

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

PLANNING COMMISSION MINUTES

October 2, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, October 2, 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, Ryan Shackelford, Mike Machart, and Les Langston. 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 were: Jennifer Arnold, Executive Director Chamber of Commerce; David FitzGerald and Lyle Berntsen, Council Members; Shirley Palmer Witt, Penny Johnson, Lynn Fleming, and Matt Eck, Real Estate Agents and Developers; Keith & Jamie Tjaden and Cody & Ashley Gerberding, citizens.

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1. Approval of Minutes of the Meeting of September 4, 2007

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

2. Hearing Amendment to the City's Zoning Ordinance at Article XXVII Establishing Exceptions to Yard Setbacks for Residential Zones

Chairman, Lonnie Stieben requested that City Administrator Brown review the events leading up to the public hearing. Brown stated that a couple of meetings ago Mike Machart brought up the fact that in the Zoning Ordinance it states "The setback line for yard requirements shall be determined by measuring the horizontal distance from the property line to the nearest architectural projection of the building." At the last meeting John Staton, Sedgwick County Code Enforcement, reviewed the procedures for the inspectors, how setbacks are checked and what is involved. The Commissioners reviewed setback exceptions from Colwich, Valley Center, and Wichita/Sedgwick County. The Commission chose to model setback exceptions in the same manner as Wichita/Sedgwick County. At the last meeting the Commissioners reviewed the permitted exceptions and they either changed, eliminated, or accepted each item, coming up with their list of permitted exceptions for Clearwater. Brown then reported that the list of exceptions allowed in setbacks was presented to the Council for review. The Council agreed with some of the list and had a definite displeasure with some of the items on the list. Brown then stated that after the

Council meeting staff looked at the old Zoning Ordinance and found that there were permitted obstructions and they were left out of the new ordinance. Brown stated that any change to the Zoning Ordinance requires a public hearing. After the public hearing the recommendation from the Planning Commission is sent to the Council by the way of a formal ordinance.

At 7:29 p.m. Chairman Stieben opened the public hearing stating that anyone in the audience that wishes to speak may do so. Penny Johnson stated that she sells real estate and that people are going to choose their place to live and the schools for their children to attend. If people want to live in the Clearwater area and if they cannot build their kind of house in Clearwater city limits they will build outside the City. When that decision is made Clearwater loses the tax revenue for the library, pool, park, streets, and etc. Johnson stated that the setback of 12.5 ft. is extreme and way larger than any city in the vicinity and none are as strict as Clearwater. Johnson stated that the exceptions presented tonight are not extreme and thinks that the City should be reasonable, as these exceptions will not create our town to be cluttered or undesirable. When there is 25ft. between houses a 2 or 3 ft. eave or bay windows is going to hurt nothing, it is like micromanaging the public that we serve.

Matt Eck, Real Estate developer looks at cities that have reasonable standards. Clearwater is losing people to places like Cheney that is farther from Wichita than Clearwater. Cheney has adopted the Sedgwick County standards. Eck continued to state that Park Glen would not have been developed by anyone other than someone with ties to Clearwater, because with the standards that Clearwater requires there is no way, but to lose money. Eck stated that he would not develop any area with setbacks over 8 feet.

Keith Tjaden stated that he and his wife have purchased a lot in Park Glen and want to build a house, but if the exceptions are not approved his house would not fit on the lot. Tjaden stated that he could build his house in the country, but they prefer to build in town. The plans they picked out they saw in Wichita on an 85 ft. lot and it fit, but it will not fit in Clearwater. If the exceptions are not approved they will have to redraw their plans. Tjaden stated that he drove down Maize Road and 15 out of 20 houses have cantilevers. Amerine questioned if they would have to reduce the square footage in the home if the exceptions are not approved. Tjaden stated the square foot would have to be reduced a little, but that is all right. Stieben asked Tjaden if he and his wife were not from Clearwater would he have the same attitude about making the changes. Tjaden stated that if he knew that the exceptions would not be added, he would not have bought the lot.

