

KECHI CITY COUNCIL MEETING MINUTES

June 22, 2023

I. CALL TO ORDER/ROLL CALL

Mayor Ashley Velazquez called the meeting to order at 7:03pm

Council present: Ashley Velazquez, Matt Brewer, Todd Hedstrom and Brian Adams.

City staff present: Andrew Kovar, City Attorney; Kamme Sroufe, City Administrator (CA); Theresa Morlan, Finance/HR Director; Debra Creekmore, City Clerk; Police Officer Joshua Meyer; Thomas Bevan, Public Works Director and Dustin Belton, City Planner.

Guests present: Kendra Baldrige, Rachel Porter, Joanie Harris, Todd & Pam Gearheart, Stephanie & Harold Evans, Dr. Donnis McPhaul, Jerry McPhaul, Chris Morlan, Eric Breckenridge, Noah Taylor, Larry Weis, John & Shari Gerlach, Connie Profayer, Richard Conkling and Taylor Messick.

A. PLEDGE OF ALLEGIANCE – Led by Mayor Velazquez.

B. APPROVE CONSENT AGENDA

Consent Agenda

1. Accept Resignation of Councilmember Rachel Trumbull
2. Minutes of May 25, 2023 Council Meeting
3. May 2023 Appropriation Report

Motion by Matt Brewer to approve the consent agenda and seconded by Brian Adams.

Motion carried 3-0-0.

C. APPROVE AGENDA

Motion by Matt Brewer to approve the agenda with the following change, to add a 15 minute Executive Session for Attorney/Client Privilege. Motion seconded by Matt Brewer and carried 3-0-0.

II. Communications

A. Kechi Civic Groups/Committees - None

B. Kechi Good News

The Kechi Police Department has been active in the community and the residents like to see them out. We have had good support for the Kechi Fair. Elderslie Farm has published their newsletter which includes upcoming events on the farm.

C. Public Forum - None

All requests are related to agenda items and will be allowed during public comment portion.

III. NEW BUSINESS

A. CU-2023-01 Gearhart - Ordinance 1813-23

An Ordinance with a conditional use as an exception for the construction of a Greenhouse to be located at 302 E. Cheyenne Street. Property Owners are Todd and Pamela Gearheart.

There were no Abstentions and a quorum of three Council members was present. There were no Protest Petitions received. The council received summary from the Planning Commission regarding public hearing. Dustin Belton, Zoning Administrator (ZA), presented the Planning Commission Staff Report as written.

Discussion: Brian Adams asked what happens if there is a violation of conditional use. ZA Belton responded there would be lots of letters sent out and City Attorney Kovar noted that it would be acted on as any other zoning violation with fines or removal. Todd Hedstrom asked if the conditional use would remain in effect if the property sold.

ZA Belton responded that yes it would remain in effect.

RECOMMENDATION: Based upon information available prior to the public hearings, the Planning Commission and planning staff recommended that the request be approved, with the following conditions:

This recommendation is based on the following findings. Each point was read by Mayor Velazquez and the council agreed to each with no discussion.

- 1) **The zoning, uses, and character of the neighborhood:** Properties to the north, east, south, and west of the subject property are zoned R-1 Single Family Residential District and are developed with single-family homes.
- 2) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The request of a Conditional Use is in conformance with Kechi's 2040 Comprehensive Plan as discussed in this staff report.
- 3) **Adequacy of public utilities, roadways, and other public services, relative to the anticipated impacts of the proposed use:** All utilities and public services are provided to the area. Staff does not see an increase in public utilities or services.
- 4) **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned R-1 Single Family Residential District which permits a Non-Commercial Greenhouse by conditional use.
- 5) **Length of time property has remained vacant as zoned:** Applicant has lived on the property since it was built in 1999. It has never been vacant.
- 6) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Staff does not anticipate that approval of the request will have significant negative impacts on the surrounding properties. The conditions of approval should minimize any potential detrimental impacts.
- 7) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The request of a Conditional Use is in conformance with Kechi's 2040 Comprehensive Plan as discussed in this staff report.

- 8) **Impact of the proposed development on community facilities:** Staff does not expect negative impacts on community facilities.
- 9) **Public Input:** A resident within the notification area sent communication to staff expressing they do not have a problem with the requested Conditional Use.

Applicant Todd Gearheart provided a photo of the proposed Greenhouse to the Council. There was no final public input. There were no further questions or discussion by the Council.

Motion to approve CU-2023-01 and adopt Ordinance #1813-23 by Matt Brewer. Seconded by Todd Hedstrom. Carried 3-0-0.

B. CU-2023-02 Evans - Air BNB – Ordinance #1814-23

An Ordinance with a conditional use as an exception to permit the use of a Bed & Breakfast Inn (Air BNB) on property located at 7200 E. Millstream Road. Property Owner is Josteph LLC.

There were no Abstentions and a quorum of three Council members was present. There were no Protest Petitions received. Council received summary from the Planning Commission regarding public hearing. ZA Belton presented the Planning Commission Staff Report as written. The council had no questions.

Applicant response: Stephanie Evans presented an information sheet to council. She disagrees with the Staff Report and claims that it is allowed in the 2040 Strategic Plan. Mr. Parke, former owner of the property, told her that it would be okay for the quilting retreat and assured her there were no problems and the use met with the covenants. She feels her efforts have been misrepresented in that it will be good for area business as her guests will visit local restaurants and shops. She does not advertise to the general public but only through Quilt Connections. She assured the council that her small groups were quiet, usually elderly ladies in small groups of 6-14 quilters. The council had no questions of the applicant.

