

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, May 27, 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, Mayor Ruth P. Maughan, City Councilman Thomas G Bailey, Ron Case, Gary Bates, City Councilwoman Marcene Parker, and City Planner Jay Nielson. A copy of the Notice and Agenda was faxed and emailed to the Herald Journal and mailed to the Planning Commission on May 22, 2009. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Philip Rasmussen
Thayne Rasmussen Stan Wade
Denise Riehle Karma Leatham
C. Ronald Johnson Glenda Johnson

Opening Ceremony: Thayne Rasmussen

Loyal Green reviewed the agenda with the Commission. After review, Richard Rawlinson made a motion, seconded by Russell Glenn, that the agenda be approved as presented.

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 April 22, 2009. There were word changes on lines 49, 84, 94, 103, 104, 123, 124, 160, and 170. After review, Jaye Colling made a motion, seconded by Russell Glenn, that the minutes of the April 22, 2009 meeting be approved with the changes.

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 May 13, 2009. There was a word change on line 66. After review, Richard Rawlinson made a motion, seconded by Jaye Colling, that the minutes of the May 13, 2009 meeting be approved with the change.

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

At 6:05 p.m., the Planning Commission conducted the following public hearings:

First, receive public input and consider for approval a request from Philip Rasmussen for a conditional use for a Level 2 "Home Occupation" for a lawn care business to be operated from 106 South 450 East. Mr. Rasmussen stated that he is starting a lawn care business which includes mowing, weeding, and tree trimming. He has a 24" lawn mower and a weed trimmer. He has a storage shed behind his home where he will store these items. Carl Leatham asked if he owned a trailer. Mr. Rasmussen stated yes, and that it is parked on a gravel path next to the shed behind his home. Richard Rawlinson asked if he had any

additional employees. Mr. Rasmussen stated that the employees consisted of just him for now. After discussion, Russell Glenn made a motion, seconds by Jaye Colling, to approve the request from Philip Rasmussen for a conditional use for a Level 2 “Home Occupation” for a lawn care business to be operated from 106 South 450 East.

Yea 5

Nav 0

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
Richard Rawlinson

Second, receive public input and consider for approval a request from Denise Riehle at 60 West 400 North for a conditional use for a 3 dog kennel at said address. Ms. Riehle stated that she owns 2 yellow labs that are outside dogs and a miniature schnauzer that is an inside dog. Ms. Riehle stated that she has a 6’ by 6’ kennel for the 2 yellow labs in the back corner of her yard and the miniature schnauzer stays inside the home. Ms. Riehle stated that she has a 15-year-old son that cleans up after the dogs, is very responsible, and is a good kid. Richard Rawlinson asked if Ms. Riehle plans to board any dogs. Ms. Riehle stated no. Russell Glenn asked where the dogs are if they are outside of the kennel. Ms. Riehle stated that there are at the dairy and under someone’s supervision at all times. Richard Rawlinson asked if the dogs are licensed and have all of their shots. Ms. Riehle stated that all of the dogs are registered. The yellow labs have all of their shots and the miniature schnauzer still needs more shots. After discussion, Richard Rawlinson made a motion, seconded by Russell Glenn, to approve the request from Denise Riehle at 60 West 400 North for a conditional use for a 3 dog kennel at said address.

