providing a better transition to the corridor (see recommended conditions below); and c) providing more residences to support commercial uses to the west.

B. That the plan is consistent with the intent and purpose of this ordinance to promote public health, safety, morals and general welfare.

The plan is consistent with nearly all of the R-SF standards other than lot width and front setbacks. The project will be required to meet all other R-SF standards, and other applicable public health, safety, and welfare codes of the City.

C. That the buildings shall be used only for single family dwellings, two family dwellings or multiple dwellings and the usual accessory uses such as garages, storage space and community activities, including but not limited to, churches, schools, day care facilities, parks, playgrounds, and recreational facilities.

This plan includes all single-family zoning. While it does not include a mix of uses and housing types, it includes a range of lot sizes and this pattern presents diversity of land use, housing types and price points when considered in terms of the larger area and development pattern it is being integrated into..

D. That the average lot area per family contained in the site, exclusive of the area occupied by streets, will be no less than the lot area per family required in the district in which the development is located.

The plan provides lots between 6,000 and 15,000 square feet. The minimum lot size required in the R-SF district is 6,000 square feet. Therefore the average lot size exceeds the minimum requirement of the ordinance.

**Rezoning Criteria:** Rezoning applications must be reviewed against the following considerations as outlined by the City of Tonganoxie Zoning Ordinance, Section 27-011. Following each of the considerations are staff comments. 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 other evidence, discussion, and 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 primarily single-family uses, with some transitions to commercial, multi-family and duplexes to the west. The neighborhood immediately to the north are larger and wider single-family lots, however this specific area has always been planned and zoned as a transition area with a mix of uses as you move further south to the U.S. 24/40 corridor and as you move west to the access point off of U.S. 24/40.

#### 2. Zoning and uses of properties nearby:

The surrounding property is zoned primarily R-SF (to the north – single-family homes), and R-MF-2 (duplexes) and GBD (mix of vacant and occupied commercial) to the west, undeveloped rural zoning to the east, and unincorporated rural property under County zoning across U.S. 24/40 to the south. This property represents a transition area both from the abutting U.S. 24/40 corridor, and from the lower-intensity and rural property to the south and east.

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

This property is undeveloped, although it has development on all sites to the north and west. The commercial frontage on U.S. 24/40 has some constraints considering corridor access issues, the unfavorable planning principles for highway strip commercial patterns, and the general amount of occupied, vacant, and unbuilt commercial zoning in the area. The multi-family block is unplanned, and is limited with respect to potential plans based on the street, block and lot patterns for developed areas surrounding the property. Although the uses as zoned may be appropriate in specific instances, the overall zoning pattern is not ideal, nor consistent with the City's long-range plans and policies.

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

The rezoning will allow low- to moderate density detached dwelling units which are compatible with patterns to the north and west. The property to the east is undeveloped and this project provides the appropriate and planned connections to this areas. Areas to the south and across the U.S. 24/40 corridor are not affected by this development due to distance and the fact that US 24/40 forms a barrier.

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

This property has never been developed despite being zoned for commercial and multi-family uses for many years. The proposed zone change presents a more viable use for this property both in terms of the surrounding development and transitions to supporting uses, and based on the fact that no development has occurred as zoned.

# 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:

The proposed project will introduce a new single-family lot and building pattern into the City and this neighborhood, and potentially offer a different price point for home ownership. Having a diverse range of housing types city-wide – diversity in size, types, price points and age is an important component of housing policy to meet demographic shifts and achieve affordability goals.

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

This area is located in the near-term growth area in the Comprehensive Plan (2006). It has a future Land Use designation of Low Density Residential and Commercial. However, other plans and policies of the City – including the US-24/40 corridor plan note that strip commercial along arterials and highways is not a positive or healthy development pattern, and calls for more nodal mixed-use development, supported by transitions in a variety of housing types and densities. The Residential Policies and Principles of the plan suggest that a variety housing to meet all

income levels and needs of the residents should be provided in each category, with medium or higher density project located towards the fringes of neighborhoods or as buffers between lower and higher intensity areas. The policies also state that medium density projects should be directed to frontages along major arterials. The updates to the Comprehensive Plan (2017) also addressed the need for a mix of housing types. However, this plan focused primarily on integrated a greater variety of compatible housing types within neighborhoods, in emerging mixed-use areas, or in and around downtown. This was primarily to capitalize on the benefits of more compact, and walkable neighborhood design discussed in the 2006 plan, some of which are applicable in this context or the proposed project due to the narrower lot pattern (See staff recommendations below).

