

CITY OF
TOPEKA

AGENDA

BOARD OF ZONING APPEALS

Monday, April 12, 2021
5:30 P.M.

VIA VIDEO CONFERENCE

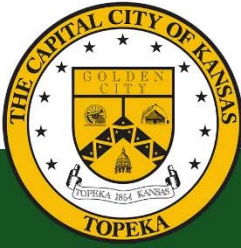
MEMBERS OF THE BOARD

Tim Carkhuff (Chair)
Walter Schoemaker (Vice Chair)
Toni Beck
Helen Crow
Camille Nohe
Carole Jordan
Travis Thomas

-
- The Topeka Board of Zoning Appeals holds a public hearing on the second Monday of each month to consider certain appeals, variances, and exceptions as may be granted by the Comprehensive Zoning Regulations of the City of Topeka, Kansas.
 - The following agenda identifies and describes each proposal to be considered by the Board.
 - Each item to be considered by the Board will be introduced by the Planning Department Staff. The Board will then hear and consider arguments both for and against each proposal.
 - Individuals wishing to address the Board are requested to state their name and address for the official hearing record.
 - Motions on all matters, which require a decision by the Board, are made in the affirmative. On a roll call vote, Board members then vote yes, no, or abstain based on the affirmative motion.
 - Any person, official or government agency dissatisfied with any order or determination of the Board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.



CITY OF
TOPEKA

BOARD OF ZONING APPEALS

Agenda for Monday, March 12, 2021

- A. **Call to Order**
- B. **Approval of Minutes from February 8, 2021**
- C. **Declaration of Ex Parte Communications**
- D. **Public Hearing of BZA21V/03 by Nick Reilly**, requesting a variance to exceed the maximum 90 percent building coverage ratio of accessory buildings to principal building as restricted pursuant to section 18.60.020 of the Topeka zoning regulations for the construction of a detached accessory shop building at 3724 NW Lower Silver Lake Road.
- E. **Adjournment**



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CITY OF TOPEKA
BOARD OF ZONING APPEALS



MINUTES

Monday, February 8, 2021

Via Video Conference

Members present: Tim Carkhuff (Chair), Toni Beck, Helen Crow, Carole Jordan, Walter Schoemaker, Travis Thomas (6)

Members Absent: (0)

Staff Present: Mike Hall, Current Planning Manager; Mary Feighny, Deputy City Attorney; Kris Wagers, Administrative Officer

Call to Order

The meeting was called to order by Tim Carkhuff, Chair. Roll was taken with 6 members present for a quorum. [Editorial Note: Earlier an email was sent out to BZA members informing them that Board Member Barbara Boudreaux has re-located to another state so submitted her resignation to the mayor]

Approval of Minutes from

Motion by Ms. Beck to approve, **second** by Ms. Jordan. **APPROVAL 6-0-0**

Declaration of Ex Parte Communications – by roll call

None

Mr. Carkhuff reviewed the way the Board conducts business: the cases are called in order, staff presents the staff report and then the applicant and any public wishing to speak with be given the opportunity. The board members then consider the case and upon a motion and second, a roll call vote is taken.

Mr. Carkhuff called the first case, **BZA21V/01 by Matthew J. Kolbek**, requesting a variance to the maximum 4' fence height allowed beyond the front face of a principal structure as restricted by section 18.210.040(a) of the Topeka zoning regulations. Approval of the requested variance will allow the owner to retain an existing 6' high fence at a residence at 3334 SW 7th Street.

As Mr. Hall prepared to present, Mr. Schoemaker asked Mary Feighny to confirm that the following text does in fact mean that the five conditions listed in the staff report (pp 3-5) must be met:

(from p 3 of the staff report) "Pursuant to K.S.A. 12-759, and as set forth in TMC 2.45.110, the Board of zoning Appeals shall find that all of the following conditions are met before a variance may be granted."

Ms. Feighny stated that yes, all five conditions as listed in the staff report must be met in order for the board to grant the requested variance.

Mr. Hall presented the Variance Evaluation (staff report), noting a typo on p 3, paragraph 1. It should read "The lots along the north side of this segment of 7th were platted at a depth of 160 feet."

(Draft)

Mr. Hall stated that while staff does believe that allowing the fence to remain at a height of 6 feet in the front yard will have little or no adverse impact on adjacent property owners or the immediate neighborhood, the other findings required by law do not support the requested variance. For that reason, staff does not recommend approval of the requested variance. He further explained that since the five findings are by Kansas statute.

Ms. Beck asked if any of the neighbors oppose the fence. Understanding that zoning code violations are generally addressed upon a complaint made by the public, she wonders how the fence came to staff's attention.

Mr. Hall explained that zoning enforcement action often does come about due to staff having received a specific complaint. In this instance, staff responded to a complaint about signs being left up longer than allowed. In the course of resolving the issue with the signs that were attached to the fence, staff noted that the fence was not in compliance with city code and it did not comply with the fence permit that was issued. It is, in part, because no neighbors complained about the fence itself that staff found it likely does not have a negative impact on surrounding neighbors.

Ms. Jordan asked about the intent of the maximum 4' fence height rule. Mr. Hall explained that this has been a part of city code for many years and while he's unable to say for sure, he believes it likely has to do with line of sight for neighbors and potential negative impact taller fences would have on many neighborhoods. It could also create a negative impact if the fence is being used to hide outdoor storage, etc.

Ms. Crow asked if neighbors had been notified of the variance request and if they had responded. Mr. Hall stated that adjacent property owners and those immediately across the street were notified and staff received one written communication from the neighbor across the street. She supports allowing the property owner to retain the fence as it is.

With no more questions from board members to staff, Mr. Carkhuff invited Mr. Kolbek to speak.

Mr. Kolbeck explained that the main reason for building the fence was to provide additional back yard. He stated that his back yard only has 7' of usable space so they make use of the side yard.

Present with Mr. Kolbek on the videoconference was his neighbor to the east, who spoke up and stated that he prefers the fence to be 6' to allow for privacy. He added that the fence does not impede line of sight for north/south traffic, nor does it cause problems for people trying to turn out of their driveways.

Mr. Kolbek stated that he had supplied photos with a tape measure showing how much space he had but they weren't included in Mr. Hall's presentation. Later Mr. Hall explained that the photo(s) were included in the agenda packet.

Regarding the fence being taller than the permit allowed: Mr. Kolbek stated that he has large dogs. He spoke with someone building a fence on another property and they told him City had relaxed their standards for fence height; this is the reason he built the fence higher than the permit stated it could be.

Mr. Kolbek stated he hopes the board will approve the variance. He said it looks nice and he keeps it well-maintained.

Mr. Carkhuff asked Mr. Kolbek if he understood when the fence permit was issued that he was limited to a 4' high fence. Mr. Kolbek confirmed that yes, that's what the permit was for, but added that it was a fencing contractor who was building a fence at 10th & Gage and he assumed that a fencing contractor would know what was allowed. Mr. Carkhuff stated that he should have phoned the City for verification and Mr. Kolbek said he understands that now.

Ms. Crow stated that she went by and viewed the property in person. She stated that the applicant has done a beautiful job of maintaining the property but as a realtor she believes that leaving the fence at its current height would be a detriment to the home's property value. She stated that she believes this particular instance is rather unique in that the height of the fence only affects the property owner's home and not that of the neighbors.

The applicant's neighbor to the east who was present with Mr. Kolbek asked what 5 findings are that are required to be made.

Mr. Carkhuff stated they are set out in the staff report and he briefly reviewed them. He concluded by stating that by Kansas law, all five findings must be made in order for the board to grant the variance.

Ms. Crow noted that it is not always understood by the public that the board is not allowed to make or circumvent any rules. The Board of Zoning Appeals is a quasi-judicial board who must follow the rules. Mr. Carkhuff added that when granting appeals or variances, the issue of consistency comes up. In this instance, the permit was granted and the applicant did not ask for a taller fence at the time. The fact that he was given faulty information which he did not seek to verify with the City does not negate his need to abide by the permit specifications.

Ms. Beck stated that as much as she sympathizes with the applicant, the board is not a body who makes the laws but instead are tasked with upholding the statutes.

Mr. Hall noted that the photos Mr. Kolbek provided are in fact included in the packet and they do speak to the unique conditions of the property. The staff report discusses that. Mr. Hall stated that he did speak with Mr. Kolbek prior to his application for a variance to explain the criteria required for a variance to be approved. He added that the City processes a lot of fence permits; they regularly get requests for permits for fences that do not meet City standards and they are denied.

Councilmember Michael Lesser asked if, based on current regulations and current platting requirements, the City would allow property lines to be drawn and houses placed as they are in this neighborhood today. Mr. Hall stated that the current subdivision code requires a minimum lot depth and a minimum area as identified in the staff report. This lot would be difficult to be built on under today's subdivision code and currently rear setbacks of less than 25' are not allowed. This house has a rear setback of 7' or 8'.

Mr. Lesser stated he disagrees with the number of findings that the applicant meets. He stated that in some instances a 4' limit on a fence in the front yard could be deemed a safety issue and a taller fence might be necessary to have a yard large enough to be useful. He stated that he appreciates what the board does, but in some instances we have to look at things on a case by case basis and make decisions based on the totality of the information. The fact that the home could not be constructed as and where it is under today's standards is a factor in looking at the totality of the situation.

Ms. Crow stated unlike the City Council, the BZA does not get to make rules; they are constrained to making decisions based on the rules no matter how badly they want to do something else.

Mr. Lesser stated that, in the totality of the situation, he doesn't see which of the standards the property does not meet.

Mr. Carkhuff stated that the staff report found 2 of the 5 conditions were arguably met and 3 were not, adding that the rules are what they are.

Mr. Lesser stated that the argument could be made that part of the property is side yard rather than front yard. Mr. Carkhuff stated that's a zoning matter that has already been decided.

Motion by Ms. Jordan to adopt the findings of the staff report and disapprove the requested variance.

Second by Mr. Schoemaker.

Prior to calling roll Ms. Wagers asked for the name of the applicant's neighbor so that information was in the public record. The name was provided as Stanley Sonnenmoser. Mr. Sonnenmoser asked when the 4' standard was put into the code and Mr. Carkhuff stated it was some time ago.

Upon roll call, **motion carried 6-0-0**. Mr. Schoemaker added that he does not believe the board has the authority to grant the variance requested. Mr. Thomas added that as a parent and a large dog-owner he can relate to the property owner's issue but the situation and the code being what they are, he does stand with a yes vote.

