

STAFF REPORT

DATE: 04/23/2025

TO: Bel Aire Planning Commission

FROM: Paula Downs

RE: Agenda

STAFF COMMUNICATION

FOR MEETING OF	5/6/2025
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY: PUD 24-04 Proposed Final R-PUD containing approved duplexes to be converted townhouses with zero interior lot lines on a reduced lot size in an R-4 zoning district as built in a portion of Chapel Landing Phase II.

General Location: The subject property is generally located at North Oliver Street and East 53rd Street North and is currently platted as Chapel Landing. Chapel Landing is currently zoned R-4 Single-Family Residential District. The applicant desires to amend the zoning district classification from R-4 to R-PUD Planned Unit Development Residential District.

Background:

The city placed notification on the City of Bel Aire's website as required by city code. The affidavit of publication is provided. The R-PUD process required notification of surrounding property owners within the R-PUD boundary. Publication notification was made on February 20, 2025, to all property owners in the PUD boundary. In addition to notification, property owners signed the document making them a party in the PUD application. One owner was notified and did not respond by signing the document to be included in the PUD application.

Case History:

1. Planning Commission Meeting: September 12, 2024

The case was initiated on August 24, 2024, when city staff discovered that duplex lots were being divided and sold as separate buildings outside of the city process. The applicant filed an R-PUD Application to convert approved duplexes to townhouses with zero interior lot lines on a reduced lot size. City staff reviewed the case based on the golden factors and recommended approval to the Planning Commission. During the processing of the R-PUD Application, it was discovered that the applicant needed to obtain signatures of all owners in the R-PUD boundary area. On September 12, 2024, the applicant asked that the item be tabled pending property owner signatures. Signatures were required to confirm applicant was the property owners agent for the purposes of the R-PUD application.

The Planning Commission tabled the case to appear on the October 10, 2024, meeting agenda.

2. Planning Commission Meeting: October 10, 2024

The meeting announcement stated that PUD-24-04 would not be heard at the meeting due to an incomplete application.

3. Planning Commission Meeting: November 14, 2024

City staff renotified all property owners within a 200' area of the R-PUD boundary. The staff report included the same information as the report developed for the September 12, 2024, Planning Commission meeting.

Similar Case- Bristol Hollows on the November 14, 2024, Agenda:

The meeting agenda included a similar lot split case for Bristol Hollows. This case appeared on the September 12, 2024 Planning Commission agenda. During this meeting the Planning Commission recommended approval of the case. Case went before the City Council on October 15, 2024. The City Council's discussion centered around zoning statutes and procedures, concerns of fire safety, conformance with City zoning code, access to utilities, and financial implications for future buyers of the properties, and if covenants for this development could be drafted to address concerns. The council tabled the case.

The case came back to Planning Commission on November 14 and the developer addressed concerns from the City Council and agreed to provide platters text and the following documents; updated restrictive covenants, a first amendment to the development agreement, an easement agreement and wall agreement. These documents would make it easy for anyone wanting to purchase a property to see the documents. Planning Commission approved the Bristol Hollows PUD with the document conditions.

Chapel Landing Case (appeared on the November 14 Agenda after Bristol Hollows case)

The Planning Commission was made aware of the City Council discussions on Bristol Hollows and the documents requested by the City Council in that case. When reviewing the case for Chapel Landing, the applicant's agent requested that the requirement for street trees be reduced from the required two trees per lot to one tree per lot due to the smaller lot sizes created by the lot splits.

The Planning Commission stated that since Chapel Landing- PUD-24-04 was similar to the Bristol Hollows case, the same conditions would apply specifically:

- An updated plat would be attached to the ordinance as Exhibit A: and,
- The platter's text in Exhibit A will reference additional documents, such as; the Restrictive Covenants, First Amendment to the Original Development Agreement, Wall Agreement, and Easement Agreement regarding access to power meter. Those documents will be incorporated by reference, to the ordinance; and
- The applicant shall file the ordinance with all documents incorporated by reference with the Sedgwick County Register of Deeds.

The Planning Commission discussed the case and determined it would be necessary to table the case to receive the additional documents requested. The applicant requested that the case be sent to the City Council in lieu of tabling the item. There was a consensus that more information from the applicant would be necessary to make a final recommendation. Commission determined that Council would not approve the item without the requested documents. The item was tabled to the December 12, 2024, meeting.

4. Planning Commission Meeting- December 12, 2024

The staff report for this meeting reflected the basic case information presented at previous meetings and a summary of the November 14, 2024, meeting discussion. The Staff report stated that prior to the meeting the required documents had not been submitted. Staff recommended that the R-PUD should be modified as follows:

- Update the landscaping requirement to reflect one street per lot.
- Require applicant to submit the following documents as part of their R-PUD application: Restrict Covenants, Amendment to the Original Development Agreement, Wall Agreement and Easement Agreement.
- Update the plat's text to reference the documents.
- File the plat and documents with the Register of Deeds Office and provide a copy to the City of Bel Aire City Clerk.

