



**MINUTES  
PLANNING  
COMMISSION/BOARD OF  
ZONING APPEALS/AIRPORT  
ZONING COMMISSION**



**7651 E. Central Park Ave, Bel Aire, KS  
December 11, 2025, 6:30 PM**

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**I. Call to Order** Chairman Phillip Jordan called the meeting to order at 6:30 p.m.

**II. Roll Call**

Chairman Phillip Jordan, Vice-Chairman Deryk Faber and Commissioners Dee Roths, Paul Matzek, Brian Mackey and Brian Stuart were present in person.

Also present in person were Paula Downs, Secretary 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:** Vice-Chairman Faber moved to approve the minutes of the November 13, 2025, meeting. Commissioner Mackey seconded the motion. ***Motion carried 6-0.***

**V. Announcements:** No announcements.

**VI. Planning Commission Business**

**A. SP-25-01: Special Use permit request in the City to allow a group-home limited use in one-half of a two-family (duplex) unit, on a property in a Garden and patio homes, townhouses and condominiums (R-5) Zoning District, generally located at North 53<sup>rd</sup> Street and Toben Road.**

Chairman Jordan called Agenda Item 6.A which is a public hearing on case number SP-25-01. The subject property is generally located at North 53<sup>rd</sup> Street and Toben Road.

The Chairman welcomed everyone interested in this hearing and laid out a few ground rules. It is important that you present any facts or views you have as evidence so that an informed

recommendation can be made by the Planning Commission to the Governing Body for their final decision. By state statute, the Governing Body does not have to hold another public hearing on the matter, although they may listen to whomever they wish. You will be asked if there is any new information which was not heard at the hearing. It is to everyone's advantage if you present all the necessary information at this hearing. After City staff provide the Commission with background information, I (Chairman), will call upon the applicant. Public comments will be heard following the applicant. Once all have been heard, the Applicant will have an opportunity for final comments. The Planning Commission will close the hearing to public comments and will then consider the Golden Factors and any other facts, on which to base their recommendation. During this time, the Commission may direct questions to the applicant, the public and/or City staff. Anyone wishing to speak must be recognized by the Chairman and give their name and address. Please use the podium and speak clearly so that your comments can be recorded for inclusion into our minutes.

Chairman asked the Commission before we proceed with the hearing, does anyone on the Commission intend to disqualify themselves from participating in this case because they or a relative own property in the area of notification or have conflicts of interest. Chairman Jordan asked that the record reflect that no one was disqualified.

Chairman Jordan stated the official notice for this hearing was published in the official city newspaper, which is the City of Bel Aire Municipal Website on November 20, 2025. Notices were mailed to the applicant and real property owners of record in the area of notification on November 20, 2025. Chairman Jordan stated that the record shows that at least 20 days have elapsed between the publication and mailing dates and today's hearing date. Unless there is evidence to the contrary from anyone present, he declared that property notification has been given.

Chairman Jordan asked if anyone on the Commission received any ex parte verbal or written communications prior to this agenda item, which they would like to share. Chairman Jordan asked that the record show that five Commissioners have not and that Commissioner Stuart received emails on this case.

City Attorney stated that it is the appropriate time to share those comments which can be shared by reading aloud. Any written communications will be shared in the minutes that go to the Governing Body when they make their decision.

Written comments are included in the Commission's packet. The Planning Commission Secretary read each written communication received:

**Written communication was sent to Commissioner Stuart and Paula Downs from Kyle Hart of 5990 Forbes Ct. Bel Aire KS**

*Good Morning, I wanted to share some of my comments and concerns regarding the proposed Special Use Group Home application for 5353 N Toben Ct.*

*I am against allowing this special use permit for the following reasons:*

- 1. Staff Report mentions that the applicant has spent time and effort to submit an application and has already acquired the materials for the conversion. That is entirely*

*irrelevant and seems to imply the application should be approved due to this. It should not be the city's or residents' concern if the applicant created an undue hardship upon themselves by not following the correct legal process.*

- 2. I think allowing this conversion sets a bad precedent for the city. If other applicants come forward requesting a special use permit under a similar set of circumstances, why would they then be denied when this one was approved? The City of Bel Aire already allows far too many deviances from the standard zoning ordinances in my opinion for sake of growth and development.*
- 3. The applicant indicates the initial residents are old and do not drive. What work has the city done to ensure that is actually the situation and will remain so? What recourse does the city have if residents turnover and future residents each have their own vehicle causing parking and traffic issues for the surrounding residents? What recourse does the city have to ensure that this will continue to be used as a group home in the future and not for their family or friends to live there? It seems to me the only recourse is if a nuisance is caused then the burden is placed on those surrounding residences to file complaints for a future hearing with the city for the special use permit to be revoked. If the special use permit is revoked, do you then require the owner to convert the garage back to a garage?*
- 4. The conversion permanently eliminates the possibility of any future homeowner to utilize the garage for parking thus ensuring there will be a parking or traffic burden on the neighborhood in the future. The conversion to add the additional bedrooms and remove the garage also creates a situation of functional obsolescence. The future value of this unit and likely surrounding units whose prices will factor this one as a comparable sale will no doubt be impacted by a property that will no doubt have a lower sales price on a square footage basis.*

*Thank you for your consideration.*

**Written communication was sent to Commissioner Stuart and cc'd Paula Downs from Terry Cassady of 5957 Forbes Bel Aire KS**

*Hello. Thank you for responding to my post in the IronGate Facebook group. I appreciate your comments regarding the Planning Commission 12-9-25 Agenda Item and have the following to add:*

*I am against approval of this special use permit for the property at 5353 N. Toben Court for the following reasons:*

- 1. The group home use is out of character for the residential duplex model. Converting the garage to 3 bedrooms/living spaces and permanently eliminating the garage negates the use of the space for what it was intended: enclosed garage parking for vehicles. This would impact the surrounding properties and their values in the future*

*when the property was sold or the group home was closed as it would necessitate on-street parking and potentially traffic congestion and crime.*