Councilperson Lesser asked Mr. Hall to speak with Mr. Kolbek regarding his options to appeal to the Council. Ms. Feighny explained that the applicant can appeal the decision to district court within 30 days of the decision, which will be mailed to the applicant.

Councilmember Lesser asked if Council has the ability to consider the case and Ms. Feighny stated that by law it must go to district court.

Mr. Carkhuff called the next case, **BZA21V/02 by Sent Holdings**, requesting a variance to the minimum building setbacks required by section 18.60.020 of the Topeka zoning regulations for construction of a single family dwelling at 3383 SE Irvingham Street.

Mr. Hall presented the Variance Evaluation (staff report), concluding with staff's recommendation for approval subject to the three Conditions of Variance Approval as listed in the Evaluation.

Ms. Beck noted that the neighborhood is labeled "Intensive Care" on the City's healthmap. She believes that it would be beneficial to the neighborhood as a whole to have a new home built. Mr. Carkhuff stated he agrees.

With no more questions, Mr. Carkhuff invited Tim Vincent of SENT to speak. Mr. Vincent provided some information about SENT Topeka. He stated they are a community development non-profit based in the Hi-Crest neighborhood. Their goal is to transform the narrative of Hi-Crest; they seek to meet the needs of people to help transform lives and provide the resources needed to succeed in life. He stated that the group has been in the neighborhood for about 3 years now and in that time the neighborhood's average house cost has gone up by 9%, compared to the rest of the City's average of 2.5%.

Mr. Carkhuff stated he is 100% in favor of what the group is doing for the Hi-Crest neighborhood and wished them the best of luck.

Mr. Schoemaker asked if the home will be a slab home or a crawl space and Mr. Vincent stated it will be a crawl space. Mr. Schoemaker then asked if SENT has built this style of home anywhere else in the city and Mr. Vincent explained that they built a home of the exact same design on Girard in 2020, which was the first home built in Hi-Crest in over 50 years.

Mr. Carkhuff asked if there was anyone else logged on to speak for or against the proposed variance and there were none.

Motion by Mr. Thomas to approve the requested variance under the conditions of the variance approval; **second** by Ms. Beck. Mr. Carkhuff called for further discussion and hearing none, the roll was called and the **motion carried 6-0-0**

Election of 2021 Chair and Vice Chair - Mr. Carkhuff explained he had earlier verified that, based on the BZA bylaws, he is eligible to serve as 2021 Chair; Ms. Crow nominated him and Ms. Beck seconded. Mr. Carkhuff nominated Mr. Schoemaker to serve as 2021 Vice Chair and Mr. Schoemaker accepted the nomination. With no other nominations being made, **Mr. Carkhuff was elected 2021 Chair and Mr. Schoemaker 2021 Vice-Chair by a roll call vote of 6-0-0.**

Adjourned at 6:28PM

**VARIANCE EVALUATION
CITY OF TOPEKA PLANNING DEPARTMENT
FOR
TOPEKA BOARD OF ZONING APPEALS**

Date of BZA Meeting: April 12, 2021 Case No.: BZA21V/03

Applicant Name: Nick Reilly
 Owner of Record: Merti Richtor (per Shawnee County Appraiser website)
 Address of Property: 3724 NW Lower Silver Lake Road
 Parcel ID No.: 0890962302003002
 Zoning of Property: "R-1" Single-Family Dwelling District

Regulations from which a Variance is Requested: The applicant is requesting a variance to exceed the maximum 90 percent building coverage ratio of accessory buildings to the principal building as restricted by section 18.60.020 of the Topeka zoning regulations. Granting the requested variance will allow construction of a detached accessory shop building at 3724 NW Lower Silver Lake Road.

The following table describes proposed and required building coverage.

	Coverage Limits per Section 18.60.020	Approximate Coverage with Existing Buildings	Coverage with Proposed Accessory Shop Building
% of Principal Building Coverage (sf of detached accessory buildings divided by sf of principal building footprint)	90% maximum	64%	198% 208% if 130 sf detached shed remains
% Building Coverage (sf all building footprints divided by sf of zoning lot)	50% maximum	4%	8%

Project and Property Data:

(Existing building data by applicant and the Shawnee County Appraiser)

Proposed Accessory Shop Building:

2,400 sf; 3' setback from east property line (minimum 3' required), 102' from north/rear property line (minimum 5' required), and 129' from front property line (minimum 33' required; must be no closer to front property line than principal building façade).

Height is approximately 15'. 20' maximum height allowed for detached accessory buildings under the R-1 zoning classification.

Size of Principal Dwelling: 1,304 sf residence built in 1930; 1,214 sf first floor (footprint)

Total of Detached Buildings
Allowed by Zoning Code: 1,093 sf (90% of principal building footprint)

Existing Detached
Accessory Buildings: 650 sf detached garage to be replaced by proposed shop building

Size of Property: 1.1 acre (47,742 sf)

Subdivision Plat: Not platted as a subdivision; owner responsible for identifying any easements.

Existing Land Use
and Property
Characteristics: A large rectangle-shaped area containing a single family residence and a detached garage.

Surrounding Land Uses: Adjoining parcel on west side is vacant and zoned R-1. The parcel west of the adjoining parcel is zoned I-2 and contains a large grain elevator. The railroad right-of-way containing multiple railroad tracks is on the land immediately north of the subject property. The parcel to the east is a large tract (3 acres) containing a single family residence. The land to the south, on the south side of NW Lower Silver Lake Road, consists of varied light industrial uses.

Zoning of Property: R-1 Single Family Dwelling District

Zoning of Surrounding
Property: R-1 Single Family Dwelling District on east west sides of the property; PUD/light industrial zoning on the north and south sides.

Applicant's Stated Grounds for Variances

See page 2 of application attached.

Recommendation and Summary of Analysis:

Staff does not recommend approval of the requested variance. The facts of the application support four of the five findings that, by law, must be met for the Board of Zoning Appeals to grant a variance. The property is over one acre in size and is in an area of Topeka that is

both rural and industrial in character. The proposed shop building is not likely to adversely affect neighboring property owners or the general public. However, denial of the requested variance does not constitute an unnecessary hardship. Restricting the applicant to the standard restricting detached accessory buildings to a cumulative footprint of 90% or less of the principal structure may be an unnecessary hardship for the applicant, but the proposed shop building contains 2,400 square feet, which is more than two times the 1,093 square feet allowed by the zoning code. The requested variance is not the minimum variance necessary to relieve the proven hardship

Findings

Pursuant to K.S.A. 12-759, and as set forth in TMC 2.45.110, the Board of Zoning Appeals shall find that **all** of the following conditions are met before a variance may be granted.

- a. **That the variance request arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by action of the property owner or applicant;**

The size of the property and location amidst light industrial zoning and land use provide partial justification for the requested variance.

The facts regarding the subject property and the surrounding area support the applicant's statement regarding the required finding: *The "property is a residential lot located in a rural area of town and is primarily surrounding by PUD development with light industrial uses. The size of the building that (he) wants to construct will be in conformance with surrounding properties."*

The property is just over one acre in size, typical of residential parcels along the two-mile segment of NW Lower Silver Lake Road between US-75 Highway on the west and NW Vail Avenue on the east. The size of the lot is not typical of most lots in Topeka under the same R-1 zoning. In most areas of North Topeka the large majority of lots zoned R-1 are less than ½ acre. In neighborhoods south of the Kansas River, the large majority of R-1 lots range in size from 1/5 to 1/3 of an acre.

Staff analyzed residential lot size data for the area between US-75 on the west and NW Button Road on the east (see attached map). In this area the mean residential lot size is 1.78 acres and the median is 1 acre.

The size of the property does not create the need for a variance but does set this property apart from most residential lots in Topeka. Presumably the 90% coverage limit on detached accessory buildings is intended to prevent the negative effects of excessive accessory structures on typical residential lots, with the typical lot in city neighborhoods estimated to be less than one third of an acre.

The property is surrounded on three sides by industrial uses. Over eight rows of railroad tracks are immediately north of the property, and Bettis Asphalt's equipment yard is north of the railroad tracks. The large grain elevator towers are located 800 feet to the west of the property, and an industrial park is located immediately south of the property.

b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residences;

Granting of the variance will not adversely affect adjacent property owners or residences.

Regarding finding “B” the applicant claims the proposed structure “*will not adversely affect the surrounding properties because each side of (his) property is surrounded by unused fields. (He has) confirmed that (his) neighbor to the east supports (his) intent to construct this building.*” Additionally, he will use the building to store his RV which will improve the appearance of the property.

The garage will be visible but not obtrusive or out of place in this location. It will be set back 126 feet from the front property line and is oriented such that its largest blank wall will face east. The building is large, clad in metal, and has an industrial appearance. The building would be conspicuous and detrimental in most residential neighborhoods, but not in this neighborhood where large industrial buildings are common. Furthermore, the building will have the positive visual effect of allowing the owner to store his RV and other items within a building instead of outside. As long as the setback along the east side of the building is increased from 3 to 7 feet (7 feet is the setback required for a principal building) the proposed building will have little or no negative effect on adjacent property owners and the general public because of the ample setback from the street and the industrial and commercial context.

There is some concern that the 2,400 sf building is so large that it could attract commercial use at some future time, even if the current owner does not intend to use it for a commercial purpose. That concern is lessened if the owner reduced the size of the building.

c. That the strict application of the provisions of this chapter of which the variance is requested will not constitute an unnecessary hardship upon the property owner represented in the application;

The applicant states that “*having to construct the building at a size at or under 90% of (the) principal building will severely limit the use of the building.*” Under the coverage limit he will not be able to use the building for its intended purpose.

Staff agrees the 90% coverage limit imposes an unnecessary hardship on the owner. Adherence to the coverage ratio standard is unnecessary and restricts the owner from enjoying full use of the property as it would limit the detached building to 1,093 square feet or less (90% of the footprint of the principal dwelling). However, the applicant is requesting approval of a 2,400 square foot building, which is more than twice what is allowed. The requested variance is not the minimum variance necessary to relieve the proven hardship so is in conflict with section 2.220.140.¹ The length of the applicant’s RV might indicate the minimum depth needed to relieve the owner from a hardship.

- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;**

As support for this finding the applicant states *“This new building will be in conformance with the majority of buildings adjacent to my property which supports the overall aesthetic and creates a cohesive look within the area.”*

The requested variance and the proposed building have no foreseen adverse effects on the public health, safety, convenience, prosperity, or general welfare. The building will not be a detriment to the surrounding area because of the area’s commercial and industrial character.

