



AGENDA AIRPORT ZONING COMMISSION

7651 E. Central Park Ave, Bel Aire, KS

February 12, 2026, 6:30 PM



I. Call to Order

II. Roll Call

Phillip Jordan _____ Dee Roths _____ Deryk Faber _____

Paul Matzek _____ Brian Mackey _____ Brian Stuart _____

III. Consent Agenda

A. Approval of Minutes from Previous Meeting.

Action: Motion to approve the minutes of December 11, 2025.

Motion _____ Second _____ Vote _____

V. Announcements:

VI. Airport Zoning Commission Business

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

Open hearing

Close hearing

Action: Please choose one of the following (3) options.

1. Having considered the evidence at the hearing, I move we (APPROVE / MODIFY AND APPROVE) the proposed Preliminary Report of the Airport Zoning Commission and schedule it for consideration as a Final Report at another public hearing, at the next regular meeting of the Airport Zoning Commission.
2. Having considered the evidence at the hearing, I move we (DISAPPROVE) the proposed Preliminary Report of the Airport Zoning Commission.

3. I move that the proposed Preliminary Report of the Airport Zoning Commission be tabled until _____(date), _____(month) at 6:30pm, for the following reason(s): _____.

Motion _____ Second _____ Vote _____

VII. Approval of the Next Airport Zoning Commission Meeting Date.

Action: Motion to approve the date of the next meeting: March 12, 2026, at 6:30 p.m.

Motion _____ Second _____ Vote _____

VIII. Current Events

A. Upcoming Agenda Items:

- a. Final Report of Airport Zoning Code

B. Upcoming Events:

- a. February 16: City Offices closed for Presidents’ Day
- b. February 17: Bike & Pedestrian Path Open House | 5:30 – 6:30 pm at City Hall
- c. March 28: Bel Aire Spring Fest | 1–3 pm at the Rec Center
- d. April 23 – 25: Citywide Garage Sale Weekend
- e. May 2: E-Recycling & Shred Day | 9 am – Noon at City Hall
- f. May 16: Spring Curbside Clean-Up

IX. Adjournment

Action: Motion to adjourn.

Motion _____ Second _____ Vote _____



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



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

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 53rd 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 53rd 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 53rd 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 duplexes 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-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 53rd.
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. Stauth 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 13th 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. Stauth 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 53rd 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.**



DATE: February 12, 2026
TO: Bel Aire Planning Commission
FROM: City Attorney
SUBJECT: Preliminary Report Re: Airport Hazard Preventative Zoning Requirements

Background: Obstructions to aircraft during landing or takeoff that exist in areas nearby airports can create hazards posing risks to lives and property. These hazards can impact current and future flight paths, maneuvering space, and overall airport operations. To address this problem, Kansas statute allows local governments to adopt and enforce airport zoning regulations which can prevent hazard development.

Wichita and Sedwick County have shared a joint Airport Hazard Zoning Code since 1995. Properties within the city limits of Bel Aire are not subject to this Code, as the Sedwick County jurisdiction only extends to unincorporated areas of the county. This situation presents a gap in airport safety coverage for Colonel James Jabara Airport (Jabara), as a portion of its footprint is adjacent to and located within the city limits of Bel Aire.

Jabara is a rapidly growing general aviation airport which is home base to approximately 150 jet and propeller-driven aircraft. It is also home for the National Center for Aviation Training and WSU Tech, which is currently building a \$30 million expansion. It is a significant economic driver located approximately a mile south of Sunflower Commerce Park. It is a valuable asset in the City's total economic development opportunity package, yet requires no financial contributions from the City.

Analysis: The Federal Aviation Administration (FAA) issued a new Advisory Circular in September 2022 covering Airport Land Use Compatibility Planning intended to aid local jurisdictions developing airport land use compatibility plans. The Wichita Airport Authority (WAA) hired a consultant to review the Wichita-Sedgwick County Airport Hazard Zoning Code in light of this new FAA guidance and to propose necessary changes. After full review by the Metropolitan Area Planning Commission, both Wichita and Sedgwick County have repealed the old Code and adopted a comprehensive replacement Airport Hazard Zoning Code. This includes a new Airport Hazard Zoning Map covering all of Sedgwick County.

The ordinance proposed here incorporates the provisions of the 9-16-25 Wichita-Sedgwick County Airport Hazard Zoning Code which pertain to Jabara Airport, and therefore impact the nearby properties within the Bel Aire city limits. The provisions limit the height of structures, objects and natural vegetation, and other hazards to air navigation within areas nearby Jabara. This ordinance defines specific hazards, establishes boundaries and outlines procedures for modifying the restrictions for modifying the restrictions and boundaries of protection zones. It follows the land use compatibility guidance from the FAA, ensuring that there will be no conflict with air service and airport development at Jabara.

Any applicant proposing any structure, object or natural vegetation that exceeds the height limits specified in the Airport Hazard Zoning Map or proposing any tower or structure of any height that

transmits signals must use the FAA's web-based Notice Criteria Tool before submitting the proposal to the City's Director of Community Development.

