



**MINUTES**  
**PLANNING COMMISSION**  
**City Hall – Bel Aire, Kansas**  
**July 12, 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, and John Charleston

**Members Absent:** Dee Roths, two seats not 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 6/14/18 minutes with changes submitted by Phillip Jordan by David Floyd Seconded by John Charleston. Motion carried 4-0

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

James Schmidt- Closed the continuation. Mr. Hoffman has personal reasons he couldn't make it this evening. To be fair we want to hear your side and his side.

James Schmidt motioned to table until the August 16<sup>th</sup> meeting, Seconded David Floyd Vote 4-0

James Schmidt-This will be on the docket next month. We are sorry about the delay. Mr. Hoffman's time is running; it may need to be denied next time if he doesn't show. If that were to happen he would need to start all over with a new application.

James Schmidt reopened the continuation  
**SD/18-02 Vacate a 50' building setback to a 25' setback, Lot 7, Block B in Aurora Park Addition**

James Schmidt closed the continuation

David Floyd motioned to table until the August 16<sup>th</sup> meeting, Seconded Phillip Jordan Vote 4-0  
With all of the noise going on the audience asked that the motion be repeated.

James Schmidt opened the hearing  
**SD/18-05 rezoning portion of the platting area to R-5 from C-1 and R-3 zoning districts**

James Schmidt closed the hearing

Jason Gish- MKEC Engineering. Representing the city for the replat. There is a drainage way that dissects the parcel; on the east side of that drainage way against Rock Road is commercial zoning, the drainage way is R-3 zoning, and the west parcel is R-5. The request is to down zone the commercial and clean up the drainage way, so all would be R-5 zoning.

James Schmidt-What was decided for along Rock Road for screening?

Jason Gish-The intention is to use trees, the new handout has a conceptual planting plan. This is in the spirit of the city ordinance; we will comply with the city ordinance of what is required. We will work with staff to make sure we meet the requirements. There is also screening requirements.

It is an interesting area, we have large reserves with ponds adjoining the neighborhood to the south, and Prestwick and Central Park Ave as buffers built in. There will be a combination of deciduous and evergreen trees

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along Rock Road. Last time we discussed a possibility of a berm; I wouldn't say absolutely no, at this time the developer is thinking a tree row.

Phillip Jordan-It appears the majority of trees shown are evergreen providing screening all year round. Would you mix in some deciduous trees to mix it up?

James Schmidt-Two reasons for the suggestion of extending the berm from Elk Creek; this development is an extension of Elk Creek. Secondly, the noise from Rock Road now and in the future. The berm would help deaden the sound for those houses that backup to Rock Road.

Jason Gish-A wall could do the same thing. We haven't discussed the exact details with the developer; we might be able to do something, but we don't have the physical space to build what you see to the south in Elk Creek.

James Schmidt-The city does have a free dirt pile to use to help build the berm.

Jason Gish-discussed the cost of moving dirt to the site.

David Floyd-The revised site plan, Villas at Prestwick title is new?

Jason Gish-Yes that was our concession to clear up some confusion with some of the neighborhoods in Central Park, so if that is acceptable, we will call the plat that. I can't tell you that is exactly what we will use for the name, at least for the plat and legal we won't have duplication.

David Floyd-One other new item that caught my eye was the conceptual planting plan; near Rock Road it depicts tri-plexes, the discussion was to consider quad-plexes. Is it the final decision to do tri-plexes?

Jason Gish-The zoning we are requesting would accommodate the extra 6 units; this is a footprint that we have already, we didn't have one depicting four and didn't take time to do that.

David Floyd-Is this going to be done in phases like most developments?

Jason Gish- We will start with the loop road, and then do the cul-de-sac as the second phase. We don't want to fill up the market too fast, it gives a way to digest the cost and be smart with the investment. It provides ways to change gears if there is a need to change markets. The intention is to go through with this plan.

David Floyd-I'm pleased with the conceptual sidewalk plan, it does a good job in tying into the existing sidewalks. Since this is senior housing specifically, it is good for the city to have connecting sidewalk to the city senior center.

Jason Gish-the number one form of recreation is walking for communities.

Phillip Jordan-On lots 13 and 14 the sidewalk ends, can they be connected across the drainage way with a bridge rather than dead ending on 14?

