



MINUTES
PLANNING COMMISSION
City Hall – Bel Aire, Kansas
August 16, 2018
6:00 P.M.



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

Members Present: David Floyd, Phillip Jordan, Dee Roths, and John Charleston

Members Absent: James Schmidt, two seats are 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 David Floyd

Motion to approve 7/12/18 minutes made by John Charleston with the correction mentioned by David Floyd related to home based businesses Seconded by Phillip Jordan. Motion carried 4-0

David Floyd-Called for an executive session to discuss attorney-client privileged information for 10 minutes.

Dee Roths made a motion to go into an executive session, Phillip Jordan seconded the motion vote 4-0

David Floyd called the meeting to order.

David Floyd-Called for an executive session to discuss attorney-client information for 10 minutes.

Phillip Jordan made a motion to recess back into executive session to discuss attorney-client privileges for 10 minutes, John Charleston seconded the motion, vote 4-0

David Floyd called the meeting to order. He announced no binding action by the commission was taken.

David Floyd 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

David Floyd-Read, the directive from city council as this case was returned for the planning commission to reconsider new materials and information, for the record. He read, the letter dated July 3rd from Rick Hoffman, in response to the meeting with the neighborhood, they were unable to reach a compromise, for the record. He read from a Memorandum from protest petitioners, Joe and Bonnie Stinson, related to the June 19th meeting contained in the packet.

We have received one new plan so far, I hoped to have two; with 3 or 4 units in line as single structure to appear as a sprawling ranch. Is there anything like that forthcoming? I was hoping that would be the type of compromise to come out of this meeting.

Commissioners in review of the May 10 meeting, the motion to deny is not rooted in the Golden Factors as it should be, given the comments of the motion maker. Leading up to the motion, the motion maker said the following. He asked the applicant if the units are going to be rentals. Whether these are rental or owner occupied is not a zoning issue, in fact it is beyond the city's purview. Mr. Artz thanked Mrs. Silvia Fort for her services as a former Planning Commission member, I would like to commend her as well, for her tenacity since then, keeping the City Council

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current by addressing them during the citizen concerns. I think your efforts make difference in the process and something meaningful come from it, so thank you.

Motion maker Mr. Artz later stated was against to tabling this last month and would do so again, and then a motion was made simply made to deny the request. The original rendering of the Golden Factors, State Supreme Court derived that a mere yes or no vote upon a decision leaves the reviewing court in a quandary, the board should provide a written summary of the evidence before it, stating factors in which it consider when arriving at its decision. Commissioners of the three possibilities, please keep this in consideration.

Mr. Hoffman-I have some renderings here

David Floyd-We have one single rendering with two duplexes

Mr. Hoffman-This one is in color (he provided to the commission)

John Charleston-How many square feet are these units? With a basement?

Mr. Hoffman-1,200 square feet. No basement.

David Floyd-Single story structure? Single car garage per unit? Brick facade on 3 sides that I can see.

Mr. Hoffman-Yes single story and single car garage

Phillip Jordan-One question that I have had all along, although rudimentary drawings, where is the omni large drainage swale drawn? Can you give some clarity? I see the 200 foot property line on the south and there is a 15' setback shown.

Rick Hoffman-That is where is will be in the 15' setback, along there.

Phillip Jordan-Asked if Anne Stephens, city engineer could confirm.

Anne Stephens left to get recent plans created for 37th street

Mr. Hoffman-The engineer drew this plan, I think the drainage swale is on the other side of the setback.

Phillip Jordan-Personally I would like to know exactly where that drainage swale is; it is obvious you wouldn't put a drive or trees in there, so all of those improvement would have to be north of the drainage easement.

Mr. Hoffman-Correct. I talked with the engineer and he said there is plenty of room to make the driveway coming in to the site and there even be parking on the south side of it.

David Floyd-There is a privacy fence along the north utility easement, and a small back yard. Working with your engineer is there an ability to shift the site forward?

Mr. Hoffman-Yes, there is room on the south side of the drive coming into the site.