#### 8. Recommendations of professional staff:

[see below]

#### IV. EFFECT OF DECISION

**Preliminary Plat.** The Planning Commission may approve, conditionally approve/modify or deny a preliminary plat application. Any denial or conditional approval/modification must specifically state the reasons for the decision and requirements to meet the Commission's approval.

The approval of the preliminary plat does not constitute final approval or acceptance of the subdivision by the City Planning Commission or authorization to proceed on construction of the improvements within the subdivision but shall constitute approval of the general layout. Approval of a preliminary plat is valid for one year; within which time a final plat shall be submitted. A final plat that conforms to the subdivision standards and is conforms to the general layout of the preliminary plat may be approved. Denial of a preliminary plat may be appealed to the City Council

**Rezoning / CUP Plan:** Approval of a Community Unit Plan will authorize development according to the plan and specific deviations in the plan, and all other R-SF development plans except as specifically noted on the plan. The Planning Commission makes a recommendation to the City Council for a final decision.

#### V. RECOMMENDATION

Staff recommends that the Planning Commission approve the revised preliminary plat of Stone Creek No, 10, and recommend the rezoning to R-SF-CUP subject to the following:

- 1. The CUP plan concept is based on the submitted preliminary plat to establish the lot pattern and sizes. Some deviations within the ranges proposed is permitted based on the transition from preliminary to final plat. In general an increase or decrease in the development yield of up to 5% is acceptable through final platting. Additionally, further setback and building footprint deviations to deal with the drainage and utility issues may be proposed on specific lots in the final plat.
- Narrower lots can have an increasing cumulative impact on neighborhood streetscapes, particularly when homes all have front loaded garages and driveways. This project has most of the open space and community assets in the streetscapes (See II.e under preliminary plat).
   Additionally, some of the street patterns present long expanses of straight streetscapes. Based

on this, staff recommends a combination of one or more of the following strategies to improve the community amenity and neighborhood appeal (to be finalized through the final plat):

- a. Plant street trees between the curb and sidewalk or otherwise within 10' of the street on all lots. Species should be of a large / canopy type subject to staff approval, and be located every 25' to 45' on center.
- b. Provide deviations in the street expanses on long blocks this could include alterations in the alignment, incorporation of streetscape / landscape elements, or altering the block structure and layout provided the same general plan and level of street connectivity occurs.
- c. Incorporate common areas or landscape features or gateways in places where the street or block layout affords the opportunity. (Any such area shall require establishment of a property owners association to own and maintain the areas)
- d. Consider variations in the garage and access patterns particularly on the narrower lots or where corner lots afford different frontage / garage arrangements. Items such as narrow drives to recessed expanded garages, single- or shard drives to rear garages, or alternating or other patterns of garage and access can help de-emphasize the caroriented nature of individual sites, create more active or social spaces along frontages, and improve the streetscape amenity of the community.
- 3. The long and narrow lot patterns will present a series of residential lots that back to the U.S. 24/40 corridor. To protect the residential character and value of these lots, and to soften the transition and views on the corridor, a landscape buffer should be included in this area based on the City's landscape standards either in an easement/HOA area, on private lots, and/or in association with K-DOT managed right of way.
- 4. The City and applicant continue coordination with K-DOT prior to Final Plat, on the shift in street patterns of the prior Woodfield Drive, based on the shift from a commercial frontage road to a residential neighborhood street.
- 5. All other elements in the City Engineers report dated March 16, 2023 are incorporated and addressed prior to final plat specifically grading related to stormwater, potential phasing and emergency access and any necessary turnarounds, and sanitary sewer specifications.