Jason Gish-A low water storm structure, would be fairly expensive. Under Central Park going north there is a good size box culvert as an example. Pedestrian connectivity is important, not as important as vehicular; it's a cost thing.

James Schmidt-Between lots 11 and 12 there is a sidewalk that goes through; lots 13 and 14 are out on an island, can the walk come up through the utility and drainage easement?

Jason Gish-The club house will go just south east of lot 6, is the reason for the walk connection between lots 11 and 12 creating the shortest distances for connectivity on reserve C. Are you thinking of shifting the walk to the south side of lot 12 and cut through there with a bigger loop?

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James Schmidt-Yes.

Jason Gish-personally I do like the south side of lot 12 better, but there are pros and cons for both. We would need to review this more. It would give you a straighter line coming to the north to the clubhouse.

James Schmidt-I'm just verifying, SCFD is ok with one way in and one way out of the cul-de-sac?

Jason Gish-The way it works with the fire department is after a certain distance they want away provided for a turnaround. Each one of the fingers that points toward Rock Road is a turnaround and the cul-de-sac meets a specific design provided. There are multiple ways for them to turn around. The cul-de-sac is superior for a fire truck to turn around. They are good with it.

Phillip Jordan-What was the thinking with the islands in the middle of the cul-de-sac, is that just to create parking?

Jason Gish-It does create six ancillary parking spaces; if you look we have other areas as well. Between lots 16 and 17, 18 and 19, and over by the club house.

Phillip Jordan- Lots 15, 16, 17, 18, 19 area a little more dense, is and R-5 zoning district appropriate for both areas?

Jason Gish-I get my cities mixed up, but I believe there are no multi-family uses in the commercial C-1.

Keith Price-The downzoning of the C-1 is required because of the restriction on residential uses and multi-family dwellings. The category chosen was based on density of a zoning lot which includes all of the reserves, etc.

David Floyd-Will these be townhouses?

Jason Gish-They will have to meet the zoning for size.

David Floyd-The pictures provided are from an existing development?

Jason Gish- These are from the development in Maize. Same product, same footprint. I'm unsure if the stone, masonry, colors will be the same combination or not. It will probably match the same locations of stone and siding shown in these pictures.

David Floyd-Do you know what type of adjacent zoning is near these units? I know there are single family, commercial, Maize road nearby; many things in common.

Jason Gish-The development in Maize has the combination of zoning types very much like what is already here in Bel Aire and what is proposed and what will remain north in Central Park. Rock Road is the equivalent to Maize Road. There is commercial zoning, hotels; uses like that along Maize Road. Back behind this where you find this development, next dense or highest use. To the south and beyond into the core you find single family development. It is very similar.

David Floyd-The Hampton Lakes Development was platted as senior housing or did it come after the single family housing?

Jason Gish- He thought it was started as planned. Currently a new phase is underway almost parallel to this one; changing some commercial like this development. Doesn't think it requires a zoning change but they are

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working through a plat. This does give you diversity of individuals in the neighborhood and marketability, it is a positive from a planning type of prospective.

Phillip Jordan- R-5 allows townhouses, garden homes, and patio homes. So these are townhouses? They are not garden homes because they are connected with demising walls sometimes four in a row.

Keith Price-They will have fire separation walls and separate utilities. I don't know if these will be 1,200 square feet of living space for each unit which is required.

Phillip Jordan-Read the R-5 requirements from the code book.

Jason Gish-They will have to meet the zoning. These will be single level units.

James Schmidt-I would prefer a berm over trees.

Jason Gish-We can look at that again, to see if we can achieve the type of berm you are seeing to the south. They may be more like those along Woodlawn.

James Schmidt-If there was some similar to those along Woodlawn with trees.

Phillip Jordan-If sound is a concern, the rolling berms will not take care of the sound from a busy four-lane Rock Road.

Jason Gish-Sound attenuation works best close to the source, so there will be a problem anyway because of the space between, with the drainage.

Phillip Jordan-What is the space difference for the berm between Elk Creek and this development that you mentioned?

Jason Gish-Based on memory, the Elk Creek is 60' to 70' at the base and 6'-8' high. The development has 35'-40' feet, 3'-4' would be the height of the roll.

Commissioners talked about the drainage.

Jason Gish-The drainage plan was just submitted to the city in the morning and hasn't been reviewed. There is an existing farm pond, we do not want to get into the blue line stream of that, there is room on the north side of that to expand that pond and create the outfall structure. It may be a weir or something like that to minimize the box that comes through. They will continue to work on the engineering of that.

