

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, March 11, 2009 at the Wellsville City Offices, 75 East Main in Wellsville. Commission members present were Chairman Loyal Green, Russell Glenn, Jaye Colling, Carl Leatham, and Richard Rawlinson. Also present were City Manager/Recorder Don Hartle, City Councilman Ron Case, and City Planner Jay Nielson. A copy of the Notice and Agenda was faxed to the Herald Journal and mailed to the Planning Commission on March 6, 2009. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Paul Clark
Bret Rigby Bennett Rigby

Opening Ceremony: Russell Glenn

Loyal Green reviewed the agenda with the Commission. Don Hartle added a discussion concerning the Hardin subdivision. After review, Richard Rawlinson made a motion, seconded by Jaye Colling, that the agenda be approved with the addition.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
Richard Rawlinson

The Commission reviewed the minutes for the Commission meeting which was held on February 25, 2009. After review, Russell Glenn made a motion, seconded by Carl Leatham, that the minutes of the February 25, 2009 meeting be approved as presented.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
Richard Rawlinson

The Planning Commission met with Paul Clark to discuss for approval a proposed plot plan for a new home at approximately 671 East 200 South. Don Hartle stated that he added the second map to the packet because it is the current plat map from the Cache County Courthouse. Paul Clark stated that he would like to run City water to his home. He would run the water from the edge of Bret Rigby's property, which is tax identification #10-014-0034, to the end of his lot, which is tax identification #10-014-0038. Mr. Clark owns 16 ½ feet of frontage in front of property identified as 10-014-0036 and 10-014-0037. Mr. Hartle stated that lots 0036 has a 16-foot right-of-way, which Mr. Clark owns, and lot 0037 has a 20-foot right-of-way which Mr. Clark also owns. These two lots have no frontage. Mr. Clark would like to run the City water to his property and he would deed the 16 ½ feet in front of lots 0036 and 0037 to the City. Mr. Hartle stated that frontage is defined as the required front setback requirement. Carl Leatham asked how lots 0036 and 0037 came into existence. Mr. Clark stated that the property was subdivided about 15 years, and they annexed into Wellsville City about 5 years ago. Mr. Clark stated that his intention is to build a home on the bluff of 10-014-0006. Mr. Leatham stated that Wellsville City has a non-conforming mess and that now is the time to correct the problem. A cross street at 700 East for a conforming street needs to be completed so that it will tie into the other streets out there in the area. Loyal Green asked what the measurement is from the east property line of 0037 to the east property line of 0038 is. Mr. Clark stated that it is 456 feet. Mr. Clark stated that he has 125 feet of frontage for his home. Mr. Green asked if the home behind Mr. Clark's belongs to his brother, Jed Clark. Mr. Clark stated yes. Mr. Green asked where Mr. Clark would like to build his new home on lot 0006. Mr. Clark stated that it would be straight north of 0037. Mr. Clark stated that he has 3 extra tax identification numbers. Mr. Clark would like to use an identification number and do a boundary line adjustment to take 1 acre out of the 7 acres that are there. Mr. Clark stated that he needs to understand the status of his frontage, as well as have a ruling