The applicant's agent asked that the case be sent to the City Council because they did not intend to provide the documents that the Planning Commission requested. The agent stated the reason is because the documents requested are outside the scope of zoning and are not enforceable by the city. The agent said that the applicant may be willing to update the R-PUD to reflect the Commission's recommendation for number of street trees and update the face of the plat to reflect zoning setbacks. Agent stated that they were willing to comply with regulations listed in the subdivision and zoning codes.

Motion was approved that the proposed final R-PUD be approved with the condition that the documents requested be provided as outlined in Item 10 of the staff report. The case would appear on the January 7, 2025 City Council meeting agenda.

5. City Council Meeting- January 7, 2025

The staff report presented to the City Council was detailed and provided a full analysis of the case.

The staff report included the following key information/discussions:

- Prior to this City Council meeting, a more detailed analysis of the case was created and the staff report reflected that the city can request additional documents, but that they were outside the requirements of the City Code and the review criteria (golden factors) used to evaluate the R-PUD case.
- The staff report reflected further analysis of the R-PUD Application and R-PUD Agreement and provided an updated staff recommendation based on the appropriate review criteria.

- Analysis in the staff report provided zoning code references addressing each issue created by the lot-splits.
- Analysis comments were included for the R-PUD agreement
- Key issues contained in the Golden Factors were:
 - A minimum lot area should be established as the lack of any minimum lot area makes any meaningful assessment of this Criteria impossible. Minimum lot widths should also be established to ensure adequate access to the public street. With proper identification of all substitute regulations, no detrimental impact to nearby properties is expected.
 - It is recommended that the City and applicant work on revisions/clarifications to the regulations to avoid any negative impact on public health, safety, and welfare. Once completed, no loss in value or hardship upon the applicant is anticipated.
- Staff recommended that the application be returned to the Planning Commission to reconsider a revised application at their February 13, 2025, meeting. Staff did not make a recommendation as to the necessity of additional supplementary documentation to facilitate this zoning request (e.g. Party Wall Agreement) that are not in the purview of the City's Zoning and/or Subdivision Regulations.

The applicant's agent stated they would accept the condition of only planting one street tree per lot and that the applicant was unwilling to accept the other conditions regarding the supplementary documents.

The Council discussed the concerns of the applicant and city staff. It was acknowledged that the updated case analysis prepared with the assistance of PEC had not been provided to the Planning Commission at their December 12 meeting. The council voted to return the case to the Planning Commission for further consideration.

6. Planning Commission Meeting- February 13, 2025

Agenda Announcement by staff stated that R-PUD-24-04 was heard on the January 9, 2025, City Council meeting and they made the motion to return the item to the Planning Commission for further consideration. City staff were working with the applicant's agent to resolve issues, and the item will appear on the March 13, 2025, Planning Commission agenda.

7. Planning Commission Meeting- March 13, 2025

Agenda item appeared on the March 13, 2025, Planning Commission agenda. Paula Downs, Director of Community Development informed the Commission that the application was missing the signatures of several new property owners. After the application was submitted, several lots within the proposed R-PUD area were sold to new owners. Signatures from the new owners are required on the application by statute. City Attorney Maria Schrock reviewed the Kansas statute and procedure for notifying property owners of public hearings for zoning matters. City staff recommended that the Commission table this item, to allow the applicant to obtain the required signatures.

Motion was made to table PUD-24-04 until the Thursday, April 10, 2025 Planning Commission meeting. Motion carried 5-0.

8. Planning Commission Meeting- April 10, 2025

The agenda item presented to the Commission included signatures of property owners contained in the PUD area. One property owner did not sign the application, and an updated PUD legal description was provided to exempt this property owner from the PUD application. This property owner will be contacted outside of the application process to follow requirements to make a conforming lot. All property owners were notified of the case and provided their signatures in agreement. The applicant's PUD application was complete. No public appearances were made, and the applicant had no comments, and the Commission had no questions for the applicant. The Planning Commission motioned to recommend to the City Council that the zone change from Single-Family Residential District "R-4" to a PUD Residential District "R-PUD" be approved.