James Schmidt asked if anyone was present to speak, there wasn't any request cards submitted.

Jon Trembley-5012 N Remington. My back yard will be just across the pond. We are talking about senior living but not senior assisted living correct? Single story? Entrance will be from Prestwick and not Rock Road? Will there be any screening south of the development? Is this part of Elk Creek?

Jason Gish- Answered questions. Single story, trees used for screening, and the land is part of Central Park proper.

Jacqueline Kelly-At this time it is unclear if these will be joining Elk Creek covenant, Central Park covenant, or having their own.

Daryl Schmidt-5021 N Remington. This backs up to the Elk Creek development. I'm one of the board members. We were concerned of what was going in here, we are hearing some good things. We own the lakes, our HOA

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maintains all of that. Will the house be in total view of that? Is it going to be independently owned, and rent out units? Will these all be tri-plexes, duplexes? Will these be maintenance free? Rented? Can anyone rent these?

Jason Gish- Answered questions. Rented, maintenance free, age restricted of 55 years and up. (Provided a site plan to view screening and housing).

David Floyd-Inquired about the screening along the reserves and if the site plan reflected the code requirements. Is a wrought iron fence required? Does it require a privacy fence or wall along the lake?

Keith Price-This is not technically under any Central Park covenant or HOA at this time. There is not a restriction in that manner. For screening the intent of the code it can be a living wall, a fence, or several things.

Jason Gish-It is the developer's intention to use landscape, it will very reflective of what is done on the other side. He will provide the density to meet the code, but they want to see the water. That is a tremendous asset to the development and to the city.

James Schmidt closed the hearing

David Floyd-This is a zoning case the golden factors are applicable. Of those, I wonder which stand out to the commission. I appreciate the citizen engagement, I don't feel like I heard any protest to this development. For that reason I'm okay not exhausting the golden factors this evening. I'm in favor of the development. Half of the development can be done by existing rights, no matter how the rezoning goes with city council, and is desirable at a minimum to be developed in this way. Within proximity of the senior center, it fits in with the master planning done with this area and is a tremendous addition to the city. It is proposed by a very reputable successful developer, my concerns are appeased and welcome the rezoning of the C-1 and R-3. It is a realistic best use of that commercial property, the trends in the retail market; if you vision a strip center; that would be far off. We have someone ready to go, to move dirt that's going to be attractive and add diversity to the area in a positive way. It might bring the density to develop the parcel to the north we own that we stare at when we go out to the parking lot. I'm happy with this.

Phillip Jordan- I concur. I think it is a good use, I agree with Mr. Floyd on all of those accounts.

John Charleston-I agree, I think it would be a good addition to our community in that area. My only concern would be the same as the two gentleman-would I like to see the back of a strip center or whatever from the back of my own home? The rest of this is layout very reasonable and would be great for the community.

James Schmidt reopened the hearing to call Jason Gish back to the podium.

James Schmidt asked about BMPs to control erosion during the project.

Jason Gish-Described federal, state, and city requirements they are required to meet. When they prepare construction drawing city staff will review those to see that they meet the standards and are in conformance of what needs to occur. The other developments MKEC has worked on, there are requirements to seed, provide erosion control devices to keep sediment on site. Barriers consist of silt fence and a myriad of products. They will have to meet staff requirements and the plan review.

James Schmidt-(Provided a handout of a worst case photo). The use of plastic pipe tubes is a joke. It is cut in next to the sidewalk and then washes out, and then the sidewalk is covered in mud. I'm concerned with the environment and strongly suggest the use of silt fence.

Jason Gish-I think you will be very satisfied with the Schellenberg Development, they are very good environmentally, and low impact development. In my opinion are top notch, in being in favor of being a good steward of their site.

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David Floyd-Reviewing the site plan, the Elk Creek neighbors will see the screening from their back decks, there are many deciduous trees and significant coniferous, but the neighbors can only install wrought iron fence as a screen.

Jason Gish-The reason they don't allow a privacy fence is they want all of the neighbors to have an unobstructed view to the lake. A peripheral view of the water features, ornamentals are not typically used for buffering. If you need to keep pets and kids or whatever, you are allowed to have a fence.

David Floyd-Asked about city code for screening that is required in this case.