The proposed building requires a building permit, giving City staff the opportunity to review the building plans for compliance with all applicable codes to determine the building is structurally sound and safe prior to issuing permits. The City will inspect construction to ensure compliance.

- e. That granting the variance desired would not be opposed to the general spirit and intent of this chapter.**

The requested variance is not opposed to the general spirit and intent of the City’s zoning regulations for at least three reasons. First, the coverage limit on accessory buildings is intended to prevent adverse effects to adjacent property. The proposed greenhouse building is anticipated to have no adverse impact to adjacent property or to the broader neighborhood and community.

Second, the proposed greenhouse building complies with the zoning code’s standard restricting coverage of all buildings to no more than 50% of the property. With the proposed building the coverage of all buildings is far below 50% of the three acre parcel.

Third, the 90% coverage restriction was apparently adopted with typical residential lots in mind, and the large majority of residential lots under the same R-1 zoning as the subject property range in size range in size from 1/5 to 1/3 of an acre.

Staff is in general agreement with the applicant’s contention that the proposed variance is not opposed to the intent of the zoning code because of the large size of the property relative to typical 1.4 acre lots on other Topeka residential neighborhoods, the industrial and rural character of the surrounding area.

Planning Staff Recommendation

Staff does not recommend approval of the variance as requested. Findings can be made to support a variance for a building that is smaller than that proposed by the applicant. The following are offered as conditions of approval based on a shop building smaller than that being requested by the applicant.

Condition of Variance Approval

1. The detached shop building shall be limited to an area not to exceed _____ square feet.
2. The accessory building allowed by the variance shall be for uses accessory to the primary residence on the property and not for commercial purposes unless the zoning of the property is changed to allow for commercial use.
3. The accessory building shall be set back 7 feet or more from the east property line. The shop plans shall be revised to reflect the 7 foot setback and approved building size. All other aspects of the accessory building shall be generally consistent with the shop plans included in the variance application.
4. The accessory building allowed by the variance shall not exceed a height of 20 feet using the definition for building height in Topeka Municipal Code, Section 18.55.080.
5. The owner or applicant shall provide Planning staff with revised plans to demonstrate compliance with the conditions of the variance prior to application for a building permit.
6. The owner is responsible for ensuring the building does not conflict with easements, including but not limited to easements for utilities.
7. A building permit is required prior to construction.

Staff Report by: Michael Hall, AICP, Current Planning Manager

Exhibits:

- A. Variance Application
- B. Shop Plans (including site plan, floor plan, elevations)
- C. Photo of Surrounding Lands by Applicant
- D. Property Record Card (Shawnee County Appraiser)
- E. Certificate of Survey by Applicant
- F. Zoning Map
- G. Aerial Map
- H. Map for Analysis of Lot Size

¹ **2.220.140 Variances not allowed.**

In exercising its authority, the Board of Zoning Appeals shall not grant a variance that would create any of the following effects:

- (a) The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy.*
- (b) The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.*
- (c) The variance is not the minimum variance that will relieve the proven hardship.*
- (d) The variance would allow a use not allowed in the permitted zoning district in which the parcel is located.*

(e) The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.

(f) The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

(g) The variance will modify one or more conditions imposed by the Governing Body as part of a conditional use permit or planned unit development.



APPLICATION TO THE BOARD OF ZONING APPEALS VARIANCE / EXCEPTION

CITY OF TOPEKA PLANNING DIVISION
620 SE MADISON, 3RD FLOOR (UNIT #11) | TOPEKA, KS 66607-1118
PHONE 785.368.3728 | EMAIL: PLANNING@TOPEKA.ORG

Applicant Information

Name: Nick Reilly
Address: 3724 NW Silver Lake Road
Phone: 785.223.1850 Email: nickreilly54@yahoo.com

Property Information

Location of property: 3724 NW Silver Lake Road

Legal description of property: (attach additional sheets if necessary)

Part of the Northeast Quarter of Reserve No. 1 of Kaw Half Breed Indian Lands, in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line of the Northeast Quarter of said Reserve No. 1, which is 542 1/2 feet East of the Southwest corner thereof; thence North 318 feet, more or less, to the South right of way line of the Union Pacific Railroad; thence Northwesterly along said right of way to a point 155 feet West (measured at right angles of the last described course; thence South parallel to the aforesaid East line to a point on the South line of said Northeast Quarter which is 155 feet West of the point of beginning; thence East 155 feet to the point of the beginning.

Action Sought:

A variance from a provision of the Zoning Ordinance
(Section to be appealed: 18.60.020 Density Standards)

An exception from a provision of the Zoning Ordinance
(Section to be appealed: _____)

Description of Action Sought:

I would like to construct an accessory structure on my property that is 2400 SF which is in excess of the maximum accessory building coverage ratio outlined in the dimensional standards outlined in 18.60.020. The structure will conform to the IRC.

For Planning &
Development
Use Only

Case #
BZA 21V/03

Hearing Date:
April 12, 2021

Legal Ad Date:
3.22.21 Publish
(3.17.21 Submit)

Zoning District:

Building Height:

Number of Stories:

Parcel Size:

Lot Dimensions:

Applicant offers the following as grounds for this action:

In accordance with Section 2.45.110 of the Topeka Municipal Code, the Board of Zoning Appeals must determine that **ALL** of the following conditions governing unnecessary hardship have been met before a variance may be granted.

All items must be addressed or the application will be deemed incomplete.

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or applicant (*The problem must relate to the land. Community needs or personal hardships do not qualify as legitimate grounds for issuing a variance.*);

My property is a residential lot located in a rural area of town and is primarily surrounded by PUD developments with light industrial uses. The size of building that I want to construct will be in conformance with surrounding properties.

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

The structure I want to construct will not adversely affect the surrounding properties, because each side of my property is surrounded by unused fields. I have confirmed that my neighbor to the east supports my intention to construct this building. Also, I plan to house my RV in the building which will increase the visual aesthetic of the area.

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

Having to construct the building at a size at or under 90% of my principle building will severely limit the use of the building. I will not be able to use the building for intended purpose for which I am constructing it.

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

This new building will be in conformance with the majority of buildings adjacent to my property which supports the overall aesthetic and creates a cohesive look within the area.

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

This property is on a lot over an acre large (1.23 acre) and not located in the inner city where lots are primarily a 1/4 acre in size. It is primarily surrounded by semi-industrial uses. Based on the rural nature of the site and the use of surrounding properties, it will not disregard the intent of the density and dimensional standards outlined in 18.60.020.

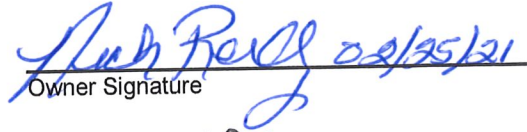
Authorization

Property Owner(s):

I/We the undersigned owner(s) of record hereby authorize the filing of this application and declare that all required materials are submitted along with this application and that the information and material is complete and accurate. I/We hereby acknowledge that all appropriate procedures, policies, and regulations have been reviewed and also understood that this application will be processed in sequence with respect to other submittals.

Nick Reilly

Owner Name (print)

 02/25/21
Owner Signature

Merti O Richter

Owner Name (print)

 2/25/21
Owner Signature

Owner Name (print)

Owner Signature

Authorized Agent:

If the owner(s) of record are to be represented by legal counsel or an authorized agent, please complete the following information so that communications and correspondence pertaining to this application may be forwarded to such individual.

Ramin Mahmoudian

Authorized Agent Name (print)

 2/25/21
Signature – Authorized Agent

Mailing Address: 1208 SW Throop St. Topeka, KS 66604

STREET ADDRESS

CITY

STATE

ZIP

Phone: 785.223.1850

Email: rhm@ramin.design

Applicant:

Nick Reilly

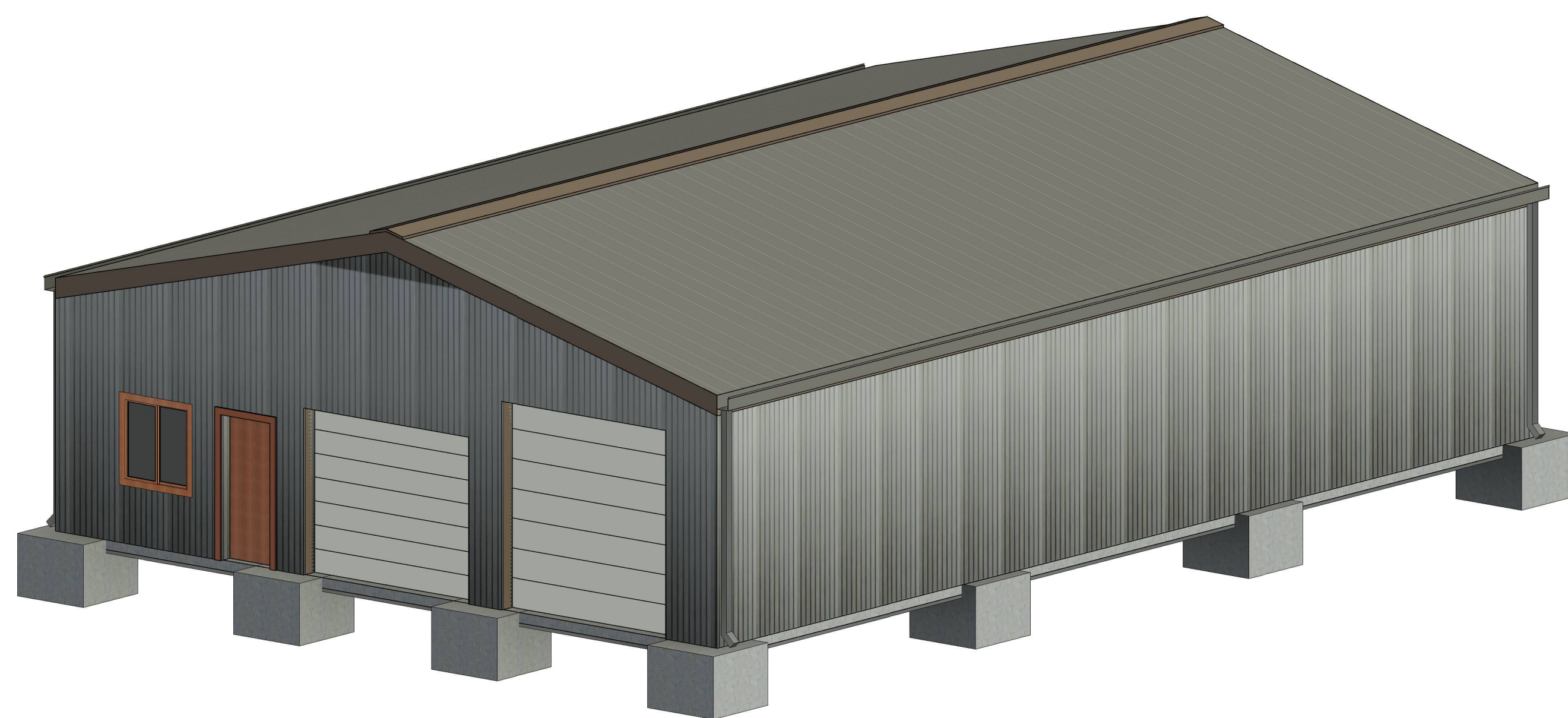
Applicant Name (print)