- 2. Allowing this use opens the door for other group homes to request the same privilege in multi-family neighborhoods. If this application is approved, how does the Commission/City Council deny future requests for, as an example, a group home for wayward teenagers being reintegrated into society after incarceration? There is a common sentiment among many Bel Aire residential property owners that the City approves far too many duplex developments which diminish property values for single family owners. Yet, the City continues to approve duplex development applications. In addition to the massive Rock Springs duplex development, another example is the south side of 53<sup>rd</sup> Street between Woodlawn and Oliver which is one continuous mile of rental duplexes many which have been sold off by the original developer and are being resold by secondary investment buyers. This has negatively impacted the communities as it physically appears the properties are in non-compliance with original covenants and no one is enforcing those.*
- 3. There is no enforcement mechanism in this special use permit to ensure that the occupants would be non-driving elderly individuals. How is this even defined let alone enforced?*
- 4. The staff report indicates that denial of the application creates a hardship for the owner because they have invested money to acquire materials for the garage conversion. It shouldn't be the City's or property owners' concern that the owner created a hardship for themselves by not doing due diligence to research and follow the legal requirements. Ignorance of the law is no excuse.*

*I would be interested to know what the ownership is of the properties in the legally required notification area for this application. The staff report indicated one residential property owner contacted the city with questions regarding the notification and the requested special use application. If the other properties are owned by the Rock Springs subdivision developer-owner, or a subsidiary of the developer with a vested financial interest, the opinion regarding the application would likely be quite different from that of individual single property owners who live near the proposed group home.*

*In my opinion, this special use application, like the recent AirBnB requests, does nothing to enhance the reputation, livability and property values in Bel Aire. Both open the door for additional enforcement problems for Code Enforcement and the Police Department. Why set the City up for potential unnecessary problems?*

*I appreciate your service on the Planning Commission and having worked in real estate/economic development for the City of Wichita understand the political complexities of your role.*

*Thank you for sharing my comments with the other Commissioners and entering my comments into the public record for this special use application.*

**Written communication was sent to Paula Downs from Lynn Parker 5934 Forbes Ct. Bel Aire, KS.**

*To whom it may concern, I am voicing my concerns about the group home under consideration. I'll be brief I don't see anything of any value except for the petitioners. This isn't what the duplexs were designed for. Modifications to existing duplex designs could and will lead to who knows what. I can't imagine how 3 elderly residents living in a small space could thrive effectively. I can imagine that something like this will open up alot of possibilities for other purposes that most likely not be beneficial to the community. To be concise this isn't in the "spirit " of duplex communities. I could be more specific but Terry Cassady has presented a very good point and I totally agree with her presentation.*

The Secretary stated that she did not respond to Lynn Parker or Terry Cassady's emails. The Secretary did respond to Kyle Hart's email thanking him for his comments and asked him if he planned to attend the Commission meeting. He said no.

#### **Staff Report:**

Secretary provided an overview of the case with information from the staff report in the packet. The subject property is zoned R-5 currently developed with a two-family duplex residence. Currently the applicants are requesting converting one-half of the residence into a group home-limited for the elderly. The R-5 district permitted, or conditional uses do not currently allow for this use which is why the special use case was filed. The reason staff knew about the use was because the property owner's contractor filed for a building permit to convert their garage. Staff asked questions and determined how one-half of the residence was going to be used and let them know that a special use case was required.

The staff report includes the legal considerations for the case which includes the applicant's statement required for this case through their application. Also included in the staff report, per the City code, are the general standards for consideration and criteria for review for a special use case. The criteria for review have generally been addressed through the applicant's statement and the findings of facts (Golden Factors) section of the report. However, noise, light, and odor have been addressed in the staff report. Screening is not a requirement for the group home use because the residence will remain as is, there are no external changes. Parking and public services and signs have been addressed. There is no detriment to public health and safety, and the state fire marshal will be involved as part of the group home licensing process.

The Secretary included in the staff report the language from the code related to the process of revoking a special use permit should issues arise at the property. Further,

#### **Finding of facts:**

1. The surrounding areas around the property are all two-family duplex homes

2. There are two-family homes around the property and there are single family homes on the north side of 53<sup>rd</sup>.
3. The property is zoned R-5 and currently this district is not zoned to allow for this use. Land use and current zoning district in affect for the property is suitable for the Special Use request.
4. The group home-limited use is not expected to detrimentally affect nearby property.
5. The two-family residence is currently owned by the applicant and is a fairly new home and has not been vacant.
6. The proposed group home-limited use does not pose a threat to adjacent residential property. The two-family exterior is residential in character and consistent with other residential structures in the neighborhood.
7. Related to housing, the staff report contains language from the new comprehensive plan. The request is not in conflict with the comprehensive plan, and the future land use map identifies this area as a Traditional Neighborhood place type that consists predominately of residential dwellings to include the single-family, two-family, accessory dwelling unit, small multi-family structure and the occasional townhouse. The property with this use falls within what is allowed within our comprehensive plan for a traditional neighborhood type.
8. The subject property will have no negative impact on community facilities, public infrastructure or utilities.
9. At the time of developing the staff report and publishing the agenda, the Secretary received a phone call about why she received notification, what is happening, and the caller said she had concerns about the group home, but she couldn't say why. There was no other follow up about why she opposed the case. The Secretary encouraged her to attend the meeting to share her concerns. No other phone calls or written communications were received other than what was read during the meeting.
10. Recommendations of professional planning staff are the key findings of fact 1, 4, 6, and 8. Staff recommends approval of the application pending the outcome of the Planning Commission review and public hearing. Staff recommended including the condition that the special use permit be restricted to the current property owner and not be transferable. This means that if the property owner sells the property the special use does not continue.

Secretary reviewed the written communications in detail and can answer Commission questions about those statements.