Yea 4

Nav 0

Abstain 1

Russell Glenn
Jaye Colling
Loyal Green
Richard Rawlinson

Carl Leatham

The Planning Commission reviewed for approval the final plat for the Sterling Ridge subdivision consisting of a total of 36 lots on property on the west side of Center Street from approximately 1400 South to 1600 South. Don Hartle stated that he mailed the agenda out at about 5:30 a.m. last Friday morning. Travis Taylor was to meet with Don Hartle, the public works department, and Zan Murray representing JUB Engineering at 9:00 a.m. last Friday morning. Mr. Hartle stated that 9:30 a.m., he called Mr. Taylor and Mr. Taylor stated that he had failed to add the meeting to his day-planner. Mr. Hartle stated that he hasn’t heard from him regarding tonight’s meeting. Loyal Green asked about the new earthquake fault line map. Mr. Hartle stated that he called Mr. Taylor concerning this issue. Mr. Hartle stated that he faxed a copy of the new map to Mr. Taylor and told him that his geological engineer would need to address this fault line. Jay Nielson stated that this study was preformed by the Utah Geologic Survey committee in 2006. Mr. Nielson stated that he has talked to the people who obtained this information, it is real and there is a significant fault line in the area. Richard Rawlinson stated that he would like to see the items from the engineer’s memo on the final plat. Carl Leatham stated that the Planning Commission approved the preliminary plat for 36 lots. Now, Mr. Taylor wants to complete the development in 2 phases and wants only 9 lots approved on this final plat. Mr. Green stated that as a Planning Commission, they would like to be part of the final plans that take place. Mr. Hartle stated that there is nothing wrong with having this item on the agenda so that the Planning Commission can give their input. Mr. Hartle stated that if the Planning Commission has concern, he encourages them to attend City Council meeting. Mr. Hartle stated that Councilman Ron Case gives the Planning Commission an update, but even that is after the approval has been given. Mr. Green stated that ½ of the job is complete when it leaves the Planning Commission, and the other ½ is done without input from the Planning Commission. Russell Glenn stated that in a subdivision, the developer is the HOA until ½ of the lots are sold. Mr. Glenn stated that the developer writes the CC&R’s and by-laws, but that it is a state law that the developer leaves an endowment for the HOA. Mr. Nielson stated that leaving an endowment for the HOA is part of the Wellsville City code, but doesn’t think that it is a state law. Wellsville City code

11-5-4-C-2-b-(6) states that the developer will leave an endowment that is 10% of the total cost of construction. Mr. Glenn asked if the developer has to bond for the new improvements. Mr. Hartle stated that all of the improvements have to be completed before the final plat is filed unless the City Council agrees to accepting security. Mr. Green stated that as Wellsville City is going through this process, they need to make sure that all of the loop holes are closed. Mr. Hartle stated that if the developer is the president of the HOA until ½ of the lots in the subdivision are sold, he has the ability to change the title vesting on the property. Mr. Green stated that the developer shouldn't be allowed to do that. Mr. Hartle stated that is why he files the final plat, not the developer. Mr. Hartle stated that Wellsville City is having some issues with the north park in the Red Slide subdivision. Wellsville City would not accept it, and John Panos has now taken out bankruptcy. Jaye Colling read from section 11-5-4 C-6 out of the Wellsville City code. Mr. Green stated that there is no open space within the Sterling Ridge subdivision. Mr. Hartle stated that the lot for the storm water is open space, but that he anticipates the developer paying for open space. Mr. Green referred to the memo dated May 12, 2009 from JUB Engineering stated that the depth of the sewer for the residents on the east side of Center Street should have already been taken care of and shown on the construction drawings. Mr. Hartle stated that he requested the City Engineer to shoot enough grades so that the depth of the sewer is to where the residents on the east side of Center Street could hook onto the sewer without having to use a pump. Mr. Hartle also referred to the memo dated May 12, 2009 from JUB Engineering stating that the sewer is not deep enough within the subdivision. Mr. Green requested that the additional requirements outlined by the memo dated May 12, 2009 from JUB Engineering be completed before coming back to the Planning Commission. Mr. Leatham asked if the Planning Commission is only approving 9 lots, which is 25% of the lots of the subdivision, does the developer only want to pay for 25% of the open space requirement. Mr. Green stated that the developer should pay for the entire open space requirement, not just 25%. Mr. Leatham believes that they should have to stay with the preliminary plat that was presented to the Planning Commission. Mr. Hartle stated that all of the improvements have to be completed before the final plat is filed. Mr. Leatham asked if that include roads, water, and sewer. Mr. Hartle didn't know. Mr. Leatham asked if the developer should be locked into what he agreed to do, not just the first 9 lots. Mr. Hartle showed the Planning Commission the preliminary plat that was approved and it shows the subdivision to be completed in 2 phases. Mr. Nielson stated that it would be to the developer's benefit to pay for all of the open space up front, because the price of land will always go up and he will be paying more in the future for later phases. Mr. Green is concerned with being stuck with an undeveloped subdivision. Mr. Nielson stated that the property is undeveloped now. Mr. Leatham asked if the developer is required to stay with what was presented as the preliminary plat or start over. Mr. Nielson stated that completing a subdivision in phases is very common. Mr. Leatham stated that the preliminary plat showed the full parcel, and now he wants to develop the property in phases. Mr. Nielson stated that the Planning Commission should require that the 1st phases be completed before he can begin selling lots in phase 2. Mr. Glenn stated that his concern is that the detention pond is not adequate. Mr. Glenn believes that the developer should address the issues with the swale. Mr. Glenn stated that if the 100-year storm comes, there could be a river in the swale which would cause problems for other people. After discussion, Richard Rawlinson made a motion, seconded by Russell Glenn, that the Planning Commission continue this matter until first, the memo dated May 12, 2009 issued by JUB Engineering has been corrected on all documents and second, that the developer addresses the discharge of the detention pond and that it not destroy the swale, which would be the downstream analysis, and the new earthquake fault line map be addressed. After all this is completed and reviewed by the City Engineer, then put the matter back on the agenda.