Planning Commission Shared Concerns Re: drainage ponds/birds, and businesses/solar panels:

The drainage ponds near Jabara Airport are established drainage infrastructure that have existed for many years. The drainage ponds do attract bird activity. The airport expressed no concerns regarding their presence or the associated bird activity.

As part of future development, some businesses may consider incorporating solar panels. To support ongoing coordination and compatibility with airport operations, the airport indicated a preference to be notified of any applicable permits, including those associated with solar panel installations.

Financial Considerations: Adoption of this ordinance will not create any financial obligations for the City.

Legal Considerations: The City Attorney has reviewed and approved the proposed ordinance amending the City's Zoning Code.

Recommended Action: Planning Commission approve this staff report as a preliminary report of the Airport Zoning Commission and schedule it for consideration as a Final Report at another public hearing, the next regular meeting of the Airport Zoning Commission.

Attachments:

Proposed ordinance

Sedgwick County Airport Hazard Zoning Map

4 **ORDINANCE NO. _____**
5

6
7 **AN ORDINANCE OF THE CITY OF BEL AIRE, KANSAS PERTAINING TO**
8 **AIRPORT HAZARD ZONING REGULATIONS; AUTHORIZING ZONING**
9 **RESTRICTIONS WITHIN THE VICINITY OF COLONEL JAMES JABARA**
10 **AIRPORT, PENALTIES, AND CREATING CHAPTER 18, ARTICLE 12,**
11 **SECTIONS 18.12.01 THROUGH 18.12.20 OF THE CODE OF THE CITY OF BEL**
12 **AIRE, KANSAS.**
13

14
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:
16

17 “The Code of the City of Bel Aire is hereby amended by adding Chapter 18, Article 12, Sections
18 18.12.01 through 18.12.20, which read as follows:
19

20 18.12.01 Title and Authority

21 This Bel Aire Airport Hazard Zoning Code shall regulate and restrict the height of structures,
22 objects, natural vegetation growth, and other natural or constructed hazards to air navigation within
23 the vicinity of Colonel James Jabara Airport. Creation of appropriate zones and surfaces,
24 establishment of the boundaries thereof, and provision for changes in the restrictions and
25 boundaries of such zones are set forth in this Code
26

27 The Wichita-Sedgwick County Airport Hazard Zoning Map as amended and as pertinent to the
28 jurisdiction of the City of Bel Aire, along with all notations, references, elevations, data, zone
29 boundaries, and other information thereon is hereby adopted and incorporated into and made part
30 of this Code. It is intended that such restrictions will be coordinated with the restrictions existing
31 under Chapter 18 of this Code, including the Airport Overlay District (A-O) contained therein. To
32 that end, the requirements of this Article 20 shall supersede any conflicting permitted uses or
33 exceptions found in Articles 6 or 7 of this Chapter 18.
34

35 18.12.02 Statement of Purpose and Findings

36 Colonel James Jabara Airport (Jabara) is acknowledged as a public facility that is essential to the
37 City of Bel Aire’s economic development.
38

39 (A) The creation or establishment of an Airport Hazard is a public nuisance and poses a
40 potential concern to the surrounding communities served by the Airport.
41

42 (B) The creation or establishment of a hazard that endangers public health, safety, or welfare;
43 impacts an individual’s quality of life; or prevents the safe movement of aircraft at the Airport is
44 prohibited.

45
46 (C) For the protection of public health, safety, and general welfare, and for the promotion of
47 the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport
48 Hazards.

49
50 (D) The prevention of Airport Hazards shall be accomplished, to the extent legally possible, by
51 proper exercise of the police power of the City of Bel Aire.

52
53 (E) The prevention of new Airport Hazards and the elimination, removal, alteration, mitigation,
54 or marking and lighting of existing Airport Hazards, are considered to be a public purpose for
55 which the City of Bel Aire may raise and expend public funds.

56
57 18.12.03 Applicability
58 This Code encompasses the prescribed areas defined herein around the Airport, as shown on the
59 Wichita-Sedgwick County Airport Hazard Zoning Map.

60
61 18.12.04 Definitions
62 For the purposes of this Code, words and terms defined in this Article shall be given the meanings
63 set forth here. All other words shall be given their common, ordinary meanings, as the context may
64 reasonably suggest.

65
66 In case of a dispute over the meaning of a term not defined here or over the application of a
67 definition set forth here, the Community Development Director shall give a written interpretation.

68
69 The intent of this Code is to capitalize or enclose in quotations the defined terms, but in those
70 situations where this capitalization or punctuation is omitted, this does not override construing
71 these terms in accord with their defined meanings.

72
73 (A) “Aircraft” means a device that is used or intended to be used for flight in the air, including
74 but not limited to: fixed-wing airplanes (single-engine, multi-engine, jet, turbine and/or piston),
75 rotorcraft (including helicopters), gliders, drones, airships, balloons, powered parachutes, and
76 seaplanes.

