

**CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS**

**PLANNING COMMISSION MEETING**

**MINUTES**

**OCTOBER 8, 2012**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, October 8, 2012, at 8:02 p.m., in the Clearwater City Council Chamber, City Hall, 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Mike Cass, Mike Machart, George Rudy, Ryan Shackelford and Shawna Perry. The following City staff members were present: Kent Brown, City Administrator; Liza Donabauer, City Clerk; and Janet Amerine, City Attorney. Others present were Ed Mikesell & Rob Hartman, Indian Lakes Leasing; David and Melanie Beck, Joyce and Jack Haivala, Laura Papish, and Andy Jacobs, residents; Lonnie Stieben, SKT.

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**1. Approval of the Minutes of the Regular Meeting of September 4, 2012**

**MOTION:** The motion to approve the minutes was made by Shawna Perry and seconded by Mike Cass. The motion passed unanimously.

**2. Public Hearing for a Zoning Change on Two Parcels From R-2 to C-2 (Indian Lakes Addition)**

City Administrator Kent Brown introduced the first of two zoning changes. Duckhorn Properties has requested changing two parcels in the Indian Lakes Addition from R-2 to C-2. The two parcels are located along Ross Avenue in the southeast portion of Reserve A. The notice for tonight's hearing was published in the Times Sentinel and the property owners within 200' of the proposed change were notified about tonight's meeting.

Ryan Shackelford opened the public hearing at 8:06 p.m. Joyce Haivala, 135 Longhorn Court distributed a copy of a memo she wrote to the Planning Commission, dated 10-08-12. She stated that her property is located along the west pond in Chisholm Ridge which abuts the southeast corner of the Indian Lakes addition. She stated that she was raised in a small town and was introduced to this community via a kindergarten graduation. She and her husband found a lot in the Chisholm Ridge development and moved into their new home in 2008. She has met many residents at the Wellness Center and at the Methodist Church. She described how her and her husband love living in Clearwater and enjoy attending the Fall Festival every year. Clearwater is a welcoming community. She described how it was her understanding that the wheat field behind their home (now the Indian Lakes Addition) would remain a wheat field. During the initial request for change of zoning for the Indian Lakes Addition, she believed that the pond behind her house would provide a barrier between the two developments. However, with tonight's request, she is concerned and surprised that her and her husband will eventually be living next door to a

commercial lot. She stated that she does not know what type of business that will plan to move into the Indian Lakes Addition. However, regardless of who the initial owner or renter is, the business could change hands and type of business. She stated that she did some research on the internet regarding how the value of residential property is affected by neighboring commercial development. Her memo, dated 10-08-2012, describes her concerns regarding adjoining commercial and residential properties. She stated that her main reason for being concerned about tonight's request for change in zoning is that the potential number of buyers for her home is decreased. She compared her property to that of a home that has a swimming pool. By having a pool, and living next to commercial property, a homeowner is limiting the number of people who would consider purchasing their home. She stated that she has concerns regarding the noise, increased traffic, trash, and lighting. She also has concerns regarding her landscaping. She stated that the unknown causes of having a commercial property adjacent to her home concern her. She has questions regarding the availability of pedestrian and bike paths for those in the Indian Lakes Addition. She has concerns regarding lack of privacy, but again, she is unsure how she would be affected. She stated that she thinks there are other commercial sites available in Clearwater and questions why this particular site is needed right now. She would like to request that the property be used as it was originally intended by the developer. She would like a buffer to remain between the two properties. It is her opinion that rezoning the area will change the character of where she lives. She distributed pictures of the views from the rear of her home. She also took pictures of examples of good buffer zones throughout town (SKT, Mize's). She took pictures of abandoned buildings throughout town and their signage and lawn condition (i.e. gas station on 4th).

Ed Mikesell, Duckhorn Properties, and Rob Hartman, PEC, introduced themselves as the landowner and the certified engineer. Mikesell stated that the reason they are making tonight's request due to their agreement with Dollar General. GBT is a national developer of which Duckhorn is selling its land to. The developer builds Dollar Generals. They build approximately 100 stores a year and have 20-30 year lease agreements. We are working to try and put commercial property along Ross. Mikesell stated that he was born here and lives just north of town. There is a huge need for these projects. However, if Commission does not pass the zoning changes, then the development will not occur.