Applicant Signature

Nick Reilly's Shop

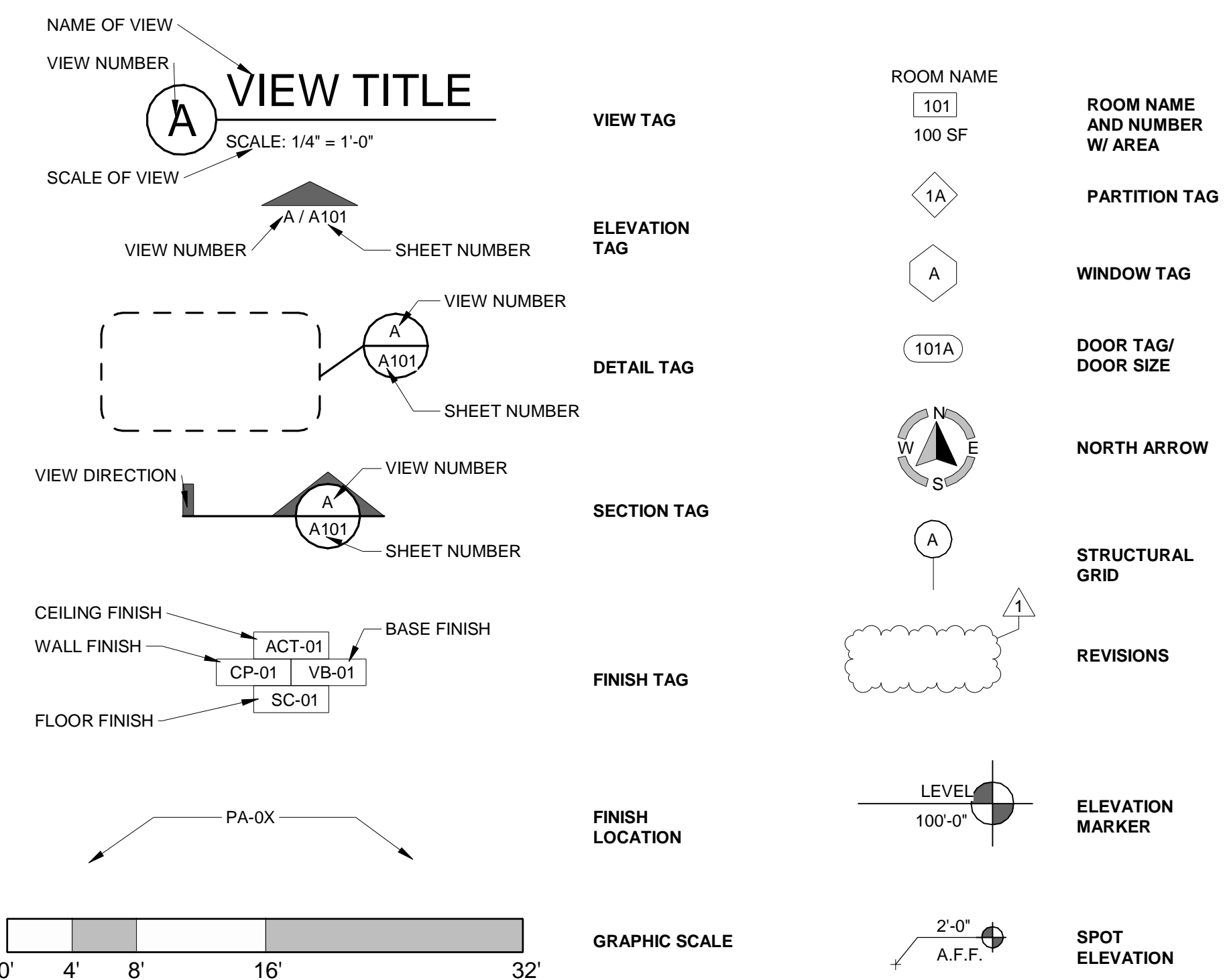
Exhibit B

FOR REVIEW ONLY,
NOT FOR
CONSTRUCTION



Axonometric
NTS

Symbol Legend



Owner

Nick Reilly
3724 NW Lower Silver Lake Road
Topeka, Kansas 66618
785.925.0664

Architect

Ramin Henry Mahmoudian
1208 SW Throop St.
Topeka, Kansas 66604
785.223.1850

Sheet List

Sheet Number	Sheet Name
General	
G1	COVER PAGE
Architecture	
A1	FIRST FLOOR AND SITE PLAN
A2	ELEVATIONS AND ROOF PLAN

PROJECT LOCATION



Vicinity Map

NTS

Reilly Shop

3724 NW Lower Silver Lake Road, Topeka, Kansas 66618



elevating living through design
rh@mamin.design 785.223.1850

Revisions

Number	Date

02/25/2020

G 1

COVER PAGE

FOR REVIEW ONLY,
NOT FOR
CONSTRUCTION

Reilly Shop

3724 NW Lower Silver Lake Road, Topeka, Kansas 66618

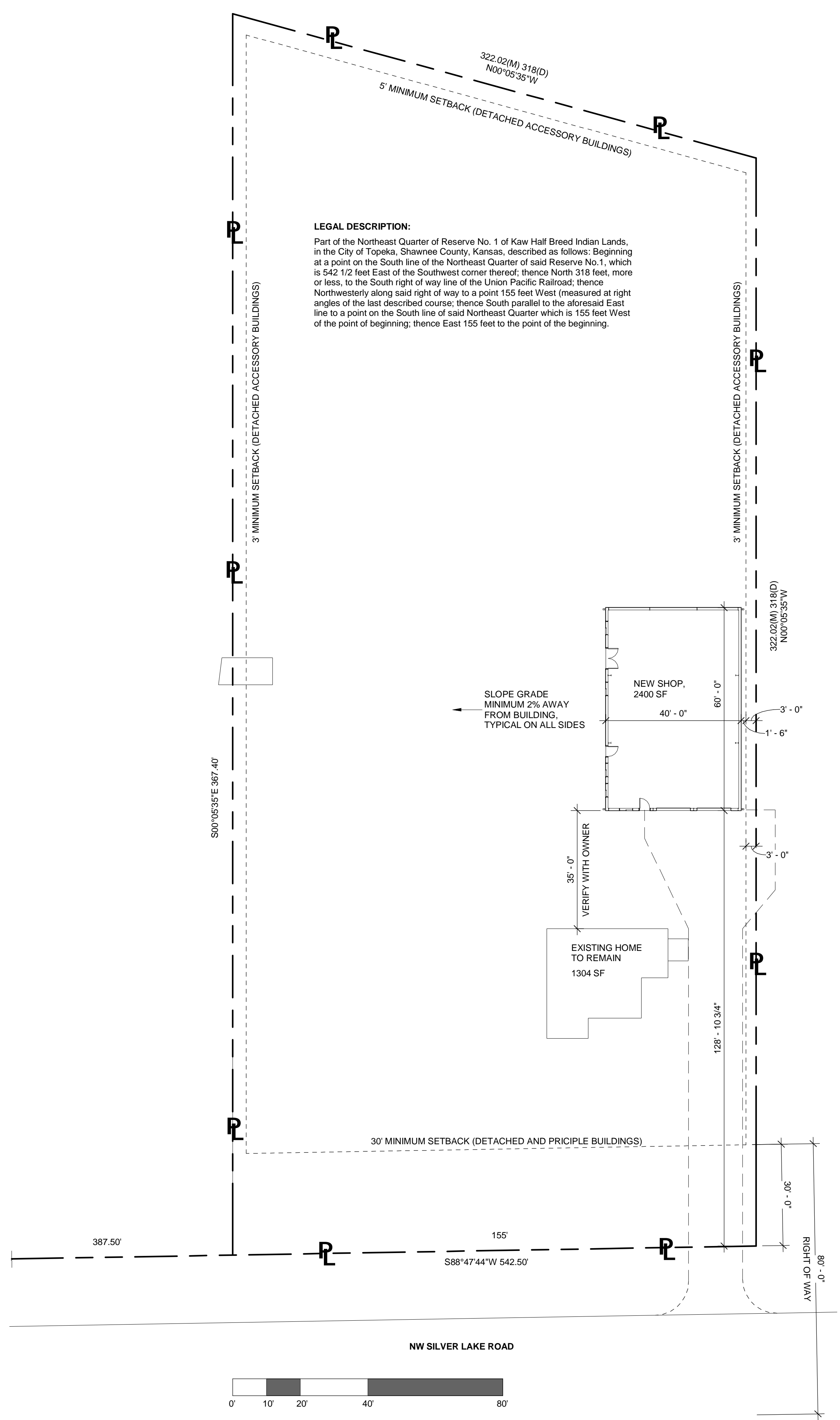
ramin
elevating living through design
rhm@ramin.design 785.223.1850

