

FOR MEETING OF	11/9/23
CITY COUNCIL	
INFORMATION ONLY	

City of Bel Aire

STAFF REPORT

DATE: 11/03/2023

TO: Bel Aire Planning Commission

FROM: Keith Price

RE: Agenda

SUMMARY:

ZON-23-05. Proposed rezoning 26.3+/- acres zoned R-4, single-family, to R-5 multi-family district. The current use farm ground.

The rezoning case was advertised in the Ark Valley News Paper and property owners were contacted as required by city code. I'm unaware of anyone contacting the city prior to this report regarding the rezoning case. A review was sent to the applicant's agent, a copy of that review is in your packet.

The following criteria shall be the basis for evaluation of the rezoning request in relation to the specific case being considered:

1. The character of the neighborhood;

The subject property is zoned R-4, (Ordinance 671), previously it was C-1

2. The zoning and uses of properties nearby

(Ordinance 707), R-5 north Chapel landing 7th, Central Park east R-3, Chapel Landing additions to the south and west are R-4 with reduced side yard requirements.

3. The suitability of the subject property for the uses to which it has been restricted;

City staff has compared this request to the approved Master growth Plan the figure 3.4 showing mixed use commercial category. Figure 3.5 intensity level is a 3; the request is a level 3. Staff agrees the requested use fits the area.

4. The extent to which removal of the restrictions will detrimentally affect nearby property;

City staff no adverse effect is expected.

5. The length of time the subject property has remained vacant as zoned;

The property was first impacted with original plat of Chapel landing in 2007, although, exempted from the plat. The current zoning is from July 2021.

6. 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;

No hardship is expected to be caused by the development.

7. Recommendations of permanent staff;

Yes because 2018 Master Growth plan was approved by City Council. Ordinance 707 was approved north of the pipeline easement recently, changing zoning of that property to R-5.

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

Yes the 2018 Master Growth plan based on figure 3.5 R-5 is the same category as R-4 and the adopted 2014 vision plan within the city comprehensive plan indicates this would be C-1. Down-zoning is to R-5 from a C-1 is one step based on the adopted plans. The actual request is in the same intensity level based on page 15 description under heading "Residential Suburban Density & Medium Density" of the 2018 Master Growth Plan.

9. 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.

Planners should ask about housing type; application indicates to allow a for a residential development.

SD-23-05. 13.59 acres, final plat continuation of SD-23-02 preliminary plat.

The final plat case was advertised in the Ark Valley News Paper. I'm unaware of anyone contacting the city to view or inquire about this development. The city review is in the packet. An update on the shared drainage easement with Bristol Hollows is needed.

Following are the items Jay Russell has offered the neighbors since the last process with the city based on correspondence with Jay Russell's agent, Baughman Company.

- On the west and south property line, all lots will be platted at a 70' width.
- On the west and south property line, all utilities, including sanitary sewer, will be front loaded.
- On the west and south property line, we will save the trees that exist within 15' of property line.
- Any fencing that occurs on the west and south property line will be wrought iron or aluminum fencing material, no solid fences.
- Jay Russell will include a play structure and small sport court in the reserve/common area.

Staff haven't had time to review the drainage agreement, but it is in the packet. The drainage plan in this case should be determined; as much of the plan hinges on a separate property, owned by someone other than the applicant.

19.4.11. Planning commission action on the final plat.

The Planning Commission shall, within 60 days after the first meeting of the Commission following the date that the final plat with all required data is filed with the Zoning Administrator, review and approve the final plat by a majority vote of the members present and voting if:

It is substantially the same as the approved preliminary plat;

There has been compliance with all conditions which may have been attached to the approval of the preliminary plat; and

It complies with all of the provisions contained in these regulations and with all other applicable regulations or laws.

If the Planning Commission fails to approve or disapprove the final plat within the 60 days designated by state law for its consideration, it shall be deemed to have been approved and a certificate shall be issued by the Secretary upon demand, unless the subdivider shall have consented in writing to extend or waive such time limitation. (See K.S.A. 12-752[b].)

Notice is Hereby Given that on November 9th, 2023; the City of Bel Aire Planning Commission will review code sections to consider an update to the Zoning Code related to adopting an update to the City 2023 Zoning Map

Ordinance 707 and any other zoning changes approved by city council after the finalize changes made are completed by staff before adding the action item to the city council agenda.