Mikesell explained that he and Hartman developed the original plat to be marketable. However, after discussions with national developers, they found that the developers would not pay special assessments. They want a complete project with infrastructure. He explained that the hardware group needs two acres to do their project. It has been a great deal of work and money to try to break the barriers of entry. Each of the site selectors have outlined size requirements and therefore, he will have to reshape the commercial lots to make these work. He stated that the second pond and the infrastructure buildout for the proposed master plan would have been cost prohibitive. We had to make this shovel ready. The people that were involved in the November 2011 Town Hall Meeting stated that they want more retail options and had a desire to promote a shop-at-home campaign. Over \$200,000 in property and sales tax would be brought into the city. A 9,100 square foot store creates 8-10 jobs and brings in over a million dollars in sales. The hardware store would bring in something a little larger. He stated that he anticipates that the value of his residential properties to go up because of the increased services coming into

Clearwater.

Ed Mikesell explained that Dollar General had signed a contract with them in that same area over three years ago. The contract dissolved and has come back because the size of Clearwater is now right for them. Dollar General looked at Duckwalls and it was not the right size or located in the right area. The amount of reconstruction and remodeling would have made it difficult. Sidewalks are part of the redesign that would connect with 133<sup>rd</sup>. Screening and buffering is dictated by the City. He reminded the Commission that there was a concern with the master plan that there would have been a race track with the connecting road through the development. The connecting road will be eliminated with the new plan. City Attorney Janet Amerine asked where the new sidewalk would be located. Rob Hartman, PEC, described how the sidewalk would wind through the second addition of the addition and would travel along the drainage route out to 133<sup>rd</sup>. The preliminary plat will be discussed later in the meeting. Shawna Perry asked if lot 10 would abut the pond. Browns stated that the north end would butt up against the residential lots in Chisholm Ridge.

An examination of the plats took place by the members of the Planning Commissioners. Amerine stated that the City's code includes a lighting requirement and restrictions. Shawna Perry asked what the City could do with vacated businesses in the community. Amerine stated that the condition of vacated buildings is under the ruling of the dilapidated structure ordinance.

Shackelford closed the open hearing at 8:54 p.m.

Amerine stated that the Planning Commission would need to make a motion to recommend or not recommend the zoning change to the City Council. Tonight's action would be to approve to a change from two and three family dwellings to commercial zoning. The general commercial zoning is open to approximately 40 different businesses.

Shawna Perry stated that she understands that the community wants the new retail, but she does not like that this is the only location the site selector will consider. Mikesell stated that the site selector chose this specific lot in 2009. This is where they want to be. They are very adamant about not sharing driveways, sharing ponds, or paying for installation of utilities. He stated that the commercial developers and their site selectors have made these specific demands.

George Rudy asked if the developer is aware that they have to provide a screening buffer. Hartman stated that they gave the developer a copy of the zoning regulations which includes parking and buffer regulations. Mikesell stated that the building is proposed to be a 9,100 square feet. Parking would be along the front and side of the building. However, they are not sure if the parking will be on the west and east side of the lot. Mikesell stated that there is definitely a difference between the Dollar Generals that are constructed new versus those that are put into rehabbed buildings.

Shackelford asked Haivala about her thoughts on a buffer. Haivala stated that her interpretation of the zoning regulation is that the City does not require very much screening. The code states a minimum of 6' of architectural screening. She stated that her and her husband would prefer landscaping and trees for the screening materials. Mike Cass stated that 15' trees would be nice. Haivala asked whether the City has a say in the type of landscaping screening. Brown read from Article 24 of the zoning ordinance regarding landscaping requirements. The requirements ask for "Whenever screening is required, a

screening plan for the area shall accompany the application for a building permit. Such plan shall be transmitted to the building inspector for her/his review and approval prior to the issuance of the permit". The Commission could ask that the Council require additional decorative or architectural screen. The Council does not have to abide by the Commission's request. Shackelford stated that the developer must follow the City's code. Mikesell stated that his only requirement is to sell them land with utilities. The developer will have to abide by residential code. Rudy referenced the Family Video's that he did work for and how he had to abide by contract requirements.