Commission asked why the condition was added and the Secretary stated that the special use code says it's up to the city's discretion to allow it to be transferable or not and it was added as a condition. Commission asked if they could add additional conditions such as:

1. Requiring the garage to be returned back to the way it was.

2. Number of cars that can be parked in the driveway.

Staff stated that the commission can add whatever conditions they want but this is a zoning case and the property is meeting the needs of the codes related to parking even with converting the garage. The two-family duplex is required to have two enclosed and four off-street parking which this property meets. If this property had no special use and they wanted to enclose the garage then they may need to file a variance case. Any new owner of the property would see the converted garage and would be making an informed decision about whether they wanted to do that or not. If it was going to be a two-family use they would have to come to the city for a variance case because they wouldn't have a group home use attached to it. The two-family duplex doesn't require four enclosed parking.

It was clarified that one-half of the duplex currently has three bedrooms, two full baths, kitchen, and a living room and they will add three additional bedrooms and a half-bath. This is not part of the zoning case, and this information was introduced in the building permit application. The building permit is reviewed within the building codes and not the zoning code, which is why the details of the remodel are not included in the case. The Secretary disclosed the permit request in the staff report to explain how the city became aware of the case.

Commission stated that whatever this will or will not do to property values in the future isn't really in their purview. Whether it increases or decreases property values is not necessarily the job of the Commission to make a decision on zoning based on that. Secretary stated that it is not a review criteria for the special use or the golden factors. Staff has no way to predict values and how they get weighed against a single-family property there is no way for staff to know that. Commission stated that a family could buy that property and have six kids and want six bedrooms and it still has 2 ½ baths and it is not part of the Commission's review criteria. Secretary confirmed that it is not part of the golden factors or the review criteria in the code.

**Agent for the Applicant:**

The chairman called upon the applicant to make his/her presentation on the request and any response to the City staff report. David Stauth, architect licensed in Kansas, Texas, Oklahoma, Arizona, Colorado, and Missouri. Address is 2627 N. Beacon Hill Ct., Wichita Kansas. His company is Kansas Code Plans, and he has done over 90 homes in Kansas and overall, over 300 in the last 8 years. This was the first time that he has come across someone purchasing a home and find out that an R district this is not allowed by right. The average City allows up to eight persons in a home without a conditional use permit. There are some that require a conditional use for six or more. Every city allows up to five and no city he has worked in didn't allow them by right. He didn't think it was legal because the Federal Fair Housing law that you can't discriminate against children, disabled, and elderly. He was shocked that it wasn't allowed by right in the zone. He has a list of all the communities that he can share with the Commission.

Mr. Stauth addressed a few items from the written comments- he has found that neighbors say they don't want it and then years later guess who's living there- the neighbor's parents.

People realize that instead of driving to go see their parents, they could walk down the street. A lot of times they don't initially like it but later live there. Large scale retirement homes are not able to build large enough or fast enough. These homes are popular because many don't want to be in a large home or want their parents in a large home. Covid set that precedence when there are 50, 75 or 100 people it only takes one person for it to spread everyone.

In terms of care, they do very well. In a large home, you don't know your nurses, maybe they assign the same nurse, but he has been in so many large-scale homes. They are finding in the smaller homes that they know the people that live there and their nurses. They converse more, get out in the common areas, and they spend more time together and seem to be doing better and living longer. He believes this is a huge benefit to the community and residents are closer to family. In this case we are talking about an elderly group home. The state does not assign children and hasn't for several years. There are a good number of IDD homes- adults with disabilities and you wouldn't believe how many of these homes exist in small towns. In Salina there are 15 of these homes that are IDD and parents are able to visit their adult child who lives nearby vs. driving to facility somewhere else which is really beneficial to a community. Mr. Staath stated that elderly do thrive very well in these homes there's less Covid and things like that. These things are the things he believes helps the community.

Some people ask why a duplex? Use to do ranch homes but ranch homes are getting pretty expensive and they are all taken up. If you go to 13<sup>th</sup> and Woodlawn all those big, beautiful ranch homes he has done about 20 homes or more in the neighborhood. Duplexes are flat, level, laid out well, and open. In some cases, we will take out the wall and make it one large 12 bed home which is the maximum for the state home plus program. Most homes allow for eight residents without a supplemental use. This case will be six residents, and it doesn't have stairs or ramps and not many homes in Wichita are like that.

Someone asked what if the residents' drive and Mr. Staath has never been to a home where residents are driving if they could drive they could take care of themselves and wouldn't be in one of these homes.

He stated that another comment about not having a garage being a problem in the future if somebody else owns it and the Commission talked about maybe it gets converted back. In this case the garage will be converted but the Commission should look at this not being allowed by right and he knows of no other city in the state that does- that seems kind of troublesome. Not having a garage in the future, he sees two reasons why this isn't a problem: the future is probably not in 3-5 years, my clients that own these homes and rent them out to operators usually sign ten-year leases because once one of these homes are there they stay for a long time and don't come and go. If this home gets sold in 20 years and there is no garage, what about self-driving cars. They are building parking garages and now using them for something other than parking garages- they are being designed as something else because they anticipate not needing a lot of space for parking. In his opinion, 20 to 30 years most garages will be converted to storage, man caves, extra family rooms which he sees more requests for in his business, outside of group homes, to covert garages. He sees garages as things from the past because of self-driving cars. He has done a lot of research,



and he's heavily invested in the future and basically that is the term for those that don't want to drive themselves.

Property values are rarely based on the garage they are usually based on the number of bedrooms. A six-bedroom home vs. a three bedroom raises the property value. They will not be changing the exterior of the home. These group homes you'll see two cars for staff and in this case the staff live next door so you may not even see that because they will park in the garage. You will see an occasional visitor of one or two people. Never noise issues, they are pretty quiet, the lawn is always mowed, and the house is kept up. They are running a business and people live there. If the property is not taken care of or run down, the children of those residents will be calling. These homes are generally kept up, and you will find them in the nicest communities. Mr. Stauth converted a home which was the former mansion of the Pizza Hut founder across the street from Pompeo- these homes are in very nice neighborhood.

City attorney asked if Mr. Stauth was the applicant and he confirmed that he was the applicant representing the owner.

