

City of Bel Aire

STAFF REPORT

DATE: 07/05/2024

TO: Bel Aire Planning Commission
FROM: Keith Price
RE: Agenda

STAFF COMMUNICATION

Table with 2 columns: FOR MEETING OF, 7/11/24. Rows include CITY COUNCIL and INFORMATION ONLY.

SUMMARY:

ZON2024-00031 (county)

Brad Eatherly, will present 5601 N 127th Street East and they are looking to rezone from RR to GI General Industrial in order to bring their tree service business into conformance. This case falls within the area of influence of the City of Bel Aire, an area recognized by MAPC. The Bel Aire code sections below provide the purpose of the Extraterritorial Zoning once established and is the reason this case is brought to this commission for review.

18.1.2. Authority and jurisdiction.

These regulations are adopted under authority established by K.S.A. 12-741 et seq., and as amended, including K.S.A. 12-736, 12-753 to 12-761, 12-763, 12-764, 12-766, 12-3301 - 12-3302, and 12-3009 to 12-3012. These regulations shall apply to all buildings, structures and land within the corporate limits of the City of Bel Aire, Kansas, as presently exist, as may be hereafter established, or as incorporated within by annexation. Nothing herein shall be construed to preclude the City from engaging in extraterritorial planning activities pursuant to K.S.A. 12-743, and amendments thereto.

18.1.3. Purpose.

These regulations are intended to serve the following purposes:

To promote the public health, safety, morals, comfort and general welfare;

To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;

To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes including flood plains;

To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;

To protect property values and conserve energy and natural resources;

To provide for adequate light and air and acceptable noise levels;

To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;

To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;

To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;

To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and exceptions; and

To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

ZON-24-01. Proposed re-zoning approximately 80+/- acres zoned R-4, to an AG Agricultural Use to allow a non-business horse-riding barn and stable.

The city placed an ad in the Ark Valley Newspaper and sent out notifications to the property owners within the 200' and 1,000' notification area as required by the city code. A city review to the representative went out to Chris Morlan that is in your packets. A staff report was provided for the sketch plan for the May 9th, 2024 meeting that contained relevant information for review.

History

The current zoning has been in place since 2006 as an R-4 residential zoned district. The land has been vacant since that time.

The neighboring property to the west near 53rd st is still zoned R-4 that was approved with a conditional use permit during the platting process completed in 2016. Future growth was a factor in retaining the R-4 zoning district. Property north of the platted area is unplatted and not developed. Animals were removed to meet city code.

The property north of the Englert addition is unplatted and the north line lines up near the half section line of the subject property. North properties are in the county and Kechi and are zoned rural residential and agriculture respectively.

East of the property is zoned Ag that has three different residences on four parcels.

South of the property is Bel Aire. The parcel west was recently annexed into the City limits in 2023 by Ordinance 702 without mention of zoning to a certain district. Currently it is

zoned Agriculture by the 2024 zoning map. Further east on the south side of 53rd St is R-4 single family dwellings in a duplex constructed layout.

Discussion

- **The character of the neighborhood;**

The Kechi and county are rural residential, Bel Aire has housing that is built and utilized for the current zoning. Undeveloped grass land is near the location of the structures shown in the packet.

- **The zoning and uses of nearby properties;**

North- Rural residential, Agriculture
East-Rural residential
South-R-4 single family, Agriculture
West-R-4 single family

- **The suitability of the subject property for the uses to which it has been restricted;**

Many of the agriculture uses listed wouldn't be a good fit for the residential housing. The agriculture district is considered a holding district for future developments. At the same time R-4 is what the future zoning has been planned for by Bel Aire.

- **The extent to which removal of the restrictions will detrimentally affect nearby property;**

Agriculture permitted partial uses listed of concern from the Bel Aire zoning code and a definition added for ag services from the web:

Agricultural production – crops

Agricultural production – livestock and animal specialties

Agricultural services- Such as i.e. The production, processing, marketing, supply, and distribution of agricultural products and services.

Activities such as crop and animal husbandry, agricultural processing, marketing, trade and distribution, and food services.

Actions made under the direction of a farmer provide value to another entity.

