

## **AUGUST 3, 2011 PLANNING COMMISSION MEETING MINUTES**

The Eudora Planning Commission met on Wednesday evening, August 3, 2011 in the Eudora Municipal Building. Six members were present: Chairman Kurt von Achen, Vice Chairman Richard Campbell, Ken Adkinson, Glenn Bartlett, Grant Martin and Erica Spurling. John Stewart was absent.

Also present were Consultant Scott Michie of Lochner/BWR, Codes Administrator Curt Baumann, Economic Director Colin Bielser, Reporter John Schulz, and Eric Ganson. City Administrator John Harrenstein arrived later in the meeting.

Chairman von Achen called the meeting to order at 7:00, the pledge of allegiance was recited, and the minutes of the July 6, 2011 meeting were approved as circulated.

The Building Inspector's report showed one permit for a new single-family residence issued to Carlson AMD Homes at 709 Bobwhite Circle with a valuation of \$353,000. Also listed were one single-family remodeling and one addition, plus one commercial remodeling and one commercial addition. Total permit values for July were \$513,511 and total fees were \$25,394.68. Baumann said this made three new home permits so far this year.

At this time there was no report from the city administrator and no public comment, so the chairman called for the first item on the agenda, a public hearing to consider an application for a Use Permitted Upon Review, submitted by Java to Go, LLC for a drive-thru coffee shop as an accessory use to the commercial center at the southeast corner of Church and 14<sup>th</sup> Streets.

At this point commission member Erica Spurling, who is the owner of Java to Go, said she would step down and she left the table. The chairman asked Consultant Michie for his comments on the application.

Michie said the small 8'x8' building does not meet the required setbacks, as it is not 200 feet from the residentially zoned property to the north across 14<sup>th</sup> Street. It is 105 feet from the residential district and about 130 feet from the nearest residence across the street. He said the planning commission should decide whether the spirit and intent of distancing outdoor accessory buildings from neighboring residences is met at the current location, or if not, whether the building can/should be moved to another area of the commercial center.

Under sub-section 16-306 (5) (b) of the Zoning Ordinances Michie noted the building is not set back the required 20 feet from the front (Church Street) property line. He said it is about eight feet east of the front lot line, roughly in line with the Market sign. Approving the building with only eight feet of front yard setback still leaves it 78 feet from the center line of Church Street. By comparison, Michie said, the Dairy Queen and Subway buildings are 40-45 feet from the center line of 15<sup>th</sup> Street.

Michie said the planning commission should decide whether the extra width right-of-way on the east side of Church Street allows the applicant to meet the spirit and intent of providing adequate setbacks of all buildings (including outdoor accessory sales uses) from the street, or, if not, whether the building can/should be moved back from the front property line to better meet the standard.

Michie's conclusion was to recommend approval if the planning commission finds the spirit and intent of distancing small accessory sales uses from neighboring residences is met at the current

location; if they find the extra width right-of-way on the east side of Church Street allows the applicant to meet the spirit and intent of providing adequate setbacks of small accessory buildings from the street, given that Java to Go is 78 feet from the center line of the street, and that the building cannot or should not be moved back from the property lines to another area of the commercial center to meet the literal requirements of the zoning setback standards.

Michie commented that this is an example of the Planning Commission having plans and guidelines, but you are asked to fit things into the actual world. Michie said he believes the purpose of the regulations is met, and it would be dicey to try and move the building east and south which would put it much nearer the parking spaces for the center.

Ken Adkinson said he has several problems with the application; not the setbacks especially, but the fact that there are no pavement markings and he has seen cars pull up to the drive-in window both from the south and from the north, and the fact that a pole was set to provide electricity and for looks sake it should have been an underground service. He also asked if the building has water and sewer connections?

Considerable discussion followed as to whether water and sewer are required in an accessory building. Eric Ganson came forward to answer questions. He said water is provided daily in a tank and waste water is carried away in a tank. The conclusion seemed to come down to interpretation of the various provisions concerning accessory buildings.

Richard Campbell said he would think that a temporary use wouldn't require sewer and water hookups. Ganson said they do plan for it to be year around, so Campbell added that it may be a permanent use but it certainly is not a permanent structure.