Public Input: Erik Breckenridge, 7320 E. Millstream, referred to Section A.1. of the city's Consent for Annexation Agreement. He requests that the council deny the request.

John Gerlach, 7420 E. Millstream, asked the council to reject this request. He bought his home on Millstream so he would not be near any businesses. He also referenced the intent of the neighborhood covenant and annexation agreement. He is concerned about the unfair burden on the neighbors and roads. He said the Quilt Retreat website states that there will eventually be room for 22 guests at the proposed retreat.

Rachel Porter, 1806 S. White Oak Circle in Wichita, stated that, as Stephanie Evans's daughter, she grew up in Kechi, and her mother's quilt shop has been a business in the city for 16 years. The property on Millstream was chosen specifically for the remote residential location and the desire to remain in Kechi. She assured the council that the quilters work hard to be unobtrusive, and the neighbors won't even notice they are there. She stated that of the seven quilt centers in Kansas all are zoned R-1 or R-2 and are booked out two years. She states that these centers "greatly increase revenue" and only one has a "variance." They are still considered residential use and one is in "mixed use." She stated that the Strategic Plan calls for "enhancing arts in the Arts & Business District" and encourages investments in the city. The quilters are "artisans" and act like they actually live at the retreat. All ladies are vetted and sign waivers. The retreat will be Residential use, that is a business. Traffic concerns are met with carpools of usually 1-4 cars at most with staggered leaving.

RECOMMENDATION: Based upon information available prior to the public hearings, the Planning Commission and planning staff recommended that the request be denied.

This recommendation was based on the following findings: Each finding was read by Mayor Velazquez and the council verbally agreed with each. There was no discussion.

- 1) **Character of the immediate neighborhood:** The surrounding neighborhood, known as Heritage Hills Estates, consists of five (acres) lots used for single-family residences and is zoned R-1 Single-Family Residential District. Air BNB's are permitted in R-1 districts with an approved conditional use, but would be a change to the current uses in the area of exclusively single-family homes.
- 2) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The request of a Conditional Use is not in conformance with Kechi's 2040 Comprehensive Plan as discussed in this staff report.
- 3) **Adequacy of public utilities, roadways, and other public services, relative to the anticipated impacts of the proposed use:** All utilities and public services are provided to the area. Staff does not see an increase in public utilities or services.
- 4) **Suitability of the uses to which the property has been restricted under its existing zoning:** The subject site is currently zoned R-1 Single Family Residential District. Air BNB's are permitted in R-1 districts if granted a conditional use permit by the City Council.

A Declaration of Restrictive Covenants has been recorded upon all of Heritage Hills Estates, including the subject property. Such Declaration contains a covenant that:

"No retail, wholesale, manufacturing, repair or any other kind of commercial business, including so-called home occupations, shall be conducted on any tract or in any structure even though it does not require the employment of any additional person or persons. An Office in the Residence is Permitted."

The Declaration is a private agreement between the landowners in Heritage Hills Estates. The City is not a party of the Declaration and has no authority to interpret or enforce any restrictions contained therein. However, the existence of the restrictive covenant can be considered by the Planning Commission and City Council in their determination of whether the proposed use is suitable for the property and the effects of the proposed use upon neighboring properties. Staff believes the existence of this covenant makes the use of an Air BNB unsuitable for the property since the owners have privately agreed not to conduct commercial business.

- 5) **Length of time property has remained vacant as zoned:** Prior to the applicant's purchase of the property, it was continuously utilized as a single-family home without any significant period of vacancy.
- 6) **Extent to which proposed conditional use will detrimentally affect nearby property:** Staff believes the existence of the restrictive covenant makes the use as an Air BNB unsuitable for the property since the owners have privately agreed not to conduct commercial businesses.
- 7) **Compatibility of the proposed district classification with nearby properties:** The properties to the east, south, and west of the subject property are zoned R-1 Single Family Residential District and are developed with single-family homes. While Air BNB's are permitted in R-1 districts if approved by Conditional Use, Staff believes the existence of the restrictive covenant makes the use as an Air BNB incompatible with surrounding properties since the owners have privately agreed not to conduct commercial businesses.

- 8) **The proportionality of losses/impacts to individual property owners in the immediate vicinity relative to the net public gain for the community-at-large:** Staff does not see a public gain for the community if the Conditional Use is approved. Staff does however see property owners in the vicinity of the business being negatively affected.
- 9) **Public Input:** A resident within the notification area sent communication to staff disclosing the Declaration of Restrictive Covenants for the Heritage Hills Estates. A copy of the communication is attached to this report.

Motion by Brian Adams to deny CU-2023-02 and Ordinance #1814-23. Seconded by Matt Brewer. Carried 3-0-0.

IV. OLD BUSINESS – None

V. EXECUTIVE SESSION

Motion by Brian Adams to enter into Executive Session for the purpose of Attorney Client Privilege for 15 minutes with the meeting to resume at 8:10pm. The motion seconded by Todd Hedstrom and carried 3-0-0.

The meeting resumed at 8:13 pm, and no binding action was taken while in the Executive Session.

VI. RECESS

Motion made by Brian Adams to recess until July 13, 2023, at 5:30pm for a workshop. The motion was seconded by Todd Hedstrom and carried 3-0-0.

Signed: _____

Mayra Ashley Delazquez

Attest: _____

Debra Creekmore
Debra Creekmore, City Clerk