**Chris Brewster** 

**Contract City Planner** 

Cha Branco



## **CITY OF TONGANOXIE** CHANGE OF ZONE REQUEST AND PROCEDURES

Date Received:		
Fee Paid:		
Received By:		

#### ZONE CHANGE APPLICATION

REQUESTED REZONING FROM: R-SF, R-MF3, GBD

TO: R-SF-CUP PRESENT ZONING DISTRICT PROPOSED ZONING DISTRICT

SITE ADDRESS OR PROPER	TY LOCATION North of Highwa	av 24. East of Stone Creek A	Avenue
	E FEET) 34.25 acres/1,491,93		
	VUMBER <u>052-192-03-0-40-01-</u>		
APPLICANT: Rausch Col	eman Homes		
MAILING ADDRESS: 10000	Marshall Drive Lenexa, Kansas	66215	
PHONE NUMBER :_	(daytime)	(cell)	(fax)
EMAIL ADDRESS:			
	(If different than applicant): Stor		
PHONE NUMBER :	(daytime)	(cell)	(fax)
EMAIL ADDRESS:			
AGENT or ARCHITECT/ENGIN	EER /LAND PLANNER; SMH (	Consultants - Ben Gasper	
BUSINESS ADDRESS: 5201	Johnson Drive Suite 405 Missio	n, Kansas 66503	
PHONE NUMBER :	(daytime)	(cell)	(fax)
EMAIL ADDRESS			

#### Required materials needed to file this application:

- o Application and fee
- o A signed affidavit
- o A copy of the current deed for the property and an electronic copy (Microsoft Word)
- O Site plan drawn to scale showing the dimensions of the property
- o The existing streets and utilities serving the area
- New proposed streets and/or utilities
- o Any improvements proposed,
- o Surrounding property owners list
- o Four (4) folded copies of all plans
- o One (1) reduced copy (11"x17") of all plans
- o 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. The property is currently used for agricultural crop land. The property is bordered by residential to the north, Highway 24 to the south, commercial property to the west, undeveloped land to the east. Briefly describe the compatibility with the zoning and uses of properties nearby. Nearby zoning is R-SF and is similar with proposed zoning. Briefly describe the suitability of this property for uses to which it has been restricted. The existing zoning restrictions call for single-family and multi-family residential, as well as commercial along the highway. Briefly describe the extent to which the removal the restrictions will detrimentally affect nearby property. The zoning change will remove the proposed commercial zoning in create a residential neighborhood. Briefly describe the length of time the subject property has remained vacant as zoned; The property has been zoned as R-SF, R-MF3 and GBD since 2018. Briefly describe why you feel that the proposed change is suitable for this property and is the best use of this land: The proposed change will remain similar to the existing zoning, however it will remove the commercial district and include a more dense entry level single family housing development Briefly describe the adequacy of public utilities and infrastructure: Adjacent properties have previously master planned for this site with a higher density of residential properties, therefore all existing public infrastructure is adequate for the site. Briefly describe how the requested change is in conformance to the adopted or recognized comprehensive plan of Tonganoxie KS The development of Stone Creek Addition #10, would meet the City of Tonganoxie's goals to provide new housing. STONECHECK DEVELOPMENT, UC Signatures of owner(s):

Signatures of owner(s):