77
78 (B) “Airport” means any area of land or water designed and set aside for the landing and taking-
79 off of Aircraft. The term Airport includes Heliports set aside for the landing and taking-off of
80 rotary wing Aircraft.

81

82 (C) “Airport Elevation” means the established Airport Elevation in feet above mean sea level,
83 of the highest point on the landing area which is used or intended to be used for takeoff and landing
84 operations.

85

86 (D) “Airport Hazard” means regardless of Height, any natural or constructed hazards to air
87 navigation which may result in glare, visual impairment, wildlife attractants, or other hazards to
88 pilots.

89

90 (E) “Airport Hazard Zoning Map” means the Wichita-Sedgwick County Airport Hazard
91 Zoning Map compiled from the criteria in Title 14 Code of Federal Regulations Part 77 (14 CFR
92 Part 77), *Objects Affecting Navigable Airspace*. It shows the Airport Hazard Zones and five (5)
93 Airport Overlay Surfaces, including Jabara, and includes the layout of Runways, Airport
94 boundaries, elevations, and area topography. Applicable height limitation areas are shown in
95 detail.

96

97 (F) “Airport Overlay Surfaces” means surfaces intended to place height and land use
98 conditions on land impacted by airport operations while retaining the existing underlying zone(s).
99 The (14 CFR Part 77) surfaces and Runway protection zones have been combined to create five
100 (5) overlay surfaces for each Airport identified in the Wichita-Sedgwick County Airport Hazard
101 Zoning Code. The five (5) specific surfaces create a comprehensive area focused on maintaining
102 compatible land use around Airports.

103

104 (G) “Airport Reference Point” means a point at the approximate center of the Airport landing
105 area as shown on the Wichita-Sedgwick County Airport Hazard Zoning Map.

106

107 (H) “Approach Surface” means a surface longitudinally centered on the extended Runway
108 centerline; extending outward and upward from the end of the Primary Surface and at the same
109 slope as the Approach Surface Height limitation slope set forth in 18.20.6 of this Code. In plan
110 view, the perimeter of the Approach Surface coincides with the perimeter of the approach.

111

112 (I) “Conical Surface” means the surface extending upward and outward from the periphery of
113 the Horizontal Surface at a slope of twenty (20) feet horizontally for every one (1) foot vertically
114 (twenty to one, 20:1) for a distance of four thousand (4,000) feet. It is the outermost surface of the
115 overlay areas and has the least number of land use restriction considerations.

116

117 (J) “Drone” means an unmanned Aircraft that is operated without the possibility of direct
118 human intervention from within or on the Aircraft.

119

120 (K) “FAA” means the Federal Aviation Administration.

121

- 122 (L) “Governing Body” means the Bel Aire City Council within its incorporated limits..
123
- 124 (M) “Hard Surface” means a Runway consisting of an asphalt or concrete pavement. This does
125 not include Runways consisting of grass or dirt surfaces.
126
- 127 (N) “Height” means the datum means sea level elevation unless otherwise specified, for the
128 purpose of determining the maximum object Height limits in all zones set forth herein and shown
129 on the Wichita-Sedgwick County Airport Hazard Zoning Map.
130
- 131 (O) “Heliport” means an area on land, water or upon a Structure set aside and used for the
132 landing and takeoff of rotary wing Aircraft and additional facilities that may be provided for the
133 fueling, refueling, repair and storage of rotary wing Aircraft.
134
- 135 (P) “Horizontal Surface” means the horizontal plane located one hundred fifty (150) feet above
136 the established Airport Elevation and which begins at the edge of the Transitional Surface and
137 Primary Surface for a distance of five thousand (5,000) feet for Visual Approach Runways, or ten
138 thousand (10,000) feet for all other Runways.
139
- 140 (Q) “Jabara” means Colonel James Jabara Airport, a Civilian general aviation reliever Airport
141 which has a property footprint partially within the jurisdiction of the City of Bel Aire and partially
142 within the jurisdiction of the City of Wichita.
143
- 144 (R) “Larger Than Utility Runway” means a Runway that is constructed for and intended to be
145 used by propeller driven Aircraft of greater than twelve thousand five hundred (12,500) pounds
146 maximum gross weight, and jet-powered Aircraft.
147
- 148 (S) “Manager” means, at Colonel James Jabara Airport (KAAO), the Director of Airports of
149 the Wichita Airport Authority.
150
- 151 (T) “Natural Vegetation” means any tree or other object of natural growth.
152
- 153 (U) “Nonconforming Use” means any preexisting Structure, object of natural growth, or use of
154 land which is inconsistent with the provisions of this Code.
155
- 156 (V) “Non-Precision Instrument Runway” means a Runway with an existing instrument
157 approach procedure utilizing air navigation facilities with only horizontal guidance, or area type
158 navigation equipment, for which a straight-in non-precision instrument approach procedure has
159 been approved or planned, and for which no precision approach facilities are planned or indicated
160 on an FAA planning document or Military Airport planning document.
161

