

STAFF REPORT

DATE: 05/03/2024

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

STAFF COMMUNICATION	
FOR MEETING OF	5/9/24
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY:

5650 E 53rd St N, and parcel ID#00520983 Sketch Plan

History:

5650 E 53rd St is in the city limits of Kechi, accessible from E 53rd St N, the city of Bel Aire’s right of way for the most part between Oliver and Woodlawn from the early 2000’s.

Bel Aire has had the parcel that is the reason for discussion annexed in the city since the same timeframe, ID#00520983.

The zoning was changed in the mid 2000’s to R-4 to reflect the housing growth expected and the rural water rights Bel Aire negotiated with water district #1.

Bel Aire has ready in the area, city services water and sewer access for the land to be developed. Bel Aire has franchise agreements with Evergy and with KGS.

The current zoning is R-4 single-family housing. Anything other than a single-family structure is considered an accessory structure. The size of each of the buildings are larger than what is defined as a personal structure or garage.

There was some confusion brought about from the on set as to the scope of the request and the processes that would be required with the recently purchased land. The goal is to work together as neighboring cities and citizens. To help streamline this request, the basic layout of the buildings are shown contained in the packet information with a narrative of the proposal.

Chris Morlan, a former zoning administrator for Kechi, will be attending the planning commission meeting to help present the project.

Discussion:

The request to build a private horse arena on unplatted, residential zoned parcel, would require many processes to meet the city general regulations.

This is brought to you as Sketch plan to get directions as to what each of you would recommend considering the result of allowing buildings of this size and location. Discussion would be helpful to know animal quantity, allowable access points to the area, possible utility access, in addition to how this might fit into the city vision and the 2018 master growth plan.

Bel Aire did approve and conditional use permit for a property west of this location to allow some animals. (2016). Southwest of this location recently a parcel was annexed into the city as Agriculture. (Bel Aire 2023 Zoning Map)

A sketch plan is brought to the planning commission during a regular meeting without additional notification by mail or by legal ads. Lot splits can be completed administratively, if all of the conditions in the code section 19.9.3 can be met.

Rezoning, Variances, Conditional Use, Special Use, Platting require published hearing notices and for the most part to include contacting individual property owners within 200 feet or 1,000 feet of the parcel depending on the status of the abutting land.

Appeals to the BZA would require a meeting date be set by the Planning Commission for a future time to go through the assessment made by staff as to the process required and what the code may allow.

Below are partial code sections that direct the process, R-4 zoning district permitted uses, accessory structure uses, AG zoning district and what is allowable, in addition to relevant code sections:

18.7.5. Single-family residential district (R-4).

(moderate density/minimum 8,400 sq. ft.)

The zoning of property as R-4, Single-Family Residential District, is intended to provide for residential development with a minimum of 8,400 sq. ft. lots in areas where adequate public facilities and services exist, and residential development is appropriate given the surrounding land uses and neighborhood.

Use Regulations. No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the uses set forth herein, or similar uses subject to all applicable development and performance standards.

Permitted uses: The following uses shall be permitted by right in the R-4, Single-Family Residential District, subject to all applicable development and performance standards:

Single-family residences with a minimum of 1,600 square feet of living space.

Single family with 1,200 square feet minimum living space on lots platted prior to January 1, 2003 that have a minimum lot area per dwelling unit of 7,500 square feet.

Two-family residences (duplexes) with not less than 1,200 square feet per unit

Churches and their accessory buildings

Day care

Golf Course

Group home, limited

Parks, playgrounds and community buildings or Governmental buildings owned and/or operated by the city

Residential Design Manufactured Homes (see 7.05 C below)

School, elementary, middle and high

Utility, minor

Conditional uses: The following uses shall be permitted in the “R-4” District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Articles 6 and 8 of this Zoning Code.

All conditional uses listed for the R-3 district

Accessory use regulation(s):

A shed is by definition an Accessory Structure, but sheds of less than 120 square feet shall be permitted by right within this zoning district upon obtaining all necessary building permits, including determination that the proposed accessory structure has not been located on/within any platted or recorded easement, or over any known utility. The combined footprint of all Accessory Structures, including sheds, may not exceed the footprint of the Principal Building or 30% of the Lot Area.

18.6.6. Accessory uses and accessory structures, purpose.

This section regulates uses and Structures that are incidental to Principal Uses and Buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary Access around Structures, help maintain privacy to abutting Lots, and maintain open Front Setbacks.

GENERAL STANDARDS FOR ACCESSORY STRUCTURES

The standards of this section apply to all Accessory Uses and Structures.

Time of Construction. Accessory Structures shall be constructed in conjunction with or after the Principal Building. They shall not be built prior to the construction of the Principal Building.

Subordinate Nature.