DETAIL OF THE BUSINESS AT 4648 FARMSTEAD

This license application has been requested based on a noise complaint. Code section 18.8.2 (7) no process shall be used that creates undue noise, vibration... There is a case number 202386, within the details of that report there are multiple cars at a single given time, some in the garage and some outside receiving repairs. His work hours are listed as 8pm to 8pm Monday through Saturday.

There should be conditions placed on this activity if approved such as:

- One car under repair at a time on property.
- All noise-creating or vibration activities related to the business be done with in the garage space with the door down. If breaking a decibel level of 75dB or the PPV vibration formula at the property line Before 7 AM or after 7PM that would be considered too loud and nuisance.
- Maximum cars per day 5 brought to the property for business purposes, one at a time. The repaired car leaves a new one is brought back.

- No painting, priming, or related activity.

The city did take the application fee and a former staff member had discussion related to the business for the year 2023. At this time staff in charge of this process can't determine if the original conditions were spelled out in the receipt of the license.

Review based on the city code and discussion from those that will speak for the allotted time to the commission. The packet doesn't have any attachments for this process.

18.8.1 (C-G)

Home Occupations REQUIRED to register with the City:

A home occupation within a dwelling that (1) complies with all of the use limitations for the district in which it is located and (2) MINIMALLY changes the existing noise, traffic, odor, outdoor external storage or external lighting requirements of the neighborhood as determined by the Zoning Administrator is required to be registered with the City.

Minimal impact for registration purposes shall mean a permitted business with actual or anticipated:

Business traffic to or from the residence in excess of five (5) vehicles per day,

Requiring external storage used in the home occupation,

Businesses having one (1) or more business related signs displayed and visible to the outside,

Business having more than two (2) on site employees other than a members of the immediate family permanently occupying such residence.

Business raising certain public health, public safety, or public welfare concerns determined to be minimal by the Police Chief or City Zoning Administrator.

A list of examples of MINIMAL impact home occupations is included in section 8.03 of this article. The list in section 8.03 is not all –inclusive but intended to provide guidance regarding what is acceptable. Other local, State and federal health and safety regulations may apply and be enforced by the City as required.

Registration Requirements: Article 3 of the City Code requires persons operating an allowable home occupation that is described in 8.01 (C) and not exempt by 8.01 (B) of this Article to register that home occupation annually and pay to the City Clerk or his or her designee a permit fee for a Business Registration and Permit to Operate certificate. Application requirements for the Business Registration and Permit to

Operate certificate are specified in Chapter 3 of the City Code. The registration fee for Business Registration and Permit to Operate certificate shall be set forth in the City fee schedule. Additional information may be required as necessary to enable the Clerk and Zoning Administrator to determine whether such home occupation is in conformance with local ordinances regulating home occupations.

Home Occupations REQUIRED TO HAVE A CONDITIONAL USE PERMIT:
Persons operating a home occupation that is not exempt by sections 8.01(B), and exceeds the impact described in 8.01 (C) or that the City Zoning Administrator determines may create a greater public health or safety concerns for neighborhood residents of the City shall be required to obtain a conditional use permit for that home occupation. The process for obtaining a conditional use permit is found in section 5.03 of this Zoning Regulation.

Requesting Review by Planning Commission. Were the City Zoning Administrator determines an applicant shall be required to obtain a conditional use permit, before registering, that applicant may request the planning commission review that determination. If a majority of the planning commission determines that home occupation should only be required to register, the Planning Commission's determination shall be final.

Conditional Use Permit Home Occupation Registration requirements: Upon approval of a condition use permit, Article 3 of the City Code requires persons approved to operate a home occupation to register that home occupation annually and pay to the City Clerk or his or her designee a permit fee for a Business Registration and Permit to Operate certificate. Application requirements for the Business Registration and Permit to Operate certificate are specified in Chapter 3 of the City Code. The registration fee for Business Registration and Permit to Operate certificate shall be set forth in the City fee schedule. Additional information may be required as necessary to enable the Clerk and Zoning Administrator to determine whether such home occupation is in conformance with local ordinances regulating home occupations.

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