Dee Roths-Why didn't you consider a single family home?

Mr. Hoffman-I didn't think with a sewer lift station it would be a good place for a single family home. It would be hard to sell.

Phillip Jordan-Has this plan been viewed by anyone else? Mrs. Stenson or the neighbors?

Mr. Hoffman-No. We talked about it.

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Phillip Jordan-I'm wondering how to make an informed decision. If this was presented to the neighbors perhaps they would approved.

David Floyd- As appointed officials, the elected officials have entrusted us to act in the best interest as a city as whole. We are burdened with that to make a determination; the meeting has started, not all of the information was provided that is now.

John Charleston-What other options did you present during the meeting with the neighborhood?

Mr. Hoffman- This is one of the plans. When we had the meeting we went over the single story duplexes and the two story units. The only thing they were willing to look at was a single family house.

John Charleston-Were there any other options beside this one?

Mr. Hoffman-I said I was open to options, I would have drew up anything. They weren't willing to look at anything.

Jacqueline Kelly- Chairman would you ask the applicant to describe the drawings you have received? It may be good for the entire room to have the drawing described.

Mr. Hoffman-Provided additional copies to the audience.

David Floyd-Described the conifer trees along the south property line, evergreen, conifers along the east property line, in the setback. He asked about the width of the drive east/west section before the angles to the garages and the ability to stack cars side by side and still allow ingress and egress.

Mr. Hoffman-The width is 20'. One car could be coming in and one going out.

David Floyd-I wouldn't be comfortable with anything less than that, a street is 28', I realize this is a drive, but it need to be functional. People will park on the drive because it is close to the house.

Mr. Hoffman-On the south side this could be widened, if you want cars to park along the drive.

Phillip Jordan-Cars are about 7' 8" wide, a 20' drive will almost allow a row of cars and 2-way traffic. To describe the site plan architecturally for those of you without a site plan; residential structures with a hipped roofs, and ridges-opposed to gables. 9' -10' brick wall height around all sides of each structure. Composition shingles. You would consider a gabled roof on the garages?

Mr. Hoffman- yes.
(Audience disruption)

David Floyd-Mr. Hoffman do you have anything else to add?

Mr. Hoffman-No

Anne Stephens-Provided the city maps for 37th St. from the final plans used for construction. Anne described the orange highlighted area of the drainage easement. The swale is back from the right of way on the east side of Harding St., it does go back onto the property. The easement was acquired before construction from the previous owners. Anne Stephens Provided detail on the maps at the bench.

Phillip Jordan-Described the property north of the drainage ditch with the exception, a small area west, encroaches to the north 5' or 6'.

David Floyd-The 15' setback is 15' north of the line you described, which includes the area of encroachment, which still leaves an area of green space of 9' or so.

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Phillip Jordan- There is another 15' north of way you described, before the driveway begins. We needed to know where the drainage ditch is so we know if there is enough room for landscaping and green space buffer. The drainage ditch happens 98% south of the south property line; this leaves 30' before Mr. Hoffman's concrete driveway begins.

Dee Roths-The drainage ditch will be a little closer to the building than on the east side?

David Floyd-The estimation is 5' to 6'. The map scale of 20' will give you an idea of the space. We will now take public comment. This has been on the agenda a number of times, we want to hear new information. We will limit comments to 3 minutes per person. I insist we have received, heard, reviewed, and have in mind that were brought to our attention I prior meetings; our meeting minutes are available in the interim. Try not to repeat what was said by the people that went before you.

Joseph Forte-Indicate okay to skip turn.

Sylvia Forte- 4072 N Harding, Bel Aire. I think we are getting a pig in a poke (blind bargain). We are hearing 2% encroachment, we are hearing 5'. We aren't sure what is going on. We know there are drainage considerations. It's my hope you table it for now, that we get an opportunity to see what is being proposed. We did this before, we are asking for it before. We want to hear it is going to be something other than multi-family. We want to hear some real viable options. I don't know what we are coming up with; I saw those, I heard different comments, evidently even with the drawings we aren't sure. My wish is to table this until we have met with informative parties.

