

STAFF REPORT

DATE: 12/30/2024

TO: Bel Aire City Council
FROM: Paula Downs
RE: Agenda

STAFF COMMUNICATION	
FOR MEETING OF	1/07/2024
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY: PUD 24-04 Proposed a Final 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.

History:

The city placed an ad in the Ark Valley Newspaper as required by the city code. The affidavit of publication is provided. The PUD process required notification of surrounding property owners.

The subject property is generally located at North Oliver Street and East 53rd Street North and is currently platted as Chapel Landing (recorded March 27, 2008, as Doc#: 28962586). 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 for Lots 1-16, Block E and Lots 1-24, Block F of Chapel Landing.

This case was initiated in August 2024 when lot splits were identified by City staff. Staff reports previously developed and provided to the Planning Commission were prepared by the previous Zoning Administrator and a recommendation to approve the PUD case was made. Due to additional discussions around this case and another similar case an updated staff report was provided by the current Zoning Administrator and included the recommendation to approve the PUD with additional agreements/documents recommended by the City Council during a previous case.

Prior to this City Council meeting, a more detailed analysis of the case was warranted. The previous staff recommendation included the requirement for the applicant to update existing agreements and documents and enter into additional agreements. Although the City can request these documents, it is outside the requirements of the City Code and the review criteria (golden factors) used to evaluate the PUD case.

The current staff report reflects further analysis of the PUD Application and PUD Agreement and provides an updated staff recommendation based on the appropriate review criteria.

Discussion:

The applicant desires to establish the R-PUD zoning district classification in order for the applicable Zoning Regulations to be adapted for their specific development project. As defined by 18.2.3.ET, a Planned Unit Development (PUD) is “a platted parcel, subdivision, or district that contains specific zoning rules as a replacement for the adopted city regulations...”. The applicant has not submitted a Planned Unit Development Plat (18.2.3.EV) but has submitted a PUD Agreement.

In the Permitted Use section of the submitted PUD Agreement, are two permitted residential uses: 1) Single-Family and 2) Two-Family. Definitions per 18.2.3.BK:

1. One-family dwelling – (Single-Family). A detached building used exclusively for residential purposes having suitable accommodations for only one family.
2. Two-family dwelling – (Duplex). A detached building used exclusively for residential purposes and designed for or occupied by two families independently of each other.

Per the R-4 regulations, single-family residences require a minimum 1,600 SF of living space, and two-family residences require a minimum 1,200 SF of living space per unit. Further permitted uses set forth by the applicant include leasing office, playgrounds or community spaces, and accessory structures as approved by the City Manager.

In Section 4 of the submitted PUD Agreement, the applicant desires that all regulations of the R-4 district apply (exclusive of permitted uses) with the following exceptions (not exhaustive, only pertinent requests are listed below):

- a. 0' interior side yard setbacks, provided units share a common wall
- b. R-4 requires a minimum side yard setback of 10' or 20% of lot width, whichever is greater.
 - a. The original plat sets forth a 6' minimum interior side yard setback (applied to primary structures only).
- c. 0 SF minimum lot area, provided lots are further subdivided after original platting
 - a. R-4 requires 8,400 SF per dwelling unit, which would be 16,800 SF for two-family lots.
 - i. Notably, multiple lots less than 16,800 SF were originally platted.
 - ii. The property was originally platted in 2008; research into the adopted Zoning Regulations at that time was not conducted as part of this report.
- d. 0' minimum lot width, provided lots are further subdivided after original platting
 - a. R-4 requires a minimum of 70' lot width
 - i. Notably, multiple lots have frontage widths less than 70' as originally platted.
 - ii. The property was originally platted in 2008; research into the adopted Zoning Regulations at that time was not conducted as part of this report.

Set forth in Section 1 of the submitted PUD Agreement, the applicant desires the ability to further subdivide the originally platted lots without the City's approval of lots splits per the adopted Subdivision Regulations.

The PUD Agreement seeks to define “homes on lots that are split” as “townhouses” as defined in the Townhouse Ownership Act outlined in Chapter 58, Article 37 of the Kansas State Statutes. Further, it states that “all applicable sections of the act will apply to all lots that are split within this PUD.” Although K.S.A. 58-3702 does not specifically define “townhouses”, it does define “townhouse unit”. Townhouse unit means one single-family townhouse residential unit which may be joined together with at least one additional single-family townhouse residence by a common wall or walls, and/or roof, and/or foundation: Provided however, that in any event, the term “townhouse unit” shall not mean an apartment as defined in K.S.A. 58-3102...”. The only definition of “townhouse” in the City’s adopted Zoning Regulations is contained within the Use Regulations of the R-5 Garden and Patio Homes, Townhouses, and Condominiums District. “Townhouses” are defined as “one family townhouse dwelling unit, with a private entrance which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light and ventilations.”

Multiple two-family units have been constructed on the subject lots. Some constructed two-family units are located on lots that remain as platted in 2008 (two units on one lot), and some have been further subdivided along the common wall line. This further subdivision has created multiple violations of the Zoning Regulations (see Section 18.3.4). Although multiple enforcement actions and remedies are available (see Sections 18.3.8, 18.3.9, and 18.4.7), the City desires to work with the owner(s) to bring the development into compliance.

NOTE: In completing the staff review of the Criteria for Review (18.5.2.E- “Golden Factors”), findings were developed by applying the substitute regulations set forth by the applicant.

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

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.

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 been 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

It is recommended that the City and applicant work on revisions/clarifications to the substitute regulations to avoid any negative impact to public health, safety, and welfare. Once completed, no loss in value or hardship upon the applicant is anticipated.

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

No impact on community facilities is expected. 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)

Notified residents did appear at a previous Planning Commission meeting when a similar PUD case was on the agenda. Citizens were concerned that the same conditions discussed in the other PUD case would negatively affect ownership of their homes in Chapel Landing. At the time, there were no issues identified. Residents were notified twice with this PUD case. City staff has received no inquiries or feedback from notified residents.

10. Recommendations of permanent staff

Significant work remains for the PUD Agreement to have sufficient definition and clarity established in order for staff to make a recommendation. Staff recommends that the application be returned to the Planning Commission to reconsider a revised application specifically regarding the findings on Criteria of Review 4 and 6. The next meeting of the Planning Commission is February 13, 2025.

Specific revisions requested (to be fully developed in coordination with the applicant) to include but not limited to:

- 1) Add "Townhouse" as fined by the City's current Zoning Regulations as a permitted use with limitation to the amount of units on each lot of record.
- 2) Identify and specify appropriate minimum lot area and minimum lot widths. Additionally, confirm 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 PUD Agreement.
- 3) Removal of Sections 1, 2, 3, 4, and 5 of the submitted PUD Agreement as these are already controlled by either a previously approved document, lack of public necessity, and/or lack of authority (e.g. Special Assessment Petitions, Kansas State Statute, inability to amend Subdivision Regulations through PUD Agreement, etc.).

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 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 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.

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.