

July 2, 2014 Planning Commission Meeting

The Eudora Planning Commission met in regular session on Wednesday evening, July 2, 2014 in the Eudora Municipal building. Five members were present: Chairman Kurt von Achen, Glenn Bartlett, Jason Hoover, Tim Pringle and John Stewart. Richard Campbell and Grant Martin were absent.

Also present were Codes Administrator Curt Baumann, Consultant Scott Michie of Scott A. Michie Planning Services, City Manager Gary Ortiz, Barack Matite, several members of the Wilson and Livingood families, Jeff Ingle, Pastor of the Eudora Baptist Church and several of his congregation.

Chairman von Achen called the meeting to order at 7:00 pm, the pledge of allegiance was recited and the minutes of the June 4, 2014 meeting were approved as circulated. von Achen then gave a hearty welcome to the new City Manager, Gary Ortiz, and invited him to speak.

Ortiz, stating that he was a part product of a private school where he was taught to stand whenever he spoke, gave his report from the podium. He said he understood from retiring City Manager, Mike Press, that the Planning Commission upholds the quality and standards of the city. He said he appreciates and respects volunteers and he knows "you certainly don't do it for the pay." He assured the commission that their recommendations to the Governing Body will be deliberated and respected.

Ortiz said the City Commission is dialoguing about new conceptual signs and they have contacted four companies for input. The work on the Shadow Ridge Park is progressing and the playground equipment should be installed the 8th, 9th and 10th. He said the manufacturing company will have a representative on hand to oversee the work. He said the Commission is considering adding a sales tax, and that the State Parks and Wildlife employees are working with Director of Public Works Hutto about improving the Wakarusa River access; perhaps some paving, cutting brush and a kiosk.

The Building Inspector's report listed 28 permits issued in June for a total of \$344,815. This included one new dwelling valued at \$235,100 and Codes Administrator Baumann said an application for a second house is only waiting on site plan work.

No member of the public spoke during the public comment period so Chairman von Achen called for the first item on the agenda: a public hearing on an application by Robert Wilson, Joseph Robert Wilson Jr. and Harry Harlan Livingood, all of Eudora, for a zoning map amendment of a 9.24 acre parcel of recently annexed land on West 20th Street from R-A, Residential Agriculture, to R-S, Residential Single-Family. He asked Consultant Michie to address the topic.

Michie said staff found that this rezoning application for an existing long-standing residence on a newly annexed parcel of land and two adjacent long-standing agriculture parcels on adjacent land are found to be appropriate zoning map amendments to bring these recently annexed land uses into zoning compliance.

Michie reminded the Commission that the application petitioning for annexation was several years ago in exchange for city water line service. During the extremely hot and dry summer the well on the property had gone dry. An 8" water line was extended west on the south side of West 20th Street and the landowners had dedicated public street right-of-way for the infrastructure extension. Sewering was

not extended as the house was served by a septic system. The 9.24 acre parcel had been subdivided long ago when it was in the county, and the small size of the parcel did not conform to the city's R-A Agricultural Residential District lot requirement.

Michie said this application is consistent with the city's Future Land Use Plan in the city's Long Range Comprehensive Plan. The chairman opened the public hearing, declared a quorum present and asked for comment from the landowners.

The first person to speak was Phillip Wilson, who said Robert Wilson has moved away and that he, Phillip, is now owner of the property. David Livingood approached the podium and attempted to explain what seemed to be a rather tangled ownership. He said Harlan Livingood whose name was on the original application, died about six years ago. It further developed that the present trustee for the Livingood Trust is David's sister, Amy Livingood Rogers, and her name was on none of the applications.

Amy Livingood Rogers said she remembered being notified of the annexation, and she thought she filled out papers in March, but learned the annexation had taken place in January. She said that at the time her mother was dying and she paid little attention to the property.

Allen Belot came next to the podium. He said he filled out the zoning and plat applications for his clients, Robert and Phillip Wilson. "I was trying to figure out why the plat hadn't moved forward," he said. You returned it due to unapproved zoning problems and it apparently got lost in the shuffle. I am just acting as a facilitator. Somebody had to fill out the application, so I did it. Maybe this is just a housekeeping matter, he suggested.

Commissioner Tim Pringle said that he remembered the annexation taking place, and he had gotten out his old notes. He said the Planning Commission had several unanswered questions at that time. For one thing, it looked very much like two of the three signatures had been signed by the same person. Also, that long narrow 100 by 800 foot strip looked like it might have been intended for a road but it was not a road and it looked like the actual building lots were landlocked. Have there been any changes since the sale, he asked? Is the strip currently being farmed?

The answer was that, Yes, it currently is being farmed, and at this point we have no plans for development.

Pringle asked Michie if the trust would still be able to farm the long strip if it is rezoned and the plat is approved? Michie said agricultural crops can be grown in residentially zoned ground, but no livestock can be raised there.

von Achen remarked to Michie that the plat is dated June 2014, but Amy Rogers name is not on it. He asked if staff considered the plat but not the ownership?

While the chairman and Michie were conferring the members of the families were also talking and studying the plat.