Keith Price- The perimeter landscape required for a residential use is determined on a case by case basis. If you feel there is something to require, that can be made part of the motion.

Phillip Jordan- If the developer prefers to use trees it is a string effect; you don't want to restrict the view from the villas, but you want to be a friendly neighbor and restrict the view of the villas from across the pond. (Discussed the placement of tree types.)

Jason Gish-We have the trees shown spastically we definitely don't want to block the view. We don't place a coniferous by a patio. We do want to be choosy of the placement of those.

Commissioner discussed both neighborhoods sitting in the backyards looking across the pond, a reciprocity friendly situation.

Phillip Jordan-I don't see a need to place a condition on the motion on the zoning change request.

James Schmidt-We are talking about a view in the back along 5 houses. All of the sidewalk is out front. The sidewalk doesn't go along the pond?

Jason Gish-It is not our intent to have a sidewalk along the pond, but to limit the sidewalk out front. Normally people don't like to have someone walking in their back yard. We believe the front side is how you approach someone's home typically, and will satisfy connectivity in a traditional neighborhood.

Daryl Schmidt-We own the lake and the land that goes up on that side.

David Floyd-So you will be mowing on the opposite side of the water next to this development.

Daryl Schmidt-We do want this to look nice on the other side up against.

David Floyd-The reserve is controlled by your HOA and is in your best interest to continue to maintain that area.

Daryl Schmidt-We would like to see nice landscaping and a wrought iron fence to tie into us. I know it is not part of my HOA.

James Schmidt- Asked Jason Gish to respond to Daryl Schmidt's comments.

Jason Gish- Described the lot lines and was in agreement with ownership of the pond and bank abutting the development.

James Schmidt-Mentioned the 10' utility and drainage easement at the back of the plat, and that the trees would have to be placed into the lots out of the easement.

Jason Gish was in agreement generally.

Approved minutes 7.12.18

David Floyd-I mentioned trees because of the one of the citizens comments. Looking at the landscape plan, and with the HOA maintaining the green space; north of that we have zoning requirements for plantings. We have picture of the back side of the homes, they all look the same, very similar to a single family home. It will be similar materials.

Commissioners discussed siding and brick materials and city requirements.

James Schmidt closed the hearing

Motion was made to approve as presented by Phillip Jordan Seconded David Floyd Vote 4-0

James Schmidt opened the hearing

### **SD/18-05 final platting process in a predominate R-5 Zoning District.**

No one was present to speak from the audience as James Schmidt asked.

James Schmidt closed the hearings

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

Motion to approve as presented by David Floyd Seconded John Charleston Vote 4-0

James Schmidt let everyone know these will go to City Council next for approval

### **Directive from city council to review the city home-based business licensing process.**

Keith Price-The city is required to announce a public hearing when there is a meeting to change the zoning code. Before we dive into it, we are asking your blessing to publish a legal ad for the August 16 planning commission meeting date. We will provide information and accept input between now and the meeting, but we want to start with the ad. Everything would then be bundled together in the packet and then at that point you could make decisions at the next meeting.

Commissioner discussed past examples of homebased business and the rules in place already.

Action: To approve staff to place a legal ad in the Ark Valley as required for notification prior to conducting a public hearing.

Motion to approve James Schmidt Seconded Phillip Jordan Vote 4-0

Jacqueline Kelly-Now that you have directed the action, staff can place the ad for the public hearing. We will look at the chapters, present some ideas that potentially address council's concerns, your concerns. If in the meantime you want to communicate with staff on what you would like to see in a home based business code, you can communicate that to staff. We hope to present this in the next meeting for you to work on; then you can present to city council to for their final decision. Every person with a new homebased business is supposed to go through this process, council is concerned about the cost, they have voiced concerns about business that don't have an impact on the neighborhood, without noise, customers, or visible sign of their business-how should these should be treated. Anything you send to us in the next month we will take a look at and bring back to you for your consideration.

David Floyd-I have been made aware there are condition existing in the current code that could be part of the problem, because it is cumbersome, therefore people could be operating businesses illegally. This may mitigate that if the code was less restrictive.

Approved minutes 7.12.18

James Schmidt-Contact staff with your ideas and comments. Start with reading Article 8.

