STAFF REPORT

DATE: 03/26/2025

TO: Bel Aire City Council Meeting

FROM: Paula Downs

RE: Agenda

STAFF COMMUNICATION		
FOR MEETING OF	4/1/2025	
CITY COUNCIL		
INFORMATION ONLY		

SUMMARY:

VAC-25-01 Vacation of Platted 20' Utility Easement on Lots 7 & 8, Block 1, Sunflower Commerce Park 3rd Addition.

General Location: 5440 Sunflower Court- North of 53rd Street, between Webb and Greenwich Road.

Reason for Request: Vacate a platted 20 ft. wide utility easement along the south property line of lot 7 and the north property line of lot 8 to construct a parking lot for the development of a warehouse on subject property.

VAC-25-01 appeared on the March 13, 2025, Planning Commission agenda. The Planning Commission reviewed the legal considerations and approved the vacation based on the findings of facts.

Background:

- The subject 20 ft. wide utility easement was established with the final plat in 2023.
- The property owner owns Lots 7 & 8 and intends to construct a parking lot as part of the site improvements for a building currently located on the site. To construct the parking lot to serve the building, the utility easement must be vacated.
- Site plan review and approval are required prior to site improvements on the property.
- The case required a 14-day protest petition period between the Planning Commission meeting and the City Council meeting.

Legal Considerations:

- K.S.A. 12-505 required the Planning Commission to consider specific findings of fact which serves as the basis for the Commission's recommendation to the City Council. The findings determined by the Planning Commission were as follows:
 - Notice of petition to vacate and notice of the public hearing has been given in accordance with State law;
 - No private rights will be injured or endangered if the vacation is granted;
 - o The public will suffer no loss or inconvenience if the vacation is granted; and
 - o In justice to the petitioner, the vacation should be granted.

 At the conclusion of the public hearing, the Planning Commission should make a recommendation, with or without conditions, and announce the date upon which the City Council will consider the Vacation.

Findings of Facts by the Planning Commission:

- **1.** Notice of petition to vacate and notice of public hearing has been given in accordance with State law:
 - **a.** Notice was published in the City's official newspaper, The City of Bel Aire website on February 20, 2025.
 - **b.** Official notice was mailed to property owners within the required notification area on February 20, 2025.
- 2. No private rights will be injured or inconvenienced if the vacation is granted:
 - **a.** Notice was provided to the following private utility agencies: Evergy and Kansas Gas Service as part of the City's general notification process.
 - i. Evergy has no objection to the vacation of the proposed utility easement and did not request any additional easement for this site plan. Any relocation or removal of existing Evergy equipment will be at the applicant's expense. There is no transmission in or near the area of the plat.
 - **ii.** Kansas Gas Service does not object and does not have any lines or equipment in the easement. There is a service line for the lots that may be in conflict, however, Kansas Gas Service will work directly with the customer to adjust as needed.
 - **b.** Owners of surrounding private properties will not be injured or inconvenienced if the vacation is granted. The utility easement is only platted on the subject properties.
- **3.** The Public will suffer no loss or inconvenience if the vacation is granted:
 - **a.** The subject easement is not being used as a public utility easement. There are no public sanitary sewer, water, or stormwater sewer lines in the easement.
 - **b.** Staff received no inquiries or comments after mailing the public hearing notification. No testimony was provided during the public hearing during the Planning Commission meeting.
- **4.** In justice of the petitioner, the vacation should be granted:
 - **a.** Vacating the easement will allow the applicant to proceed with site plan review and design of the parking lot to facilitate the development of a warehouse on the subject property.
 - **b.** There are no conflicts with private or public utilities.
 - **c.** The vacation should be granted.

RECOMMENDED MOTION:

Approve the vacation of a 20 ft. wide utility easement on Lots 7 and 8, Block 1, Sunflower Commerce Park 3rd Addition.