Accessory Uses shall be a subordinate part of a Principal Use and be clearly incidental to a Principal Use.

Accessory Structures shall be of secondary importance and subordinate in size and Scale to the Principal Building on a site.

Building separation. Unless attached to the Principal Structure, Accessory Structures shall be located at least three feet from the Principal Structure.

Setbacks from easements. No Accessory structure shall be located on any platted or recorded easement, or over any known utility.

Density and Dimensional Standards.

Unless otherwise expressly stated, the Setback, Height, and Building coverage standards of the Base District apply to both principal and Accessory Structures (See Density and Dimensional Standards). Accessory Structures in residential districts shall be located to the rear of the front Building line. Accessory Structures shall be set back at least ten feet from the centerline of any platted or dedicated Alley, and if no Alley exists, then five feet from the rear Lot Line. Accessory Structures may not utilize more than one-half of any required rear Yard. There shall be no Setback required between an Accessory Structure and an Alley when Access to the Structure is parallel to the Alley, except that no part of the Structure shall overhang or otherwise encroach onto the Alley.

Corner Lot Setbacks. Whenever located on a Key Lot, Accessory Structures shall not project beyond the Front Setback line required on the Lot in the rear of such Key Lot.

Side Setbacks. Accessory Structures shall comply with the Side Setback standards for Principal Uses, provided that an Accessory Structure shall not be required to set back more than three feet from an interior side Lot Line when all parts of the Accessory Structure are located more than one-half the depth of the Lot behind the front property line. Accessory Structures may not utilize more than one-half of any required side Yard.

Building Coverage of Lot.

A detached Accessory Structure may not have a larger footprint than the Building footprint of the Principal Building.

Unless otherwise expressly stated within the regulations concerning a specific zoning district, the combined footprint of all Accessory Structures may be equal to the footprint of the Principal Building or 30% of the Lot Area, provided the total footprint of all Structures does not exceed the maximum Building coverage as permitted by for the corresponding Zoning District. Lot coverage shall be calculated by total lot size minus improvements, structures, and pavement, including but not limited to sheds, decks, concreted areas, patios, and swimming pools.

No Accessory structure shall be located on any platted or recorded easement, or over any known utility.

Height of Accessory Structures. Unless otherwise expressly stated within the regulations concerning a specific zoning district, Accessory Structures may not exceed 25 feet in Height, or the Height of the Principal Building on the same Lot, whichever is less, except on properties of five acres or more where height may reach a maximum of sixty (60) feet.

Agricultural Accessory Uses. Agricultural Uses shall include Accessory Uses and activities customarily associated with agricultural operations, as determined by the Zoning Administrator.

Home Occupation Storage. No Outdoor Storage of equipment, materials or vehicles used in a Home Occupation shall be allowed as a residential Accessory Use except as otherwise permitted by this Code.

Storage Building Design Standard. Storage buildings shall not include converted semi-trailers, railcars, metal storage boxes not specifically designed to serve as storage sheds or buildings, or any similar item as determined by the zoning administrator.

18.7.0. Agricultural district.

The zoning of property as AG, Agricultural District, is intended to maintain and enhance agricultural operations and preserve agricultural lands utilized for crop production or the raising of livestock. In addition, the Agricultural District may serve as a "holding zone" for land where future urban expansion is possible, but not yet appropriate due to the unavailability of urban level facilities and services. Property zoned AG for "holding zone" purposes may be used for certain commercial and industrial special uses where those uses would be of limited duration or compatible with the uses shown on the Future Land Use Plan of the Comprehensive Plan.

Use Regulations.

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed moved or altered except for one (1) or more of the uses set forth herein, or similar uses, subject to all applicable development and performance standards.

Permitted uses: The following uses shall be permitted by right in the Agricultural District:

Agricultural production – crops

Agricultural production – livestock and animal specialties

Agricultural services

Single-family residences with a minimum of 1,800 square feet living space.

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.

Conditional uses: The following uses shall be permitted in the “AG” District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Article 5.03:

Development of natural resources and extraction of raw materials such as rock, gravel, sand, fill dirt, soil, etc.

Height and Area Regulations for AG Developments

The maximum height of buildings and structures, the minimum dimension of lots, setbacks for parking/paving and yards, and the minimum lot area per dwelling unit permitted on any lot shall be as follows, except as otherwise provided in these Regulations relating to Height and Area Regulations, Exceptions, and requirements set forth within the Subdivision Code:

Minimum lot area per dwelling unit – twenty (20) net acres.

Maximum height:

Residences – two and one-half (2 ½) stories, not exceeding thirty-five (35) feet from finished grade.

Agricultural structures – fifty (50) feet from finished grade.

Non-agricultural structures and uses – seventy-five (75) feet, provided such structure is set back from all property lines a distance equal to or greater than its height.