on frontage. Mr. Clark stated that he does have plans for a street, but not for 20 years. Mr. Clark stated that he would run the water and deed the 16 ½ feet to Wellsville City. Mr. Hartle stated that with the 16 ½ feet belonging to Wellsville City, that makes lots 0036 and 0037 become legal lots instead of being landlocked. Jay Nielson stated that the owners of lots 0036 and 0037 are entitled to services from Wellsville City just like anyone else. Mr. Clark asked how much frontage is needed for an acre lot. Mr. Hartle stated that it is 132 feet. Mr. Green explained an idea to Mr. Clark about moving the 16-foot right-of-way from the west property line of lot 0036 and the 20-foot right-of-way from the west property line of lot 0037 to the east property line of lot 0037, and then purchasing what excess property lots 0036 and 0037 have to make them legal lots, and then using his own property to make up the difference to put in a 99' road. Mr. Clark asked where the water meter would be installed at. Mr. Hartle stated that it is installed about 1 foot off of the property line on the City right-of-way. Mr. Green stated that another problem is how Mr. Clark would get back to his new home because lots 0036, 0037, and 0038 are all non-conforming lots. Mr. Nielson stated that subdivisions have been required in Cache County for years, and Mr. Clark can't sell a lot without going through the subdivision process. Mr. Leatham stated that Mr. Clark needs to take Mr. Green's suggestion and have all of the property owners come together, because building one more home will just add to the problem. Mr. Green stated that by giving up the boundary lines and lots 0036 and 0037 being 132 feet wide, that is 56 feet that will be added to the east side of lot 0037, which then Mr. Clark would have to add an additional 43 feet for the 99' road. This way, lots 0036 and 0037 are legal lots and there is a road to get back to Mr. Clark's new home. Mr. Leatham stated that lots 0036 and 0037 are open pasture, non-conforming lots. This is a way to make them legal lots. Mr. Clark asked about creating a cul-de-sac since the bluff is steep. Mr. Hartle stated that 99' roads with swales solve the problem of storm water containment. Mr. Leatham stated that 700 East could go down the bluff to the river bottoms, cross the river, and tie into other streets. Mr. Green asked if there is a way to work with and help Mr. Clark to accomplish what it is he wants to do and still meet the ordinances. Mr. Hartle thinks that having the 99' road is an excellent idea. This way, everyone wins. Mr. Green asked if the 99' road is deeded to the City, but not have the road paved until additional lots are sold. Russell Glenn stated that the code does provide a provision to allow cul-de-sacs when it is the only option. Mr. Leatham stated that the grade of the hill and the slope would determine if the through street would be possible. Mr. Nielson stated that Mr. Clark is creating a lot with boundary line adjustments. Mr. Clark is subdividing property by rigging the boundary lines. Mr. Clark should have to go through the subdivision process like everyone else in the community. Richard Rawlinson stated that if Mr. Clark builds a new home on lot 0006, it would need all the improvements of the standard subdivision code. Mr. Leatham stated that it may be a pain now, and very expensive, but if Mr. Clark approached his neighbors now, they may jump on the band wagon with him. Mr. Hartle stated that last year, there were 2 cases in which an individual wanted to build a home, but it would have to open up a road, as well as having the improvements made, and sometimes it is not worth it for 1 home. Mr. Green stated that he would like to see the Planning Commission work with citizens of the community on projects to help solve problems instead of creating bigger problems. Mr. Rawlinson stated that he is concerned with putting Wellsville City at risk of legal issues of not following their own code. If Wellsville City doesn't, why should anyone else follow the code. Mr. Rawlinson would like to work with land owners, but have the developers bring a solution to the table which follows Wellsville City's code. Mr. Clark asked about bringing City water to the east property line of 0036. Mr. Leatham stated that by doing that, Mr. Green's suggestion is impossible. Mr. Clark asked about running the water north between lots 0034 and 0036 in the 16-foot right-of-way that he owns. Mr. Green stated that he thought that would be doable. Mr. Green asked about the frontage for the new home. Mr. Hartle stated that it would be taken out of the 456 feet. Mr. Leatham stated that there would be an incentive for the neighbors to work with Mr. Clark and that is that the lots would become buildable lots instead of pasture land and being landlocked. Mr. Rawlinson stated that he thinks Mr. Clark needs to discuss the suggestion that has been give to him with his neighbors. Mr. Glenn suggested building the new home on tax identification #10-014-0014, which a lot could be created by moving a boundary line. There is plenty of frontage, and a City street would not be required. Mr. Leatham stated that the access road to Mr. Clark's home would become 700 East. Mr. Leatham stated that Mr. Clark could still do that and work with the neighbors to clean up the right-of-ways. Mr. Clark asked if he could build on lot 0006 and use the frontage of lot 0014. Mr. Leatham stated that installing a single service water line running north where 700 East would be is a possibility. Mr. Clark stated that if a cul-de-sac is not possible, it takes out 3 future building lots. Mr. Nielson stated that with 4 acres, it could make 3 conforming lots. Mr. Leatham stated that people like living in cul-de-sacs, but the City doesn't

like plowing cul-de-sacs. Jaye Colling stated that Mr. Clark would have 3 lots facing east instead of 2 lots facing north or south. Mr. Hartle stated that a subdivision needs to be designed because lot 10-014-0039 is a restricted lot, and the frontage for that lot has to come out of the 456 from lot 10-014-0014. Mr. Nielson stated that lot 0038 and 0022 are non-conforming lots, and lots 0036, 0037, and 0039 are restricted lots. Mr. Hartle stated that Mr. Clark needs to hire someone to design a subdivision, because a subdivision has not been approved. Mr. Nielson stated that Wellsville City needs a document to approve. Mr. Clark stated that the water flow in the fire hydrants doesn't meet fire code. Mr. Clark asked if he could run the water line back to Merlin Maughan's old home. Mr. Hartle stated that the code states that an individual has to run the water line the entire frontage of the lot. Mr. Clark asked about running the water line north between lots 0034 and 0036, and then deeding that property to Wellsville City. Mr. Hartle stated that he couldn't answer that question, and would have to discuss it with City Attorney Bruce Jorgensen. Mr. Nielson stated that the City should not be motivated to retain leverage for citizens. Mr. Green stated that he was calling the discussion, and that if Mr. Clark chooses to run the water line now, he may be giving up opportunities for future development in the area.