Revisions	
Number	Date

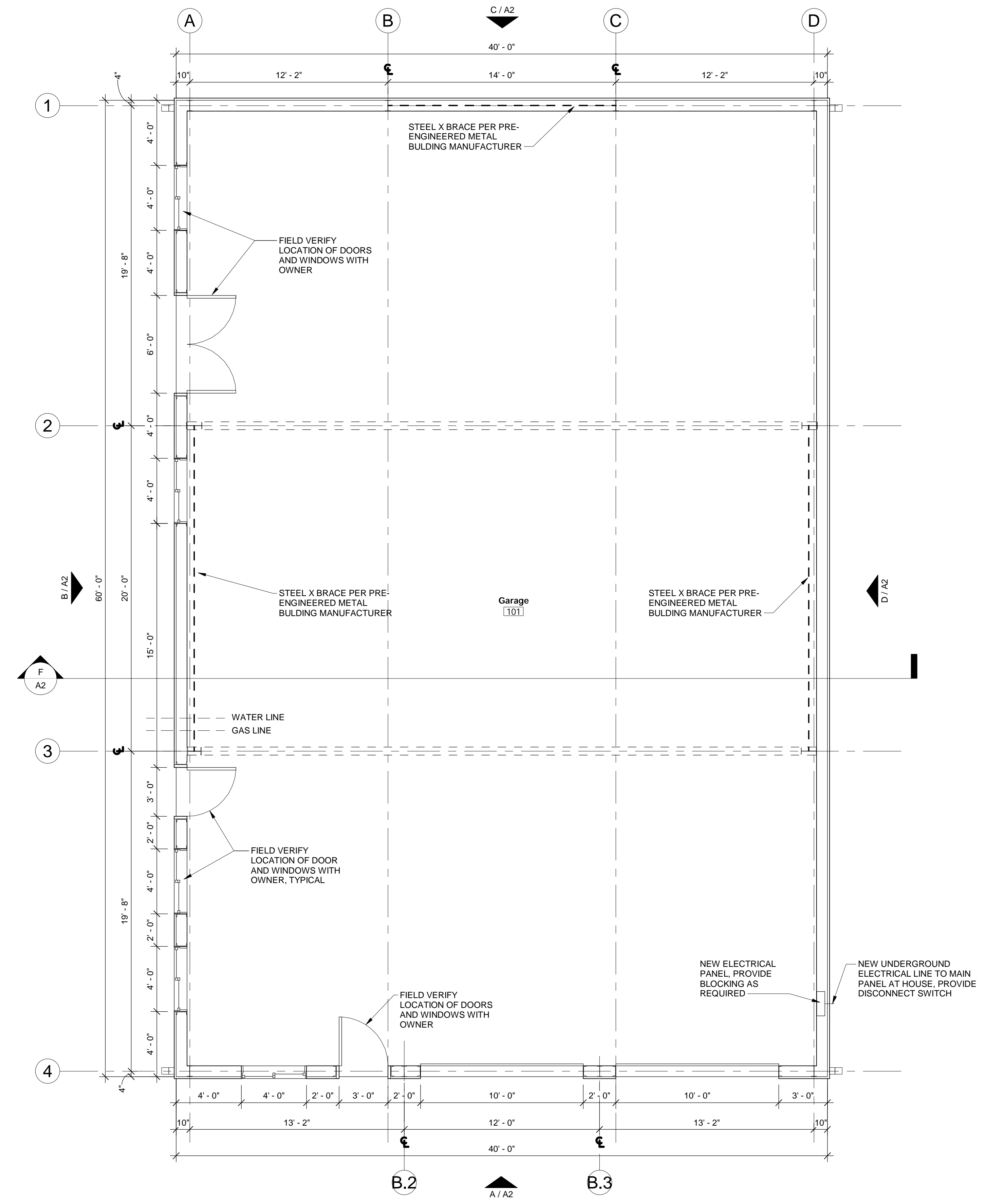
02/25/2020

A 1
FIRST FLOOR
AND SITE PLAN

LEGAL DESCRIPTION:
Part of the Northeast Quarter of Reserve No. 1 of Kaw Half Breed Indian Lands, in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line of the Northeast Quarter of said Reserve No. 1, which is 542 1/2 feet East of the Southwest corner thereof; thence North 318 feet, more or less, to the South right of way line of the Union Pacific Railroad; thence Northwesterly along said right of way to a point 155 feet West (measured at right angles of the last described course; thence South parallel to the aforesaid East line to a point on the South line of said Northeast Quarter which is 155 feet West of the point of beginning; thence East 155 feet to the point of the beginning.

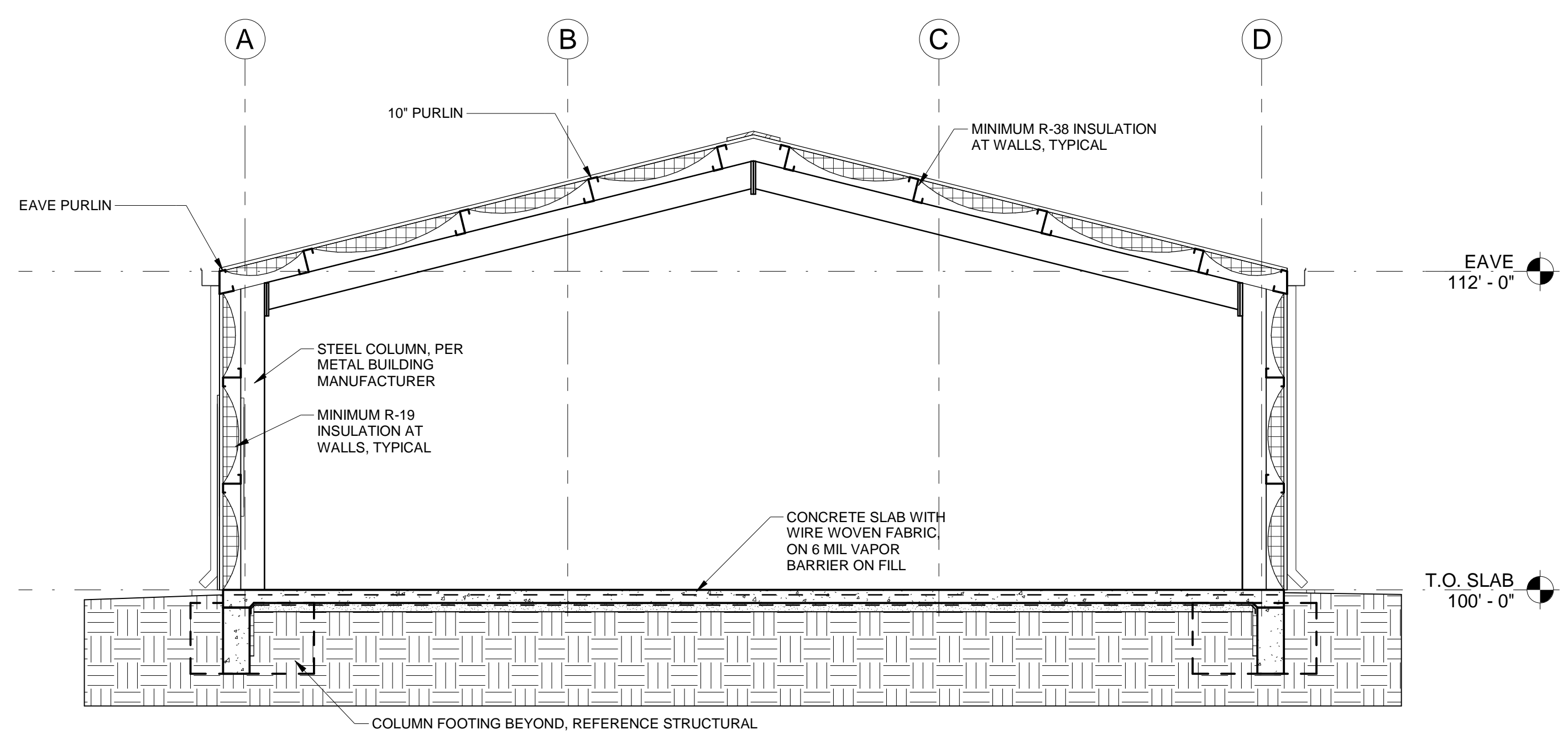


B SITE PLAN
SCALE: 1" = 20'-0"