ATTACHMENTS:

March 13, 2025, Planning Commission Staff Report
March 13, 2025, Planning Commission draft meeting minutes
Easement Location Exhibit
Vacation Application
Vacation Application Attachments: Land Title Survey and Site Plan
Notification Publication
Owners List

City of Bel Aire

STAFF REPORT

DATE: 03/25/2025

TO: Bel Aire Planning Commission

FROM: Paula Downs

RE: Agenda

FOR MEETING OF 3/13/25 CITY COUNCIL INFORMATION ONLY

STAFF COMMUNICATION

SUMMARY:

VAC-25-01- Vacation of Platted 20' Utility Easement on Lots 7 & 8, Block 1, Sunflower Commerce Park 3rd Addition.

General Location: 5440 Sunflower Court- North of 53rd Street, between Webb and Greenwich Road.

Reason for Request: Vacate a platted 20 ft. wide utility easement along the south property line of lot 7 and the north property line of lot 8 to construct a parking lot for the development of a warehouse on subject property.

Background Information:

- The subject 20 ft. wide utility easement was established with the platting in 2023.
- The property owner intends to construct a parking lot as part of the site improvements for a building currently located on the site. In order to construct the parking lot to serve the building, the utility easement must be vacated.
- Site plan review and approval are required prior to site improvements on the property.

Legal Considerations:

- KSA 12-505 requires the Planning Commission to consider specific findings of fact which serve as the basis for the Commission's recommendation to the City Council. The findings to be determined by the Planning Commission are as follows:
 - Notice of petition to vacate and notice of the public hearing has been given in accordance with State law;
 - No private rights will be injured or endangered if the vacation is granted;
 - o The public will suffer no loss or inconvenience if the vacation is granted; and
 - o In justice to the petitioner, the vacation should be granted.
- At the conclusion of the public hearing, the Planning Commission should adopt a a recommendation, with or without conditions, and announce the date upon which the City Council will consider the vacation.

Findings of Fact:

- 1. Notice of petition to vacate and notice of public hearing has been given in accordance with State law:
 - a. Notice was published in the City's official newspaper, The City of Bel Aire website, on February 20, 2025.
 - b. Official notice was mailed to property owners within the required notification area on February 20, 2025.
- 2. No private rights will be injured or inconvenienced if the vacation is granted:
 - a. Notice was provided to the following private utility agencies: Evergy and Kansas Gas Service as part of the City's general notification process.
 - i. Evergy has no objection to the vacation of the proposed utility easement and did not request any additional easement for this site plan. Any relocation or removal of existing Evergy equipment will be at the applicant's expense. There is no transmission in or near the area of the plat.
 - ii. Kansas Gas Service does not object and does not have any lines or equipment in the easement. There is a service line for the lot that may be in conflict, however, Kansas Gas Service will work directly with the customer to adjust as needed.
 - b. Owners of surrounding private properties will not be injured or inconvenienced if the vacation is granted. The utility easement is only platted on the subject property.
- 3. The Public will suffer no loss or inconvenience if the vacation is granted:
 - a. The subject easement is not being used as a utility easement. There are no public sanitary sewer, water, or stormwater sewer lines in the easement
 - b. Staff have not received any additional inquiries or comments after mailing the public hearing notification. The Commission will need to consider any testimony provided during the public hearing.
- 4. In justice to the petitioner, the vacation should be granted:
 - a. Vacating the easement will allow the applicant to proceed with site plan review and design of the parking lot to facilitate the development of a warehouse on the subject property.
 - b. There are no conflicts with private or public utilities.
 - c. The vacation should be granted

RECOMMENDED MOTION:

 Approve the vacation of a 20 ft. utility easement on Lots 7 and 8, Block 1, Sunflower Commerce Park 3rd Addition and forward to the City Council for consideration at its regular meeting on March 18, 2025.

