

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

PLANNING COMMISSION MINUTES

February 10, 2011

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, February 10 at 7:00 p.m., in the Clearwater City Council Chamber, City Hall at 129 E. Ross Avenue, Clearwater, Kansas. The regularly scheduled meeting for February 1, 2011 was rescheduled to February 10th due to a snow storm.

The following members were present: Lonnie Stieben, Mike Cass, Mike Machart, George Rudy, and Ryan Shackelford. Billy Lane was absent. The following City staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; and Janet Amerine, City Attorney.

1. Approval of Minutes of the Meeting of January 4, 2011

MOTION: The motion to approve the minutes was made by George Rudy seconded by Mike Machart and passed unanimously.

2. Home Occupation Greg York

City Clerk Wright stated that before the Commission discusses the York Home Occupation she reported that Justin Casner did turn in the paperwork with the signatures of residents within 200 ft. of his property.

City Clerk Wright stated that Greg York is planning to have a web site for sale of firearms and shooting supplies. Wright stated that she spoke with the ATF and they are working on the background checks. York was unable to attend. Wright stated that this Home Occupation is similar to the Casner Home Occupation in there will be no sales from his home and this type of business is allowed in the R-1 district. The Commission reviewed the application and noted that it is not signed by 75% of the residents within 200 feet of his home.

MOTION: Mike Machart made motion to approve the application with the understanding that York will get the signatures of the immediate neighbors on all four sides of his home. Ryan Shackelford seconded the motion and it passed unanimously.

3. **Status of Mertens v City of Clearwater – How Results Affected Zoning Code and Setbacks**

City Attorney Amerine reviewed the court proceedings. The judge was not interested in the utility easement and focused only on the time line of the set back issue. Mertens attorney's position was the PUD (Planned Unit Development) was passed and was effective immediately. The City's position was that it was passed conditional on the purchase of the land and providing a copy of the covenants. The land was purchased within days, but the only thing provided the City was covenants from another development. A year and half later Mertens filed the actual covenants, but they were not provided to the City. The covenants that were filed were under a different name and 20 pages long while the first one was 3 pages long. The judge ruled that the first covenant was just a draft. The timeline for the covenants was that they were filed in November and Mertens attorney had in his brief that it would be reasonable for the City to file within a 180 days. During the 180 days the new zoning ordinance was adopted. The City's attorney told the judge that the City was wrong by not filing, but it was harmless as the new zoning code was in effect. The judge ruled in favor of the City and ruled that the new zoning code is in effect for all lots in Chisholm Ridge Development. Amerine stated that there still could be an appeal. The Commission discussed at length certain aspects of the case and the details of the property.

4. **Review Land Use Map as Part of Comprehensive Plan**

City Administrator Brown reviewed that at the last meeting John Riggs stated that if there are going to be any changes in zoning the first step is to review the future land use map in the Comprehensive Plan. Brown reviewed that the land use map for the Dugan property shows commercial in the front along 135th and residential in the back portion of the property. Brown stated that when the future land use map was developed the growth of the city was proposed at 1 to 1½ percent and that would have been reasonable if the economy would not have gone south the last couple years. Brown stated that the land use map is created by defining the future population and there has to be a certain amount of residential, commercial, and industrial property. The job of the Commission is to try to match up the necessary needs to the property that is most likely suitable for a particular use. Brown stated there are three areas within the future land use plan that should be reviewed including Dugan property, the property that the City purchased for an industrial park and the 37 acres that is west of Chisholm Ridge. Brown stated that his thought is that area along 135th and 103rd is a good place for commercial. Stieben distributed a diagram of the houses within a 7 to 9 mile radius of Clearwater along various demographic population facts. The Commission discussed various possibilities for commercial. Stieben distributed an article concerning strip malls and how they are over built. Shackelford suggested a possible mixed center that would include restaurants, shops, and entertainment. The Commission continued to discuss possible land use and requested that Brown prepare various suggested future land use plans for review at the meeting in March.

4. **Adjournment**

With there being no further business to come before the Commission, George Rudy made a motion to adjourn the meeting. The motion was seconded by Mike Cass and passed unanimously.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I, Cheryl Wright, City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the February 10, 2011 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 1st day of March 2011.

Cheryl Wright, City Clerk