Michie pointed out that "development" means "in the ground" foundation, and this is not a development, it is an accessory use.

Bartlett asked if there are any plans for an exterior use, like a picnic table? The answer was "No"

Grant Martin commented that the signage at the building is set up so that the front of the car should be to the north. Spurling said that the back of the sign says "Exit Only" and she added that they have it arranged so that walk-up traffic and kids from the pool will not be endangered by the vehicles.

Adkinson said he has another problem. He asked what the commission will do when someone else wants something similar? Suppose the large parking lot planned by the Family Dollar store has an application for an accessory use, he asked? He added that a site plan did not come to the commission because of the moratorium, but he said "We should have had a site plan".

At this point Administrator Harrenstein having arrived, pointed out that the commission also needs to consider that Church Street will eventually be widened, and if this accessory use is still there it will probably have to be moved then.

The chairman called for opening the public hearing but no one was present to speak either for or against the application, so he immediately closed the hearing and brought the subject back to the table.

Campbell remarked that there are apparently two considerations; their use of the building and our interpretation of our ordinances. Maybe we need to change our regulations, he suggested. Von Achen responded that the ordinances can be changed but not tonight. Campbell said this should be remembered when we go over the ordinances and the comprehensive plan.

Campbell moved to approve this Use Permitted Upon review with the stipulation that If Church Street is ever widened then this UPUR will be revisited at that time, and that a directional arrow be placed in the parking lot so the signage does reflect the proper vehicle direction, but no parking stripes are necessary. The arrow size and placement will be decided by staff.

Grant Martin seconded the motion and the vote was 4-1 in favor of the motion, with Adkinson the nay vote.

Ms. Spurling returned to the table.

Chairman von Achen invited Administrator Harrenstein to make his report. Harrenstein said most of the City Council work has been in preparation of the 2012 budget, but that they are considering one item of interest, whether to allow fowl within the city limits. He said the topic arose when it was learned quail were being raised in the city.

Glenn Bartlett asked about the demolition of the school building at 10<sup>th</sup> and Main? Harrenstein replied that two outbuildings have been removed but there was a misunderstanding about the need for a security fence before destruction begins. As soon as the fence is in place the demolition will proceed. He said they are not going to crush the material on site but will haul it away first.

Grant Martin asked if there was any news about the sand pit application? Harrenstein said he had heard nothing official.

“Old Business” was to consider issues relevant to the annual review of the Comprehensive Plan and to set a public hearing for updating the plan and the Zoning regulations. Michie said he is concerned with the level of improvement standards required by city regulations, especially the curbing and guttering of parking lots and off street parking. He suggested that the regulations written into the Nottingham Development Guidelines on page 7 could be included in the ordinances.

The chairman said he has a problem with one thing in those guidelines; the 15 foot pole lighting requirement. He said he thinks 15 feet is way too short and they should be 30 feet. He said the regulations can require no more than one foot candle of illumination to spill over the property line and that lighting engineers can run the figures on that. Michie agreed that maybe 15 is too short but he would prefer 25.

von Achen said that for the last 15 years he has always curbed and guttered lots he designs, and the new hospital is an example of how nice it looks, while you can see on the entrance road where there are no curbs that erosion is already taking place.

Campbell agreed regulations may be needed, but warned the commission not to get carried away, that some locations are grandfathered in. Michie said that regulations should have a clearly defined tipping point, for example the percentage of remodeling or addition that will trigger parking improvements.

Von Achen and Spurling both said they will not be present for the September meeting, so Richard Campbell moved to set a public hearing for the October meeting to consider Zoning Regulations and the Long Range Comprehensive Plan. Glenn Bartlett seconded the motion and the vote was unanimous in favor, 6-0.

Michie said he will bring suggestions for a future land use map to the hearing; that family Dollar will have to have their planned location rezoned as it is presently High-density Residential, plus considerations of zoning south of K10.

The Chairman warned that with the stalemate in water issues there, the city cannot consider development at this time.

Erica Spurling moved to adjourn, Glenn Bartlett seconded the motion. The meeting adjourned at 7:53 pm.

Signed: \_\_\_\_\_  
Chairman, Kurt von Achen

Signed: \_\_\_\_\_  
Temporary secretary, Marjorie Gronniger