Yea 5

Russell Glenn

Jaye Colling

Loyal Green

Carl Leatham

Richard Rawlinson

Nav 0

Brad George was to meet with the Planning Commission concerning potential development at Sherwood Hills. Don Hartle stated that Mr. George is a contractor representing the owners of Sherwood Hills that has been working at remodeling Sherwood Hills. Mr. Hartle stated that he added Mr. George to the

agenda so that he understands how the group feels and not just how Don Hartle feels. Mr. Hartle stated that Mr. George lives in Idaho Falls, and he received word that he had been hospitalized.

Stan Wade met with the Planning Commission to discuss open space. Mr. Wade stated that he owns the property at 505 North 200 East. Mr. Wade stated that his subdivision does have an HOA, and that Garry Larsen is the president. Mr. Wade asked why open space is required. Carl Leatham stated that there are small parcels of open space throughout the community. The goal now is to combine those small parcels into a big parcel using the cash in lieu option which is specifically designed for open space. Jay Nielson read from the General Plan and stated that 10 years ago, Wellsville City began requiring open space within subdivisions. It was so that Wellsville City could set aside sensitive lands that should not be destroyed. Mr. Nielson stated that Wellsville City operated this way for about 8 years that every project is required to have open space. In the last 2 years, a code has been written stated that a developer has options with open space within the project by doing 1 of 3 options: 1) cash in lieu, 2) purchasing open space elsewhere, but within Wellsville City limits, and 3) purchasing the development rights from a property owner. Mr. Wade stated that he doesn't see much use for the open space within his subdivision. Mr. Wade stated that the use for him is that there will be no home built behind his home. Mr. Wade stated that the open space has horses grazing in it now, which he is fine with that. Mr. Wade would like to know how the HOA can use the open space as a group without it being a fire hazard or have any impact to Wellsville City. Mr. Wade understands that the HOA has to have liability insurance, which he doesn't know if they carry it or not. Mr. Wade asked how much open space is required in the R-1-12 zone. It is 30%. Mr. Wade asked if there is 32% of open space, could he purchase the extra 2% of the open space. Mr. Nielson stated that once the open space is recorded, that is it. Mr. Wade asked what if the neighbors agree to give 2% of the open space to a home owner within the subdivision. Mr. Nielson stated that the Planning Commission and the City Council have to agree to use the cash in lieu of option for open space. Loyal Green asked if Mr. Wade would be using the open space for his personal use. Mr. Wade stated that he would use the space within the guidelines of the Wellsville City code. Mr. Green stated he doesn't think this would be an option. Mr. Wade stated that he would like to use the 2% of the open space for a garden. Russell Glenn thinks that the difference, which is 2%, could be sold off. Don Hartle stated that in a meeting that was held at the Red Slide subdivision, an individual stated that they purchased the lot because of the open space, and if the property become anything but open space, they would sue Wellsville City. Mr. Glenn stated that the open space requirement has been met, and that the HOA who owns the open space should be dealing with Wellsville City, not the individual who wants to purchase the extra open space. Richard Rawlinson stated that within this same subdivision, a resident has landscaped 30 feet into the open space, another individual has filled in the retention pond, and last Saturday, an assault took place concerning the open space. Mr. Nielson stated that if the subdivision should be modified, it would have to be an unanimous vote to accept the modifications. Mr. Nielson stated that it is very dangerous to sell off pieces of open space to resident. Mr. Nielson stated that his suggestion to the Planning Commission and the City Council is that changing dedicated open space is a dangerous move. Mr. Wade asked then if the door has been slammed or is there room for a discussion. Mr. Glenn stated that in the subdivision where he lives, they have open space that is useless, and if the HOA agrees, it could become an open garden area. Mr. Wade stated that he wants to protect the open space, and that he doesn't want any park or anything that could be turned over to Wellsville City. Mr. Wade stated that he would also like to see a sign that states 'Slow – Children At Play'. Mr. Wade stated that he thinks that the area of open space is worthless, and does applaud the cash in lieu of option for open space. Mr. Nielson stated that within Wellsville City, there are great examples of the open space requirement working for the subdivision. Mr. Nielson stated that if the lot lines were extended, 3 residents of the subdivision own the open space, and a conservation easement was put over the top of the open space, it could work. Mr. Green stated that the open space is still in the HOA's name, which the Wellsville City code says no. Mr. Green thanked Mr. Wade for his time.