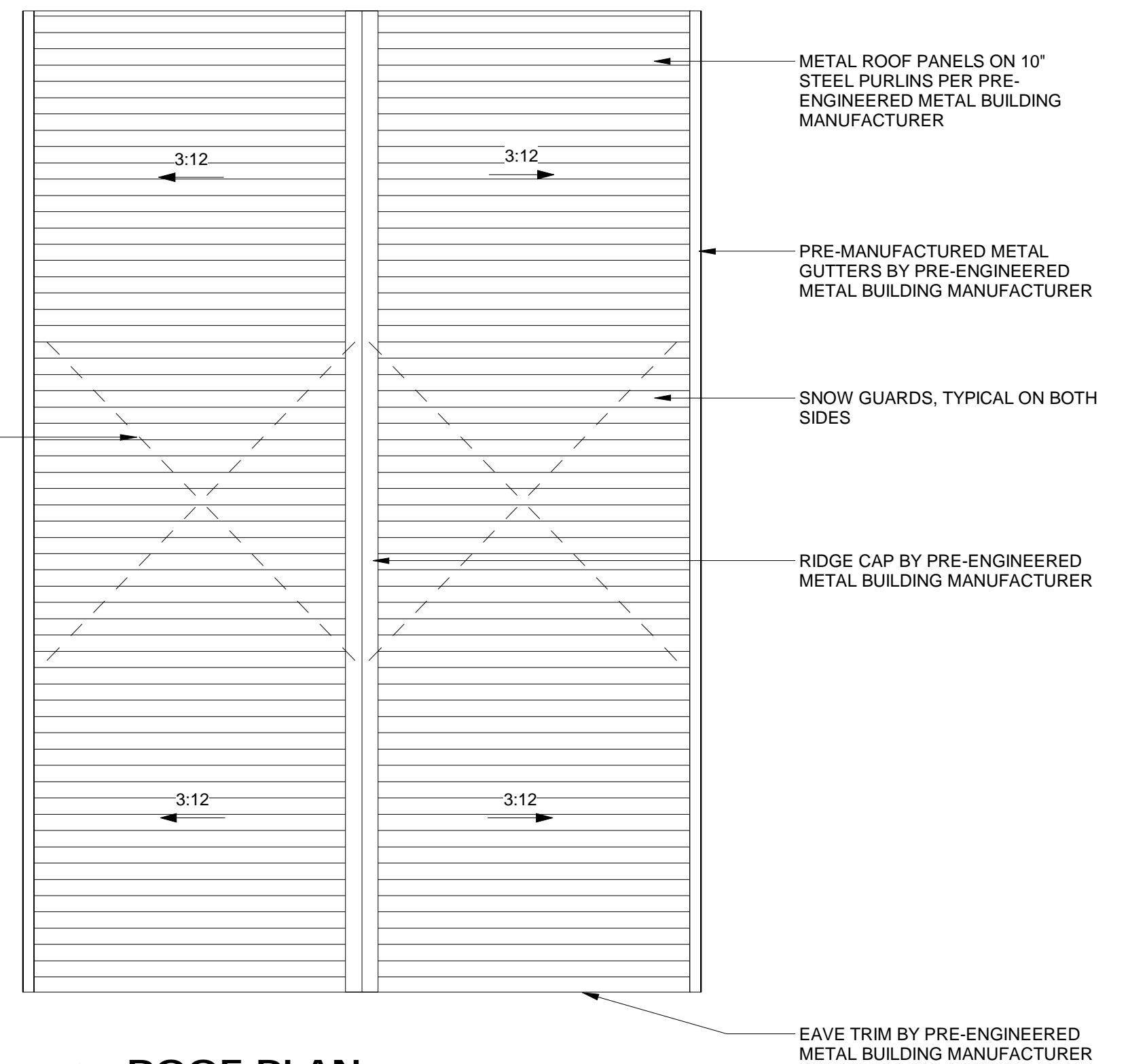


A FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

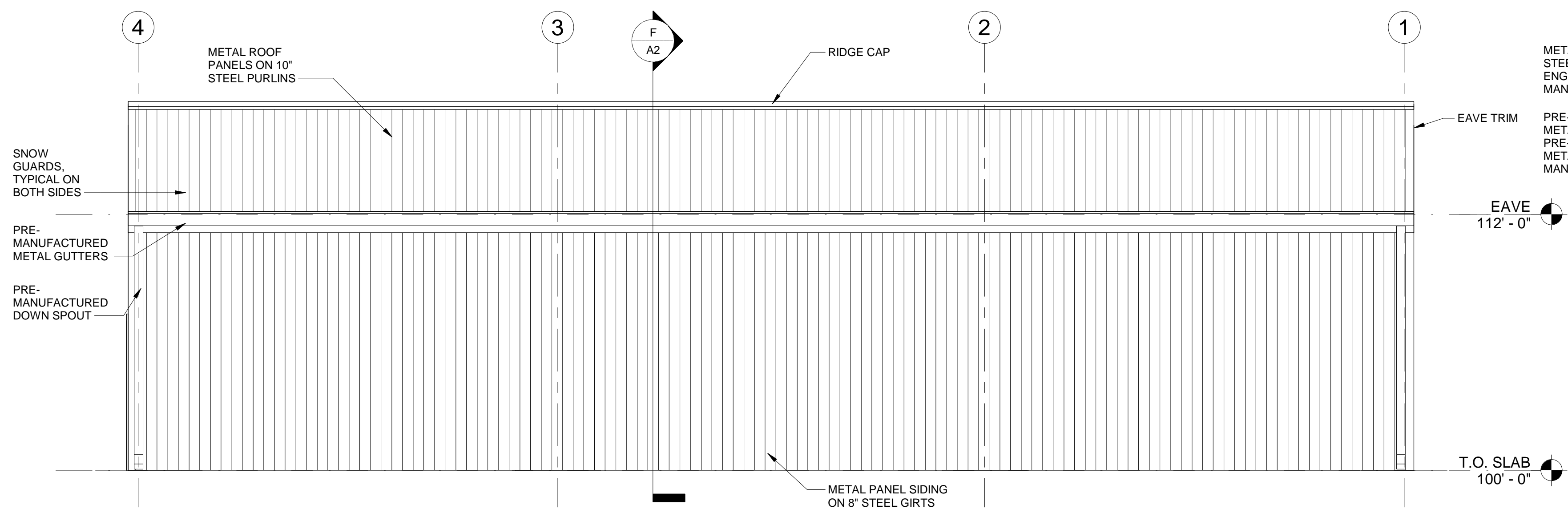
FOR REVIEW ONLY,
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CONSTRUCTION



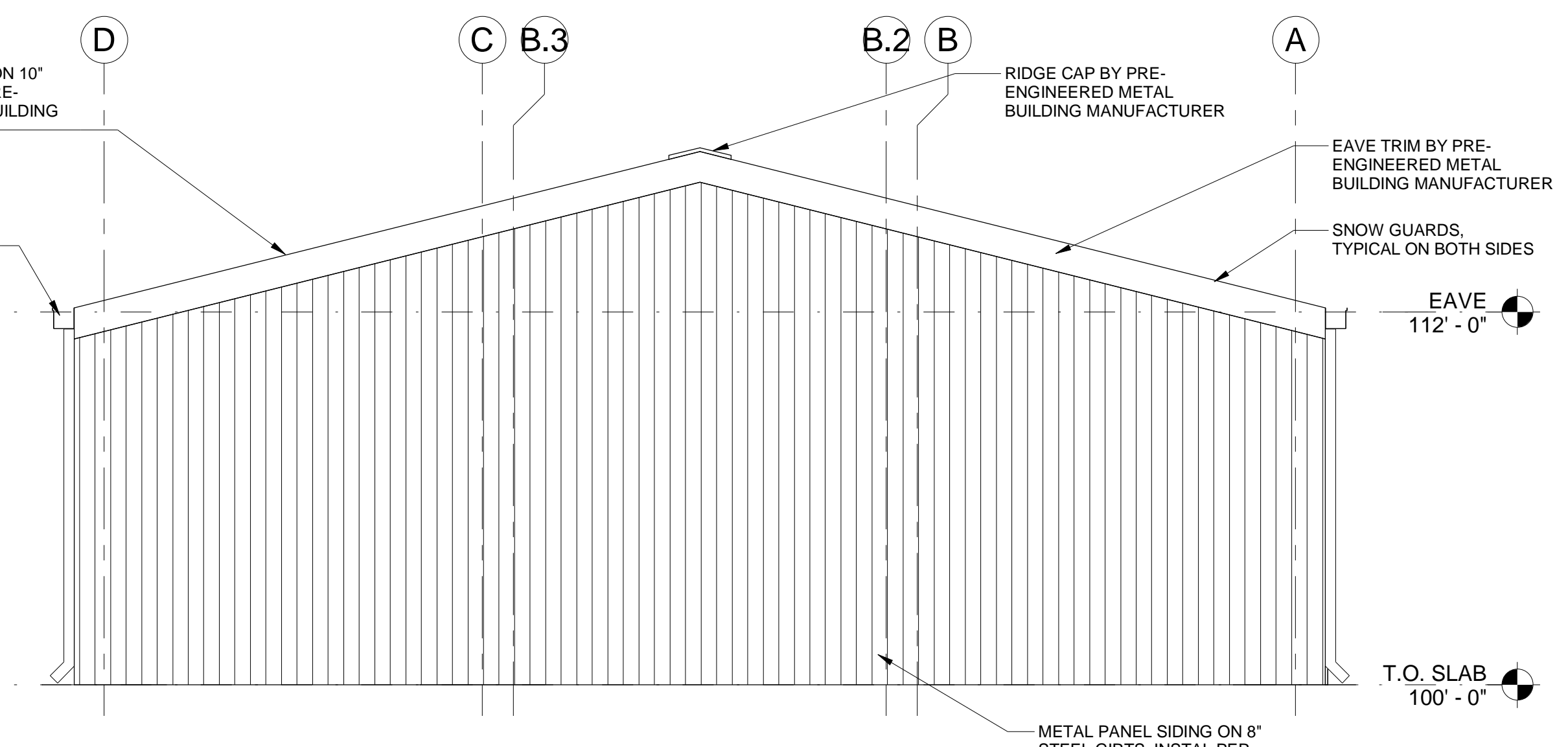
F BUILDING SECTION
SCALE: 1/4" = 1'-0"



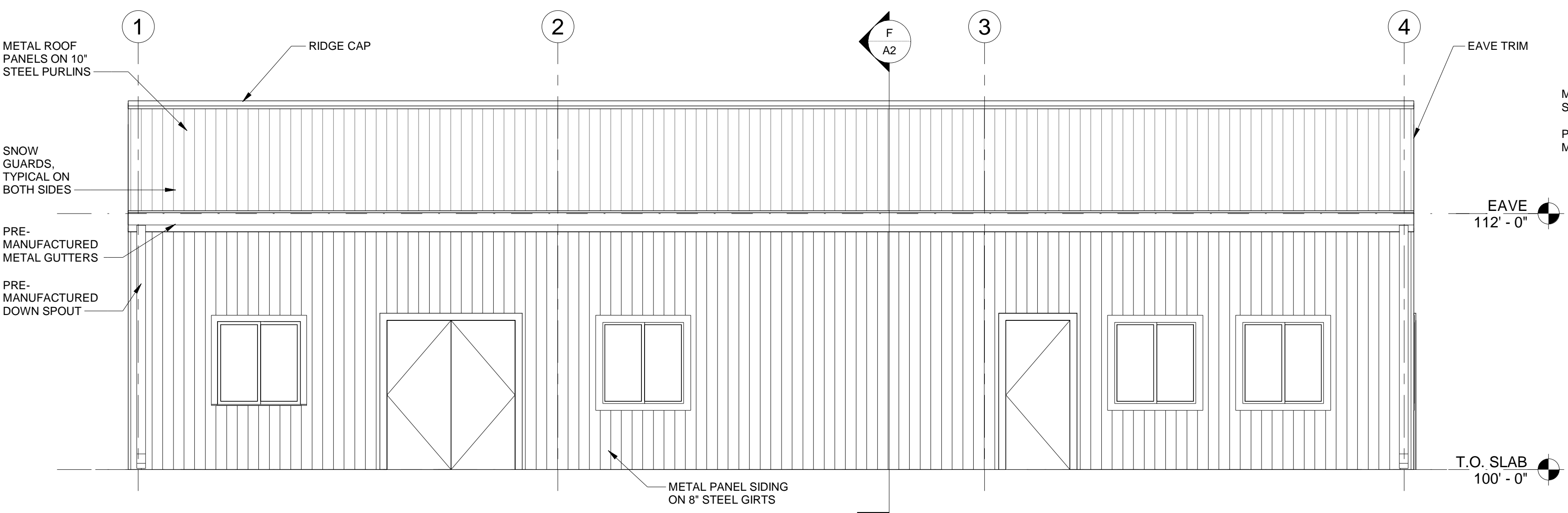
E ROOF PLAN
SCALE: 1/8" = 1'-0"