162 (W) “Non-Public Use Airport” means any Airport designated for private or restricted use only;
163 not open to the general public.
164

165 (X) “Planning Commission” means the Bel Aire Planning Commission.
166

167 (Y) “Person” means an individual, firm, partnership, corporation, company, association, joint
168 stock association or governmental entity; includes a trustee, receiver, assignee or similar
169 representative of any of them.
170

171 (Z) “Precision Instrument Runway” means a Runway with an existing instrument approach
172 procedure utilizing an instrument landing system (ILS) or precision approach radar (PAR). It also
173 means a Runway for which a precision approach system is planned and is so indicated by an FAA-
174 approved Airport layout plan, any other FAA planning document.
175

176 (AA) “Primary Surface” means the surface that is longitudinally centered on a Runway. When
177 the Runway has a specially prepared hard surface, the Primary Surface extends two hundred (200)
178 feet beyond each end of that Runway. When the Runway has no specially prepared hard surface,
179 the Primary Surface ends at each end of that Runway. The width of the Primary Surface is two
180 hundred fifty (250) feet, or fifty (50) feet beyond the marked edge of a turf Runway, for Utility
181 Runways with only visual approaches, and five hundred (500) feet for Utility Runways with non-
182 precision instrument approaches. For other than Utility Runways, the width of the Primary Surface
183 is five hundred (500) feet for Visual Runways with only visual approaches; five hundred (500)
184 feet for Non-Precision Instrument Runways with visibility minimums greater than three-fourths
185 ($\frac{3}{4}$) statute mile; one thousand (1,000) feet for a Non-Precision Instrument Runway with a non-
186 precision instrument approach with visibility minimums as low as three-fourths ($\frac{3}{4}$) statute mile
187 and for Precision Instrument Runways. The width of the Primary Surface of a Runway will be that
188 width prescribed in 14 CFR Part 77 Subpart § Section 77.19 for the most precise approach existing
189 or planned for either end of that Runway. For Heliports, Primary Surface means an area that
190 coincides in size and shape with the designated takeoff and landing area of a Heliport. This surface
191 is a horizontal plane at the elevation of the established Heliport elevation (see Airport Elevation)
192

193 (BB) “Public-Use Airport” means an Airport that is available for use by the general public
194 without a requirement for prior approval of the Airport owner or operator.
195

196 (CC) “Runway” means a defined area on an Airport prepared for landing and takeoff of Aircraft
197 along its length.
198

199 (DD) “Runway Approach Surface” means the critical overlay surface that reflects the approach
200 and departure areas for each Runway at an Airport. The Runway Approach Surface is
201 longitudinally centered on the extended Runway centerline and extends outward and upward from

202 the end of the Runway. The approach slope is twenty to one (20:1) for a distance of five thousand
203 (5,000) feet for Visual Runways; thirty-four to one (34:1) for a distance of ten thousand (10,000)
204 feet for all Non-Precision Instrument Runways other than utility; and fifty to one (50:1) for ten
205 thousand (10,000) feet with an additional forty thousand (40,000)feet at a slope of forty to one
206 (40:1) for all Precision Instrument Runways.

207
208 (EE) “Runway Protection Surface” means the area off the end of the Runway that is designed to
209 provide a clear area, free of aboveground obstructions including Structures, objects and Natural
210 Vegetation, to enhance the protection of people and property on the ground. This surface is
211 intended to provide a clear area that is free of any aboveground obstructions.

212
213 (FF) “Structure” means an object, including a mobile object, constructed or installed by man,
214 including, but without limitation buildings, towers, smokestacks, poles, pole lines, light poles,
215 signs, earth formations and overhead transmission lines.

216
217 (GG) “Transitional Surface” means the surface extending outward and upward at right angles to
218 the Runway centerline and which extends at a slope of seven (7) feet horizontally for each one (1)
219 foot vertically (seven to one, 7:1) from the sides of the Primary and Runway Approach Surfaces.
220 The Transitional Surfaces extend to the point at which they intercept the Horizontal Surface at a
221 height of one hundred fifty (150) feet above the established Airport Elevation. For those portions
222 of the Precision Approach Surface which project through and beyond the limits of the Conical
223 Surface, the Transitional Surfaces extend a distance of five thousand (5,000) feet measured
224 horizontally from the edge of the Approach Surface and at right angles to the Runway centerline.

225
226 (HH) “Utility Runway” means a Runway that is constructed for and intended to be used by
227 propeller driven Aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight
228 and less.

229
230 (II) “Vertiport” means an area of land, water, or a structure used, or intended to be used, to
231 support the landing, takeoff, taxiing, parking, and storage of powered-lift Aircraft.

232
233 (JJ) “Visual Approach” means an approach to an Airport that is conducted with visual reference
234 to the terrain.