Emails asked about how we know if they are old. Sometimes these homes will get people in their 30's and 40's with early onset dementia or something like that and are in need of full-time care and do not drive and that's why they are in this home. Somebody said why is it our (the City) burden and why didn't they (applicant) do their due diligence first. Mr. Stauth has done many of these homes and rarely does anyone call him first because if they did he could steer them in a different direction and he didn't imagine that the use was not by right in the zoning. He didn't imagine that it was not allowed and as an architect would not have checked for it because he never encountered it in 300 homes in the state.

Commission asked Mr. Stauth what the attrition rate is on these homes. If they own it and then decide it's not making money and now they can't sell it. Now it's sold as a group home now can they bring in a juvenile facility.

Secretary clarified that is not a zoning change it is a use request. In this district, by right, the property can be used as a two-family residence, and this case is adding a group home-limited use to it. It doesn't negate the ability for someone in two years to say they are done and then it just becomes a two-family residence.

Commission further asked when the property owner says they are done; can they convert it from elderly to a different type of group home. Mr. Stauth stated that there is no difference between an elderly, IDD and children's group home. Everything is the same and KDADS (Kansas Department of Aging and Disability Services) says they all have to be on the same level. This case has a condition that if they sell the home the group home-limited use cannot be transferred. Somebody would have to come back before the city and apply all over again. Mr. Stauth is aware of five homes that closed but were immediately purchased by other operators because you have to put in a fire alarm system which is \$15,000 to \$20,000 or if you remodel a bathroom to put in a walk-in shower is \$10,000 to \$15,000, you may have to convert ramps, doors, windows but not in this case. Some clients buy these homes, and he

sends out an email about it being available and he has had 30 people within 24 hours wanting to buy. With the baby boomers, there will be more.

Commission followed up and said what happens when the owner remains the same, but they want to operate a different type of group home like juveniles who have been previously incarcerated, like in the email (written statement). Mr. Stauth responded that if the owner did that it would be a labor of love because juvenile homes don't make money, but it would be permissible, but he knows nobody who has done that. Commission clarified that the property owner would become a group homeowner as long as they are there it doesn't matter what kind of group home it is or the type of people that live there. Mr. Stauth stated yes, unless the Commission is allowed to put a condition on that.

City Attorney did state that Mr. Stauth was correct as to the Federal Housing Law. There are many types of group homes such as assisted living homes, adults with disabilities, a sober living house, people with disabilities. All of these are protected populations under the Fair Housing Act. The planning commission is allowed to make decisions about noise, light, but not of a group home with a specific designation. Mr. Stauth didn't understand how they are not allowed by right. City Attorney stated, with the special use permit in city code, there are certain factors and considerations that this commission has authority to consider. It can't be discriminatory but there can be evaluations regarding parking, lighting, conformance with zoning regulations and based upon initial discussions this special use is required because of the nonconformance with the zoning regulations and not that it's based on a group home or a specific group of individuals. Mr. Stauth doesn't understand our code because he has never had to do a CUP (Conditional Use Permit) or SUP (Special Use Permit) just to have a group home.

#### **Public Comments:**

Chairman Jordan welcomed everyone interested in this agenda item to come to the podium and give their name and address. He instructed that they limit comments to five minutes.

Gary Goodson owns 5287/5289 N. Toben Ct. and lives at 7306 E. Norfolk Drive, Wichita 67206. He thinks that what is missing is the consideration of the people in their surrounding community who own these properties and the people who live there and rent because there are expectations that when a property owner buys that property he expects it to stay as he purchased it in the neighborhood. Similarly, the persons who rent from the property owners they trust that what they are paying for rent and signing leases for a year at a time is what they signed up for in the first place. He understands that there are needs for the elderly in this instance. Having the special use what's next- is it a half-way house, a group home for sexual deviants. Those neighborhoods trust the government, the Councilmen and Commission to protect their best interest. He understands that there are entities that want to provide these homes. He lives in Rockwood and he has had three large ranch homes and it's been a problem. Individuals living there have people that take care of them but there are always additional needs, and it creates traffic and they park in the street. They have in-home care that isn't always provided by the people that are there. You have visitors on top of that and it's more of an issue than people understand. Everybody that purchases their properties are having to alter their way of life and traffic patterns for someone that has nothing

invested in it. The property owners have something invested but the people who live there don't. So, everybody in the surrounding area is impacted by this location.

Chairman Jordan asked Mr. Goodson about his statement that other people come to the home to take care of people living there. Who else comes to the home- like PT, third party to work with the people? Gary said yes, respiratory care, wound care, multiple disciplines and in his neighborhood the street is through- it becomes a problem in caul-de-sacs that choke down the traffic.

Commissioner Faber stated that the job of the commission is to look at from a zoning perspective and we are hearing what is being said. It was mentioned in the emails (written communication) that there are too many duplexes and that is something that the commission has been aware of for a long time. It is not within the Commission's purview to distinguish what things can and cannot be used for once they're zoned a certain way. Commission has to stay within the legal limits of what they can and cannot do. Commission is hearing you (Mr. Goodson) and that we have to stay within the confines of what we can do. Mr. Goodson stated he understands and appreciated the ability to express concerns.

Jemmima Wanjau, licensed contractor. She has lived in the neighborhood in Rock Springs until she sold it in 2024- she is very familiar with the Rock Spring Addition. There are other group homes for adults with disability, and the owner didn't know that he was doing anything different than others were doing. Mr. Stauth addressed the concerns. She is a real estate broker, so when values are assessed they are based on bedrooms. A four bedroom will not be comparable to a six bedroom. A six bedroom is more favorable. We are also seeing families having more children and it is hard to find housing for that. If the property owner tries to sell it should not be a problem. She clarified that each side of the duplex has three bedrooms and two baths. She stated that the county has allowed accessory dwellings on properties that can be for elderly which means they leave the main house and live in the dwelling away from the house but that is not what this property owner is doing. She knows the property owners, and they are good people and they will keep the property in good condition. They did their due diligence because if they are not trying to just cut corners, but they know that the right thing for them to do is go through the legal way. Commission asked what her connection to this is and she stated she is the general contractor. She applied for the permit to do the work and that is how they learned about the special use. She stated there are other group homes in that area and sent the addresses to the City. She knows because she lived in the neighborhood and those homes are owned by bigger companies. She did ask city staff why other group homes are in the area.