Accessory Structures typically associated with agricultural services, and ordinary domestic household needs.

Accessory structures associated with other types of businesses shall comply with such regulations as set forth within Section 6.06 of this Zoning Code.

- **The length of time the property has been vacant as zoned;**

2006 to 2024, 18 years.

- **The relative gain to the public health, safety, and welfare by the destruction of the value of petitioner’s property as compared to the hardship imposed upon the individual landowners;**

The landowner resides east of the location for the request on 30 acres that would support a barn and stable. The land contained in the application has been included in future modeling, design and construction for water and sewer design sizing to provide city services to the area. The land was purchased after the current zoning and master plan was in place. Water and sewer services are readily available to develop the area. No gain to the public is perceived; the meeting will help determine the hardship for Mr Smith and family.

- **Recommendations of permanent staff; and**

A proposal of rezoning only the north half of the parcel is the recommendation to the planning commission by staff. Agriculture zoned districts can also be used as a holding district, but there is no reason to revert back to Agriculture for more than the requested building area. Agriculture districts are used for holding zones when utilities are not available; utilities are available from the south. The legal description can be done by metes and bounds, or lot split could be part of the upcoming processes if easements can be granted.

- **Conformance of the requested change to the adopted or recognized master plan being utilized by the city.**

The City adopted 2014 Comprehensive plan vision map indicates this would be R-4 residential, the request doesn’t meet that category.

The adopted 2018 Master growth plan balanced growth preferred map 3.4 indicates residential use with a future park service area north of 53rd Street. The request doesn’t meet the master plan preferred use.

The City adopted codified 2023 zoning, (18.3.4) and subdivision codes, (19.3.6) indicates the land would need to be platted. KSA 12-752 indicates the governing body must follow the act as written for platting. Additional processes would need to follow any zoning approval.

The 2012 International Residential Code is limited to 3,000 s.f. buildings. The city commercial code, 2006 International Building Code would need to be used for this type of agriculture building. The request is to allow a private hobby building for horse riding. The Agriculture district listed this use as Agricultural production – livestock and animal specialties.

Sedgwick County Animal control provides Bel Aire animal control services with incorporated codes adopted in 2021. 10,000 f.t. per animal and 300 feet from neighboring housing is required to avoid a nuisance complaint section 5-161 of Article 5. Bel Aire ZC 18.70 (C) (5) and (6) requires 100 f.t. setback from the land for all activities and 300 f.t. related to debris and products generated or brought in that may cause odors or other health concerns, respectively. Bel Aire code may conflict with the

Sedgwick County animal code. 18.2.1 of the zoning code indicates the most restrictive shall govern. According to the county code 79 acres could have up to 344 horses or livestock before reducing based on setbacks. 40 acres with 100 f.t. setback from residential zoned property for horses in Bel Aire would be approximately 144 maximum number.

Article 4 of the Bel Aire Code would require a business license to operate a commercial agriculture business. The described use in this application wouldn't require a business license. This does create a gray area of the code as descriptions indicate business uses.

The opinions of other property owners may be considered as one element of a decision in regard to the amendment associated with a single property, however, a decision either in support of or against any such rezoning may not be based upon a plebiscite of the neighbors.

Bel Aire did receive a letter in support of rezoning the land to Agriculture, that letter is in the packet.

SD.24.-01, final plat; Final PUD-24-01F. Proposed a Final PUD for office/warehouse uses in a M-1 Industrial zoned district as part of the Sunflower Commerce Park 4th platting

The city placed an ad in the Ark Valley Newspaper and sent out notifications to the property owners within the 200' and 1,000' notification area as required by the city code.

The city review of the plat is in your packet. The most recent revision is contained in the packet after staff had worked with Tessere. The listed ownership of the application area changed from the preliminary process to the final processes.

The PUD elevations and design concepts were contained in the preliminary process will be brought forward with any changes discussed. Additional work is needed for the final PUD document that will go to the governing body for approval.

The final plat and final PUD will be a separate action.

CHAIR AND VICE CHAIR

Reminder that you can be nominated and approved even if you are absent during the process. Please attend.