David Floyd Thanked Sylvia Forte for being engaged in the process.

David Floyd-Asked Jacqueline Kelly, City attorney what are the options for a continuation. Is that available based on the task given by the City Council?

Jacqueline Kelly-You need to return something back to City Council. If you table it, I would suggest you advise City Council of the reasons, and recommend they table it. Let City Council decide what the next step is; we are running the clock. We have taken longer than 30 days, we had a legitimate reason before but at this point, understanding it would be to sort through the information, it's a little harder. It would be prudent to send it back to City Council. Let them decide to table it and send it back or make the decision.

David Floyd- Good points. It is the City Council's decision to make.

Carol Gunzelman-She passed on her turn.

Blaise Plummer-3007 E Gilbert, Wichita Ks. I did present a brief to you that I'm not going to read. I want to highlight two things. We appreciate your time and staff's time put into this application. One is due process and the second is the character of the neighborhood.

In regard to due process, the planning commission is a statutory board. Statutes regulate zoning applications, KSA 12-757 sub-paragraph d (Packet contains handout) lays out the process to go through for a zoning application. (He read section)

Council voted to send it back June 5, you received the recommendation on June 12th. On July 12th you set it for hearing without representation from the applicant. July 12th was the next regular meeting so under the statute, the governing body should have treated that inaction as a reaffirmation of the original recommendation a 3-3 vote not to recommend the application. That is what should have happened; I'm not saying anyone did anything wrong. It has just ended back here; there is one way to cure this, for the planning commission to vote to return this back to City Council for a final decision based on the 3-3 vote. That is what the statute says, you only get one bite at the apple; it can't bounce back and forth.

David Floyd-If that is the strict language of the statute, then I see your point. What I'm concerned about, is not being able to fulfill the task given to use by the City Council, because it was enlight of new information during their hearing,

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if we return a 3-3 vote without study of the new information and facts without a consideration of a compromise they are not getting what they asked of us.

The motion may lack merit to begin with because it is not rooted in the Golden Factors, it's not the responsibility of this body to back away, based on a technicality.

Blaise Plummer-First of all it is the applicant has presented a not very well prepared proposal. It changes at every meeting. It's like trying to hit a moving target here, it not the fault of the planning commission. If the planning commission was presented with a fully thought out plan stamped by an engineer or architect we wouldn't be in this problem. Continually not knowing what this project will look like. I think the solution would be withdraw the application and have him resubmit it once it is complete. He then could meet with everybody and run the tracks with it, obviously it hasn't been done. Connection with the 3-3 vote, Commissioner Roth did examine the 9 factors, and felt the character of the neighborhood to be the most important. That segues into my second point. This is one of the two oldest in Bel Aire. Virtually, all single family on one acre lots. Hope everyone has driven back in there, its beautiful rural, surrounded completely by an urban area. It's unique. In 1972, the lot owners filed covenants. The neighborhood was to remain single family residences. I eluded to that in my brief, paragraph four. The city code intent is not to abrogate covenants. No matter how much lipstick you put on a pig, it is still a pig. It is still a multi-family development in a single-family development. There is no shortage of land available in Bel Aire, this is not the location for it.

John Charleston-What is the basis for the covenants?

David Floyd-I would add to that, can you point to the location of where the covenants apply to Lot 7, Block B? Can you demonstrate that this lot is bound by these covenants other than the one filed in 1952? Requiring that a single family residence, unless it has the ability to hook on to a sanitary sewer. Studying this issue, we can't seem to find anywhere within the multiple covenant documents that lot 7, Block B was ever bound by covenant.

Blaise Plummer- clearly it was the intent for all of the lots to be bound by that covenant. At the time I believe the lot was owned by the city.

David Floyd-The lots have been sub-divided many time since these covenants had been filed for over 20 years that you are describing were filed. In order for those to be effective on any one lot the owner, of the lot of record at that time has to agree to be bound by them. Is that true?

