

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

PLANNING COMMISSION MINUTES

AUGUST 2, 2005

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, August 2, 2005 at 7:00 p.m., in the Clearwater City Council Chamber, City Hall at 129 E. Ross Avenue, Clearwater, Kansas.

The following members were present: Lonnie Stieben, LaDonna Lawrenz, Don Berntsen, and Aaron Tjaden. George Rudy, Jerry Bolin and Doug Sharp were absent. The following City staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; and Janet Amerine, City Attorney. Others present at the meeting Donny, Suzanne & Triston Johnson, Ted & Brenda Reed, Angie & Kelly Beilefield, Brian & Jeni Logue, Mike & Bobbie Gannaway, Ruby Fisher, and David Coon, Residents; and John Riggs, Riggs Associates.

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1. Approval of Minutes of the Meeting of July 5, 2005

MOTION: The motion to approve the minutes was made by Berntsen, seconded by Tjaden and passed unanimously.

2. Hearing-Suzanne Johnson Zoning Change from Residential to Commercial

John Riggs, Profession Planner, stated that the Planning Commission is going to hold a Public Hearing to consider a change to the zoning map. Law requires the hearing in order to give the public a chance to express their opinions. The Planning Commission will make a decision and send a recommendation to the City Council. Riggs stated that the chairman will open the hearing and the public can speak either for or against the change to the zoning map; after which the chairman will close the hearing and then the Planning Commission will deliberate and make a decision. Riggs distributed a document "PROPOSED AMENDMENTS TO THE ZONING MAP Factors For Planning Commission Consideration."

Lonnie Stieben, Chairman, stated that he would first like to hear from anyone that is for the proposed change to the zoning map. Stieben requested Suzanne Johnson, the applicant for the proposed change, to speak first. Johnson stated that she and her husband live in the Viola area and own a photography studio in Wichita. She wants to move her studio closer to home and found a house for sale on S. Lee, which would be great as it has 10' ceilings and a nice yard. Johnson stated that she does indoor, outdoor, on location, and weddings. At the current time she is not that busy, but wants to build the business. Johnson

stated that her plans are to have the studio open 11 a.m. to 5 p.m., but may be open one night until 7. Johnson stated that she has been working really hard on fixing up the inside of the house and is preparing to paint the outside. Johnson stated that she did not see parking being a problem as she could park her car in the back and there would not be that many cars at one time at her studio. Ruby Fisher, neighbor to the north of the property, stated that she is pleased with the work that has been done on the house. Fisher stated that she does have one question for the Council. If in three or four years the Johnsons decide to sell the property would the new people have to come back to the Council for permission to use the property for some other type of commercial business? City Administrator Brown stated that if the property is re-zoned commercial then any business that is in that classification could purchase the property and set-up business.

Chairman Stieben stated that he would now take comments from anyone that is against the proposed change in the zoning map. Brenda Reed 129 S. Lee, the neighbor south of the property, stated that she has many concerns not only as a property owner, but also as a parent. Reed stated that there are 8 children in the immediate neighborhood under the age of 8 and is concerned about strangers coming and going from a business in the neighborhood. Reed stated that Lee is a pretty busy street, so the kids ride their bikes on the sidewalk and she does not want to worry about the kids interfering with the customers of a business. Reed stated that they moved from Wichita to Clearwater in order to raise their kids in a safe community and would not feel safe having strangers coming and going from next door. Reed stated that her second concern is property values. Reed continued to state since they purchased their home 10 years ago their property value has doubled. No one puts the time and effort in raising their property value to have it driven down by a business next door. Reed stated that her third concern is the parking. Only three houses have driveways, so everyone else has to park in the street. With the additional need for parking for a business she can see a real inconvenience to friends and family of the residents next to the business. Reed stated that the mailbox for the entire street is on the corner of the proposed property to be rezoned and she often sends her 8 year old to get the mail. Reed stated that her last concern is if the photography studio does not make it, what could the next business be on that property? Stieben stated that after receiving all of the comments he is going to ask John Riggs to address the use issue of the property as far as commercial zoning is concerned.

Mike Gannaway, neighbor across the street from the property, stated that the neighbors met and the majority of the neighborhood is clearly against the proposed change to the zoning map from residential to commercial. Gannaway stated that he has all of the concerns that have been stated, plus he wants to reiterate that the street was built so long ago that the only place for parking is along the street. Gannaway continued to state that if there is a business in the middle of the block, not only will it bring in strangers where the kids are playing on the sidewalk; the strangers will have to cross the sidewalk in order to get to the business. Gannaway stated that the patrons of the business would be consuming the on street parking so the residents that live close will have no other place to park. Gannaway stated

that he is concerned if the owners of the photography studio decide to sell what could go on the property. He was told that the next business could be a topless bar, dancing club, or tavern, as all were permitted under commercial zoning. Gannaway asked if this is correct? City Attorney Amerine stated that there have been some ordinances that preclude some of the information that Gannaway received. Amerine stated that adult activities have been regulated in another way, not through zoning. Stieben stated that in the last year the Planning Commission in working with John Riggs on the Comprehensive Development Plan has changed all zoning within the City of Clearwater to match the current use. Gannaway stated that he has nothing against the applicant or the photography studio, the neighbors just prefer that it not be in the middle of a residential neighborhood.