Shawna Perry asked if the Commission could recommend the zoning now on the condition that they would be able to see the landscaping plan. Amerine stated that there is a law that fits this situation. If the developer purchases the land, they have a right to expect that they will be asked to meet zoning regulations. She stated that she understands that the Commission would like to make additional requirements and that it would be conditional of the zoning change. The landscape design is examined at the time of the building permit time. Andy Jacobs, an audience member, asked if a landscape berm with trees and fencing would fit the criteria of the ordinance. George Rudy stated that the Commission is only addressing the lot right now. The screening would fall under the building permit process. Amerine stated that the City would have to amend the code and postpone this zoning request, which could be a several month process. The code would have to be amended for everybody. The developer has the right to rely on the published city code.

**MOTION:** George Rudy made a motion to recommend supporting the change of zoning from R-2 to C-2. Shawna Perry seconded the motion. Brown explained that Shawna Perry can vote against the motion.

**ROLL CALL VOTE:** Rudy yea, Shackelford yea, Perry yea, Cass yea. Machart Yea Five yea. Motion carried.

3. **Public Hearing for a Zoning Change on One Parcel From C-2 to R-2 (Indian Lakes Addition)**

Rob Hartman explained that a commercial zoned piece that was in the drainage Reserve B would now become residential property if it was approved.

Ryan Shackelford opened the public hearing at 9:16 p.m. Dave Beck, 13324 W. 133<sup>rd</sup> Street South, stated that he has been on a septic system since 1955 and is inquiring on whether he can get hooked up to the City sewer. The commercial property line would abut the west line. He inquired on a timeline of bringing in the sewer line. Amerine stated that the engineer could fix a utility easement to his property and include it on the final plat. The City would want to service that property. Mikesell stated that he would be delighted in sharing the cost of the sewer installation. By footage, it would be approximately 10% of the total cost. Brown stated that he could do a rough estimation based on the last project at Chisholm Ridge. Sedgwick County took a look at it and provide a quote. Amerine stated that the City would request that during the platting process.

Shackelford closed the public hearing at 9:22 p.m. He asked if there were any additional questions. None were heard.

**MOTION:** Mike Machart made a motion to recommend supporting the change of zoning from C-2 to R-2. Shawna Perry seconded the motion.

**ROLL CALL VOTE:** Rudy yea, Shackelford yea, Perry yea, Cass yea. Machart Yea. Five yea. Motion carried.

4. **Review Revised Preliminary Plat for Indian Lakes Second Addition**

Brown stated that there will be a public hearing for the revised preliminary plat on 11-06-12 for the second addition of the Indian Lakes Addition. Brown asked if there were any comments regarding the proposed preliminary plat. Rob Hartman stated that the biggest change on the plat will be the thru street. The street will no longer connect with 103<sup>rd</sup> (Ross Av.) and it will loop within itself. A wetpond at Reserve B will be changed to a dry pond. There will be eight additional duplex lots to share the cost of the infrastructure. This would bring down the assessments by approximately \$100,000 with the reduction in street costs which will make the lots more sellable. Brown clarified that the four original commercial lots have been reduced to two larger lots plus the lot for Dollar General. The open lot could be an assisted living site or additional residential homes after a replatting process if considered at a later date.

Shawna Perry stated that she is in favor of not having the thru street. She likes the look of the preliminary plat. Brown inquired on the easement for the sewer easements at the northwest corner of Beck's lot. Mikeselll described granting a utility easement as part of the plat.

5. **Other Matters or Concerns**

No matters or concerns were raised.

6. **Adjournment**

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

The meeting adjourned at 9:30 p.m.

**CERTIFICATE**

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

I, Liza Donabauer, 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 October 8, 2012 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 6th day of November, 2012.

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Liza Donabauer, City Clerk