Blaise Plummer- The owner of record was the City.

David Floyd-No sir, the owner of record was Albert Lies. Until he sold the lot to the CCU in 2001, and then to the City in 2004. We have received quite a bit of information on the restrictive covenants, we have receive more miss information on restrictive covenants. Restrictive covenants are beyond the purview of this body, and by the do not apply to Lot 7, Block B. I don't think there is anything else to discuss about the restrictive covenants.

Blaise Plummer-I strongly disagree with you in my legal opinion. I think we will eventually be able to prove that. The intent was to apply to all of the lots, the city's own regulations recognized intent is not to abrogate restrictive covenants. That is in your regulations sir.

David Floyd-Sir these covenants do not apply this lot, this building, or my home. That is my opinion.

Blaise Plummer-They do if the city says they do, in which they did.

David Floyd-Are there any more questions for Mr. Plummer?

Jacqueline Kelly-I do have one thing, he stated the most important factor is the neighborhood character, that is his opinion. His viewpoint make since in the context he is serving in, however this body is to weigh all of the

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factors, and not make more important than another automatically, because he said so. You are to weigh them and consider all of the factors, as you have been instructed to do all of the time.

Phillip Jordan-To your point the Planning Commission should have sent this back to the City Council at their next regular meeting; I would argue that this body took action. I read the statutes that if we took no action, in a vacuum if you will, if fact we did take action, that action was to table it to allow the petitioner to be in the room and state his case. I'm not an attorney, I feel this body did take action.

Blaise Plummer-I understand your point sir; if that were the case then, you could continually, continue it, and get around that statute that way. That would be a back door to not doing anything; that is something the statute was designed to prevent.

David Floyd- Sir would you like to say anything else?

Blaise Plummer-The golden factors you do not take a weight of each factor, you can emphases one factor over another, and the most important factor is the character of the neighborhood. The balancing of the detriments of the parties; I don't think there is a shortage of land in Bel Aire. This is a single-family neighborhood, we are asking you to please support the neighborhood, keep the character of the neighborhood intact.

Jacqueline Kelly-Commissioners again, this is his opinion that the most important factor is the character of the neighborhood.

Mrs. Stinson-I'm unable to, Mr. Plummer is representing me.

Mrs. Penner-4100 N Battin. As of this meeting tonight, never have we been presented a copy this (holding plans). Normally when there is going to be a property built it would be good for us in this situation to see a survey. Which way does this face.

David Floyd-That is looking on to the property from the south.

Mrs. Penner-Discussed the amount of green space for each of the units if sold separately 6', 10', and 20' areas

David Floyd-The summity of the lot, we have control of the lot up to the city zoning code. It is up to the developer, if he wants two larger yards and two smaller yards he would use the zoning and sub-division regulation to know if he could do so.

Mrs. Penner-There is hardly room to put a swing set. One acre lots, these are the kinds of activities we have become accustom to.

David Floyd-I'm glad you said that, it gets back to the character of the neighborhood; it may fit the codes and regulations, but doesn't fit the mold of Aurora Park.

Mrs. Penner-We pay taxes every year.

David Floyd-Is there anyone one else that would like to address the commission?

Mark Meisel-5200 E 37th St N. (no card) she is correct, this is the first time I've seen these pictures. I was at the meeting. There is no Association that we belong to. I believe we are entitled to see dimensions; he showed us dimensions before. He is building on setbacks of a half-acre for eight cars to be parked on according to him. You can't have ten vehicles, I see no way to pull into the driveway. The pictures he brought you are so out of scale, it's unbelievable. You guys should request a scalable drawing. There should be pictures of the drainage ditch, they had to redo it, and the flood took it out the first time. They had to make it wider, whether it is in code or legal or not, they actually did that. I watched it, that was after the 10.5" rain we had. They widened and put in bigger boulders to hold back the earth and that is all fill dirt. You guys do know that? I know it is several years old. I hope you can't vote on

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something you didn't see and something we didn't get to see. This is a completely different version. It doesn't even show there is a 30' ditch that goes across there; that is how much water goes across there, it fills up.