#### **Commission Discussion:**

Commission asked if the group home would be allowed in a C-1 district. Secretary confirmed that a group home is not allowed by right in a C-1 district. There are other districts that allow group homes by right and another that allows it as a conditional use- may need to verify. If conditional they would still come from the Commission. Commission member recalled other special use cases but couldn't remember the details and asked if a precedence has been set. Secretary stated that there is no precedence set because each zoning case is individually evaluated based on the circumstances which it's brought. Every case is different, so it is

evaluated individually and just because it was allowed someplace else doesn't mean it's allowed everywhere because there are different circumstances. Just because one case is approved doesn't require that all cases are approved.

Commission asked the Secretary if there are other group homes in Bel Aire. Secretary confirmed that there are other group homes in Bel Aire but that she could not confirm the circumstances or if they had a case. City staff would need to determine the group home addresses and then determine if there was a case filed. A group home case hasn't happened recently.

Within the Commission purview, they approve or not approve the group home based on the applicant's specifications of what they are going in the home and can't actually consider the type of individual that will occupy the group home. The City Attorney stated that it is all about the use and not about the types of people. Must consider the golden factors and other criteria.

Commission followed up with if someone in the future came and asked for another situation like this and want to use the duplex as a group home for people recovering from addiction- the Commission can't take that into consideration, but it could be that every one of those people have a car and it could create a parking problem, the Commission could consider that. The City Attorney said that if there a review of parking and there is a concern about that there could be a condition that a parking plan be provided that sets out how they will handle parking, how to keep cars to a specific minimum during a certain time of day. The Planning Commission has the authority to do that- provide a condition for a parking plan.

The Commission stated that if someone wanted a group home that is a half-way house for people just coming out of incarceration trying to work their way back into society that the Commission can't take that into consideration whether we approve or disapprove the request. The City Attorney stated that is correct and said that an applicant doesn't need to go into detail about what type of group home they are requesting. City Attorney stated that the comment about property value is considered a business metric not something regarding zoning regulations. A fear of property values cannot be used as a reason for denial and is not permissible per statute. Have to go back to the golden factors and other criteria to use for approval or disapproval.

Commission asked about the general standards for consideration, criteria for review and the findings of facts (Golden Factors) and why the Golden Factors since this case is not a change in zoning; are they technically applicable since the zoning is not changing. Staff confirmed that they are special use permit criteria. Chairman read the general standards for consideration:

1. That proposed uses will not be contrary to the public interest
2. That the spirit of the Code is observed.
3. That public safety and welfare is secured.
4. That substantially equal treatment under the law is preserved.

Commission asked if there were any prioritization of the considerations and criteria and city staff confirmed there is not. City staff explained that in the Special Use section of the

code lists the general standards for consideration and the criteria review. In addition, because this is a zoning case the golden factors are also considered. Staff report includes responses to the ten criteria for review and the golden factors.

Commission asked if the new comprehensive plan allowed for this type of use. Staff confirmed that they did review the new comprehensive plan. The Comprehensive plan does not talk about the use, but it does talk about the type of neighborhood as a Traditional Neighborhood and the definition is in the staff report. The future land use map identifies the neighborhood as a Traditional Neighborhood type that consists of single-family, two-family, accessory dwelling unit, small multi-family structures and the occasional townhouse. The subject property falls within this Traditional Neighborhood type. Commission asked if the zoning- putting in a group home at this time does not fall into the zoning at this time but moving forward would be allowed in this type of District. City staff explained that the Comprehensive Plan sets out how we are going to use land in the city and how we are going to grow. The zoning codes define each district and how you can use each parcel by right (permitted uses) doesn't require a case with the city. There is a list of conditional uses which requires a case be filed to approve that use on the parcel. If the use is not permitted and not on the conditional use list, then you must file a special use case.

Commission asked the applicant's agent Mr. Stauth about exterior changes to the property since the garage door will be removed. Mr. Stauth stated the garage will stay in place and they will remove the opener and track and build an insulated wall inside and seal it to keep the exterior the same. They will also add three windows to the side of the garage to help with egress. Commission asked about door egress from those three bedrooms and Mr. Stauth stated that they are only required to have one exit but there are two in the home; the patio door on the side and the front door. Patio door is 30" or 32" wide but only required to have one which is the front door. Commission had a concern that if there are wheelchairs needing to get out they wouldn't be able to do that through the patio and if everyone would need to exit out the front door there would be a bottleneck.

Commission asked about the need to apply for a business license and if this is something that they need to address in this case as well. Commission is not required to address but the staff confirmed that they (applicant) will be required to have a business license. They are unable to apply for a business license until the use is approved.

Commission asked if they could recommend or have an addendum to have a designated space in the driveway for emergency vehicles and other service providers or is there additional room to pour a pad to extend the driveway to have a designated parking space so there is not a bottleneck if there is a concern about parking and traffic. There may not be room to extend the driveway on the lot. City staff stated that if the two-family home had two families living it and they had six kids who all had cars and mom and dad that would be eight cars and they would be parking on the street. There would be no cases or violations because they can park on the street as long as they are following the rules. City requires only two enclosed parking spaces for a duplex. Code also does not limit the number of people living in the home and we don't limit the number of cars that can be in the driveway.

Commission encouraged the applicant to communicate with those around them that these services are scheduled and that you will try, best you can, to have them parking in the driveway. This will show that you care about concerns (from neighbors) and that applicant will do their best to address those concerns. If there are concerns Commission encouraged applicant to work with them (neighbors) and set aside a parking space in the driveway as a courtesy to make sure everyone in the neighborhood is supportive of what the applicant is doing. If not, they will call the city with complaints, and the applicant doesn't want that to happen.

Commission talked about cars coming to a resident may be no different than deliveries being made 15 times a day creating traffic. Also have families with several cars and they are on the street all the time.

