

Approved minutes 5.10.18



MINUTES
PLANNING COMMISSION
City Hall – Bel Aire, Kansas
May 10, 2018
6:00 P.M.



The meeting of the Bel Aire Planning Commission was called to order at 6:00 pm by James Schmidt

Members Present: James Schmidt, David Floyd, Phillip Jordan, John Charleston, Dee Roths, and Jeff Artz

Members Absent: Carla Zielke- position hasn't been filled.

Others Present: Keith Price, Zoning Administrator, Anne Stephens, City Engineer and Public Works Director, City Attorney, Jacqueline Kelly

Pledge of Allegiance: Led by James Schmidt

Motion to approve 4/16/18 Minutes by Dee Roths Seconded by James Schmidt. Motion carried 5-1 abstain

James Schmidt- Welcome to the new planning commissioners

James Schmidt opened the hearing
SD/18-02 Rezone a C-1 Zoning District to an R-5 Zoning District; Lot 7, Block B in Aurora Park Addition

Rick Hoffman- the plan has been changed from 6 units to 5 units, a triplex townhome and duplex townhome. There is a large area now for a large trash container. This project isn't marketed to families, but more the professional, Koch engineering short stay that are here for 2 to 3 months. These will be furnished units. Last meeting people talking about kids running around and stuff; these are not designed for that. They are only two bedroom units. They are not designed for renters. The other option is these would be sold, as townhouses.

James Schmidt-sold to Koch?

Rick Hoffman-Not to Koch

Jeff Artz-These are going to be rental units?

Rick Hoffman-Short term rental units. A 3-month stay in a furnished unit. If this plan doesn't work they will be sold.

Dee Roths-Do you have any other units like these already, with this concept?

Rick Hoffman-No. He builds everywhere. They will look nice. He has built in Central Park Addition; the twin townhouse used brick and stone

James Schmidt addressed the crowd giving only 3 minute to those that have already signed up, once the last speaker is done, he would close the hearing.

Bonnie Stinson-3800 N Harding, (submitted packets to the Planning Commissioners only). Comparisons between C-1 and R-5, her conclusion is that a C-1 would be a less negative impact for the neighborhood if it remains a C-1. She worked on criteria for review of the lot size. She read her notes on the lots one acre in size. She read about property uses nearby.

James Schmidt cautioned the crowd he will allow one time for Boyce Boden to hand off his turn to Bonnie Stinson he had asked before. No one else will be allowed to handoff their turn.

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Bonnie Stinson-she talked about an open drainage grate and kids playing, standing water, drainage ditch, and growth of mosquitoes. Pictures submitted to you has standing water in the ditches. Does this conform to the master plan? No, it doesn't, on page 15 states multi-family only in R-6 zoning. What does Koch feel about this has he talked to him? Have they signed agreements? There is a Value Stay with in a half mile. And, there is the Aloft where a lot of Koch people stay. She talked about the owners of the duplexes over here residing in Dexter, Texas. I don't have curtains on my windows, when I see lights coming down (Harding) there; they are gone. If I have lights across from me, with 5 families coming and going, I will be asking to put up a fence, is what I will do. I will conceal myself, if you won't let me have my space that I have had since 1992. I'm done. Last meeting Mr. Hoffman asked why all of the neighbors didn't get together and buy the property; my question is Why Mr. Hoffman didn't buy a lot already zoned to his liking.

Gary Olson-5050 E 39th St, 5017 E 39th St. He and his wife have lived in Aurora Park since 1981. Renting to Koch employees a furnished apartment, what happens to this property if he can't rent them or sell them? He has had sewer problems twice in the last three years because the sewer system has not been maintained. This will be a real eyesore, I asked that you denial the request.

James Schmidt called Joe Stinson.

Joe Stinson-I'm done

Sylvia Fort- 4072 N Harding. When on the planning commission she used best practices. The comprehensive plan was developed to prevent spot zoning, this goes development goes against this. The developer is trying to maximize property of an undersized lot, creating sprawl. Setbacks and buffers and other fundamental seem to be an obstacle or an afterthought. The developer should respect Bel Aire, the choices of pines mentioned last meeting indicated he didn't consult with the tree board. I recommend the driveway empty out on to 37th St.; he could easily provide a culvert to connect to 37th st and minimize the impact. I was curious about the look along 37th st, and how these will look. She read the duties of the planning commissioners, they can make conditions and ask questions. She stated the city should cooperate with its neighbors and citizens, and not allow projects that will prove later to be problems or eyesores.