Current Discussion:

- A. The city is developing a process to address lot splits that occur after the completion of a structure. Processes/procedures, zoning and subdivision codes will be examined. This review doesn't imply this type of method could be used city wide by dividing lots and selling each as a separate building as this case reflects. The intent is to provide a sustainable neighborhood with conditions in place to maintain property values.
- B. The case was last by the City Council at their January 9, 2025, meeting. The council voted to return the case to the Planning Commission for further consideration.
- C. City staff reviewed and provided an updated Planned Unit Development Agreement to the applicant's agent. The language contained in the R-PUD Agreement addresses concerns previously discussed by the City Council and Planning Commission. The applicant has agreed to the language presented, including the Wall Agreement which is included in the R-PUD Agreement as Exhibit 1.

Review Considerations:

1. Character of the neighborhood

Multiple two-family structures have been constructed on the subject property and on adjacent properties. Directly adjacent to the East, are two unplatted properties under the same ownership totaling approximately 11.54 acres currently used for a single-family home with accessory structures. North of East 53rd Street North is predominantly undeveloped large-lot single-family home sites. Approximate 2.0 acre lots are platted to the south of the subject property. Senior living (multiple family) units directly abut the subject property to the West.

The character of the neighborhood is in line with the surrounding properties and the current neighborhood.

2. Zoning and uses of nearby properties

North: R-4 Single-Family Residential District
East: AG Agricultural District
South: R-1 Estate Residential District
West: R-6 Multi-Family District

3. Suitability of the subject property for the uses to which it has been restricted

The property is adequately suited for the permitted uses currently allowed in the R-4 Single-Family Residential District. Notably, the applicant has only requested the following permitted uses: single-family, two-family, leasing office, playgrounds or community spaces, and accessory structures as approved by the City Manager. This is more restrictive than what is allowed in the base R-4 district.

4. Extent to which removal of the restrictions will detrimentally affect nearby property

The minimum lot area and lot widths have been established in the R-PUD Agreement. There is no detrimental impact to nearby properties is expected.

5. Length of time the property has been vacant as zoned

The property was originally platted in 2008, and building activity on the two-family structures has only recently commenced. It is not anticipated that the length of time the property was vacant/undeveloped is a factor for this specific request.

6. Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant

There is no loss in value or hardship upon the applicant

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

The 2018 Master Growth Plan sets forth the property as Residential Suburban Density. Further the Plan encourages PUDs to promote alternatives to traditional development models in these designated areas.

8. Impact of the proposed development on community facilities

There is no impact on community facilities. Potable water and sanitary sewer services are already extended to the site and are adequately sized. The property has access to East 53rd Street North which has been improved to adequate standards.

9. Opposition or support of neighborhood residents (one factor to be considered and by itself is not sufficient reason to approve or deny a request)

Property Owners as of July 2024 have been notified a total of three times with this R-PUD case. Property owners identified between July 2024 and February 2025 have been notified one time with this R-PUD case. City staff have received no inquiries or feedback from notified residents to date.

10. Recommendations of permanent staff

Staff and applicant have revised the R-PUD Agreement to include the following updates:

- 1) "Townhouse" as fined by the City's current Zoning Regulations as a permitted use with limitation to the number of units on each lot of record has been added.
- 2) The minimum lot area and lot widths have been identified and specified. Additionally, all other height regulations, area regulations, accessory use regulations, development/performance standards, and landscaping/screening regulations are right-sized, appropriate, and clearly indicated within the R-PUD Agreement.
- 3) One street tree will be required for each lot that is split
- 4) The R-PUD Agreement requires, per K.S.A. 58-3706, that covenants include a description of all easements required, including public utilities. This requirement satisfies the easement agreement request by Planning Commission and City Council.
- 5) The R-PUD Agreement includes, as Exhibit 1, the Party Wall Agreement.

Although staff recognizes that it is within the City's power to make replatting a condition of any zoning action, it recognizes the potential hardship this might place on the owner(s). The public gain to replatting would be the inclusion of all R-PUD Agreement provisions on the face of plat as required by 19.5.5.T. As such, it is further recommended that if the R-PUD classification is ultimately adopted, that all provisions of the R-PUD be recorded against all impacted lots. Further, if the applicant revises any restrictive covenants as a result of any ultimate zoning revisions, submittal to the city is required for City records.

Nothing contained within this application currently or anticipated would appear to violate any condition within the executed Agreement Concerning the Development of Chapel Landing (dated March 18, 2014) or the First Amendment (dated March 15, 2016, and recorded as Doc#: 29601563). As such, no restated, amended, or revised Development Agreement is expected.

Staff does not make a recommendation as to the necessity of additional supplementary documentation to facilitate this zoning request (e.g. Party Wall Agreement) that are not in the purview of the City's Zoning and/or Subdivision Regulations. However, applicant has agreed to include the Party Wall Agreement as Exhibit 1 to the R-PUD Agreement.

Nothing in the City's review and actions are intended to violate any provision of the Townhouse Ownership Act outlined in Chapter 58, Article 37 of the Kansas State Statutes.

Staff recommend that the application be approved.