

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

**PLANNING COMMISSION MINUTES**

**MAY 1, 2007**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, May 1, 2007 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, George Rudy, Don Berntsen, Mike Machart, Les Langston, and Ryan Shackelford. La Donna Lawrenz 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 March 6, 2007**

**MOTION:** The motion to approve the minutes was made by Les Langston, seconded by Mike Machart and passed unanimously.

**2. New Planning Commissioner – Ryan Shackelford**

Planning Commission Chairman Lonnie Stieben introduced Ryan Shackelford as a new Planning Commission member.

**3. Zoning Variance Hearing**

City Administrator Brown stated that Chisholm Ridge is a Planned Unit Development (PUD). This means there was an agreement between the developer and the City of Clearwater for a variance from the normal in the City. One of the variances given was in the size of lots in exchange for having more green space or a common area. The (PUD) was approved in 2003 by the Planning Commission and City Council and 10 ft. side yard setback were allowed instead of the normal 12.5 ft. side yard setbacks. Brown continued to state that a new builder to the city submitted a building permit to City Hall and the building permit was issued. The builder poured the cement for the foundation. City Hall then received a complaint that the side yard setbacks were not correct. After reviewing the plan submitted by the builder it was determined that it has an 8.5 ft. side yard setback on both side of the house, which is under the allowed 10 ft. side yard setback in the PUD. The Commission briefly discussed the way a new builder is to determine the setbacks in a PUD since each PUD could be different. The Commission determined that it is the responsibility of the developer to inform any builder of the setbacks in his PUD. The Commission

continued to discuss the possibilities of how the setback issue could be handled. City Attorney Amerine stated that the Commission has to issue findings on the five statutory conditions of the appeal. The Commission has to unanimously support all five conditions or the variance has to be denied.

- |    |  |   |
|----|--|---|
| A. | <b><u>Uniqueness</u></b>                     | Unsupported It is a commonly shaped lot in the development with vacant lots on either side. |
| B. | <b><u>Adjacent Property</u></b><br>adjoining | Unsupported The variance will affect the 2 properties                                       |
| C. | <b><u>Hardship</u></b>                       | Supported Will cost builder money because basement already poured.                          |
| D. | <b><u>Public Interest</u></b>                | Supported The public interest is only marginally affected                                   |
| E. | <b><u>General Spirit/Intent</u></b>          | Unsupported The issue of side yard setbacks is a hot topic Clearwater has unique setbacks   |

**MOTION:** Mike Machart made a motion to deny the request for a variance because all five statutory conditions were not met. George Rudy seconded the motion and it passed on a roll call vote of 6 to 0.

The Commission suggested that staff send a letter to the parties involved giving the following options:

- 1) Purchase a foot and half from each of the neighboring lots. The Planning Commission would look favorably on any lot split that was put before them.
- 2) Change the foundation
- 3) Appeal the decision to District Court

**4. Other Matters and Concerns**

The Planning Commission received a notice from Sumner County of a Zone Change of two (2) "A-2" Agricultural District tracts to "A-1" Agricultural District. After a brief discussion, the Commission that it is far out of the Clearwater area of influence, so no action taken.

**5. 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 Don 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 May 1, 2007 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 5th day of June 2007.

\_\_\_\_\_  
Cheryl S. Wright, City Clerk