Jeff Artz thanked Sylvia Fort for her service as a former planning commissioner for Bel Aire.

Joseph Fort-Concerned with the duplexes having children; there is no area to play. The sewer tower, the drainage pond, Fawn Lake, may be an attractive nuisance for a child. They don't want and any child drowning or any vandalism.

Carolyn Gunzelman- He don't think it will be rent by people with children, but he can't prevent people who have children it against the law. Multi-family units don't fit the neighborhood. The reason the houses are kept in good condition because of the feel of the neighborhood. There are no other multi-family on Harding or Aroura Park Addition. I believe it doesn't meet Master plan. I would rather see it stay as a C-1 commercial lot. I have question on how far the driveway should be from the stop sign. How will the displaced water be handled for this development? It feels like the staff is favoring the builder over the citizens, the land owners over there already. She had a conversation and was told no one is going to build their dream home on that lot. I argue, if someone knows what it is like to live over there, they would, because it is worth it, even if it is on a busy intersection. With rentals, comes an increase of police calls; when I read the Bel Aire Breeze, Lycee and those multi-family homes are mentioned a lot. I would like to know the city engineer has review the plan to make sure this doesn't cause flooding in the surrounding area and the streets. Part of your responsibility is to protect current homeowners that is why all of us are here. We want you to protect our lifestyle and property.

Ron Penner-4100 N Battin-(declined to speak when called)

Gary Gunzelman-5029 E 39th St .I'm interested in the guarantee of this Koch engineering deal. Is that a guarantee? If it is a young couple from Koch, they are going to have children it's going to happen. Two bedroom,

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there is an extra bedroom for kid. Who will put \$500-\$800 deposit down to live there 3 months? What did they decide to do about trash? You want these across from your house? We love our neighborhood, we want to keep loving it.

Mrs. Penner- 4100 N Battin since 1991. Our streets are a big concern. (Described recent rain and impact on the street) from 37th St, it's a mud road. (She hand someone a picture to view). The street can't take the added users. You can't keep a clean car, we know we have gravel streets when we moved there; I don't know if the Koch employees are like that. I have family that works at Koch, she hardly visits because of the grave road.

James Schmidt- Asked Rick Hoffman back to the podium. Could you install a fence around the perimeter?

Rick Hoffman- I could, I'm not opposed to installing a fence.

James Schmidt-The driveway approach is required to be 25' wide. Someone stated we should respect Bel Aire; I think you do, that is why you are here; you built the duplexes here in Central Park, those are nice.

John Charleston-Have you talked with someone at Koch?

Rick Hoffman-No not yet, it may not be Koch. I feel like there is a need, for a short term type of rentals; Koch is right here near. Tallgrass has a short term rental, people are paying \$3,500 a month for furnished apartment.

David Floyd-Does the city have a definition for a short term stay rental? I have been trying to distinguish between a traditional type rental and a short term rental.

Keith Price-Transient verses, family environment; R-5 requires a kitchen, bathroom, bedroom. R-5 does allow an efficiency apartment so it could be a one room unit. It is a gray area in the code. Staff has been reviewing Airbnb type stays. The question is are these breaking the zoning regulations? There is not a specific timeframe listed in the code.

David Floyd-Is a PUD more appropriate zoning tool to deal with development to control the gray area?

Keith Price-If multiple rules of the zoning code require changing for a specific use; that could be the case. The way I vision this development, there are not multiple rules changing. You have two different decisions on the table, the vacation is later.

C-1 lists a specific residential use; it appears a process is required. It may prove a process is not required, but it gives the neighborhood and everyone a fair way to express what is going on. It is falling in a gray area of the code as if it is in need of a process.

David Floyd-Mr. Hoffman would you like to elaborate of your primary plan and then a different approach of a follow up plan of selling them.

Rick Hoffman-I wouldn't sell just one of them, I would sell each unit separately.

Phillip Jordan-What is your thought of building an approach and culvert across to 37th St?

Rick Hoffman-I'm not opposed to doing that, we install culverts all the time. Wonder if the city would allow that.

Keith Price-The overall Transportation Plan, the goal is to limit how many outlets we allow on the arterial streets. We are trying to control the traffic within the site, before they exit the site. It is in the city's best interest not to allow a drive out to 37th St. The property across the way in Wichita, is zoned LC, light commercial. It has not been developed yet, it is a long strip of land and could have driveways coming off of that area. When driveways

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are across from each other near the intersection of 37th St and Oliver, it can create a traffic nightmare. Long term it is better not to allow. It would be up to the city engineer and the designer of the city's roadway system.