Attachments:

Location Map
Vacation Application
Vacation Application Attachments: Land Title Survey and Site Plan
Notification
Ownership List



MINUTES PLANNING COMMISSION



7651 E. Central Park Ave, Bel Aire, KS March 13, 2025 6:30 PM

I. Call to Order: Chairman Phillip Jordan called the meeting to order.

II. Roll Call

Chairman Phillip Jordan and Commissioners Dee Roths, Deryk Faber, Brian Mackey and Brian Stuart were present. Commissioners Edgar Salazar and Paul Matzek were absent.

Also present were Paula Downs, Director of Community Development and Maria Schrock, City Attorney.

III. Pledge of Allegiance to the American Flag

Chairman Phillip Jordan led the pledge of allegiance.

IV. Consent Agenda

A. Approval of Minutes from Previous Meeting.

MOTION: Commission Faber moved to approve the minutes of February 13, 2025. Commissioner Mackey seconded the motion. *Motion carried 5-0*.

V. Announcements: Follow-up response from Planning and Zoning Workshop- February 13, 2025 regarding ability to make requests on submitted cases.

Director of Community Development Paula Downs addressed questions received from the Commission at the February 13th workshop. No action was taken.

VI. Old Business/New Business

A. PUD-24-04- Proposed Final R-PUD containing approved duplexes to be converted townhouses with zero interior lot lines on a reduced lot size in an R-4 zoning district as built (Chapel Landing Phase 2).

Director of Community Development Paula Downs informed the Commission that the application is missing the signatures of several new property owners. After the application was submitted, several lots within the proposed zoning area were sold to new owners. Signatures from the new owners are required on the application by statute. City Attorney Maria Schrock reviewed the Kansas statute and procedure for notifying property owners of public hearings for zoning matters. City staff recommended that the Commission table this item, to allow the applicant to obtain the required signatures.

MOTION: Commissioner Roths moved that Case No. PUD-24-04 be tabled until Thursday, April 10, 2025, at 6:30pm, for the following reason(s): to allow the applicant to obtain additional signatures from property owners. Commissioner Faber seconded the motion. *Motion carried 5-0.*

B. VAC-25-01- Vacation of Platted Utility Easement on Lots 7 & 8, Block 1, Sunflower Commerce Park 3rd Addition.

Staff gave a brief review of the application for vacation and related documents included the Commission's information packet for this meeting.

Chairman Phillip Jordan asked the members of the Commission if anyone wished to disqualify themselves due to conflict of interest with this case. No one was disqualified. He asked if any member of the Commission had received any ex-parte verbal or written communications which they would like to share. No ex-parte communications were reported. He reviewed the notification of public hearing and declared that proper notification had been given, according to state statute.

Chairman Phillip Jordan opened the public comment section. No one requested to speak. Therefore, Chairman Jordan closed the public hearing and requested discussion among the Commission.

MOTION: Chairman Jordan moved that having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council, that the request for vacation of a platted 20' utility easement on Lots 7 & 8, Block 1, Sunflower Commerce Park 3rd Addition, in VAC-25-01 be approved, based on findings 1 through 4 as listed in the staff report:

- 1. Notice of petition to vacate and notice of public hearing has been given in accordance with State law;
- 2. No private rights will be injured or inconvenienced if the vacation is granted;
- 3. The Public will suffer no loss or inconvenience if the vacation is granted; and
- 4. In justice to the petitioner, the vacation should be granted; as recorded in the summary of this hearing.

Commissioner Faber seconded the motion. *Motion carried 5-0*.

VII. Approval of the Next Meeting Date.

MOTION: Commissioner Mackey moved to approve the date of the next meeting: April 10, 2025, at 6:30 p.m. Commissioner Roths seconded the motion. *Motion carried 5-0*.

VIII. Current Events

A. Upcoming Agenda Items:

- a. Tierra Verde Final PUD
- b. Tierra Verde Setback Vacation

B. Upcoming Events:

- a. Springfest: April 12
- b. Citywide Garage Sale Weekend: April 24-26
- c. Shred & E-Recycle Day: May 3
- d. Curbside Cleanup: May 17

Commissioners briefly discussed current events. No action was taken.