The Planning Commission discussed living facilities in accessory buildings. Don Hartle stated that some accessory buildings have been built with living quarters, and family members are currently living there. Mr. Hartle asked if it was permissible. Mr. Hartle used the example of Verlo Howell, who lives in the Red Slide subdivision. He built a big room with a restroom over his detached garage, and now his daughter and her husband is currently living there. Loyal Green stated that Mr. Howell has created an apartment. Jay Nielson stated that a member of the community, with no permits, built a mother-in-law apartment. The mother-in-law came to live with them, she passed away, and now the apartment is being rented to 2 students, and when the structure sells, they will try to sell it as a 2-unit structure. An apartment can't be rented to just anyone, and Wellsville City can't ignore this problem. Mr. Nielson suggested that Wellsville City create an accessory building ordinance which states that the owner must occupy the primary residence when allowing family members to live in an apartment on the same property. Mr. Green stated that Ralph Degn stated that his family is too large for his home, and asked that he create a living space in his garage for his family, but that it is not occupied permanently. Mr. Nielson stated that Mr. Hartle filed an occupancy restriction on his property. Mr. Green stated that the only condition was that the extra living space could only be used when his entire family was there, but now we're saying that the extra living space can be rented. Mr. Nielson stated that deed restrictions are filed. Mr. Nielson stated that this is a problem, and it is getting bigger. Mr. Hartle stated that he has filed occupancy restrictions at 382 West 235 North (Verlo Howell), 140 East Main (Adam Brandt), 251 East 100 North (Ralph Degn), and 1215 South Center (Ryan Price). Mr. Green asked if this is the only way to control this issue. Mr. Nielson stated that it is the best way because when a title search is preformed, the bank will not loan on a home that doesn't meet code. Mr. Green asked if it could be stopped with an ordinance. Mr. Nielson stated that this can't be stopped. Carl Leatham asked once this has been done, is there any recourse. Mr. Nielson stated that it needs to be enforced with an administration enforcement code, which allows Wellsville City to issue a letter of violation and gives the offender 30 days to conform.

Don Hartle stated that the Hardin subdivision was approved and filed on March 3, 2005. The approximate address is 100 North 300 East. The additional lot is on the hillside, with an easement up to the lot on another lot. The address of the lot is 311 East 100 North. They are building the home on the back side of the property, and the home will face 300 East. The address can't be changed, but they have no frontage on 300 East. Jay Nielson stated that the front door doesn't define frontage. There should be no problem as long as the home stays within the setbacks. Mr. Nielson suggests that Mr. Hartle review the floor plan of the home and review the yard to see if there will be anything major in the rear. Mr. Hartle stated that he wanted the Planning Commission to be aware of the situation.

Jay Nielson gave the Planning Commission an update on the progress of the proposed "Land Development Code". Jay Nielson stated that the current zoning ordinances were created in a template, and the ordinances that Wellsville City have, every other community came from the same template. Every community uses a template, and then customizes the zoning ordinances for their community. Mr. Nielson stated that he has used Logan City's Land Development Code as a model for the proposed update that he is working on now. The code is 12 years old and has gone through extensive testing and legal

cases. Wellsville City current code doesn't allow for modern development. Mr. Nielson stated that he has been working on this code for the past 4 months. The current code is approaching 200 pages, and he already has 250 pages for the new code. Mr. Nielson stated that it is good for the Planning Commission to know where their section of the Land Development Code is located. The new Land Development Code includes a parking code, sign code, and a landscaping code. There is a section that defines all of the land use codes. There are many tables associated with the Land Development Code that are very helpful. Mr. Nielson stated that there is a little more volume to this code, but it is a much more workable code. Mr. Nielson stated that he could not give the Planning Commission a time table as to when this will be completed. Mr. Nielson asked what direction he should go in. After discussion, it was decided that the Planning Commission would like the code to be split into 30 to 50 page increments for review. Mr. Glenn added a suggestion that each review increment be a complete self-contained unit, so that changes to that increment would have minimal impact on other increments.

At 8:27 p.m., Jaye Colling made a motion, seconded by Richard Rawlinson, to adjourn the meeting.

Yea 5

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
Richard Rawlinson

Nay 0

Loyal Green
Chairman