David Floyd-The purpose of Zoning is not to provide the finished product, the purpose of rezoning is to provide an allowable use. We are getting in to nuances, we can't ask the developer to paint a picture of the finished product, and then build that picture exactly. What we can do is preserve the public safety, health and welfare, with our actions.

Phillip Jordan-I will start with the golden factors and Mr. Hoffman. I'm surprised and disappointed with your timing we are having to react without a whole lot of study just seeing this tonight. In some ways by this new plan, with the 3-D rendering presented tonight, addressing the character of the neighborhood. I do agree with the last gentleman with the scale of the drawings leave a lot to be desired; for instance the city lift station appears to a country mile away from the corner of the most western building. I know that is not the case, I have been on this lot not less than five times. We have had some miss information concerning covenants. I think tonight, we have had some visual miss information. This issue has been going on for a long time, three months. I would say to Mr. Hoffman, we are just now getting this fresh information tonight, it isn't helping you case, with information changing every few weeks. This lot is in Aurora Park, even in the name, it congers up a Park. Many of you have argued, it congers up a large lot, a Park like lot. Before tonight I didn't think the plan was in keeping with the neighborhood, I don't think it does. Rule two of near-by zoning; I'm sure many of you are aware of the large hedge of trees to the west you can't even see through, that is part of this property. I know there is multi-family west of this property on the west side of the drainage pond that is nearby, my opinion this lot very much belongs to the Aurora Park Addition. You can't see west through the hedge, you can see east, you can see south, and you can see north; the similar use is to the west. This lot more so, does belong to the Aurora Park Addition. There has been a lot of conditional discussion trying to justify issues that could be problematic; talking about setbacks, and drainage, and light and noise pollution, and sewer gases, and things like that; this feels forced to me. Item three suitability, we have talked about the drainage already tonight. One thing we haven't discussed is the presents of sewer gas, I have been out there many times, it is very apparent. When you put more trees and you put more buildings on the moderately sized lot, blocking the wind from carrying away the sewer gases which you may create a problem on the north side of this lot. Mr. Hoffman has mitigated the amount of development on this lot by reducing the number of units; that is a step in the right direction. Item four, affecting nearby properties, sewer gases to be a nuisance to the property to the north is a possibility. Item five, one could make an argument on either side, the hardship to the surrounding property owners may be greater. Mr. Hoffman purchase the property as C-1 and knew the property was zoned commercial. Skipping to Item seven, with staff it is more of a lateral zoning; you can make an argument to change it to an R-5 or you can make an argument to keep it C-1. Item eight, keeping with the master plan would favor staying a C-1 in my opinion. Item nine, the surrounding property owners would like it to remain and not be changed.

John Charleston-I have looked it over several times. The pictures presented to us look nice. I have been over there many times, the picture make it look like there is plenty of land there; the land doesn't look like this will fit. The property looks to small and dense. I agree with most everything you said. It is a very nice neighborhood, and I don't believe this sets with neighborhood.

Dee Roths-I was quoted on my feelings the way I feel tonight and the way I did before. I encourage to think of the future, I think City Council should think about what 37th St will be in the future. It will become more of a through-row-fare, which would mean commercial on both sides. That would mean a planning commission in the future to rezone this again. I have some concerns about the drainage easement from a FEMA stand point. We all know they make changes in the floodplain-back and forth, people have to have flood insurance and then suddenly they don't. So where will it be in the future?

