



**MINUTES**  
**PLANNING COMMISSION**  
**7651 E. Central Park Ave, Bel Aire, KS**  
**January 12, 2023 6:30 PM**



**I. Call to Order**

**II. Roll Call**

James Schmidt, David Floyd, Phillip Jordan, Dee Roths, Paul Matzek, and John Charleston were present. Heath Travnichuk was absent.

Also present were, Planning Commission Secretary, Jay Cook, and Code Enforcement Officer, Garrett Wichman.

**III. Pledge of Allegiance to the Flag** – Chairman Schmidt led the Pledge of Allegiance.

**IV. Consent Agenda**

A. **Approval of Amended Minutes from August Meeting**

**Motion:** Commissioner Roths made a motion to approve the minutes of November 10, 2022. Commissioner Charleston seconded the motion. ***Motion carried 6-0***

**V. Old Business/New Business**

A. **CON-22-02 Property owner has requested to allow for an accessory apartment in an R-1 Residential Zoning district.**

Before the hearing was opened to the public, Chairman Schmidt read the zoning regulations for R-1 zoning to clarify allowable uses and uses that required a conditional use in that particular zoning area. He notated that accessory apartments were a part of the allowed uses through a conditional use permit. He emphasized that wording of the City Code that states “conditional uses shall be permitted in the R-1 District if reviewed and approved by the Planning Commission”.

Once Chairman Schmidt completed reviewing R-1 zoning special uses he opened the public hearing. The commission panel allowed the applicant to present the need and use of the accessory apartment and the reason for applying. The applicant stated that there was an accessory structure, or detached garage, on the property that had burned and expressed the desire to rebuild the garage and add living quarters for guests and/or aging parents.

After hearing from the applicant, citizens requested a chance to speak. Each citizen was given their chance to speak with a three-minute time limit. Sylvia Forte, 4072 N Harding Ave, was the first to speak against the proposed usage. She was not concerned with the intentions of the applicant but was concerned with the future use of the structure and its possibility of becoming a rental property. Melanie Penner, 4100 N Battin St, discussed changing existing zoning and the issues that arose with

that change. She also spoke about protective covenants that exist in Aurora Park. The next to speak was Mark Arrasmith of 4001 Harding St. He spoke of the importance of being involved and taking city matters seriously and having an open forum to allow citizens to understand the processes and be a part of the discussion. He also made a statement or request to understand the future of conditional uses and if they have a time limit before they become void. Mary Malicoat, 4150 N Battin St, was the last to speak. She was speaking on behalf of her father Robert Malicoat. She explained that as a lawyer, she believes that the City is required to approve the request if the conditional use meets the requirements in the Code.

After closing the hearing, the Planning Commission discussed the conditional use request and the concerns that were mentioned. Commissioner Floyd wanted to answer one of the questions that arose in the public hearing of the time frame of the conditional use permit and if it ran with the property. Planning Commission Secretary, Jay Cook, explained the process of the conditional use. He stated that if the Planning Commission recommended approval of the application, there would be a subsequent vote by the Governing Body for approval or denial. He also stated that before being presented to the Governing Body, there would be the opportunity for a protest petition to be filed with the City Clerk if the citizens of the notification area chose to disagree with the decision of the Commission. The vote would still go before the Governing Body but the parameters of the vote would change. After explaining this process, he stated that an ordinance would be drafted, if approved, and the ordinance would be registered with the register of deeds and stay with the property in perpetuity.

There was discussion about the size of the lot, which is 2.75 acres, and that an accessory apartment would not be a burden on the density of the R-1 lot. The protective covenants were mentioned. It was explained that the protective covenants are the responsibility of the property owners of the neighborhood and is a private document that should not be taken into consideration by the City regarding the decision to be made. The last concern that was mentioned was the wording of the Code that calls the use an “Accessory Apartment” because of the negative connotation of the word “Apartment.”

**Motion:** Commissioner Roths made the motion to recommend to allow the accessory apartment in an R-1 district for use exclusively by owner of 4046 Harding Ave or guests as presented without changes or conditions. Commissioner Jordan seconded the motion.

***Motion carried 6-0***

### **Director Report**

Planning Commission Secretary, Jay Cook, had no report to put on the record.

### **VI. Next Meeting: Thursday, February 9th at 6:30 PM**

After brief discussion the Planning Commission agreed upon February 9th, 2022, at 6:30 p.m.

**MOTION:** Commissioner Jordan made the motion to approve the next meeting date to February 9, 2022, at 6:30 p.m. Commissioner Matzek seconded the motion. ***Motion carried 6-0.***

### **VII. ADJOURNMENT**

**MOTION:** Chairman Schmidt made a motion to adjourn the meeting. Commissioner Floyd seconded the motion. ***Motion carried 6-0.***