

CITY OF CLEARWATER, SEDGWICK COUNTY, KANSAS

PLANNING COMMISSION MINUTES

JUNE 5, 2007

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, June 5, 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. The following City staff members were present: Kent Brown, City Administrator; Cheryl Wright, City Clerk; and Janet Amerine, City Attorney. Other attending the meeting was: Larry and Lisa Hastings, Cory Carter and Tasha Heina citizens.

1. Approval of Minutes of the Meeting of May 1, 2007

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

2. Resignation of LaDonna Lawrenz

City Clerk Wright stated that the first Council meeting in May is the time for appointments for boards and commissions. LaDonna Lawrenz's term on the Planning Commission was up and she decided not to serve another term. Lonnie Stieben stated that would leave an opening on the Planning Commission for someone that lives outside the City, but in the area of influence.

3. Additional Height Variance Hearing-Fence

Larry Hastings addressed the Planning Commission stating that the elevation of his lot is 4 to 6 ft. lower than all of the lots around his property, making a six-foot fence look like a 3 to 4 ft. fence. Hasting stated that he wants to go with an eight-foot fence so his family would have some privacy. City Administrator Brown stated that all of the neighbors have been contacted and staff has heard nothing from them. Brown referenced Section 2.5 - Fences page 106 of the Zoning Ordinance. It states "No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet; provided, however; that the Board of Zoning Appeals may, by exception, authorize the construction of a fence higher than six (6) feet if the Board finds the public welfare is preserved." The Commission briefly discussed the fence. City Attorney Amerine stated since the issue was presented as a variance that the

Commission has to issue findings on the five statutory conditions of the appeal.

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| A. | <u>Uniqueness</u> | Supported Elevation of property involved |
| B. | <u>Adjacent Property</u> | Supported Notice sent and no evidence of adversely affected |
| C. | <u>Hardship</u> | Supported 6 ft. fence provides no privacy |
| D. | <u>Public Interest</u> | Supported The public interest is only marginally affected |
| E. | <u>General Spirit/Intent</u> | Supported Zoning code states there might be instances where fences could be over 6 ft. |

Lonnie Stieben stated that all five conditions have been supported and asked that all in favor signify by saying aye. Stieben then stated that on a vote of 6 to 0 the additional height variance for an 8 ft. fence is approved.

4. **Modification of Plan for Chisholm Ridge (PUD District)**

Lonnie Stieben stated that this is a revisit of the variance in Chisholm Ridge that was denied at the last meeting. City Administrator Brown reviewed some of the proceedings from the previous meeting stating that a plot plan was presented and a building permit was issued. Later it was brought to the attention of staff that the side-yard setbacks are 8.5 ft. instead of the allowed 10ft. The Planning Commission denied the variance and offered alternative suggestions, none of which would work for the lot owner. Cory Carter attended the Council meeting requesting help with his problem. In the meantime Don Mertens, developer of Chisholm Ridge, suggested to modify the Planned Unit Development (PUD) Plan making the side-yard setbacks on the two neighboring lots larger. Brown stated that he talked to City Attorney Amerine and Professional Planner John Riggs concerning the modification to the PUD. Riggs told Brown that this would be a legal instrument filed with the Register of Deeds and could only effect three (3) lots. Brown stated that the Modification to the PUD has to be approved by the Planning Commission with recommendation to the Council to also approve the Modification to the PUD. The Planning Commission discussed at length the original problem and how it happened and the suggested way to resolve the setback issue. The Planning Commission wanted to make sure that staff had a way of referencing that there is a modification to the PUD in Chisholm Ridge. City Clerk Wright assured the Commission that it would be well documented in City Hall. Mike Machart stated that he did not understand since the variance was denied how they could come back with another tool and get the same thing they originally wanted. City Attorney Amerine stated this is not a variance, but a legal tool and it follows state statute allowing

modification to an existing PUD if requested by the developer. Amerine continued to state that it is not a variance although it may accomplish the same thing it is a completely different procedure. City Attorney Amerine stated that she noticed that Don Mertens has not signed the Modification to the PUD in Chisholm Ridge.

MOTION: Don Berntsen made a motion to approve the Modification to the PUD and send it on to the Council with recommendation to approve if it has been signed by Don Mertens. George Rudy seconded the motion and it passed with Don Mertens, George Rudy, Lonnie Stieben, and Ryan Shackelford approving the motion and Les Langston and Mike Machart voting against the motion.

4. Other Matters and Concerns

City Administrator Brown distributed a map provided by Wichita-Sedgwick County Metropolitan Area Planning Department (MAPC) describing changes to the boundary map. Brown stated that there are no proposed changes to the Clearwater boundaries.

5. Discuss Meeting Date for July

City Administrator Brown stated that the next scheduled meeting for the Planning Commission is July 3rd. After a brief discussion, it was decided to move the July meeting to Monday July 9th.

6. 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 Machart 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 June 5, 2007 Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, this 9th day of July 2007.

Cheryl S. Wright, City Clerk