David Floyd-I get back to what we were tasked by the City Council, I would like to thank all of the commissions for their diligent efforts. I have found there are tools in the toolbox; that we haven't discussed. I thought of it when I first heard the case, Planned Unit Development. Which is a special purpose overlay over an underlying zoning district. To encourage innovative development and design. Under a PUD, the planning commission gets to review several nuances, including a satisfactory site and appropriate to its surroundings and quality of materials to be in harmony of the overall design. The Architectural style should be appropriate for the project in question, and be compatible

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with the overall character of the neighborhood. In order to do a PUD, it would require taking into consideration the buildings across the street. That could mean the angle of the front setback, or the larger lot. Some of these lots are 300' deep. Some of the homeowners have chosen to set their home back 300'. It is a spacious neighborhood. We have a tool that foresees this very situation; the PUD would allow us to control the bulk, the height, and the color of the proposed structure compared to the bulk, height, and color of the structures in the immediate area. Clearly I'm in the minority, keep that in mind.

- MOTION made by David Floyd: to revise the recommendation to the City Council; to

Conditionally approve a zone change from C-1 to R-5 with a PUD overlay as a means to match the architectural style and compatibility with the overall character of the neighborhood; tailor the property to the zoning and uses nearby by considering the siting, bulk, height and color of structures on the property, as compared to that of other structures within the immediate neighborhood; mitigate the extent to which the zone change will detrimentally affect nearby property with aesthetically and proportionately appropriate development; to be reviewed by this Commission and require approval by the City Council. The PUD application must be submitted to staff within 90 days of this recommendation being heard and adopted by the City Council.

Publishing of an ordinance rezoning Lot 7 Block B Aurora Park Addition from C-1 to R-5 is contingent upon final approval of the PUD. In other words, failure to satisfy the terms of this motion will result in the zoning remaining unchanged from C-1.

Phillip Jordan-Wonders how staff feels about the use of the PUD, what are the nuances of that.

Jacqueline Kelly-From a legal perspective a PUD is something you can use; basically you would be rezoning to an R-5; conditionally, the petitioner would need to meet certain requirements placed by the Planning Commission. Everything from screening to fencing, to building structure, to where it is facing, could be reviewed with a fine tooth comb. He would need to complete this process within 90 days.

Phillip Jordan -We are staring at two duplexes on the site. I guess the PUD will address the density.

Jacqueline Kelly-Yes whatever the PUD states that is what he could build; if the Planning Commission and City Council voted to approve a rezone to R-5, he could build whatever the R-5 zoning would allow. Something approved today could look very much different in the future. A PUD is very specific.

Dee Roths-If he decides not to do this in 90 days what happens to the property in the future.

David Floyd-The motion is if failure to satisfy would result in the zoning remaining unchanged. He would have ninety days to come back and find that compromise the mayor asked us to find; the hope of the mayor would be found at the meeting between the petitioner and the neighbors. It all is subject to discretion. If three townhomes are built together in one box it looks like a sprawling ranch form 3 sides. A PUD would allow a tailored approach to this; it is the one thing we have to find a compromise.

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(Audience speaks out)

David Floyd-The same reason we have rights to do things on our own property within the restrictions of the zoning. He purchased the property, it is the right of any property owner to apply for a zone change subject to approval. That is what he has done. We can't consider why he chose this property; we are to weigh and measure what he proposes is good for the entire community.

Phillip Jordan- Asked staff to discuss the use of the PUD as an appropriate use. Discuss the downside.

Keith Price-There will be more work to do on a timely basis, the developer will have to provide more information. Within 90 day you will have to review this information, exercise due diligence, provide feedback, and return your recommendation to City Council. If he doesn't provide you information in a timely basis our time has been wasted. The longevity of it is site specific; 10 years from now, the city has a commercial boom; the PUD would have to come back to the Planning Commission to make any changes. It is very tight and is designed for this as a residential use district; the reason for the conditional zoning change to apply this tool.

Anne Stephen- To echo Keith Price, if this becomes a PUD as a condition of this zoning change; it does lock you into that specific use and anything else would need to come back to the commission.

Phillip Jordan-How long has this lot been vacant?

David Floyd-1952, before that it was one contiguous parcel.

Dee Roths-Asked Keith Price what could happen if the zoning didn't change.