At this point, the public hearing was still open and the Pastor of the Baptist Church, Jeff Ingle, came to the podium. He said their congregation owns more land on West 20th Street and they plan in Phase 2 to

build an educational building, and then eventually to enlarge their sanctuary in Phase 3. He said they were afraid a road on the narrow strip would encroach on their property.

von Achen asked if the Baptist Church property was all platted? Ingle said it was. "Then you have nothing to worry about," von Achen told him. If it becomes a road it should not affect you as they cannot touch your platted land.

von Achen asked if there were any more comments or questions? Someone in the applicant's family said that they had it resolved, so the public hearing was closed and the chairman brought it back to the table for the Commission to consider.

Johnny Stewart asked about the Rogers name missing from the plat. von Achen replied that the Commission would consider that with the plat.

Tim Pringle said that since all parties seem to be satisfied he would move to recommend the change of zoning to the City Commission from R-A, Agricultural Residential to R-S, Single-Family residential. Jason Hoover seconded the motion and the vote was unanimous in favor, 5-0.

von Achen then said the Commission would switch the agenda a bit and go ahead under new business: Consider approval of a final subdivision plat of Wilson-Livingood, a 9.24 acre parcel of recently annexed land on West 20th Street. This is not a public hearing item, he advised. He asked Consultant Michie for his comments.

Michie said the land was divided into parcels in the county long ago and this will fulfill the annexation agreement of several years ago. In his memorandum to the Commission, Michie had noted that the owners of Lots 1, 2, & 3 agree not to protest the formation of Special Improvement District , per K.S.A. 12-6a01, ET SEQ. for improvements of 20th Street, if petition for the same is initiated by the City of Eudora, Kansas.

Michie also noted that Lot 1 and Lot 2 contains a right of way easement recorded August 3, 2007, in Book 1026, page 3118, to rural water District No. 4, Douglas County, Kansas, for construction and maintenance of water lines. Said easement is 30 feet in width and 15 feet each side of pipeline as laid.

von Achen told Amy Rogers that her name will be put on the plat if the Planning Commission approves it.

Johnny Stewart moved to approve the final plat and to recommend acceptance of the easements and rights of way, to the City commission contingent on Amy Livingood Rogers's name being appended to the plat as Trustee of the Livingood Trust. Tim Pringle seconded the motion and the vote was unanimous in favor, 5-0.

The final item on the agenda was consideration of a zoning text amendment by the City of Eudora for permitting in the DC Downtown Commercial district the full array of residential uses, by right or by Use Permitted Upon Review. von Achen asked Michie for his comments.

Michie said staff recommends two amendments:

1. Allow reconstruction of destroyed existing uses by right, and

2. Allow applicants to seek UPURs for infill redevelopment of Downtown Commercial lots and land parcels.

This is a zoning district intended to allow commercial and mixed uses and services compatible with the historic downtown of the city. The district is generally located between 7th and 9th Streets on the north and south, and Elm and Maple Streets on the east and west.

Under Uses Permitted this amendment adds "and reconstruction of any existing building, structure or improvement that is damaged by fire, explosion, act of God, or the public enemy through no fault of the property owner provided that the reconstruction is for the previously existing use, along with any expansion that may be approved by UPUR under this section 16-307".

And any infill development or redevelopment of a use permitted in the R-S, R-T, and R-M Districts, in accordance with the provisions contained in section 6 of this article.

Stewart said he understands the rules as they apply to houses back of Main Street, but suppose the Commission thinks it might be best to specify some lots on Main Street only for commercial use?

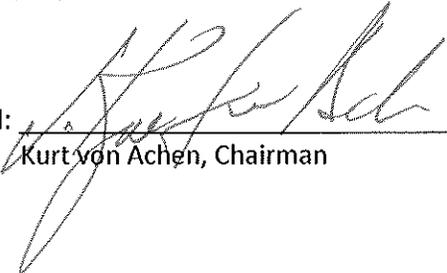
Michie told him that if you think some lot or lots need to be saved for commercial you could mark them as such on the Comprehensive Plan.

Jason Hoover moved to recommend to the City Commission the zoning text amendment as drafted. Glenn Bartlett seconded the motion. The vote was unanimous in favor, 5-0.

Hoover had a question someone had posed to him. He asked what the city has planned for the SE corner of West 20th Street and Wakarusa Drive. Michie replied that the Comprehensive Plan shows commercial there. This triggered a discussion of whether or not there ever will be an entry and exit to K-10 there, as hoped for some years ago. Consensus was that it probably never will happen, as the decision is with KDOT, they don't have the money, the city would have to sacrifice a house or two in the development there and KDOT says it is too close to the intersection on Church Street.

Hoover asked Michie if the city thinks it should still be zoned commercial there, if the intersection never becomes a reality? Michie answered "Probably not."

Jason Hoover moved to adjourn, Johnny Stewart and Tim Pringle both seconded the motion and the meeting adjourned at 8:00 pm.

Signed: 
Kurt von Achen, Chairman

Signed: 
Marjorie Gronniger, Secretary