Jennifer Arnold, Executive Director Chamber of Commerce, stated that she repeatedly sees people coming in and looking at our community and then choosing other communities over Clearwater. The community needs additional taxpayers and customers for our businesses. When a City loses a business they also lose a part of the quality of life. It is hard to bring in new business, because there are not enough people to attract a new business.

Arnold stated that 15 years ago people went to a community because of the look and schools. That is not the case anymore, they are researching on the Internet and many small communities are advertising to bring people to their community. The marketplace is very competitive and Clearwater needs to start being competitive with other smaller communities. We need the taxpayers and we need the customer base.

Shirley Palmer Witt stated that she sells real estate, but has also lived in the Clearwater/Conway Springs area for 38 years. Clearwater has controlled growth or it would not be less than 1% growth. Surrounding towns that we try to compete with for business are embracing the standard for growth, why would we be any different?

Ryan Shackelford stated that the setbacks in Clearwater have always been a problem as far as growth is concerned. The setbacks required hurt growth and in obtaining an Industrial base.

George Rudy stated that most people when looking between the houses they cannot tell how big the eaves are or how far apart the houses are except that they are pretty far apart. Rudy stated what is the difference between planting bushes around the air conditioning unit or having window wells or cantilevers. The Commission continued to discuss setbacks, cost of building the infrastructure in a development, and the cost of specials in Clearwater compared to other cities.

At 8:05 p.m. Lonnie Stieben closed the Public Hearing. City Attorney Amerine stated that she is disappointed in herself that she did not realize when the new zoning was being discussed and reviewed that the exceptions in the setbacks were left out of the new Zoning Ordinance. The exceptions in the old Zoning Ordinance are more restrictive than the exceptions that the Planning Commission is proposing to be added to the new Zoning Ordinance.

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Features allowed within setbacks. The following structures and features may be located within required setbacks:

- a) Trees, shrubbery or other features of natural growth;
- b) Fences or walls that do not exceed six feet in height as measured on the side of the fence with the least vertical exposure above finished grade;
- c) Driveways, patios and sidewalks;

- d) Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings that do not project more than two feet into the required setback and extend no more than 6 feet in width;
- e) Eaves that do not project more than 2 feet into the required setback;
- f) Open outside stairways, decks, entrance hoods, terraces, canopies and balconies that do not project more than five feet into the rear setback nor more than two feet in a required side setback;
- g) Chimneys, flues and ventilating ducts that do not project more than two feet into a required setback and when placed so as not to obstruct light and ventilation;
- h) Open, unenclosed porches and carports that do not project more than five feet into a required rear setback;
- i) Utility lines, wires and associated structures, such as power poles;
- j) Window wells not over 8” above grade may project a maximum of 44” including all structural elements;
- k) Condensing units may be placed in setbacks;

MOTION: George Rudy made a motion to recommend to the Council to adopt an ordinance changing the current Zoning Ordinance to include features allowed in setbacks. Ryan Shackelford seconded the motion and it passed on a roll call vote of 4 to 2. George Rudy, Ryan Shackelford, Don Berntsen, and Lonnie Stieben voted for the motion and Les Langston and Mike Machart voted against the motion.

3. Hearing Zoning Change from Residential (R1) to Residential Low Density District (RL)

At 8:15 p.m. Lonnie Stieben opened the Public Hearing for the purpose of changing the zoning for a property in Prairie Meadows Estates. City Administrator Brown stated that the default zone for any annexation is R-1 (Residential Single Family). A public hearing is required to change the zoning from the default zone to the correct zoning for the property. The lots with acreage north of Clearwater are zoned at R-L (Residential Low Density) in order to allow for larger accessory structures, animals, a lagoon, and some other differences from city lots. City Clerk Wright reported that she received no opposition from any of the neighbors. At 8:20 p.m. Lonnie Stieben closed the public hearing.

MOTION: Don Berntsen made a motion to approve the change of zoning from R-1 to R-L on the property in Prairie Meadows Estate. Mike Machart seconded the motion and it passed unanimously.

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 Ryan Shackelford 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 September 4th Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 2nd day of October 2007.

Cheryl S. Wright, City Clerk