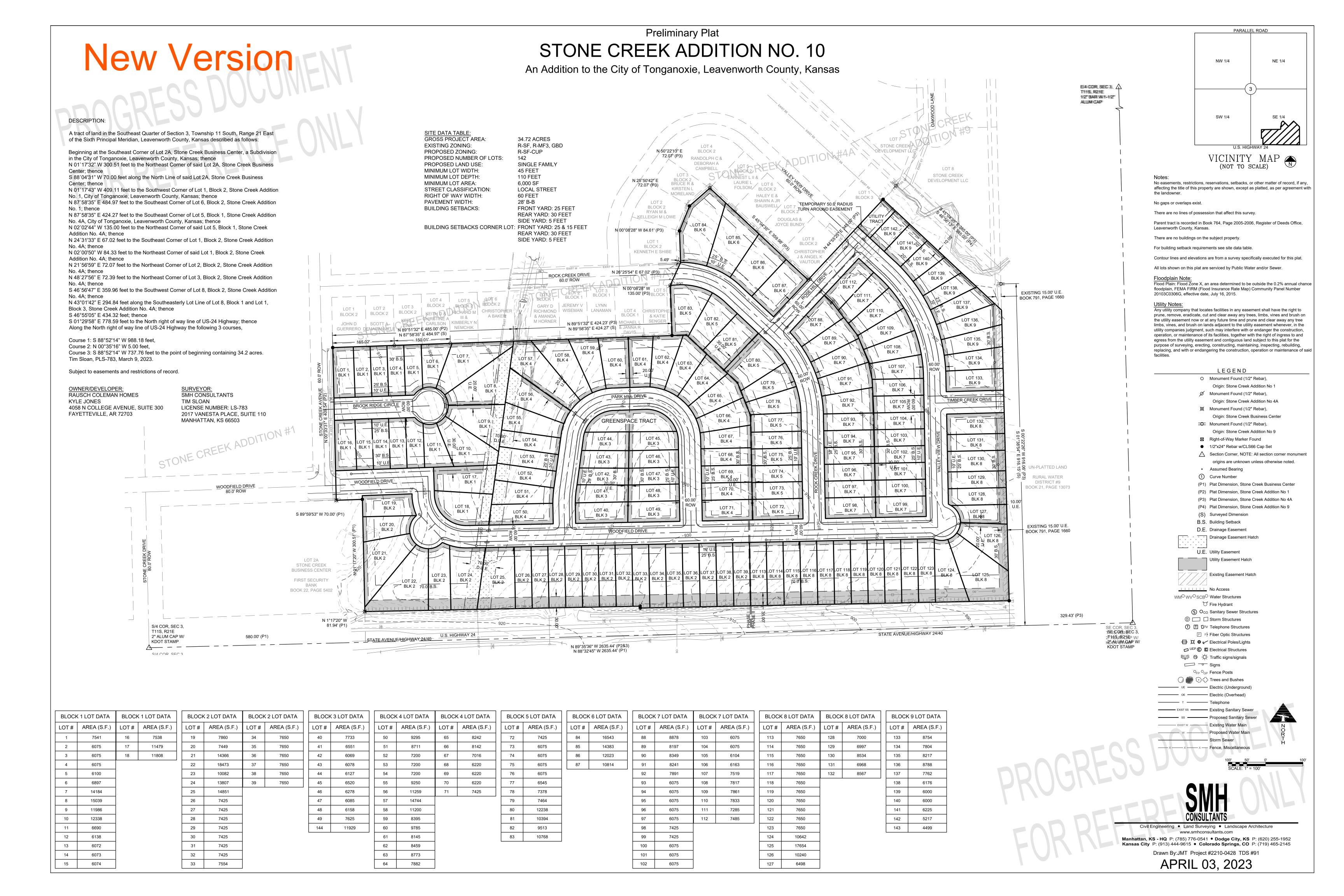
# CITY OF TONGANOXIE, KANSAS

# APPLICATION FOR PRELIMINARY PLAT AND FINAL PLAN APPROVAL

Requested Action	Fee Paid	Date Rec'd	Date Published	Hearing Date
X Preliminary Plat Street & Storm Sewer Plan Sanitary Sewer Plan Waterline Plan Final Plat Site Plan Landscaping Plan				
Name of Development Stone Creek	Addition #1	10		
General Location North of High	way 24, Ea	ast of Stone Cree	k Avenue	
Applicant:				
Name: Rausch Coleman Homes		Contact: Kyle J	ones	
Address: 10000 Marshall Drive Lenexa				
Phone/Fax:				
E-mail address kyle.jones@rch.com				
Owner Developer:				
Name: Rausch Coleman Homes		Contact: Kyle J	ones	
Address: 10000 Marshall Drive Lenexa	, Kansas 60	5215		
Phone/Fax:				
E-mail Address kyle.jones@rch.com				
Engineer:				
Name: SMH Consultants		Contact: Ben Ga	asper	
Address: 5201 Johnson Drive Suite 4	05 Mission,	Kansas 66205		
Phone/Fax:				
E-Mail Address bgasper@smhconsult	ants.com			
SUBDIVISION INFORMATION:				
• Gross acreage of plat: 34.25				
• Total number of lots: 144				
Residential 144 Business	I	ndustrial	Other	
<ul> <li>Existing zoning R-SF, R-MF3, GE</li> </ul>	ID .	Proposed zon	ing R-SF-P	