Kelly Bielefield 151 S. Lee, two house to the south of the property, likes Clearwater and feels it is a front porch community. Bielefield stated that he is not against the photography studio, but is concerned about the safety of his children with a business in the neighborhood. Bielefield stated that since the purchase of the property there seems to be certain changes in the feel of the neighborhood as you walk down to get the mail with an "Open/Closed" sign in the window. Bielefield stated with his own kids they get pictures taken every three months and there are usually at least three trips to the photographer before receiving the finished product. Bielefield stated that prior to the purchase of the property Suzanne Johnson spoke with Mrs. Bielefield telling her about the plans to purchase the house and put in a photography studio. At that time Mrs. Bielefield expressed her concerns that if the property is changed to commercial and the photography studio moves out, what types of business could then be in their neighborhood. Johnson stated that she did not know what could happen if they sell the property after getting the zoning changed, but she would check and get back with the Bielefields and never did. Bielefield stated that if the property is rezoned the neighbors lose their voice, so that is why they are here expressing their concerns. Bielefield stated that he does not think that the neighbors are out of line by speaking out as he thinks that most people in Clearwater would not want a commercial endeavor next door or even two houses away from their home. Bielefield continued to state that he wants what is best for Clearwater and he knows that the Johnsons have their dream, but his family dream is to live in a quiet safe neighborhood. Bielefield requested that the Planning Commission deny the request to change the zoning from residential to commercial. Chairman Stieben asked if there was anyone else that wished to speak, with no one else wanting to speak the public hearing was closed at 7:30 p.m.

Lonnie Stieben asked John Riggs if the photography studio is a home based business would the issue be different? John Riggs stated that in a "Home Occupation" the homeowner has to live in the house and it has to look and function like a residence. Riggs continued to state that a "Home Occupation" business that generates traffic is not usually allowed in a residential zone.

City Administrator Brown stated that the rules for considering a zoning change are

different than the rules for considering a zoning variance. Brown stated that the Planning Commission would make a recommendation to the City Council stating that there has been a Public Hearing with a comment period. The recommendation to the Council can either be to approve or deny the request to change the zoning from residential to commercial. Don Berntsen stated that the Planning Commission allowed a commercial development to be put on Fourth Avenue and it is now trying to become Main Street even the Post Office move to Fourth. Berntsen stated that is what happens when commercial is put in a residential area. Brown stated that Fourth being a section mile street is more in line to be commercial. Stieben stated that in order for the City to grow, the Planning Commission is going to be the group that helps that happen. Berntsen again stated not in residential areas and that he could never support the change. Brown stated that at some point every property is going to change hands whether by a sale or the passing of the owner. That is not the whole decision, but has to be taken into consideration. Aaron Tjaden stated that Lee Avenue has the advantage of being a wide street, but there is no in yard parking. Brown reviewed the property on both sides of the 100 block of S. Lee and the property across the alley in the 100 block of S. Tracy. Brown stated that the job of the Planning Commission is to make a recommendation to the Council whether to approve or deny the request from Suzanne Johnson to change the zoning on her property. Brown then explained that the Council could either approve or deny the request or send it back to the Planning Commission for more study. Chairman Stieben stated that the City welcomes Johnson's attempt to start a new business, but unfortunately it looks like it will not work out at that location. Suzanne Johnson stated that it is unfortunate that a person has to own the property before coming before the Planning Commission to see if a plan can be approved.

The Planning Commission briefly discussed the zoning for adult clubs and stores. John Riggs stated that they are only allowed in C-1 and C-2 by special use permit.

MOTION: LaDonna Lawrenz made a motion to deny the request from Suzanne Johnson to zone her property from residential (R1) to commercial (C2). Don Berntsen seconded the motion and it passed unanimously.

3. Subdivision Regulations

City Administrator Brown stated that John Riggs reviewed the package of Subdivision Regulations some time ago. Brown stated that there have been no changes made to the document. Brown continued to state that the Planning Commission could review the package again, table the discussion for a later meeting or send them on to the Council to adopt them.

MOTION: Don Berntsen made a motion that the Planning Commission send the Subdivision Regulations to the Council with recommendation for approval. LaDonna Lawrenz seconded the motion and it passed unanimously.

4. Other Matters or Concerns

City Clerk Wright read form a letter received from Jerry Bolin stating that it has been a pleasure to serve on the Planning Commission, but with his failing eyesight it makes it impossible for him to continue. Wright stated that she talked to Doug Sharp and he has moved outside the City of Clearwater and would no long be eligible to serve on the Planning Commission.

4. Adjournment

With there being no further business to come before the Commission, Tjaden made a motion to adjourn the meeting. The motion was seconded by Berntsen 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 August 2, 2005 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 4th day of October 2005.

Cheryl S. Wright, City Clerk