235
236 (KK) “Visual Runway” means a Runway that is intended solely for the operation of Aircraft
237 using Visual Approach procedures, with no straight-in instrument approach procedure and no
238 instrument designation indicated on an FAA-approved Airport layout plan, or by any planning
239 document submitted to the FAA by a competent authority.

240
241

242 18.12.05 Airport Overlay Surfaces

243 Airport Overlay Surfaces established by this Code include all the land lying beneath the Runway
244 Protection Surface, Runway Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and
245 Conical Surfaces of Jabara. These surfaces are as defined under Section 18.20.4, which are more
246 specifically described in 18.20.6, and as shown on the Wichita-Sedgwick County Airport Hazard
247 Zoning Map.

248

249 18.12.06 Colonel James Jabara Airport

250 (A) Airport Elevation. The established Airport Elevation is one thousand four hundred twenty
251 (1,420) feet above mean sea level.

252

253 (B) Airport Surfaces and Height Limits. The various surfaces and Height limits for Colonel
254 James Jabara Airport are shown on sheet one of the Wichita-Sedgwick County Airport Hazard
255 Zoning Map.

256

257 (1) Runway Larger Than Utility with a Visibility Minimum as Low as Three-fourths ($\frac{3}{4}$)
258 Mile Non-Precision Instrument Approach Surface (Runway 36). The inner edge of this
259 Runway Approach Surface coincides with the width of the Primary Surface and is one
260 thousand (1,000) feet wide. The Runway Approach Surface extends outward uniformly to a
261 width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet from
262 the end of the Primary Surface. Its centerline is the continuation of the centerline of the
263 Runway. The applicable Height limitation slopes one (1) foot upward for each forty (40) feet
264 outward, beginning at the end of, and at the same elevation as, the Primary Surface and
265 extending to a horizontal distance of ten thousand (10,000) feet along the extended Runway
266 centerline.

267

268 (2) Precision Instrument Runway Approach Surface (Runway 18). The inner edge of this
269 Runway Approach Surface coincides with the width of the Primary Surface and is one
270 thousand (1,000) feet wide. The Runway Approach Surface extends outward uniformly to a
271 width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet
272 from the end of the Primary Surface. Its centerline is the continuation of the centerline of the
273 Runway. The applicable Height limitation slopes one (1) foot upward for each fifty (50) feet
274 outward, beginning at the end of, and at the same elevation as, the Primary Surface and
275 extending to a horizontal distance of ten thousand (10,000) feet along the extended Runway
276 centerline; thence slopes one (1) foot upward for each forty (40) feet outward to an additional
277 horizontal distance of forty thousand (40,000) feet along the extended runway Centerlines.

278

279 (3) Transitional Surfaces. The applicable Height limitation slopes one (1) foot upward for
280 each seven (7) feet outward, beginning at the sides of, and at the same elevation as, the
281 Primary Surface and the Runway Approach Surface, and extending to a Height of one hundred

282 fifty (150) feet above the Airport Elevation. In addition to the foregoing, there are established
283 Height limits sloping one (1) foot upward for each seven (7) feet outward beginning at the
284 sides of, and at the same elevation as the Runway Approach Surface, and extending to where
285 they intersect the Conical Surface. Where Precision Instrument Runway Approach Surfaces
286 project beyond the Conical Surface, there are established Height limits sloping one (1) foot
287 upward for each seven (7) feet outward beginning at the sides of, and at the same elevation
288 as the Runway Approach Surface and extending a horizontal distance of five thousand (5,000)
289 feet measured at ninety-degree (90°) angles to the extended Runway centerline.

290
291 (4) Horizontal Surfaces. The Horizontal Surface is established by swinging arcs of five
292 thousand (5,000) feet radii for all Runways designated utility or visual and ten thousand
293 (10,000) feet radii for all other Runways from the center of each end of the Primary Surface
294 of each Runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The
295 radii of the arcs for each end of the Runway shall be the same and the radius shall be the
296 longest determined for either end. The applicable Height limitation is established at one
297 hundred fifty (150) feet above the established Airport Elevation.

298
299 (5) Conical Surfaces. The Conical Surface is established as that area that commences at the
300 periphery of the Horizontal Surface and extends outward for a horizontal distance of four
301 thousand (4,000) feet. The applicable Height limitation slopes one (1) foot upward for each
302 twenty (20) feet outward, beginning at the periphery of the Horizontal Surface and at one
303 hundred fifty (150) feet above the established Airport Elevation and extending to a Height of
304 three hundred fifty (350) feet above the Airport Elevation.

305
306 18.12.07 Spacing Adjacent Airports

307 (A) No new Airport shall be established, nor shall any existing Airport be improved with
308 approach guidance equipment, to enhance instrument flight rule (IFR) capabilities, any portion of
309 a proposed or existing boundary will be under an Airport Overlay Zone established by this Code
310 or within a radius of eight (8) miles from an Airport Reference Point of an Airport established on
311 the date of this Code, unless a permit has been granted in accordance with the provisions of this
312 Code. Prior to granting any such permit, the Governing Body shall for the purpose of study,
313 comment and recommendation, refer the matter to the Federal Aviation Administration, the
314 manager of Jabara, the Bel Aire Community Development Director and to any other local planning
315 body having either planning or land use control jurisdiction within the area affected.