THE owner herein agrees to comply with the subdivision regulations for Tonganoxie, as amended, and all other pertinent ordinances or resolutions of Tonganoxie, and statutes of the State of Kansas. The undersigned further states that he is the owner of the proposed for platting.

OWNER'S SIGNA	NATURE	Stonecheck	Development uc	
OFFICE USE:	mala-artinitiva est-eritabilit all'insus principios filia, sucche auto	e de la deservación de la composition della comp		a differente esta en handina, ambanande estábula esta a se alevado estado estado estado planteres aprilamente
RECEIVED BY			_	
Date	Fee Submitted	d		



# Stone Creek

A Planned Development

Applicant: Kansas LD, LLC PO Box 10560 Fayetteville, AR 72703

Engineer: SMH Consultants 5201 Johnson Dr Suite 405 Mission, KS 66205

# **Table of Contents**

Property Description and Location	3
Scope & Concept	4
Master Development Plan	4
Streets & Sidewalks	4
Development Standards	5
Open Space & Platting	5
Signs	6
Restrictive Covenants	6
Development Time Line	6

## **Property Description**

#### **Legal Description**

Acres (+/-): 33.2 acres, out of a +/- 33.7-acre tract, consisting of one (1) Tax Parcel, as noted

below:

Leavenworth County Assessor

Legal Description

S03, T11, R21E, ACRES 33.71, SE1/4 LESS E330'(S) & ALL THAT PART OF

STONECREEK ADD #1, #2, #3, 4A, 4B, 5, 6, 7, 8, 9 EXC N20, OF W496.59'

OF E925.7'

Less and except the +/- 0.50-acre Excluded Tract (33.2 AC)

Parcel # 1920304001002020

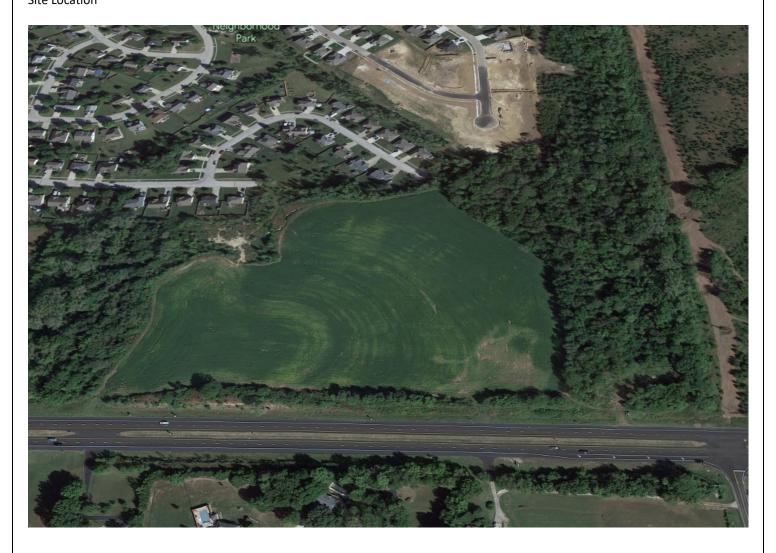
S/T/R:

Section 03, Township 11, Range 21 East

City/County/State:

City of Tonganoxie, Leavenworth County, Kansas

SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT. Site Location

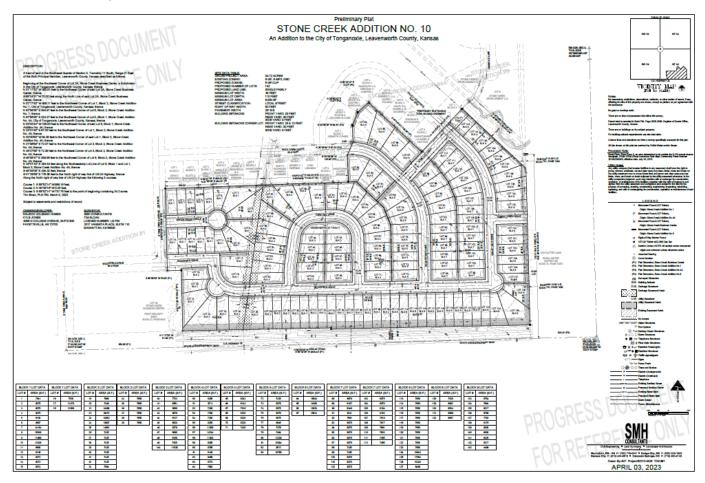


#### Scope & Concept

Stone creek will be a single-family neighborhood located on the east side of Stone Creek Avenue, just north of US Hwy 24. The development area is bounded to the west by commercial ground, vacant farmland to the east and existing single-family homes to the north. The view from this parcel will be of a tree-lined neighborhood across the entire frontage of the project.

The purpose of a R-SF-CUP (Single Family District – Community Unit Plan) and what is being accomplished in this concept plan, is to allow flexibility in zoning standards to produce a development that is compatible with surrounding land uses and provides meaningful open space for the residents and community. The subject development places single-family homes adjacent to existing single-family homes, as well as several multi-family structures to the west.

## Master Development Plan



#### Streets & Sidewalks

Streets within the development will be constructed as public streets in accordance with City ordinance and dedicated at the time of final plat. Five-foot sidewalks will be provided along one side of every street.

## **Development Standards**

This CUP shall be governed by the use and development regulations of Tonganoxie Municipal Code, Section 5, "R-SF" Single Family Zoning District, except as provided herein:

## Planning Area (SF Lots)

Gross Land Area	33.20 acres	
(b) Planned Uses	Single-Family Detached Homes (Unit 3)	
(d) Lot Dimensions		
(1) Minimum Lot Surface Area	6,000 Square Feet	
(2) Minimum Lot Width	45'-65'	
(3) Maximum Lot Coverage	45%	
(e) Building Limits		
(1) Setback Required:		
(a) Front Yard Setback	25 Feet, 20 Feet lots 139-142	
(b) Sides (Except on Corner)	5 Feet	
(c) Side on Corner	15 Feet	
(d) Rear Yard	30 Feet, 20 Feet lots 139-142	
(3) Height Limited		
(a)	No Building Shall Exceed 30 Feet in Height	
(4) Floor/Area Ratio	.50 (maximum)	
(5) Density	Not to Exceed 4.5 Dwellings Units Per Acre	

# Open Space / Platting

The greenspace tract noted on the preliminary plat will provide opportunities for family picnics or other recreational uses. Sidewalks will accommodate access to the space. The drainage area(s) shall be shown on the preliminary plat and final plat, established by the developer according to the approved plans during development, and maintained as permanent drainage by the owner. Covenants shall be established for all platted areas to ensure consistency in development and to provide for maintenance of any common areas.

#### Signs

A typical style residential subdivision entrance sign will be installed along Woodfield Drive. The sign will be similar in appearance to the sign shown below, with cedar and stone as the primary materials.



#### **Restrictive Covenants**

Restrictive covenants shall be adopted and recorded for the CUD with the subdivision plat. The maintenance of all common areas shall be the responsibility of the Property Owners Association (POA). The developer will hire a management company to oversee POA business, enforce compliance with covenants, and facilitate turnover for homeowners at the appropriate time.

#### **Development Timeline**

Development of the subdivision is estimated to commence a short time after final approval of the CUD, preliminary plat, and construction plans. The developer currently plans to develop the subdivision in two phases, approximately 12-18 months apart, depending on consumer demand for homes and other market conditions. Construction of the single-family homes would most likely commence shortly after the final plat and final approval of sitework by the city, expected to be about the 3<sup>rd</sup>/4<sup>th</sup> quarter of 2024. The developer anticipates the final homes would be completed some time in 2025 or 2026, again depending on consumer demand and other market conditions.