Keith Price-C-1 is a neighborhood commercial, there is a list of about 30 uses. There is no architectural control. If the development fits all of the setbacks and other criteria of the lot, a commercial building can be built and used for any of those purposes.

Dee Roths-So there could be a 3 story building?

Keith Price-There is a height restriction, setbacks can increase as the building gets taller. Yes you could have a taller building located there.

David Floyd-That would be at the will of the commission. I strongly hope if we put in the time and effort of the PUD, we are rational with the proposal that will strike the balance that is being set after, not something that will enflame the situation. The petitioner has been tweaking his proposal, as a means of compromise all along. That is in part why people think things keep changing, because they do. He is trying everything he can do with respect this investment to get his project done. I think he would continue to do that; if we give him that chance, we stand the chance something great going on that corner. There are some homes in Aurora Park that have stood the test of time and there are some with boards on the windows. To deny this to evolve after 66 years, at what point does the plat need to allow some leeway? Can we do something to protect the existing investments that have spent generations in these homes and continue to grow and change as a city? That is the spirit of my motion.

David Floyd- Closed the continuation.

David Floyd motioned, Seconded John Charleston Vote 4-0

(Audience speaks out for minutes)

David Floyd asked the commission if they were interested in a recess to allow the room to clear.

David Floyd reopened the continuation

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

David Floyd-The petitioner has come forward with new information, a preference compromise with a plan with a 35' setback, the house across the street has a 30' setback; the average, based on my calculations, is 34'. 35' to me seems reasonable.

Mr. Hoffman-The plan, the option I showed tonight will work with a 35' setback. I want to stay as large as I can and achieve what I want.

David Floyd-This is a separate item from the PUD conditional approval. We didn't approve your site plan presented tonight; the zone change was based on you coming back with a plan that adheres to the spirit of the motion. We are going to consider the 35' setback with that in mind. Is that ok with you sir?

Mr. Hoffman-Yes.

John Charleston-I think that a 35' setback is in line with the other houses in the neighborhood, and it could be beneficial.

David Floyd-If for some reason we are not successful with the PUD; the property would revert back to C-1 commercial. I would prefer any motion should contain a contingency. 50' is not in line with what is in the zoning code, 40' is. I don't think we should have a blanket change, when we don't know what the zoning will be, until we have a filed PUD.

Phillip Jordan-I agree. The further you push the setback away from Harding St. the closer the buildings are pushed toward the sewer lift station that would restrict airflow. If this property reverts back to a C-1 I'm in favor of a 40' setback and not 50'.

Dee Roths- I disagree, I think this needs to maintain the 50' setback, when you drive into that neighborhood you need the open space to maintain the character of the neighborhood; crowding into Harding St., then it affects the neighborhood.

Phillip Jordan-What is the setback of Mrs. Stinson's house?

David Floyd-30' at the closest corner, the house is set at an angle. The accessory structure is 30'.

Phillip Jordan-To Dee Roth's point, the view is like a funnel into the neighborhood, the buildings mirror could mirror each other.

John Charleston-If a house is built at 30' setback and the plat is 50' setback and the house burns down is there any consequences for that?

Keith Price-It would require a Vacation action, or to rebuild, the foundation would need to be moved back.

Commissioner discussed the C-1 zoning and the original plat.
Public comment? We didn't receive cards.

Sylvia Forte- 4072 N Harding, Bel Aire. Talked about how the lot will not be large enough. She recommended keeping the 50' setback for parking. It will be difficult for cars turning in, and cars turning out.

David Floyd closed the continuation

David Floyd- motioned

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MOTION: To conditionally approve vacation of 15' feet of the existing 50' setback, Lot 7 Block B in Aurora Park Addition, subject to a PUD being recorded and the underlying zone change ordinance published in connection with the vacation request. Should the ordinance not be published, allow for the vacation of the 50' building setback to 40' from the street right of way, consistent with C-1 standards for minimum setbacks per section 7.11.B.3.a.i.