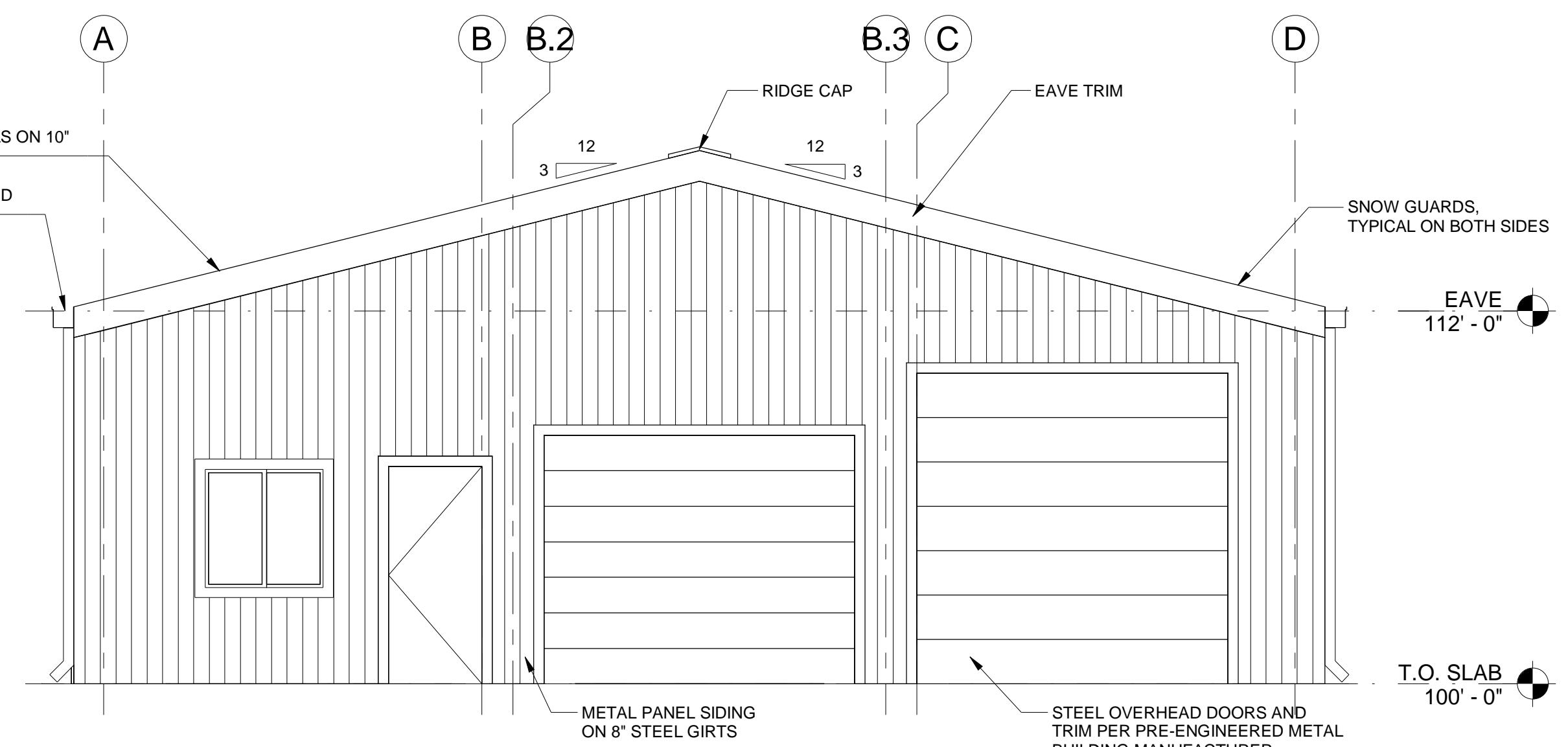
D EAST ELEVATION
SCALE: 1/4" = 1'-0"



C NORTH ELEVATION
SCALE: 1/4" = 1'-0"



B WEST ELEVATION
SCALE: 1/4" = 1'-0"



A SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

Reilly Shop

3724 NW Lower Silver Lake Road, Topeka, Kansas 66618

ramin
elevating living through design
rh@ramin.design 785.223.1850

Revisions	
Number	Date

02/25/2020

A 2
ELEVATIONS AND
ROOF PLAN

Ramin Mahmoudian
www.ramin.design
1208 SW Throop St.
785.223.1850

Project: 2020-07 Reilly Shop

Date 02.25.2021

3724 NW Silver Lake Rd. Surrounding Photos







SNCAMA Property Record Card

Parcel ID: 089-096-23-0-20-03-002.00-0

Quick Ref: R8764

Tax Year: 2021

Run Date: 2/24/2021 8:05:37 PM

OWNER NAME AND MAILING ADDRESS

RICHTER, MERTI O

3724 NW LOWER SILVER LAKE RD
TOPEKA, KS 66618

PROPERTY SITUS ADDRESS

3724 NW LOWER SILVER LAKE RD
Topeka, KS 66618

LAND BASED CLASSIFICATION SYSTEM

Function: 1101 Single family re: **Sfx:** 0
Activity: 1100 Household activities
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: R Residential - R
Living Units: 1
Zoning: R1
Neighborhood: 154.1 154.1 - NORTH TOPEKA
Economic Adj. Factor:
Map / Routing: / 020
Tax Unit Group: 007-007

TRACT DESCRIPTION

RESERVE 1, IN KAW RES NO 1, COM INT SWLY ROW U P RR & NLY ROW NW 17TH ST, W 998(S) TO POB, W 155, N 338(S) TO RR R/W, SELY 162(S), S 292(S) TO POB SECTION 23 TOWNSHIP 11 RANGE 15



Image Date: 08/29/2018

PROPERTY FACTORS

Topography: Level - 1
Utilities: Public Water - 3, Septic - 6, Gas - 7
Access: Paved Road - 1
Fronting: Secondary Street - 3
Location: Neighborhood or Spot - 6
Parking Type: Off Street - 1
Parking Quantity: Adequate - 2
Parking Proximity: On Site - 3
Parking Covered:
Parking Uncovered:

PARCEL COMMENTS

Prop-NC: RL20; **Prop-Com:** RL20 - CDU = GD to AV+ = Int per 2020 Informal 3/20; RL15-Deck w/Rf 96 to 204sf, Changed Roof Material, CDU-AV to GD, PC=AV+ to GD=Int/Ext Cond 9/14; RL14 - Add 98sf RSP w/Rf & 264sf OSP 12/13; RL11- PC AV TO AV+, ADD 244 SQ FT BSMNT, REMOVED FP, BUNGALOW TO OLD STYLE 5/25/10; **App-Com:** INF-17584-2020-; **Val-Com:** INF20 - CDU Change, Chose Comp Sales per 2020 Info; **Permits:** :

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
08/28/2018	9:00 AM	VI	VI	MAM		
09/16/2014	9:40 AM	5	P	MAM		
12/02/2013	9:30 AM	5	R	MAM		

Exhibit D

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
MAM15		Exterior Alteration	06/26/2014	C	100

2021 APPRAISED VALUE

2020 APPRAISED VALUE

Not Yet Available

Cls	Land	Building	Total
R	8.420	67.080	75.500
Total	8.420	67.080	75.500

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Fron	3-Irregular Lot - 3		150	324	1.17								84	100.00	62.00	20.00	20.00	8.420

Total Market Land Value 8,420

SNCAMA Property Record Card

Parcel ID: 089-096-23-0-20-03-002.00-0

Quick Ref: R8764

Tax Year: 2021

Run Date: 2/24/2021 8:05:37 PM

DWELLING INFORMATION

Res Type: 1-Single-family Residence
Quality: 2.33-FR+
Year Blt: 1930 **Est:** Yes
Eff Year:
MS Style: 5-1 1/2 Story Finished
LBCSstruct: 1110-Detached SFR unit
No. of Units:
Total Living Area:
Calculated Area: 1,304
Main Floor Living Area: 912
Upper Floor Living Area Pct: 42.98
CDU: AV+
Phys/Func/Econ: GD / /
Ovr Pct Gd/Rsn:
Remodel: 2014-Extensive Remodel
Percent Complete:
Assessment Class:
MU Cls/Pct:

COMP SALES INFORMATION

Arch Style: 09-Old Style
Bsmt Type: 3-Partial - 3
Total Rooms: 7 **Bedrooms:** 3
Family Rooms:
Full Baths: 1 **Half Baths:**
Garage Cap:
Foundation: Stone - 4

IMPROVEMENT COST SUMMARY

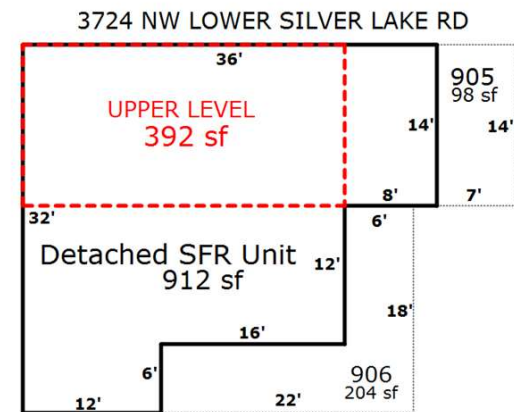
Dwelling RCN: 125,000
Percent Good: 58
Mkt Adj: 100 **Eco Adj:** 100
Building Value: 72,500
Other Improvement RCN: 10,050
Other Improvement Value: 4,730

CALCULATED VALUES

Cost Land: 8,420
Cost Building: 77,230
Cost Total: 85,650
Income Value: 0
Market Value: 81,300
MRA Value: 81,700

FINAL VALUES

Value Method: IDXVAL
Land Value: 8,420
Building Value: 68,590
Final Value: 77,010
Prior Value: 75,500



BUILDING COMMENTS

RemDesc: 2014-Extensive Remodel; **DwellCDU:** Extensive Remodel; **OthInfo:** *MVP*

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCls	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
1	152-Residential Garage - Detach	D	1.00	1	1992			294	70	8	021 X 14	1	3	3					8,260	49	4,050
2	133-Prefabricated Storage Shec	S	2.00	1	2013			130		8			4						1,790	38	680

DWELLING COMPONENTS

Code	Units	Pct	Quality	Year
107-Frame, Siding, Vinyl		100		
214-Metal, Preformed		100		2014
351-Warmed & Cooled Air		100		
402-Automatic Floor Cover Allowance				
601-Plumbing Fixtures (#)	5			
602-Plumbing Rough-ins (#)	1			
622-Raised Subfloor (% or SF)	1,304			
722-Carport, Shed Roof (SF)	273	3.00		1992
801-Total Basement Area (SF)	244			
901-Open Slab Porch (SF)	264	3.00		2013

DWELLING COMPONENTS

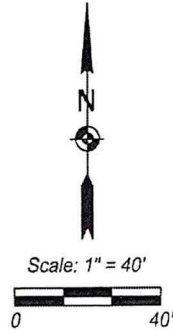
Code	Units	Pct	Quality	Year
905-Raised Slab Porch (SF) with Roof	98		3.00	2013
906-Wood Deck (SF) with Roof	204		3.00	2014

Certificate of Survey

Legal Description:

Part of the Northeast Quarter of Reserve No. 1 of Kaw Half Breed Indian Lands, in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line of the Northeast Quarter of said Reserve No. 1, which is 542 1/2 feet East of the Southwest corner thereof; thence North 318 feet, more or less, to the South right of way line of the Union Pacific Railroad; thence Northwesterly along said right of way to a point 155 feet West (measured at right angles) of the last described course; thence South parallel to the aforesaid East line to a point on the South line of said Northeast Quarter which is 155 feet West of the point of beginning; thence East 155 feet to the point of beginning.