316
317 (B) Exceptions to the spacing requirements provided herein may be granted by the Governing
318 Body when all of the following conditions have been met: 1.
319 Receipt of a proper application; 2. Referral of the matter to all entities described in (A) above for
320 study, comment, and recommendation; 3. A public hearing is held; and 4. A finding that special

321 conditions exists which makes literal enforcement of the spacing requirements an unnecessary
322 hardship and that an exception would not be contrary to public interest.

323

324 (C) If any of the aforementioned entities to whom the matter shall have been referred does
325 not, within sixty (60) days, transmit a report to the Governing Body, then it shall be deemed to
326 have approved the proposal; provided, however, that upon request of any such entity, the
327 Governing Body shall grant a reasonable extension of such time.

328

329 (D) In granting such exception, the Governing Body shall impose special conditions which
330 will ensure that public interest, existing public and private investment in Airports, and air safety
331 are maintained.

332

333 18.12.08 Airport Height Limitations and Lighting Requirements

334 Unless otherwise provided for in this Code, no Structure, object, Natural Vegetation, or terrain
335 shall be erected, altered, allowed to grow, or be maintained within the applicable Airport Hazard
336 Zone or any Airport Overlay Surface established by this Code to a Height in excess of the
337 applicable Height limitations established by 14 CFR Part 77, *Imaginary Surfaces*, as depicted on
338 the Wichita-Sedgwick County Airport Hazard Zoning Map. Where two (2) or more surfaces
339 overlap, the more restrictive limitation or requirement shall govern and prevail.

340

341 Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis.
342 The owner of any Structure, object, Natural Vegetation, or terrain shall install, operate, and
343 maintain such markers, lights, and other navigational aids necessary to indicate the presence of an
344 Airport Hazard to Aircraft operators. Any permit or variance granted may, if such action is deemed
345 advisable to effectuate the purpose of this Code and is reasonable in the circumstances, be so
346 conditioned as to require the owner of the Structure, object, or Natural Vegetation in question to
347 install, operate, and maintain, at the owner's expense, such markings and lighting as specified by
348 the standards in the most current version of FAA Advisory Circular (AC) 70/7460-1. If deemed
349 necessary by the Governing Body, this condition may be modified to require the owner to permit
350 the installation, operation, and maintenance of the necessary markings and lighting in accordance
351 with the standards in the most current version of FAA AC 70/7460-1, at the expense of the
352 owner(s) of the affected Airport.

353

354 18.12.09 Use Limitations Within Airport Hazard Zones and Airport Overlay Surfaces

355 Notwithstanding any other provision of this Code, no use may be made of land or water within
356 any Airport Overlay Zone or any Airport Overlay Surfaces established by this Code in such
357 manner as to make it difficult for pilots to distinguish between airfield lights and other lights, result
358 in glare in the eyes of the pilots using the Airports, create smoke, impair visibility, create bird
359 strike hazards or otherwise in any way, endanger or interfere with the landing, takeoff or
360 maneuvering of Aircraft intending to use the Airport.

361
362 A shield that reduces the amount of light visible from above and directs the light downward shall
363 be required for all outdoor lights installed after the effective date of this Code, within the limits of
364 the Horizontal, Inner-Horizontal, Transitional or Runway Approach Surfaces, except those lights
365 incidental to residential uses.

366
367 Nothing in this Code shall be construed as prohibiting the construction or maintenance of any
368 Structure or growth of any Natural Vegetation to a Height of twenty-five (25) feet above the
369 surface of the land.

370

371 18.12.10 Nonconforming Uses

372 (A) Regulations Not Retroactive. The regulations prescribed by this Code shall not be
373 construed to require the removal, lowering or other changes or alteration of any Structure or tree
374 not conforming to the regulations as of the effective date of this Code or to otherwise interfere
375 with the continuance of a nonconforming use. Nothing contained in this Code shall require any
376 change in the construction, alteration or intended use of any Structure, the construction or
377 alteration of which was begun prior to the effective date of this Code, and diligently prosecuted.

378
379 (B) Marking and Lighting. Notwithstanding the preceding provision of this section, the
380 owner of any existing nonconforming Structure or tree shall operate and maintain such markers
381 and lights in accordance with standards as set forth in the FAA Circular "Obstruction Marking
382 and Lighting" (No. AC70/74609-1 F) to indicate to the operators of Aircraft in the vicinity of
383 the Airports the presence of Airport Hazards. The maintenance, operation and installation of
384 such markers and lights on such nonconforming Structures and trees, shall be the responsibility
385 of the owner or owners of the affected Airport.