Chairman Jordan stated that he is a family of five and they have seven cars and live on a cul-de-sac and they do a lot of driveway shuffling. He doesn't believe this is not something in of itself a reason to not approve. When reviewing the general standards of consideration that the use is contrary to the public interest and you could make a case that this would be advantageous to the public interest. Thinks that the spirit of the code is being met because we don't allow it as a right and that they are required to come to the Commission to approve. Could make a case that if there are a lot of services at the house it could be an issue, but any home could have more cars and doesn't believe there is a strong case for that. Substantially equal treatment under the law is preserved, which supports the discussion that each case is individually decided on its own merits.

The Chairman closed the public hearing and moved to written communication. This was discussed earlier and no additional comments were made.

Chairman asked if the applicant had any further responses. There were no further comments.

Chairman Jordan continued his deliberation comments and discussed the criteria for review items. There is a concern about access and traffic load, but he can't make a strong enough case to not approve this based on this single item. Noise, light, odor and screening doesn't see this as a problem. Parking was discussed with access and traffic load. Doesn't believe that services will be affected more than what would be as a duplex. Public health and safety doesn't see an issue and adequacy of facility and lot size believes it's reasonable to have six bedrooms on the one side. There is no issue with signs and review by the fire marshal sounds like they are part of the process.

Commission Matzek thinks the Commission is overlooking the access, traffic, and parking because service providers and visitors will be there for a long time. There are a lot of different things at play and whether it's a big issue or not. The Commission may be overlooking this a little more than they should because if there are more of these cases that they approve down the road and there are several in a neighborhood, it could an issue.

Commissioner Roths is considering the case based on the staff's recommendation because they have looked through this very carefully.

Commissioner Mackey loves the idea, and his only concern was the "slippery slope" scenario of what could happen in the future and what types of group homes could go in. He liked hearing that precedence won't be set and that approving this case doesn't mean you have to approve the next one. Appreciated the City attorney clarifying what the Commission can and cannot consider.

Commissioner Faber is focusing on the Commission's role in zoning and if it was a zoning change from commercial to residential we don't always have control over what they can build. Focusing on what the Commission can control he encouraged the applicant to play nice with their neighbors and if they see or know about a situation that can cause friction put out the fire before it comes to the city. I want to ensure that property owners and their tenants thrive. He doesn't see anything that is a "blatant red flag" and there isn't enough related to traffic for him to vote no. Once approved how it's used is out of their control and he is looking at the facts before him to make the right decision of the community as a whole.

Commissioner Mackey stated that the two emails came from people in his neighborhood and they were adamant about not allowing this. The fact that if this property changed hands they would be required to reapply will provide some information for him to resolve the concerns. Staff stated that the three written communications received were from citizens who were not part of the certified letter notification area or within the 200' environs of the property and likely sent the written communications because they were not directly notified. They do not live near the neighborhood and live approximately 2.5 miles away.

Chairman Jordan stated that the things that he has reservations about are not going to prevent him supporting this.

Chairman Jordan stated that having discussed and reached conclusions on our findings of fact, he reminded the Commission that a motion should reflect the factors on which it is based and, if approval is recommended, then consideration should be given to any conditions that might be attached. Staff reminded Commission to discuss the finding of facts (Golden Factors) as part of the motion.

#### **Findings of Fact Discussion:**

Commission wanted to make the motion and then discuss the findings of fact considered in the motion and second for approval. City Attorney stated that the Commission needs to discuss the findings of fact, so it confirms why they are approving the case.

Commission discussed the following findings of fact:

- Conformance of the requested change to the city's comprehensive plan. Case falls within the comprehensive plan and will add to Bel Aire as a community, and it doesn't take away from the intent of what this is.
- Recommendations of staff and information contained in the staff report.
- Opposition or support of neighborhood residents. No other opposition from the neighborhood except for Mr. Goodson.
- All Golden Factors support the case with the exception of the well-being of the neighborhood which is not necessarily ideal but is not enough to not support the case. All other factors support this.

#### **Protest Petition Information:**

Chairman Jordan stated that the case will be forwarded to the Governing Body with the Planning Commission's recommendation and a written summary of the hearing for consideration at their regular meeting on Tuesday, January 6, 2026. Protest petitions against the case may be received by the City Clerk for 14 days after tonight, Thursday, December 25, 2025, at 4:30 p.m.

City Attorney explained that the protest petition would typically include information where the Planning Commission did not take into account specific factors, was not reasonable with their discussion, and was not reasonable in the vote. City attorney thanked the commission for having a discussion about concerns and asking questions of the applicant and the applicant's agent. This participation shows that the Commission is making an effort to be reasonable and to make an informed decision. The protest petition would basically be saying that it was not done. The protest petition would go with the Commission's decision to the Governing Body. The Governing Body would take into account the protest petition with the findings of fact from the Planning Commission, hear whatever written comments were received and with their vote they would have to have a super majority vote. City attorney stated that protest petitions are very rare.

**Motion:** Chairman Jordan stated having considered the evidence at the hearing and the factors to evaluate the application, moved that the Planning Commission recommend to the City Council that the request for a Special Use permit, to allow a group home-limited use in one-half of a two-family (duplex) unit, in a R-5 Zoning District, generally located at North 53<sup>rd</sup> Street and Toben Road, in SP-25-01 be APPROVED, based on the findings of facts discussed and as recorded in the summary of this hearing with the condition that the Special Use permit is restricted to the current property owner and is not transferable. Vice-Chairman Faber seconded the motion. ***Motion carried 6-0.***

#### **B. Overview of Annexation Process**

Overview of the Annexation Process: City Attorney asked if the Commission still wanted her to cover annexation due to the time being after 8:10 and they still need to review the



Airport Code. City Attorney asked if the Commission would prefer this item be presented at another time. The Commission requested to move this topic to another meeting. This is not a motion item it is a workshop topic. Secretary will place this on another agenda.