ALTERNATIVE: vacate 50' building setback to 40' from the street right of way, consistent with C-1 standards for minimum setbacks per section 7.11.B.3.a.i

Phillip Jordan-seconded

Dee Roths- Asked to have the motion explained.

David Floyd-reiterated motion.

Commissioners discussed the PUD rules and concerns about where the buildings will be located and the fact this may be a C-1 lot in the end.

David Floyd- called for a vote, Motion fails 2-2.

Jacqueline Kelly-Then this motion stands, unless there is a different motion made. Otherwise the setback remains 50', with the understanding there can be some changes through the PUD.

Phillip Jordan-Does this commission support a 40' setback?

John Charleston-Asked questions about reasons to make changes now if the setback can be changed in the PUD.

Keith Price-The plat is where the problem lies, you have already given a vote; he would need to come back with a new application to vacate that line with a new process if the city council doesn't vote the same way that you have.

David Floyd asked if there is anyone that would like to make a different motion. If the PUD is approved, would the building setback be held at than 50' building setback line?

Keith Price-Yes

Commissioners discussed information so far to the point.

Phillip Jordan-We may have tied Mr. Hoffman's one arm behind his back, to fit two duplexes on this lot. It is reasonable to change it to 40'.

David Floyd-I agree with you, we have already set the PUD in motion, this could very well derail it, if we don't take some sort of action. A 40' setback would make this simple for the C-1 under lying zoning district.

David Floyd-Can we entertain another motion?

Jacqueline Kelly-You can.

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Phillip Jordan motioned to change the 50' setback to a 40' setback, Lot 7, Block B, Aurora Park Addition.

Seconded David Floyd Vote 3-1

David Floyd thanked everyone for the process, something good has become of everyone's energy.

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

David Floyd-Are we under any time constraints? This came to use quickly with a lot of information, can we continue this to another meeting?

Keith Price-You are your own body and can manage as you need to. We didn't get much feedback as we had hoped to. The worksheet provided, if we could get a commitment to at least give us your philosophy so we can hone in if this draft code is not exactly what you are looking for.

Dee Roths-We could approve the draft and make changes necessary for the final draft.

Keith Price-you could do that, we are okay if you table this as well, if you make a commitment to provide feedback. You could make a motion to do so. I don't know if we have anyone here to speak from the audience.

Justin Smith-This is an issue that is very important issue. I read through some of the city codes this year, came across this section and it raised some red flags immediately in my mind. Low impact businesses are subjected to a lengthy and extensive process that they shouldn't be subject to in my opinion. This a very important issue that warrants a sufficient amount of study and consideration. The hope is to receive more input from citizens as well.

Phillip Jordan-Could you share some of your ideas and the information that has given you some concern.

Justin Smith-There have been a couple of Condition Use cases in the past in front of the City Council, one was a gunsmithing business to operate out of their home. They notified the neighbors, published in the newspaper, it went before the Planning Commission, and it was finally approved. My understanding it was by appointment only business, with very few clients, with very little impact to the neighborhood. In fact, I doubt many neighbors would realize a business existed like that in their neighborhood. It seems excessive, if it doesn't have an impact on the community that it should go through that process. My concern that we are limiting the potential for small businesses in Bel Aire and that we may have non-compliant due to the confusing nature and the length, and expense of this process.

Phillip Jordan-Described some of the rules related to the notification area and the amount of details required for a conditional use process. I would be in favor of tabling this until we have time to review this information. I think this code section needs an overhaul.

Phillip Jordan made a motion to table taking any action on the draft homebased business code until a future meeting, to allow review, with the ability to provide feedback to staff in the interim. Seconded by Dee Roths vote 4-0

Current events

September 8th, city brush drop off

Unapproved minutes 8.16.18



Next meeting September 13, 2018

Phillip Jordan motioned to approve. Dee Roths seconded.
Motion carried 4-0.

Adjournment

Dee Roths motioned to adjourn the meeting John Charleston seconded.
Motion carried 4-0.
Meeting adjourned. 8:35 pm

Submitted by Keith Price, Building and Zoning