

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

**PLANNING COMMISSION MINUTES**

**OCTOBER 7, 2008**

The regular meeting of the City of Clearwater, Sedgwick County, Kansas, Planning Commission was held on Tuesday, October 7, 2008 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, Ryan Shackelford, Don Berntsen, 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 were: Bob Herlihy, Selective Site Consultants, Inc.; Don & LaDonna Lawrenz, Chuck Garretson, Art Gentry, and Bill Hammers, citizens.

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**1. Approval of Minutes of the Meeting of September 2, 2008**

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

**2. Hearing for Zoning Variance and Special Use Permit Requested by Verizon Wireless**

At 7:03 p.m. Lonnie Stieben opened the Public Hearing. Stieben excused himself from the discussion since he is an employee of Southern Kansas Telephone Company, which is a service agent for Verizon. City Administrator Brown stated that the City received a request to construct a 200 ft. wireless communication tower in the east half of the NW Quarter of Section 23. The location is on the west side of north Tracy Avenue across from the cemetery. Brown continued to state that the city code only allows towers up to 80-foot and in order to construct a 200-foot tower there has to be a variance granted from the 80-foot requirement. Bob Herlihy, Selective Site Services reviewed the exact location of the tower on the property. There has been an explosion in use of cell phones and especially data transmission in the last five years. There have been requests for data service from not only people from the roads and streets, but also for in home and in business coverage. Herlihy reviewed that Clearwater does not have in home coverage and barely has in car coverage. The proposed tower would give all of Clearwater in home and building coverage and would provide the same coverage north to about K-42. Herlihy stated that on the tower south of Clearwater the 180-foot space is being used leaving a 165-foot space available, which is a located 1-½ mile south of the proposed location. This would not give the seamless quality signal for the Clearwater area that is required. Congress has mandated that all carriers provide enhanced 911 coverage. Verizon has the Clearwater tower in the budget and are

ready to get a building permit and construct the tower. Herlihy stated that ATT is looking in the Clearwater area and would need even a taller tower than the 200-foot requested by Verizon. Herlihy stated that if ATT was interested in using the Verizon tower then ATT might request the Planning Commission to approve an extension to the Verizon tower. The Commission had a lengthy discussion concerning co-location on other towers finding that there is not an existing tower that would give the coverage required. Bill Hammers stated that he owns the property east of the proposed construction site and is in favor of the tower not only as a landowner, but also as a business owner. Hammers stated that the only way to get covering using his Verizon Broad Ban is to go outside on his patio. Don Lawrenz stated that he owns property close to the location of the proposed tower and is in favor of the Planning Commission granting the exception. Art Gentry stated that he is in favor of the tower and as a business owner he travels over 27 counties and has to have cell phone coverage. The problem with the tower located south of Clearwater is that it is Sprint based and it does not cover many of the gaps. City Clerk Wright stated that she only received one call that was not in favor of the proposed tower and their concern was more of co-location. At 7:30 p.m. Don Berntsen closed the Public Hearing. City Attorney Amerine stated that the Planning Commission should first discuss the variance. Brown stated that the variance being requested is for a 200-foot pole when only an 80-foot pole is allowed in the Telecommunication Code.

Uniqueness – Supported - Large portion of the property is undeveloped agriculture land and 200-foot pole will not have as much of an effect as if the property was smaller.

Adjacent Property – Supported - No other property owner within 200-foot fall zone

Hardship – Supported – Holding Verizon to a 50-foot tower would make it not feasible to build the tower, as it would not perform the function of a 200-foot tower.

Public Interest – Supported – Public comment at the meeting shows interest in construction of a Verizon tower

General Spirit/Intent – Supported – The intent of the code is for the public to have a chance to voice their opinion. Facts have been presented that co-location is not possible.

**MOTION:** Les Langston made a motion to approve the variance for a cellular communication tower in Agriculture Zone on the east half of the Northwest Quarter of Section 23, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M. Mike Machart seconded the motion and it passed unanimously.

City Administrator Brown stated that the Planning Commission may issue a Use Permit provided that it has been determined that all requirements have been satisfied. The proposed benefit and need for the tower is greater than any depreciating or damaging effects to the neighboring properties. The Commission reviewed that most of the requirements were discussed in granting the variance. Brown stated that the Use Permit is to allow a 200-foot tower in an Agriculture Zone.

**MOTION:** Mike Machart made a motion to approve the Use Permit to Verizon for a 200-foot cellular tower with landscaping as presented. George Rudy seconded the motion and it passed unanimously.

**3. Special Use Permit Gannaway Property 149 N. Grant Avenue**

Tabled until another meeting.

**4. Other Matters and Concerns**

City Administrator Brown stated that the Planning Commission should review the Electronic Communication Towers City Code compared to the Zoning Code, as there are some discrepancies. Another item for future discussion is semi's parking on the City streets.

**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 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 October 7th Planning Commission meeting.

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

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Cheryl Wright, City Clerk