IX. Adjournment

MOTION: Chairman Jordan moved to adjourn	n. Commissioner Mackey seconded the
motion. <i>Motion carried 5-0</i> .	

Approved by the Bel Aire Planning Commission this day of	, 2025.
Phillip Jordan, Chairman	

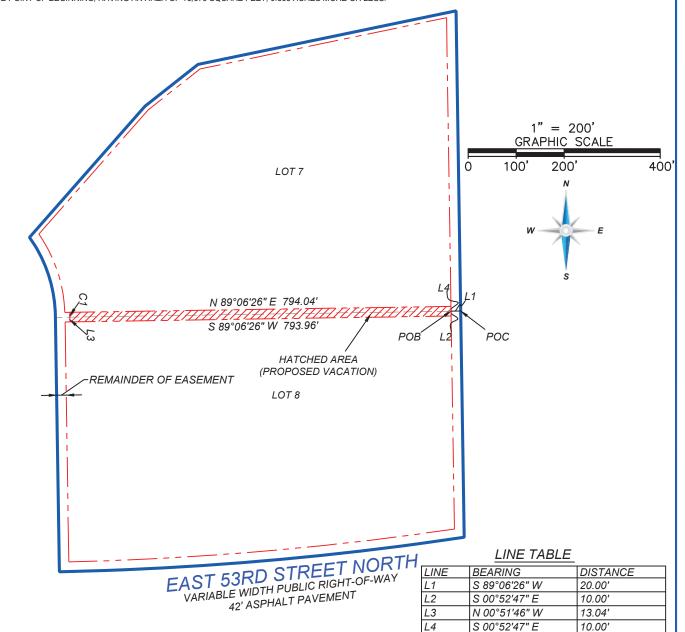
EXHIBIT A

5440 N SUNFLOWER COURT, BEL AIRE, KANSAS 67226 SEDGWICK COUNTY

VACATION AREA DESCRIPTION

A PORTION OF LOTS 7 AND 8, BLOCK 1, IN SUNFLOWER COMMERCE PARK 3RD ADDITION, A REPLAT OF LOT 2, BLOCK A , SUNFLOWER COMMERCE PARK 2ND ADDITION CITY OF BEL AIR, SEDGWICK COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 1/2" REBAR AT THE EAST COMMON CORNER OF LOTS 7 AND 8, THENCE S 89°06'26" W 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE S 00°52'47" E 10.00 FEET; THENCE S 89°06'26" W 793.96 FEET; THENCE N 00°51'46" W 13.04 FEET; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 6.97 FEET WITH RADIUS OF 318 FEET, WITH A CHORD BEARING OF N 01°30'30" W, WITH A CHORD LENGTH OF 6.97 FEET; THENCE N 89°06'26" E 794.04 FEET; THENCE S 00°52'47" E 10.00 FEET TO THE TRUE POINT OF BEGINNING, HAVING AN AREA OF 15,879 SQUARE FEET, 0.365 ACRES MORE OR LESS.



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
C1	318.00'	6.97'	N 01°30'30" W	6.97'	1°15'18"

DATE: 03/6/2025 PROJECT #24-8225.02

10.00

LEGEND & SYMBOLS

BOUNDARY LINE EASEMENT LINE POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT

L4

Surveying | Engineering | Environmental

SHEET 1 OF 1

SURVEYOR INFORMATION

BLEW & ASSOCIATES, PA 3825 N. SHILOH DRIVE FAYETTEVILLE, AR 72703 SURVEY@BLEWINC.COM

DENVER WINCHESTER PROFESSIONAL SURVEYOR NO. 1666 STATE OF KANSAS KANSAS C.O.A. LS-321

NOT A BOUNDARY SURVEY

APPLICATION

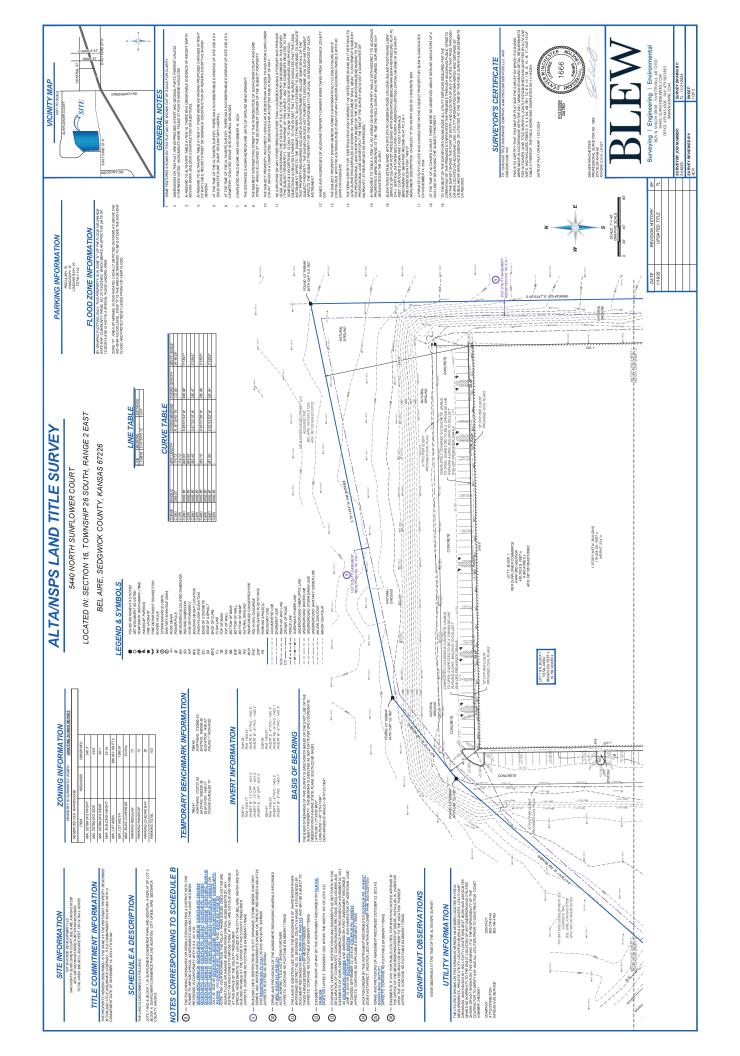
This form MUST be completed and filed at City Hall, Bel Aire, Kansas, 7651 E. Central Park Ave., Bel Aire, Kansas 67226. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED. Check the appropriate box below for type of application being submitted. A separate application and filing fee is required for each application. A preapplication conference with City Staff is recommended before filing this application.