Because of a conflict of interest, Loyal Green turned the chair seat over to Russell Glenn.

Loyal Green met with the Planning Commission to discuss a lot line adjustment at 825 East Main. Mr. Green passed out a copy of the Green Acre subdivision. Mr. Green stated that since the zoning changed from residential to commercial, and the property is no good as commercial unless it is leveled, he would like to remove all of the interior boundary lines and abandon the subdivision. Mr. Green stated based on

taxation, this will save him approximately \$800 to \$1,000 per year in taxes. The property and the home would all be under 1 tax identification number. Richard Rawlinson asked if the taxes had increasing since the property was zoned commercial. Mr. Green stated that he doesn't know because he hasn't received his tax notice yet. Mr. Green stated that if the subdivision is abandoned, he would be taxed on the home and the property instead of subdivision lots. Jay Nielson stated that if the subdivision is abandoned, Mr. Green will have to go back through the subdivision process again in order to divide the property. Mr. Green stated that there is no benefit to Wellsville City to have ½ acre commercial lots. Mr. Green stated that the property is no good the way that it exists. Russell Glenn asked if a public hearing should be held in order to abandon the subdivision. Mr. Green stated that he is requesting a lot line adjustment, which is abandoning the subdivision in itself. Mr. Nielson stated that someone could challenge this. Mr. Nielson stated that it doesn't hurt to take formal action and follow due process. Don Hartle stated that he strongly recommends conducting a public hearing. Mr. Nielson stated that there is no legal risk to holding a public hearing. Mr. Rawlinson asked if this lot line adjustment is time sensitive. Mr. Green stated that this issue is not time sensitive unless there are problems with the taxation laws. After discussion, it was decided that a public hearing will be held on June 24, 2009 to abandon the Green Acre subdivision.

Don Hartle asked what the frontage requirements in the RCA zone are. Jaye Colling looked up the table in the Wellsville City code and it states that there should be 100' frontage, and the require setbacks are 20' in the front, 10' on each side, and 30' in the back.

Ron Case stated that the City Council approved the business license for Aaron Klopfenstein and that the Jones Brothers had a conflict so they are scheduled for their business license at a future meeting.

At 7:50 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