386

387 18.12.11 Code Administration and Enforcement

388 It shall be the duty of the Community Development Director to administer and enforce the
389 regulations prescribed herein, including the authority to make written interpretations of this Code.
390 Applications for Airport Hazard Zoning Permits, variances and written interpretations shall be
391 made to the Community Development Director upon forms furnished by the Community
392 Development Director. Airport Hazard Zoning Permit applications shall be either granted or
393 denied by the Community Development Director in accordance with the regulations prescribed
394 herein. Any variance shall be done in accordance with Sec. 18.20.13 and any appeal shall be done
395 in accordance with Sec. 18.20.15. In addition, the Community Development Director may cause
396 to be instituted in any court of competent jurisdiction an action to prevent, restrain, correct or
397 abate any violation of this Code, or of any order or ruling made in connection therewith as
398 provided by law.

399

400 18.12.12 Airport Hazard Zoning Maps

401 The officially adopted Wichita-Sedgwick County Airport Hazard Zoning Map, as amended, is to
402 be kept on file in the office of the Community Development Director.

403

404 18.12.13 Airport Hazard Zoning Permits

405 Any tower, Structure, or object which transmits a signal requires an Airport Hazard Zoning Permit
406 without exception. Any other Structure, object or Natural Vegetation which exceeds the Height
407 limits specified in the Airport Hazard Zoning Map requires an Airport Hazard Zoning Permit,
408 except as provided below.

409

410 Exceptions:

411 (1) In the area lying within the boundaries of Zone A shown on sheet two of the Wichita-
412 Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section
413 for any Structure less than twenty-five (25) feet of vertical Height above the ground.

414

415 (2) In the area lying within the boundaries of Zone B shown on sheet two of the Wichita-
416 Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section
417 for any Structure less than fifty (50) feet of vertical Height above the ground, except when,
418 because of terrain, land contour or topographic features, such Structure would extend above
419 the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal
420 Surfaces.

421

422 (3) In the area lying within the boundaries of Zone C shown on sheet two of the Wichita-
423 Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section
424 for any Structure less than one hundred (100) feet of vertical Height above the ground, except
425 when, because of terrain, land contour, or topographic features, such Structure would extend
426 above the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal
427 Surfaces.

428

429 (4) In the area lying within the boundaries of Zone D shown on sheet two of the Wichita-
430 Sedgwick County Airport Hazard Zoning Map, no permit shall be required under this section
431 for any Structure less than two hundred (200) feet of vertical Height above the ground, except
432 when, because of terrain, land contour, or topographic features, such Structure would extend
433 above the Height limits prescribed for Runway Approach, Conical, Transitional or Horizontal
434 Surfaces.

435

436 The applicant proposing any Structure, object or Natural Vegetation which exceeds the Height
437 limits specified in the Airport Hazard Zoning Map, or a tower, Structure or object of any Height
438 which transmits a signal, shall utilize the FAA's Notice Criteria Tool. After utilizing the FAA
439 Notice Criteria Tool, the following shall be submitted to the Community Development Director
440 for review:

441 (1) A letter from the FAA Notice Criteria Tool that no Form 7460-1 is requested or required
442 to be filed; or

443
444 (2) An FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Determination
445

446 It shall be the duty of the applicant to provide the Community Development Director with
447 sufficient information to evaluate the proposed action. This information shall include, but not be
448 limited to, the following:

- 449 • Contact information
- 450 • Structure information
- 451 • Site information
- 452 • Drawing information
- 453 • Effective radiated power (ERP) and frequencies emitted from the structure (if any),
454 proximity to navigation facilities and potential impact to the assurance of navigation signal
455 reception
- 456 • Identification of current and potential compatibility concerns
- 457 • FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Determination
458 (response to submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*).
459 If, through use of the FAA's Notice Criteria Tool, it is determined that submittal of Form
460 7460-1 is not requested or required, documentation indicating this result must be provided.

461
462 The Community Development Director shall evaluate the proposal based on information provided
463 by the applicant. The Community Development Director shall approve the permit if, after
464 evaluation, the proposed project is found to be adequately compatible, in accordance with the
465 provisions of this Code. Should the FAA issue a determination of air hazard or any other adverse
466 or negative determination affecting Airport operations or if the proposed project is found to be
467 incompatible after review, the Community Development Director shall deny the permit. Should
468 the permit be denied, the applicant may request an appeal or a variance, as prescribed in this Code.

469
470 18.12.14 Variances

471 (A) Any person desiring to erect or increase the Height of any Structure, or permit the growth
472 of any Natural Vegetation, or use their property not in accordance with the regulations prescribed
473 in this Code, may apply to the Governing Body for a variance from such regulations. The
474 Governing Body may refer the application to the Community Development Director for study and
475 recommendations. The application for variance shall be accompanied by a determination from the
476 Federal Aviation Administration as to the effect of the proposal on the operation of air navigation
477 facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where it
478 is duly found that literal application or enforcement of the regulations will result in unnecessary
479 hardship and relief granted will not be contrary to the public interest, will not create a hazard to
480 air navigation, will do substantial justice and be in accordance with the spirit and intent of this

481 Code.

482

483 (B) No application for variance to the requirements of this Code shall be furnished by the
484 Governing Body unless a copy of the application has been furnished to the Manager of the affected
485 Airport(s) for comment as to the aeronautical effects of the variance. If the Manager of the affected
486 Airport(s) does not respond to the Governing Body within fifteen (15) days after receipt, the
487 Governing Body may act on its own to grant or deny the application.