Minimum front, side and rear yards – fifty (50) feet.

Minimum lot width – six hundred (600) feet.

Minimum setbacks for parking/paving (nonagricultural uses):

Thirty (30) feet from street right-of-way.

Thirty (30) feet from property lines other than street right-of-way.

Development and Performance Standards for AG Developments

Parking and Loading – See Article 9

Sign Code – As adopted by the Governing Body

Landscaping and Screening – See Article 10

There shall be no restrictions as to operation of agricultural vehicles and machinery, or the sale or marketing of products raised on the premises.

All buildings, structures or yards used for the raising, feeding, housing or sale of livestock or poultry shall be located at least one hundred (100) feet from residentially zoned land.

There shall be no disposal of garbage, rubbish or offal, other than regular removal thereof, within three hundred (300) feet of residentially zoned land.

Where a lot or tract had less than the twenty (20) acre minimum lot area required herein in separate ownership on January 1, 2004, these Regulations shall not prohibit the erection or alteration of a single-family dwelling.

Where development utilizing septic tanks is proposed, applicant shall submit a septic tank suitability study in accordance with at the time of filing the application for Agricultural zoning.

Noise levels in accordance with all City regulations governing noise, including those provided for within these Regulations.

19.3.6. Building permits.

No building permit or occupancy certificate except those involving repairs, maintenance, continuation of an existing use or occupancy or accessory structures, shall be issued for a principal building or structure or use on any lot, tract or parcel of any subdivision that is subject to the provisions of these regulations until a copy of the recorded plat is available for examination by the applicable official charged with issuing such permits or certificates.

Furthermore, no such building or zoning occupancy certificates shall be issued for the use of any building or structure within a subdivision approved for platting, replatting or lot splitting until required utility facilities have been installed and made ready to service the property, roadways providing access to the subject lot or lots have been constructed or are in the course of construction, or guarantees have been provided to ensure the installation of such utilities and roadways. If platting is not required, dedications in lieu of platting may be required to obtain easements and access control and to widen rights-of-way as well as to provide necessary public improvements during the process of issuing permits. (See Vesting of Development Rights and Exemptions From Platting.)

19.11.4. Modifications.

In cases in which there is unwarranted hardship in carrying out the literal provisions of these regulations as to design criteria, the Planning Commission may grant a modification from such provision according to the following guidelines:

A request for a modification shall be made to the City Manager who shall transmit it to the Board of Zoning Appeals. The Board of Zoning Appeals shall give the subdivider and any other interested person an opportunity to be heard with respect to the requested modification in conformance with the provisions of the by-laws of that body.

The Board of Zoning Appeals shall not grant a modification unless it shall find that

the strict application of these regulations will create an unwarranted hardship;

modification is in harmony with the general spirit and intended purpose of these regulations;

the rights of adjacent property owners will not adversely be affected; and

the public safety, health and general welfare will be protected.

When used in this Section, the term "unwarranted hardship" shall mean the effective deprivation of use as distinguished from a mere inconvenience.

Modifications permitted under the provisions of this Article shall not include modifications from the requirements of improvement standards, required improvements or guaranteeing their installation. All modification of improvements standards shall be heard and determined by the Governing Body in the manner provided for by these Regulations.

The provisions of this Section may not be used to seek a zoning variances.

Conclusion:

If the request appears to fit the future growth plan as a temporary use or as a permanent use as indicated in the language of the Agriculture zoning district, then the processes can work backwards to the starting point.

- A portion or all of the land could be rezoned to AG as a “holding zone” for the single-family housing district if approved.
- A lot split dedication of easements and access control could be used as method to complete the bare minimum if approved for a portion of the land. Platting is required if a single lot is completed.
- A conditional Use or a Special Use permit could be used to place conditions and future time frames, and transfer of ownership details in addition to limiting the barn and arena private use. This process would also be needed to clarify that these buildings wouldn't be an accessory use to a Bel Aire homestead if approved.
- Have the applicant submit the completed applications and submittals to start the public hearing or hearings process.

As the Planning Commission for the city of Bel Aire read through the current comprehensive plan and the 2018 Master growth plan combined with the Bel Aire code. Please provide feedback to Kirby and Kim Smith to their correspondence contained in the packet. If the outcome of this effort to provide an equitable method to get basic answers to his expectations doesn't fit the future as a temporary use or as a permanent use, the option would be to set a meeting as the functioning BZA board to hear the grievance for Kirby and Kim Smith if requested.

Final Plat SD-23-05 Chapel Landing 7th revision

The packet contains an update to the final plat reviewed last. There have been some drainage updates and platting text changes since the staff review contained in the packet sent to the engineer of record. Additional discussion will be provided during the meeting.