

## Excerpt of Draft Minutes



### MINUTES PLANNING COMMISSION

7651 E. Central Park Ave, Bel  
Aire, KS

November 14, 2024 6:30 PM



**I. Call to Order-** Vice-Chairperson Phillip Jordan called the meeting to order at 6:39 p.m.

**II. Announcement:** As of October 9, 2024, Chairman James Schmidt resigned from the Planning Commission. The Mayor has been notified and will begin the process of appointing a new member of the Commission.

**III. Roll Call**

Commissioners John Charleston, Edgar Salazar, Phillip Jordan, and Paul Matzek were present. Commissioners Dee Roths and Daryk Faber were absent.

Also present were City Attorney Maria Schrock, City Engineer Anne Stephens, and Director of Community Development Paula Downs.

**IV. Pledge of Allegiance to the American Flag**

Vice-Chairperson Jordan led the pledge of allegiance.

**V. Consent Agenda**

**A. Approval of Minutes from Previous Meeting**

**MOTION:** Commissioner Charleston moved to approve the minutes of September 12, 2024. Commissioner Matzek seconded the motion. *Motion carried 4-0.*

**MOTION:** Commissioner Matzek moved to approve the minutes of October 10, 2024. Commissioner Charleston seconded the motion. *Motion carried 4-0.*

**VI. Announcement**

**A. Kansas Open Meetings Act (KOMA) Review**

**B. Golden Factors review**

City Attorney Maria Schrock gave a brief presentation on the Kansas Open Meeting Act and the Golden Factors.

## **VII. Old Business/New Business**

- A. PUD-24-07 (previously PUD-24-03): Zone change request in the City from Single-Family Residential District (R-4) to a Planned Unit Development Residential District (R-PUD) to create the Bristol Hollows Addition R-PUD, for the purpose of bringing structures that were conforming in 2020 and made non-conforming in 2023, due to lot splits that were completed without City notice and approval, generally located at 53rd Street North and Bristol Street.**

Vice-Chairperson Phillip Jordan announced the item and reviewed ground rules for the public hearing. Before proceeding with the public hearing, he asked the Commission if any member intended to disqualify themselves from participating in the case because they or a relative own property in the area of notification or have conflicts of interest. No one was disqualified.

Vice-Chairperson Philip Jordan noted that proper notice of this hearing was published at least 20 days before the hearing on the City's website and in the Wichita Eagle. Notices were also mailed to the applicant and all of the real property owners of record, listed on the security title, in the area of notification on October 25, 2024.

Vice Chairperson Philip Jordan asked if anyone on the Commission had received any ex parte verbal or written communications prior to this agenda item, which they would like to share. The Commissioners responded that they had not.

City staff gave a brief report on this case and referenced the staff report on this item provided in the Commission's information packet for this meeting.

Vice-Chairperson Jordan called upon the applicant to make his/her presentation on the request and any response to the City staff report. Ken Lee, Garver, spoke on behalf of the applicant and stood for questions from the Commission. The primary change to the PUD was to add "Residential" into the document. The other changes were to documents outside of the PUD, in order to provide clarity. Modifications were made to the Restrictive Covenants to address protections for the residents. The developer proposes that the buildings be viewed as condominiums, so that a less-restrictive wall design is required. The documents also address resident's rights to access utility meters.

City Attorney Maria Schrock commented on Ken Lee's comments regarding the proposed firewall standard. Ms. Schrock referred to the October 15<sup>th</sup> City Council meeting in which firewall standards were discussed. At that hearing, the City building inspector stated that he had no concerns with the safety of the current walls. Since the hearing, City staff have reached out to the Sedgwick County Fire Department for advice. The Sedgwick County Fire Department offered

suggestions: have a fire extinguisher on hand and use caulking over any penetrations to the wall. Phil Ruffo has agreed to add those things to the Restrictive Covenants, the First Amendment, or to a wall agreement. Regarding residents' access to power meters, Mr. Ruffo agreed to add language to the documents to allow for an easement to access power meters.

City Attorney Maria Schrock submitted Exhibit A to the Commissioners and described it. Exhibit A is a basic plat diagram of the Bristol Hollows Addition that includes text that states the diagram will include a reference to the Restrictive Covenants, First Amendment to the original development agreement, the wall agreement and an easement agreement regarding access to power. If anyone wants to purchase a property, it will be easy to see these documents.

Representative Ken Lee requested that the Commission consider allowing only one tree on each lot, instead of the two trees per lot required in the zoning code.

Vice-Chair Philip Jordan announced that the public comments section of the hearing was open and anyone wishing to make comments could come forward at this time. No one requested to speak, so the public comments section was closed. Staff confirmed that no written comments had been received.

The Commission then deliberated. Commissioners commented that considering the small lot size, it would be acceptable to have one street tree on each lot. They also cited several of the Golden Factors as they relate to this application including:

- The Character of the Neighborhood,
- The Zoning and Uses of nearby properties supports development;
- 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 applicant;.
- The Conformance of the requested change to the adopted or recognized Comprehensive (master plan) being utilized by the city;
- The Impact of the proposed development on community facilities.

Commissioners also cited the recommendation of professional staff as a contributing factor in their decision.

**MOTION:** Vice-Chairperson Jordan moved thus:

Having considered the evidence at the hearing and the factors to evaluate the application, I move we recommend to the City Council that the zone change request from Single-Family Residential District "R-4" to a Planned Unit Development Residential District "R-PUD" in PUD-24-07 (previously PUD-24-03) be approved with modifications based on findings as listed in the staff report, and the condition of one tree in the front of each unit, as recorded in the summary of this hearing, And the following conditions be made a part of this recommendation:

- A. An updated plat depicting the Bristol Hollows Addition R-PUD shall be provided for council consideration, and if approved by council, it will be attached to the ordinance as Exhibit A; and,
- B. 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 Re: Access to Power Meter. Those documents will be incorporated by reference, to the Bristol Hollows Addition R-PUD and ordinance; and
- C. The applicant shall file the ordinance and all documents incorporated by reference to the Bristol Hollows Addition R-PUD, with the Sedgwick County Register of Deeds. Proof of filings shall be provided to the Bel Aire City Clerk, within 30 days of filing with the Sedgwick County Register of Deeds.

Commissioner Matzek seconded the motion.

***Motion carried 4-0.***

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**(Other Proceedings)**

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## **X. Adjournment**

**MOTION:** Vice-Chairperson Jordan moved to adjourn. Commissioner Salazar seconded the motion. ***Motion carried 4-0.***

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