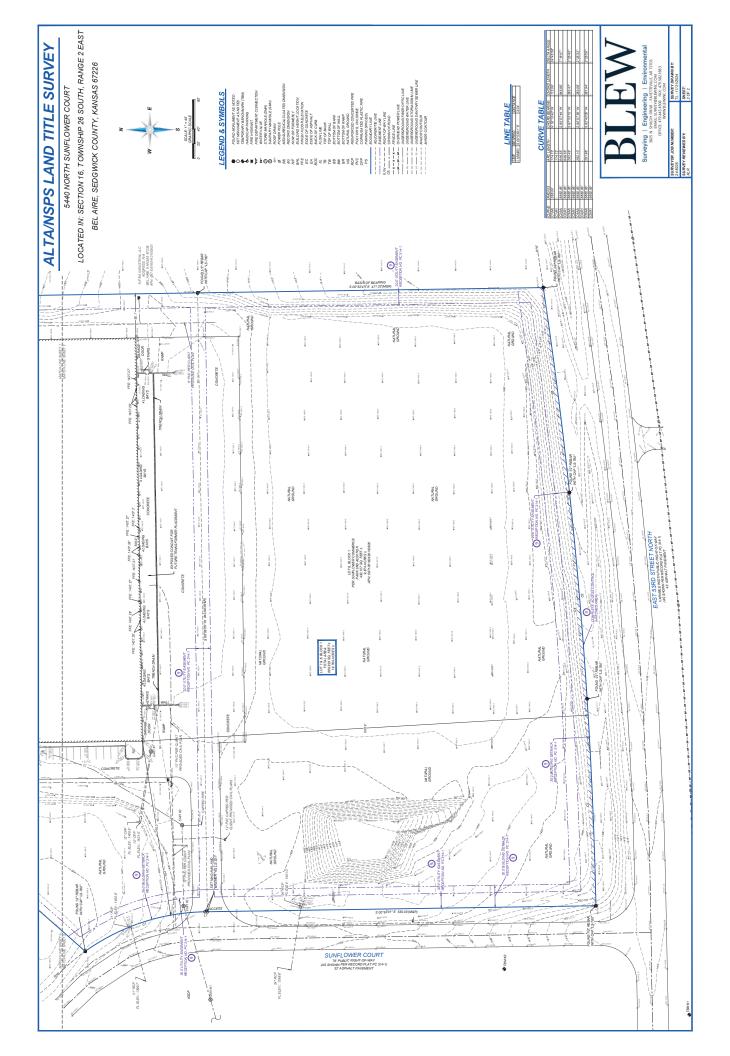
	Vacate building set back From: to	
	Vacate street or alley:	
	Vacate utility easement 20' Utility Easement Reception No. PC 314-1	
	Vacate other	
	Apply for Vacation in conjunction With a Conditional Use or Variance application.	
	City of Bel Aire Planning Commission	
	Approved Rejected	
Name	e of ownerBayside Development, LLC	
Addre	ess <u>3819 N Toben St, Wichita, KS 67226</u> Telephone	
Agent	t representing the owner <u>Garrett George (CESO, Inc.)</u>	
Address 1000 Legion Place, Orlando, FL 32801 Telephone 321-759-4889		
1. The application area is legally described as Lot(s) 7&8; Block(s) 1, Sunflower Commerce Park 3 rd Addition, Bel Aire, Kansas. If appropriate, a metes and bounds description may be attached.		
2. Th	e application area contains <u>19.76</u> acres.	
3 Th	is property is located at (address), 5440 Sunflower Court, which is generally	

located at (relation to nearest streets) <u>E 53rd Street and Greenwich Road</u>.

4. The particular hardship which is the property:	ne result of t	nis request as applied to the subject	
The easement in question was dedic	ated as part	of the master development. The two	
lots that the easement bisect will be o			
spanning across the easement. As si		no need for an easement with both	
lots being under common ownership.	<u>.</u>		
5. County control number:			
the owners of record of real property segment remaining open, and owner	abutting a so	the names, addresses and zip codes of treet, alley, or easement including any osite side of the street from the as all utility providers that are affected	
	sees or other	in this application MUST be listed as directly associated with the property the proceedings.	
1. Applicant Bayside Development, I	LC	Phone	
Address 3819 N Toben St, Wich		Zip Code <u>67226</u>	
Agent <u>Garrett George (CESO,</u>	Inc)	Phone	
Address 1000 Legion Place, Orla	ando, FL	Zip Code <u>32801</u>	
2. Applicant		Phone	
Λ al al no a a		7:- 0 - 4 -	
Address			
		Phone	
Address		Zip Code	
3. Applicant		Phone	
Address	pplicantPhone ddressZip Code		
Agent		Phone	
Address		Zip Code	
The applicant certifies that the foregotheir knowledge and acknowledges the Body shall have authority to impose a serve the public interest and welfare.	hat the Plani such condition		
Applicant's Signature	– BY	Authorized Agent (If Any)	

The Petition must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this application.