## **Draft Planning Commission Minutes from 4/6/2023.**

#### 1. NEW BUSINESS

- a) Public Hearing: Application to Rezone Stone Creek Addition No. 10 property generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086 from R-SF, R-MF3, GBD to R-SF-CUP
- Mr. Brewster with Multistudio delivered the planning staff report on the application to rezone Stone Creek Addition No. 10 and the Preliminary Plat. Mr. Brewster noted three conditional use permit deviations requested of the applicant where the lot frontage from 65' to 45' the front setback from 30' to 25' and the side setback from 10' to 5' since the proposed lots would be narrower and deeper than the typical lot size while still meeting the required lot size.
- Mr. Brewster stated staff is recommending approval of the Rezoning/CUP Plan and Preliminary Plat and provided a detailed recommendation list of items needing to be met before the Final Plat.
- Mr. Brajkovic stated this project will introduce a product that is needed in the community with smaller lots and slightly smaller homes that will be more affordable and still preserve the larger lots that are adjacent to existing neighborhoods.

#### o Ms. Gee opened the public hearing for items a and c.

- Ben Gasper with SMH Consultants stated he was present on behalf of Rausch Coleman.
- Ms. Horner stated for the record that she does resided within the notification area of the project.
   Ms. Horner asked if there was and awareness of the creek and possible flooding within the proposed area of development.
- Mr. Gasper stated they are aware and that is one reason the preliminary plat was changed to one road crossing to eliminate the congestion of storm water.
- Chrisie Wiseman, 2180 Rock Creek Drive, Tonganoxie, KS 66086 asked if one builder would be involved or if it will be multiple builders. Ms. Wiseman also questioned house size, price points, when will the building start and what the buffers will be between 24-40 and the new homes.
- Mr. Brian O'Banion, 1970 W. 139<sup>th</sup> Ter, Linwood, Kansas the Director of Land Acquisitions for Rausch Coleman Homes.
- Mr. O'Banion stated the size of the homes will typically start at 1500 to 1600 ranch and go up. Rausch Coleman Homes will be the only builder and the price point will start at \$250,000. If all approvals are received it is assumed it would be around late summer or early fall when ground begins moving and an additional 4 to 5 months before homes are started.
- Rausch Coleman Homes has meet with KDOT and requested the setback requirement from the highway be reduced from 150' to 70' and it is assumed there will be some landscaping with street trees added. Homes will have the option to add fences and there is a elevation change as well.
- Ms. Wiseman also asked if there will be an HOA.
- Mr. O'Banion confirmed there will be an HOA.
- Ms. Gee closed the public hearing.
- o Ms. Gee asked for the record if Ms. Horner is eligible to participate in the vote since she does live within the notification area.
- o Ms. Krstulic confirmed Ms. Horner is eligible to participate in the vote.

- b) Consideration of Application to Rezone Stone Creek Addition No. 10 property generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086 from R-SF, R-MF3, GBD to R-SF-CUP
- Ms. Bitler made a motion to Recommend to City Council to Rezone Stone Creek Addition No. 10 from R-SF, R-MF3, GBD to R-SF-CUP.
- o Ms. Vestal seconded the motion.
- o Roll call vote All ayes, motion passed.
- c) Public Hearing: Preliminary Plat for Stone Creek Addition No. 10 generally located North of Highway 24 an East of Stone Creek Avenue, Tonganoxie, KS 66086
- d) Consideration of Preliminary Plat for Stone Creek Addition No. 10 generally located North of Highway 24 and East of Stone Creek Avenue, Tonganoxie, KS 66086
- Ms. Bitler made a motion approve the Revised Preliminary Plat for Stone Creek Addition No. 10 North of Highway 24 and East of Stone Creek Avenue with Recommended Staff Recommendations.
- o Mr. Kirk seconded the motion.
- o Roll call vote All ayes, motion passed.