Commissioners discuss rules related to being a planning commission member and term limits, time served

**Elect Planning Commission Chair**

Motion made by David Floyd to elect James Schmidt as Chair Seconded John Charleston  
Vote 3-0

**Elect Planning Commission Vice-chair**

Motion made by Phillip Jordan to elect David Floyd as Vice-Chair Seconded John Charleston  
Vote 4-0

Current events

July 14, both the curb side cleanup and city brush drop off

The free mulch is still available at the brush drop off site for Bel Aire residents only.

August 11 is another brush drop off day.

August 13, is the Hot Dawgs pool party, before the city pool is closed for the season.

Information provide by Anne Stephen.

David Floyd-It was nice to drive down the newly stripped 53<sup>rd</sup> street.

Commissioners discussed 45<sup>th</sup> street and Woodlawn intersection.

Anne Stephens-That intersection will be getting completely redone with the Woodlawn reconstruction project. The city committee will be selecting an engineer to design the project, city council will make a selection next Tuesday. The selected engineer will start a study, to review the current and future needs of the road, traffic counts, etc. and make a recommendation as to what the road will look like; including the intersection. They will consider a traditional signalized intersection and a round-about intersection. The design work should go through 2019 and construction will start early 2020.

James Schmidt-Could you tie in the intersection of Iron Gate and Central Park into this project? Like turning bays?

Anne Stephen-No that is too far north. That would be a future project.

David Floyd-The Aurora Park case is closed correct?

James Schmidt-Yes I did. Would you like to make a motion to reopen it?

David Floyd-Yes. I make a motion to briefly reopen the SD/18-02 Rezone to discuss the time constraint on the Aurora Park zoning application.

James Schmidt-Seconded the motion  
4-0

Jacqueline Kelly-Typically and according to our code there is a 30 day time constraint from when City Council sends it back to you for reconsideration and modification. If you had made a decision tonight it would have gone to City Council after about 35 days, which is longer. In this case a petitioner has had an emergency, and cannot be here, that is an extenuating circumstance. Though the code is silent on that, it is reasonable to allow an appropriate amount of time to allow the extenuating circumstance to be resolved. It would not be in the spirit of the law, for the code to make a final ruling on a petitioner who couldn't be here in those cases. It is appropriate in this case to grant the additional time; and it's the only reason to granted the extra time. If he were to come



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back in 30 days and say he has a different less extenuating reason, say a vacation planned or something and can't make it, then you want to reactivate the case and make the decision in light of the timeline constraints.

James Schmidt-At that point he may need to start over with a new application.

Jacqueline Kelly-Once it is denied he would have a year to wait before he could reapply for the rezoning of the property. The vacation portion doesn't have a time constraint.

Phillip Jordan-In the spirit of the law, the next meeting we would be starting the 35 day clock?

Jacqueline Kelly-Yes. You could be inappropriate if you didn't address it at the next meeting. I don't have that specific answer for what that clock does; seeing that it is not practical to handle it at this meeting for all the reasons we discussed. It is practical to at the next meeting, August 16<sup>th</sup>.

David Floyd- One year wait period if he doesn't come back next month ready to go has been discussed.

James Schmidt-Do we have to deny it or can we grant an extension?

Jacqueline Kelly-You do not have reason to grant an extension as this point. You have completed the work council has ask you to do as far as that goes. Council asked you to allow time for them to meet, to study the issue, and to get them back a recommendation, those are the next steps.

Phillip Jordan-We will also take action next month, even if he isn't here.

Jacqueline Kelly-The Chairman could have proceeded without him being here, but it is almost absurd, to continue without the petitioner on a petition you were asked to consider.

James Schmidt closed the hearing

Discussion by the commissioner about people approaching the bench with handouts and concerns of the disruptions during the meetings. The value is lost if it can't be reviewed. Materials should be going through the planning administrator.

Jacqueline Kelly-Mr. Chairman, as we go through the bylaws, they can explicitly include a requirement for any non-petitioner driven document information to be given to you in a time prior to a hearing and be provided to the secretary. Generally, that is a typical point of order that documents would go to the record keeper and a speaker should not approach the bench without permission.

Next meeting August 16, 2018

James Schmidt motioned to approve. John Charleston seconded.  
Motion carried 4-0.

### **Adjournment**

David Floyd motioned to adjourn the meeting James Schmidt seconded.  
Motion carried 4-0.  
Meeting adjourned. 7:35 pm

Submitted by Keith Price, Building and Zoning