Rick Hoffman-We had been discussing paving Harding St. up to the driveway of the development; forty or fifty feet.

Phillip Jordan-What is the reason for the street flooding; there is a nice rock drainage ditch, someone has designed system?

Anne Stephens-Part of the reason over the years some of the ditches have filled up and the road has dropped, so the ditches don't have the capacity to carry the water. The 37th st project, they opened up the ditches a little bit, and put in some drainage pipes. There is an inlet in the intersection; with the last rain the inlet appears to be functioning as designed. There is a little bit of a hump in front of the inlet to the north blocking some of the drainage. Staff is working to get that hump cleaned out and cleared up so it will facilitate more of the drainage. As always, these roads are not designed to carry a 50 year or 100 year storm; they are designed to carry 15-25 year storms. Storms the city had two years ago you are going to see flooding in isolated areas that will go down in a matter of a couple of hours. Staff does go out as soon as they can to observe the flooding, so they can make improvements. In the past, in this neighborhood, the neighbors didn't want the ditches cleaned out, so the ditches have been neglected.

James Schmidt-Explained the functions of the stormwater inlet not only drains away water, but is designed to store water. After a storm, the drainage will not be completely empty, it is designed to dissipate.
(Crowd speaking from audience without regard for chairman)
It has been noted by the city engineer.

David Floyd-We should be considering the added runoff as the result of doing the proposed project. The reason I brought up a PUD, I would like to have something with teeth. Are you willing to an on-site drainage plan; routing your stormwater to the west and to the south to the drainage basins directly, and not through your drive or from your roof tops to the ditch adjacent to the ditch on Harding? You don't have to answer that; but that is the only relevant drainage issue. The others are existing drainage issues that need to be addressed, and are beyond the scope of what we are discussing. Because there is a perceived drainage problem, not acknowledging that could prove to be a hardship. We should use that information to our advantage, so, placing the down spout on the correct side of the buildings and using the drainage ditches is where this conversation should be heading.

Keith Price- A drainage plan requirement is in the city code and would be expected. What you have stated could be a condition.

Rick Hoffman-I have already discussed this with Keith regarding the drainage plan.

James Schmidt closed the hearing

Jeff Artz-I voted no to tabling this proposal, last month and I will vote no this month.

Phillip Jordan-(Read the nine considerations for a zoning change)

David Floyd-These can be weighted differently?

Jacqueline Kelly-That is correct. So long as the commission articulates without arbitrarily make this decision, grounded in those nine reasons, it is more likely to be upheld and recognized by any appeal.

James Schmidt called a 15 minute executive session. 6:50pm-7:05 pm

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Jacqueline Kelly-Announced the legal basis for the executive section.

James Schmidt- Called the meeting to order. The planning commission's decision is a recommendation to city council. You have the right to go to that meeting too.

Jeff Artz- Motion to deny the request.

Dee Roths-Seconded the motion.

David Floyd-Asked for discussion with a narrative behind why a decision is made and then retracted the question.

Phillip Jordan-I understand the concerns of the homeowners and take them seriously; however, some of the details are not yet defined. They will be defined with the drainage study comes, the architectural review, what the materials will be, and buffers. These will help appease the adjacent property owners. The nine points are driving my decision, the information forthcoming can be vetted and can improve the likelihood the concerns mentioned can be addressed.

David Floyd-The nine golden factors are from a Kansas Supreme Court case; Golden verse Overland Park. This is the decision criteria for the planning commission's decision. The primary reason the residents are opposed is number 4. The extent of the removal of restrictions from a C-1 to an R-5 will detrimentally will affect nearby property. It is a valid concern, and is why it is being addressed. I challenge you to think of this from a different point of view.

Think about what is and what is not detrimental to nearby property. Last year the property paid \$908 of tax revenue. Of that, \$277 was revenue to the city of Bel Aire. It is money used to fund essential functions- police, public works, etc.\$325 went to USD 259, and \$111 fire district #1.

This is likely to be an investment above and beyond the value of the current land somewhere near \$500,000. What that does is create an annual tax base of something like \$9,280 a year using the state constitution for assessment rates. Using the current Bel Aire mill levy, 149.999 mills; it comes up to \$9,280. Which will yield \$2,629 to the city of Bel Aire.