**Action:** No action required; for discussion only.

**C. Recess the Planning Commission and Convene the Airport Zoning Commission.**

**Motion:** Chairman Jordan made a motion to recess the Planning Commission and Convene the Airport Zoning Commission. Vice-Chairman Faber seconded the motion. ***Motion carried 6-0.***

**Airport Zoning Commission**

**I. Call to Order** Chairman Phillip Jordan called the meeting to order at 8:12 p.m.

**II. Roll Call**

Chairman Phillip Jordan, Vice-Chairman Deryk Faber and Commissioners Dee Roths, Paul Matzek, Brian Mackey and Brian Stuart were present in person.

Also present in person were Paula Downs, Secretary and Maria Schrock, City Attorney.

**III. Consent Agenda**

**A. Approval of Minutes from Previous Meeting-** No meeting minutes to approve

**IV. Airport Zoning Commission Business**

**A. Consideration of Airport Zoning Regulations and A Preliminary Report in Accordance with K.S.A. 3-705.**

Chairman Jordan opened the hearing. No public comment for this item.

Chairman Jordan closed the hearing.

City Attorney explained that state statute gives any municipality the authority to have a planning commission as long as they have adopted zoning regulations which the city does. There is also an opportunity to have a Board of Zoning Appeals and if the municipality is going to adopt any airport codes the Planning Commission must serve as the Airport Zoning Commission. This will not be a regular item for the Planning Commission.

There is a staff report that provides the background for this item. The staff report explains that aircraft when taking off and landing has a potential for obstructions and

those obstructions can pose risks to people's lives and property. Kansas statutes allow for airport zoning regulations. These hazards stated are limitations for heights, vegetation, structures and any other hazards that could affect air navigation within areas near Jabara Airport. There is a proposed ordinance in the packet. If the Airport Zoning Commission were to move forward and make the recommendation to adopt the airport zoning regulations then that proposed ordinance would go to the Governing Body. The Governing Body would take that into account and make a decision whether or not to approve, deny or table the proposed ordinance per statute. Statute sets out the process: first there is a notification that must be done which was done by staff for this item. Then there is a public hearing which is occurring now. The Airport Zoning Commission will listen to all public comments and review all materials provided to them. The Commission shall make a preliminary report and then have another public hearing taking into account any comments, written materials and any information shared with you. At the second public hearing a final report would be approved by the Commission and then the final report would go to the Governing Body. The Governing Body would review the final report and review the proposed ordinance and make decision as to whether to approve the ordinance which would adopt any airport zoning regulations.

The statute doesn't define what a preliminary report is or its format. It will be the Commission using the proposed ordinance and the staff report to review. The City Attorney provided a copy of the main page of the Bel Aire City code that shows Chapter 18 and the articles contained in that chapter. The area in red circled on the handout shows the last article in the chapter to be 11. If the airport zoning code was approved it would be Chapter 18 Article 12. That is how it becomes a part of the Bel Aire city code. If any other agenda item comes to you and it touches the airport code then you are going to be receiving a staff report from the Secretary that includes Article 12 which does not exist right now. When it comes to this specific report, the City Attorney has not heard from anyone opposing this code. City Attorney stated that there was an application that came in for solar panel installation and Paula (Secretary) required them to contact the FAA and consider the regulations.

The Commission tonight will open the hearing, close the hearing, and discuss their concerns and discuss adopting the zoning regulations. You can discuss whether you support it or don't support it. If you want to move forward then you can say that you have read the staff report and the proposed ordinance and you feel comfortable moving forward claiming that this material will be your preliminary report for tonight. The case will then be republished, and it will come back to you for the next public hearing. You can tell staff if you need additional materials which will be made available at the next hearing. Tonight, the Commission is learning about it, hearing about it and having a brief discussion and if you want to move forward with the information you can use the information as your preliminary report.

Commission asked if they want to make recommendations on changes is this the meeting they can do that. City Attorney stated that the Commission can say that they want to make this their preliminary report, but you would like something to be

considered or modified and then staff will come back at the next public hearing and discuss it further. Commission can also discuss changes at the next public hearing.

Commission discussed 18.12.10- Nonconforming Uses section of the proposed ordinance regarding regulations not being retroactive. Commissioner Roths stated that lighting is extremely important. This (Jabara) is an uncontrolled airport and if someone is in the flight pattern they cannot see the lights of an airplane coming in from the North at times because of the reflection of the industrial area lights. The other consideration is in the developments that are coming in have ponds being built that attract geese. There are many geese that get attracted to the fields under the approach of Jabara. Pilots would not want to see geese flying beside them. Commissioner Roths thinks the regulations should be retroactive. She realizes that people will say that the businesses have been there (in the industrial park) for a long time and it will cost them a bunch of money to follow the code, but it will cost more if lives are lost. City attorney asked how to phrase the consideration about the water and suggested language that says, "we should consider the potential hazard of birds". Commissioner Roths referenced a project to put in a hazardous waste dump northeast that one of the things that stopped that was the idea of the seagulls in that area where planes were flying over.

City staff stated that the FAA has a map with "circles" (environs) around the airport and Bel Aire city limits are inside several of those environs. The FAA looks at vegetation that draws birds and height of buildings. City staff required the solar panel installation applicant engage with the FAA due to potential concerns about glare. There is a process that allows a project to preliminary engage with the FAA on their project to determine if they are required to file a case with them. The FAA determines if a case is required or not for approval. In the solar panel case because of the height of the building being low they did not require them to file an additional case, and the FAA approved the solar panels. City staff stated that the FAA probably has some good language related to birds, landscaping and ponds.

Currently, there are three motion options for this item, and a Commissioner could move to modify and approve the case and ask for additional considerations be given to the retroactive regulations related to water, ponds, birds and lights. City staff pointed out that 18.12.10 (B) does have language about lighting that can be confirmed.

Commissioner Roths stated that the FAA will have a lot of control and didn't understand why this had not come up before.