(Notification posted on the City of Bel Aire website, the designated official City newspaper for the City of Bel Aire on February 20, 2025)

OFFICIAL NOTICE OF VACATION HEARING

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

Notice is Hereby Given that on March 13, 2025, the City of Bel Aire Planning Commission will consider the following Vacation hearing in the order placed on the agenda after 6:30 p.m. in the City Council Chamber at City Hall in Bel Aire, Kansas:

VAC-25-01. Vacate 20' Utility Easement Reception No. PC 314-1

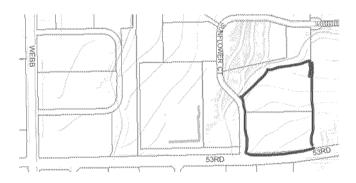
Legal Description: Lots 7 and 8; Block 1, Sunflower Commerce Park 3rd Addition, Bel Aire, Sedgwick County, Kansas.

General Location: 5440 Sunflower Court- E 53rd St and Webb Rd.

You may appear at this time either in person or by agent or attorney, if you so desire, and be heard on the matter. After hearing the views and wishes of all the persons interested in the case, the Planning Commission may close the hearing and consider a recommendation to the Governing Body, which, if approved under the City Zoning and Sub-Division regulations, would be effectuated by city code. The public hearing may be recessed and continued from time to time without notice.

DATED this <u>20</u> day of February 2025.

/s/ Paula Downs
Bel Aire Planning Commission Secretary





AFFIDAVIT OF PUBLICATION

State of Kansas, Sedgwick County, ss:

Melissa Krehbiel, City Clerk

Being first duly sworn, deposes and says:

That I, Melissa Krehbiel, City Clerk of the City of Bel Aire, Kansas, has published the attached notice on the City of Bel Aire website, www.belaireks.gov, which website is designated as the official City newspaper for the City of Bel Aire, Kansas by Charter Ordinance No. 25, effective August 6, 2024.

That the attached Official Notice of Zoning Hearing PWD 24 is a true copy thereof and was published on such website beginning on the 20th day of February, 2025.

Metinal Ceditie

SUBSCRIBED AND SWORN to before me this 20

_ day of flavour, 2025.

me Ella

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(seal)

Notary Public

City of Bel Aire Melissa Krehbiel – City Clerk

7651 East Central Park Avenue
Bel Aire, Kansas 67226

316-744-2451 www.belaireks.gov



OWNERSHIP LIST

PROPERTY DESCRIPTION

PROPERTY OWNER

Lot 8, Blk 1 Subject Property	Sunflower Commerce Park 3rd Addition	Bayside Development, LLC 3819 N. Toben St. Wichita, KS 67226
Lot 7, Blk 1 AND Reserves A & B	и	Bayside Development, LLC 3819 N. Toben St. Wichita, KS 67226
Lot 3, Blk A AND Reserve A	Sunflower Commerce Park 2nd Addition	BA Industrial, LLC 165 S. Rock Island, Ste. 300 Wichita, KS 67202
Lot 7, Blk C	Sunflower Commerce Park Addition	Stream's Edge Properties, LLC 6450 Poe Ave, Ste. 311 Dayton, OH 45414
Lot 8, Blk C	u	Waltons, Inc. 3639 N. Comotara St. Wichita, KS 67226
Reserve C	и	City of Bel Aire Public Building Commissio 7651 E. Central Park Ave. Bel Aire, KS 67226



We hereby certify the foregoing to be a true and correct list of the property owners of the herein before described lots within a 200 foot radius of:

Lot 8, Block 1, Sunflower Commerce Park 3rd Addition to the City of Bel Aire, Sedgwick County, Kansas.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 7th day of February, 2025, at 7:00 A.M.

SECURITY 1ST TITLE

By:

LICENSED ABSTRACTER

Order: 3117562

KJK