Budgetary, real estate development is generally good for the city, but it is not perfect. Normally, it done on the edge of existing developments, extending street and infrastructure in a field. With this type of development, the city is continually in a predicament, by which, in order to get increased tax revenue from a developments to fund essential services, repairs culverts and patch roads in our established neighborhood, we as the city agree to accept the responsibility to maintain every additional increment of infrastructure that serves a new neighborhood.

"The saying "Don't let the perfect be the enemy of the good" encapsulates why we build this way. With the typical new development out on the edge, we're willing to trade added miles that police, and fire have to travel and patrol, and increase the amount of pavement were willing to maintain to have the additional revenue to support our parks, our quality of life, our essential services.

That is largely absent from this development proposal this evening. Every inch of pipe, every mile that police have to patrol already exists. The city has already committed to taking care of it. Back to the city; there could be a real financial benefit to approving this project. I offer this up, so that the thought could be, maybe this is not so detrimental.

James Schmidt called order to the room

Dee Roths-I have looked at the 9 points that we are considering when providing a recommendation to the city council, who will make the final decision. I went through the PROS and CONS and created a list. In my opinion,

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this development on the corner, is changing the character of the neighborhood as the first thing you see driving into the neighborhood.

I'm not criticizing the buildings, they are nice looking, but don't conform to the rest of the neighborhood. If something were to go in, it should be a single story building that wouldn't be visible when you first come into the neighborhood that looks like an apartment complex.

The length of time this has been vacant, financially this is hurting Bel Aire. I believe the opinions of property owners is important, for those of you living around there and the character of Bel Aire itself.

I'm one of the outside city limits commissioners, I live on a farm, but Bel Aire is my city. Bel Aire police have been out to support me personally in the past, they are the first one out.

Looking at the nine points, I would have to say no right now.

James Schmidt-After two meetings, and looking at the nine points, and considering what will come to us one year from now or in the future. We have a developer built beautiful duplexes here in Central Park. We asked him if he would put up a fence around the outside, he is willing to do that; he is willing to pave part of the street to his driveway. I think he wants to do the right thing for you. The revenue is another good point. I'm not sure how I will vote right now, it is a difficult decision.

The motion was now taken to a vote to deny the request; made by Jeff Artz Seconded Dee Roths
Vote 3-3

James Schmidt-We are at a dead lock tie, it will go to City Council.

Keith Price-There is a 14 day wait period, and then it will be placed on the agenda for the first available time.

James Schmidt-you can check the city web site or call the city offices for the city council docket.

James Schmidt opened the hearing

SD/18-02 Vacate a 50' building setback to a 25' setback, Lot 7, Block B in Aurora Park Addition

Bonnie Stinson-Looking at the bel Aire Zoning Code; you are the planning commission, you are the zoning people-you make the decisions. There are two homes on the west side that are non-conforming; that setback was always supposed to be 50', all the rest are on the 50' setback. (She provide some approximations of the two home locations in relation to the setback, next door 47', the other 37'.) The average mean is 40' and not 25'. She provide a packet with a drainage easement to the commissions and things she didn't discuss during the other hearing.

James Schmidt closed the meeting and then reopened as folks indicated Sylvia had a hand up to speak.

Sylvia Fort-4072 N Harding. The setback request really concerns me, the request tells me the lot isn't appropriate for the development.

James Schmidt- Asked who did that study.

Sylvia Fort- She answered that is what she is saying when the average is 40'. You should not have to eliminate setbacks. Another item that came up, was the asphalt; a previous city council required curb and guttering. There are really a lot of issues that need to be examined.

James Schmidt asked for last call.

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Helen Bebee-4151 N Harding-(no card provided) I just heard about this yesterday. We know what the builders intentions are right now; he doesn't know what will happen in one year from my observations, I understand that he is looking for profit. Who will make it acceptable to the neighborhood in the future when he is long gone? She continued to speak about the rezoning issue and money.

James Schmidt closed the hearing

Phillip Jordan-I don't think a 25' setback is enough; if you have a large tree, it could have a 25' spread. It is too narrow, I think the minimum should be a 35' setback to allow adequate landscaping along Harding Street.

James Schmidt-Discussion so far, that 25' is not enough for landscaping.

Phillip Jordan-That is correct, there is not enough for screening from the neighborhood. We all know the breath large trees have, 25' is an easy diameter for a large tree.