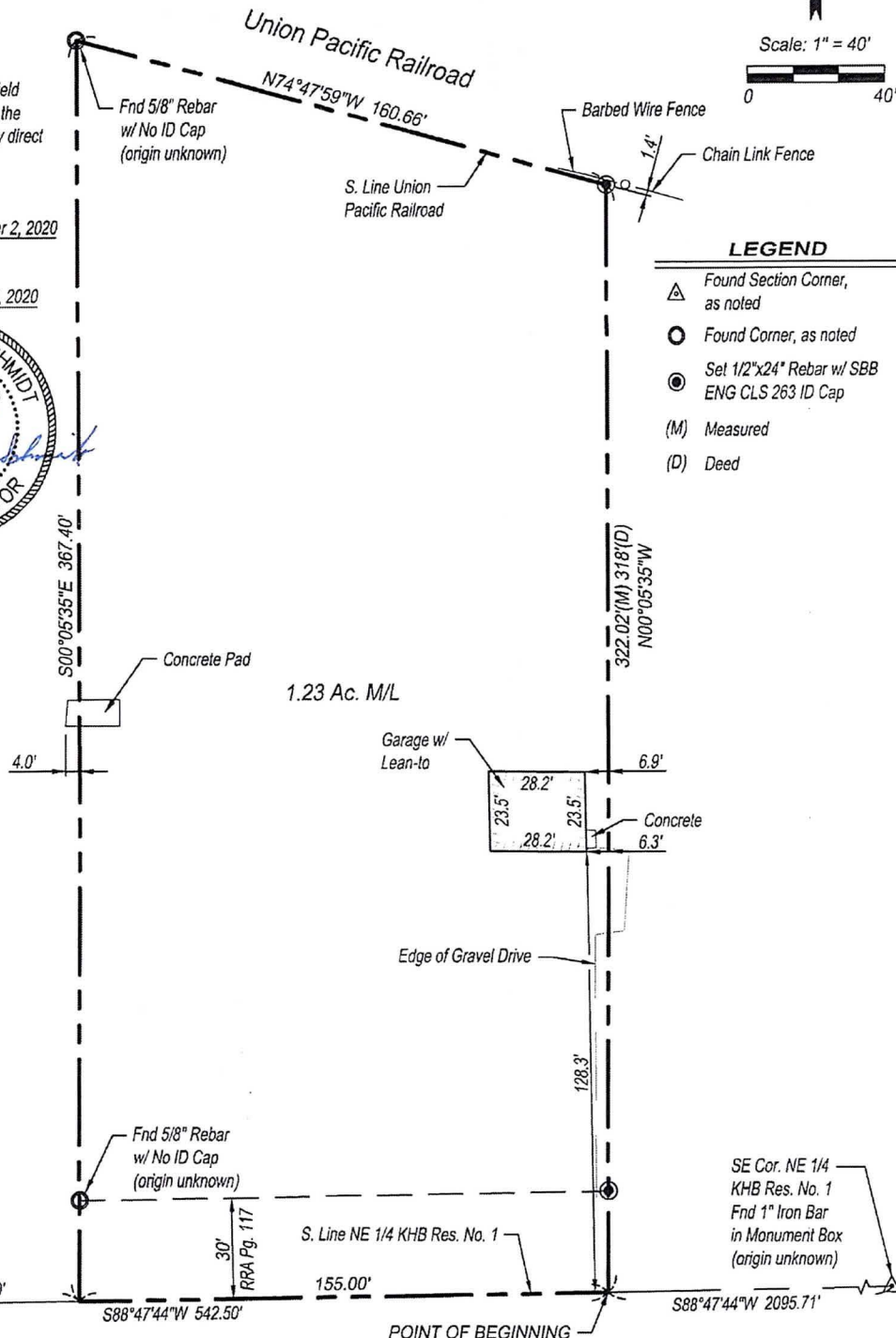
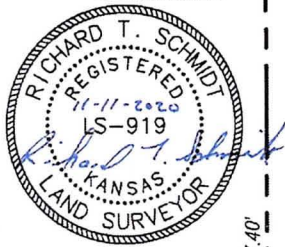
- An easement search or title commitment has not been provided by the client.
- By agreement with client, no investigation has been made regarding the location and/or existence of utility lines and easements. Surveyor does not certify to the existence of any easements.
- Bearings shown on this survey are on assumed datum.



This is to certify that this field survey was completed on the ground by me or under my direct supervision.

Date of Survey: November 2, 2020

Date of Plat: November 5, 2020



LEGEND	
△	Found Section Corner, as noted
○	Found Corner, as noted
⊙	Set 1/2"x24" Rebar w/ SBB ENG CLS 263 ID Cap
(M)	Measured
(D)	Deed

Prepared for:
 Nick Reilly
 3724 NW Lower Silver Lake Road
 Topeka, Kansas 66618

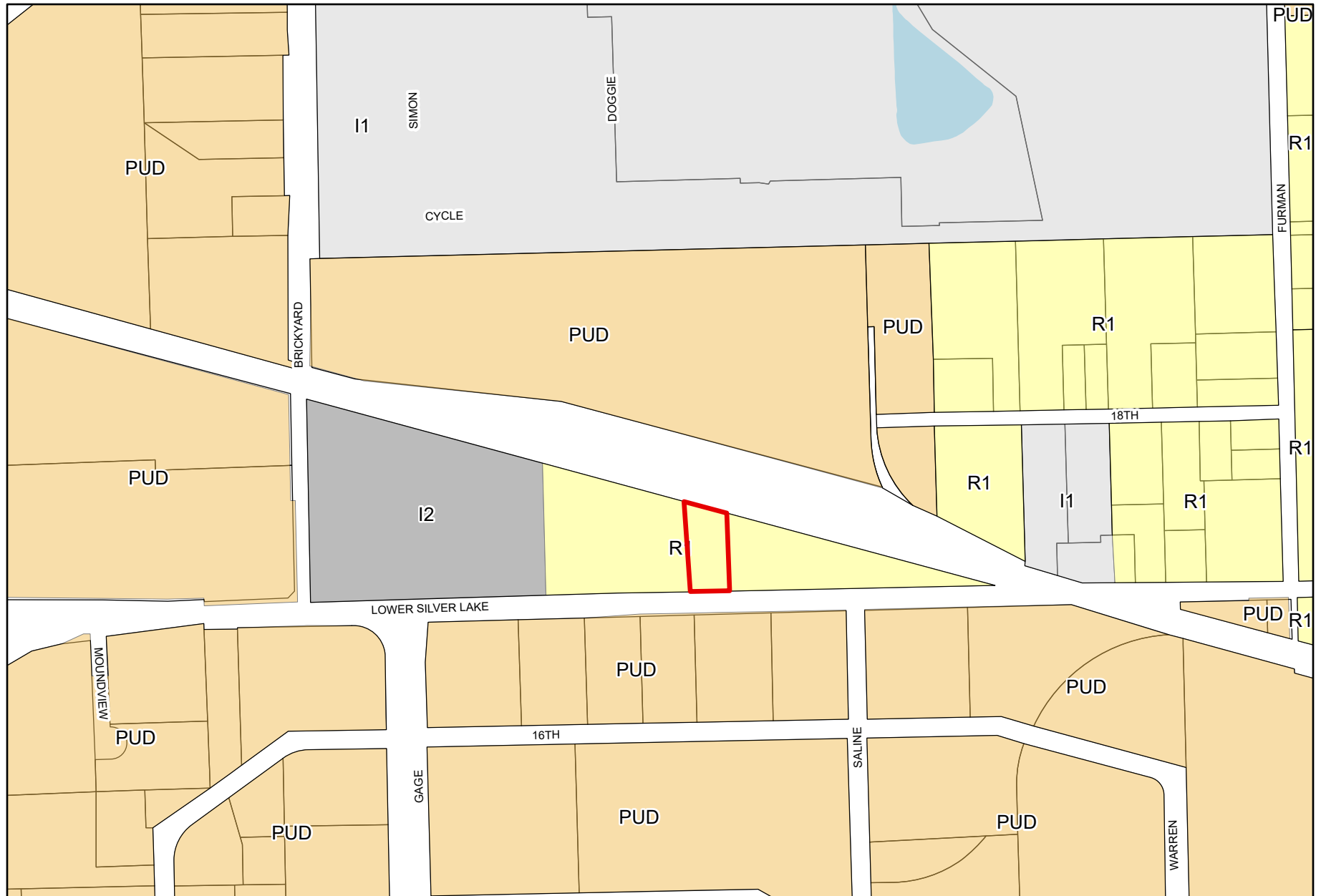
NW Lower Silver Lake Road

Job No.: 20-166 Date: November 10, 2020

SBB Engineering, LLC
 101 South Kansas Avenue / Topeka, Kansas 66603
 Ph: (785) 215-9630 / www.sbbeng.com

BZA 21V/03 Nick Reilly

Exhibit F



City of Topeka
Planning and Development
Department

Legend

 Subject Property



City of Topeka
Planning and Development
Department

Legend

 Subject Property

Exhibit H



Map for Analysis of Lot Size / BZA21V/03 by Nick Reilly