488

489 (C) Any person aggrieved by any final decision of the Governing Body may appeal to any
490 court of competent jurisdiction in Sedgwick County, Kansas as provided by law.

491

492 18.12.15 Appeals

493 (A) Any person aggrieved or affected by a decision of the Community Development Director
494 made in administration of this Code, may appeal to the Governing Body.

495

496 (B) All appeals under this chapter must be made within thirty (30) days by filing with the
497 Community Development Director a notice of appeal specifying the grounds thereof. The
498 Community Development Director shall forthwith transmit to the Governing Body all papers
499 constituting the record on which the action appealed was taken.

500

501 (C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the
502 Community Development Director certifies to the Governing Body, after the notice of appeal has
503 been filed, that by reason of the facts stated in the certificate, a stay would, in the opinion of the
504 Community Development Director, cause imminent peril to life or property. In such a case,
505 proceedings shall not be stayed except by order of the Governing Body and upon due cause shown

506 .

507 (D) The Governing Body shall fix a reasonable time for the hearing of appeals, giving public
508 notice by publication once in the official city newspaper a minimum of fifteen (15) days prior to
509 the hearing and due notice to the parties in interest, and shall decide the same within a reasonable
510 time. At the hearing, any party may appear in person, by agent, or by attorney.

511

512 (E) The Governing Body may reverse or affirm, in whole or in part, or modify the order,
513 requirement, decision, or determination appealed from and may make such order, requirement,
514 decision, or determination as may be appropriate under the circumstances.

515

516 (F) The vote of a majority of the members of the Governing Body shall be sufficient to revise
517 any order, requirement, decision, or determination of the Community Development Director, or
518 to decide in favor of the applicant on any matter upon which it is required to pass under this Code,
519 or to effect any variation in this Code.

520

521 (G) Any person aggrieved by any final decision of the Governing Body may appeal to any
522 court of competent jurisdiction in Sedgwick County, Kansas as provided by law.

523

524 18.12.16 Amendments

525 Amendment or repeal of all or part of this Code shall be done in accordance with the procedure
526 prescribed by law for the adoption, amendment and repeal of Airport zoning regulations (K.S.A.
527 3-705). Any change in an Airport zoning classification shall be accomplished in the manner
528 provided by law, after public hearing held by the Planning Commission and public hearing and
529 action of the Governing Body. Any change shall be noted on the particular Airport Hazard Zoning
530 Map affected by such change which is on file in the office of the Community Development
531 Director and in the office of the Wichita-Sedgwick County Metropolitan Area Planning
532 Department, so that all such Airport Hazard Zoning Maps shall at all times reflect the current
533 Airport zoning classification of land within such zones and surfaces.

534

535 18.12.17 Penalties

536 Notwithstanding any provision in this Code regarding the enforcement of the provisions of this
537 Code by civil or other extraordinary provisions of law, each violation of this Code or any
538 regulation, order or ruling promulgated under this Code, shall constitute a misdemeanor. Any
539 violation occurring within the City shall constitute a misdemeanor with penalties not to exceed
540 twenty five hundred dollars (\$2,500.00). or imprisonment for not more than six (6) months for
541 each offense, or both such fine and imprisonment. For purposes of these penalties, each day a
542 violation continues to exist shall constitute a separate offense.

543

544 18.12.18 Conflicting Regulations

545 Where there exists a conflict between any of the regulations or limitations prescribed in this Code
546 and any other regulations applicable to the same area (including 14 CFR Part 77, *Objects Affecting*
547 *Navigable Airspace*), whether the conflict be with respect to Height or Structures, the use of land,
548 or any other matter, the more stringent limitation or requirement shall govern and prevail.

549

550 18.12.19 Severability

551 If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held
552 invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed
553 separate, distinct and independent provisions and such holding shall not affect the validity of the
554 remaining portions of this Code.

555

556 18.12.20 Effective Date

557 This Code shall be in effect from and after its passage by the Governing Body and publication and
558 posting as required by law.”

559

560

561

562 ADOPTED by the Governing Body of the City of Bel Aire, Kansas on this _____ day of _____,
563 2026.

564

565 SIGNED by the Mayor on this _____ day of _____ 2026.

566

567

568

CITY OF BEL AIRE, KANSAS

569

570

571

572

Jim Benage, Mayor

573

574

575 ATTEST:

576

577

578

579

Melissa Krehbiel, City Clerk

580

581

582 APPROVED AS TO FORM:

583

584

585

586

Maria A. Schrock, City Attorney

587