Commissioner Matzek asked if this section (18.12.10) was basically saying that what's already there is being grandfathered in so that if a landowner had a 50' tower and the new regulations says it can only be 20' they wouldn't have to make changes. Commission Matzek doesn't have an issue with telling a landowner that they have to lower it but does have an issue with the landowner being required to lower it at their expense. City staff clarified that the regulations would not require the removal, lowering or other changes or alteration of any Structure or tree. The FAA does set a maximum height for structures and none of the structures in Bel Aire reach that height

because zoning codes limits the height to 35' (staff believes). From a structure perspective don't have anything in the way. City staff will review how ponds and vegetation fits into this section.

Chairman Jordan was concerned that if landowners were required to be retroactive and pay to meet the regulations, he is concerned about the City being sued.

Commission asked if there was timetable to get this done or if they could review and then go with the proposed and then final. Staff stated that the Commission can table it and then review the proposed ordinance in more detail.

Commissioner Roths stated that if the FAA says the ponds and lights are good then we don't have any concerns. She has concerns about lighting in the industrial park. Some lights are directed down, and others are not and can be seen from K-254.

Commission asked if Bel Aire has any Zone A areas and that is where you can't have any structures over 25' feet. Bel Aire does have some Zone B areas in the city. City staff confirmed that no permit is required in Area A if structures are 25' or less; Area B if structures are 50' or less; Area C if structures are 100' or less; and Area D if structures are 200' or less. City code requires buildings in Sunflower Commerce Park to be under 35'. Currently, there are no known violations of the height restrictions. Line 418 says no structure higher than 50' except where the terrain would affect the overall height limits. Measurement would start at ground level and then go up to the maximum of 50'.

Commission asked if this was the same ordinance that the City of Wichita has. City Attorney stated that it is very similar, but this ordinance has been modified because Wichita is addressing several airports. This ordinance takes into account part of our current code and was modified by the City Attorney. Sedgwick County and the City of Wichita have been working together and with all of the airports since 1995. All the airports have been included and have provided input, and the City of Bel Aire has been contacted about joining that team for multiple years. City staff did not know why Bel Aire had not previously adopted an ordinance, but it is time. City staff has modified the ordinance to meet the needs of the city and complement our current codes. The Airport Zoning regulations will be in the zoning section of our code which means other codes will direct what happens within the environs of the airport.

Commission asked If somebody is building in a Zone B area do they have to get on the FAA website and submit their project for approval. If they have done that, is something submitted to the City to confirm that. City staff stated that the FAA provides the builder with a formal letter/notification and then the City would require that in the application.

Commission stated that they are serving on the Planning Commission, Board of Zoning Appeals and now the Airport Commission and asked what is next. City Staff said that the responsibilities of the Airport Commission will not include any cases. Most of the work will be handled by City staff and the Airport Commission will only see requests to modify and approve amendments to the code.

Commission wanted more time to review the ordinance and requested that it be tabled. Changes should be provided to the Secretary so that the Ordinance can be modified and ready to be approved in January. Commission would need to provide changes prior to Christmas to update the ordinance to ensure it was ready for the January meeting. Commissioner Roths asked if clarification about the ponds, lightning etc., could be reviewed ahead of time so that it is known what can and cannot be modified.

Commission asked why they have to serve as the Airport Commission and why do they have to approve the code vs. it just being in our City code. City staff explained that the largest role the Commission plays is approving the codes. Statute requires the Planning Commission serve as the Airport Commission if there are airport regulations included in the city code. Once the Commission approves the code it goes to the Governing Body to approve and sign the Ordinance.

**Motion:** Vice-Chairman Faber moved that the proposed Preliminary Report of the Airport Zoning Commission be tabled until February 12, 2025, at 6:30 p.m. for considerations as shared by the Airport Commission members. Commissioner Matzek seconded the motion.  
**Motion carried 6-0.**

#### **B. Adjourn Airport Zoning Commission and Convene the Board of Zoning Appeals**

**Motion:** Chairman Jordan moved to adjourn the Airport Zoning Commission and Convene the Board of Zoning Appeals. Commissioner Mackey seconded the motion. **Motion carried 6-0.**

#### **Board of Zoning Appeals**

**I. Call to Order** Chairman Phillip Jordan called the meeting to order at 8:44 p.m.

#### **II. Roll Call**

Chairman Phillip Jordan, Vice-Chairman Deryk Faber and Commissioners Dee Roths, Paul Matzek, Brian Mackey and Brian Stuart were present in person.

Also present in person was Paula Downs, Secretary and Maria Schrock, City Attorney.

#### **III. Consent Agenda**

##### **A. Approval of Minutes from Previous Meeting**

Commission Secretary clarified that the meeting minutes for the Planning Commission, Board of Zoning Appeals, and Airport Commission will be included in a single document, but each Commission will need to formally approve their section of the minutes document.

**Motion:** Chairman Jordan moved to approve the minutes of the November 13, 2025, meeting. Commissioner Matzek seconded the motion. ***Motion carried 6-0.***

#### **IV. Board of Zoning Appeals Business**

##### **A. No current business**

##### **B. Adjourn Board of Zoning Appeals and Reconvene the Planning Commission**

**Motion:** Commissioner Mackey moved to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Commissioner Roths seconded the motion. ***Motion carried 6-0.***

#### **VII. Approval of the Next Planning Commission Meeting Date.**

**Motion:** Chairman Jordon moved to approve the date of the next meeting: January 8, 2026, at 6:30 p.m. Commissioner Matzek seconded the motion. ***Motion carried 6-0.***

#### **VIII. Current Events**

##### **A. Upcoming Agenda Items:**

- a. 2025 Updated Zoning Map will be on the next Planning Commission meeting agenda. The map reflects zoning ordinances approved throughout the year, and it will be updated as to the close of 2025.
- b. Robert's Rules Training will be at an upcoming meeting. Staff will also add the Annexation presentation to the January meeting agenda.

##### **B. Upcoming Events:**

- a. City Hall closed for Christmas- December 24 – 25
- b. City Hall closed for New Year's Day- January 1

#### **IX. Adjournment**

**Motion:** Vice-Chairman Faber moved to adjourn. Chairman Jordan seconded the motion. ***Motion carried 6-0.***