Motion was made to deny the request by Jeff Artz Seconded Phillip Jordan Vote 5-1

There was audience questions about the process.

Jacqueline Kelly –Now that these decision have come out of the planning commission process, both cases go to city council. The governing body can approve the recommendations as provided by the planning commission; they can override and do the opposite of both recommendations. A no to a yes, a yes to a no. They can also return the topic back to planning commission to reevaluate their decision with new information, and guidance from council. Those are the four things they can do.

James Schmidt opened the hearing

CON-18-01 Property owner has requested to allow a home-based Consulting Business in an R-4 Zoning District

Jim Benage-About two and a half years ago I started doing some consulting, auditing freelance on my own for companies around. At that time I didn't come to the commission for a zoning variance because I didn't realize I need to; I understand there was also a history of the zoning ordinance change. I apologize for being delinquent in not requesting a zoning variance.

What I do is consult with companies business processes; not accounting type auditing, I do business processes auditing and quality system auditing. You are probably familiar with IOS 9000 certified companies. I'm one of the guys that audits them; I consult with them to get ready for that type of audit. I don't consult with the companies that I audit, that would be a conflict of interest.

My business is no impact to the neighborhood. I come and go; if I leave I usually gone for the day. Tomorrow I will be going to Tulsa early in the morning to do an audit and coming back in the evening. Zero impact to the neighborhood, I have never met with a client at my house. I don't anticipate that ever happening.

James Schmidt closed the hearing

David Floyd-Mr. Benage said he would never have clients come to his home; would the request as written allow him to have client come to his home? If so should this be limited or not?

Keith Price-if the business is approved as presented, it is without clients meeting at the home. Conditions can be placed on the request with the motion.

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David Floyd-Mr. Benage are you ok not having clients meet at the home office?

Jim Benage-Yes, perfectly, I doubt that would ever happen.

Motion was made to approve as presented by David Floyd Seconded Phillip Jordan _ Vote 6-0

James Schmidt opened the hearing

**SD/18-04 Platting process for hermitage housing in an R-6 Zoning District
Preliminary plat in an R-6 Zoning District with Ordinance 632, Conditional Use Permit**

Phil Meyer-Before you is a preliminary plat, a one lot plat. This is platting the remaining unplatted land at the Spiritual Life Center.

James Schmidt asked what was decided on how to handle the sanitary sewer.

Phil Meyer-We are not absolutely done with that, but before we get to the final plat we think a lift station or a grinder pump will be used. Pumping down to the manhole that exists on the cemetery property now to the city system.

Commissioner discussed earlier presentation of development with new commissioner, style of cottages, parking at the spiritual life center. Access to the units will be for maintenance and emergency use.

Phil Meyer-People will either ride in a golf cart or walk from the Spiritual Life Center

David Floyd-This is a preliminary plat, will the other site issues such as sewer be presented with the final plat

Keith Price-Basically, anything that is city related to sewer we need easements and access. If it is a private system with require access points of where the connections are, as far as bringing you a utility plan or drainage plan we typically don't, the city engineer reviews those for approval. Did you want us to provide something specific?

David Floyd-No, it was discussed last time of a conventional setup, one meter per unit.

Keith Price- We are leaning that direction for one meter per unit for water because of the requirement for a fire system. This will be part of the utility review and the building code review.

David Floyd- Asked Phil Meyer to discuss the differences between the preliminary and final plat.

Phil Meyer-the preliminary plat shows the existing conditions; the TOPO is one of them, the utilities that exist. If this was more than one lot you would see the streets, and set back lines, and utility easements. Anything impacting the lot; on this one we show the 100' KGE easement. Anything to meet your sub-division and zoning regulations or something we may want you to override in your regulations. We are not asking you to override anything on this one.

James Schmidt closed the hearings

Approve with or without changes and/ or conditions, table, or deny

Motion to approve as presented by Phillip Jordan Seconded John Charleston Vote 6-0

Current events

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Discussion about the city brush site hours and free mulch of good quality. A driver's license or water bill is required for proof of residency

Next meeting June 14, 2018

Jeff Artz motioned to approve. David Floyd seconded.
Motion carried 6-0.

Adjournment

Dee Roths motioned to adjourn the meeting Phillip Jordan seconded.
Motion carried 6-0.
Meeting adjourned. 7:52 pm

Submitted by Keith Price, Building and Zoning