

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, August 26, 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 John Spence. 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 and emailed to the Herald Journal and mailed to the Planning Commission on August 21, 2009. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Joel Jensen
Tiffany Jensen Paxton Guymon
Brent Tanner Travis Taylor
Stan Rowlan Dean Bolton
Edna Ashford Don Ashford
Dewey Neves Dixie Neves
Mike Perkes

Opening Ceremony: Loyal Green

Loyal Green reviewed the agenda with the Commission. Don Hartle stated that he needed to add a zoning concern to the agenda. After review, John Spence 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
John Spence

The Commission reviewed the minutes for the Commission meeting which was held on August 12, 2009. There were word changes on lines 60, 61, 84, 109, 161, 163, 165, 170, 174, 178, 180, 181, 198, and 255. After review, Russell Glenn made a motion, seconded by Carl Leatham, that the minutes of the August 12, 2009 meeting be approved with the corrections.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

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

First, receive public input and consider for approval a request from Joel Jensen, JJ Construction, at 640 South Center for a conditional use for a Level 2 "Home Occupation" to operate a concrete construction company from said address. Joel Jensen stated that he runs a business out of his home. He does park trailers at his home, and he does have employees park their vehicle at his home. Loyal Green asked how many vehicles does Mr. Jensen have, what type of equipment he has, and where it is stored. Mr. Jensen stated that he has various trailers that he parks in front of his home on the side of the road, or they are parked at the job site. Mr. Jensen stated that he does have another place in the valley that he can park the trailers. Mr. Green asked if Mr. Jensen had a copy of the ordinance. Mr. Jensen stated that he does have a copy, but did not bring it with him to this meeting. Mr. Green asked if Mr. Jensen had reviewed the ordinance. Mr. Jensen stated yes. Mr. Green asked what Mr. Jensen's intention was with the equipment according to the code. Mr. Jensen stated that he did have a property in the back of his home to store the equipment. Mike Perkes stated that his concern is where Mr. Jensen was parking all of the trailers. Mr. Perkes lives across the street to the west of Mr. Jensen. Don Ashford stated that his property is next to Mr. Jensen's, and his concern is the smell, dust, and noise. Mr. Ashford's address is 34 East 600 South.

Mr. Ashford stated that his wife has MS and they like to keep their windows opened. With all that is going on at Mr. Jensen's residence, they have to shut the windows, and they don't have central air conditioning. Mr. Ashford stated that this is a residential district and he would like to keep it that way. Ron Case stated that he had a letter from another neighbor who couldn't attend this meeting that had concern about cement trucks going in and out of the property. Mr. Jensen stated that the only cement truck that has come in and out of his property was when he or his neighbor had been pouring cement. Mr. Green read 4 items from the code. The first referenced 10-11-18.D.4 stating that the work shall involve a maximum of 2 additional employees. The second referenced 10-11-18.D.5 stating that no more than 25% of the property may be used for the home occupation, including parking. The third referenced 10-11-18.D.5 stating that the area shall remain in character with the rest of the neighborhood. The fourth referenced 10-11-18.D.6 stating that the inventory or other materials shall be kept within a garage and/or accessory buildings and shall not be noticeable to other neighbors. Russell Glenn read from the code 10-11-18.C.2.d stating that the impact to the neighbors should be minimized and, that under normal circumstances, the neighbors should not be aware of the home occupation existence. Mr. Glenn stated that Mr. Jensen has been operating this business for 4 years without a permit. Mr. Glenn asked if Mr. Jensen could comply with the city code. Mr. Jensen stated that his trailers are no different than other foundation businesses in Wellsville. Mr. Glenn stated that the city code states that all trailers should be parked to the side or rear of the home, weather or not there is a business involved. Mr. Jensen stated that it is no different than having a stack of firewood. Mr. Glenn stated that it is different because the stack of firewood is not part of the business. Mr. Glenn asked if Mr. Jensen would build a building to store his equipment in. Mr. Jensen stated that he is not building a building to store his equipment in. John Spence asked how much land Mr. Jensen owns. Mr. Jensen stated that he is not sure. Jaye Colling stated that the map shows that he owns .67 of an acre, or roughly 2/3 of an acre. Mr. Glenn stated that Mr. Jensen would have to park everything on 7,000 square feet. Mr. Spence asked how many horses Mr. Jensen has. Mr. Jensen stated that he has 2. Mr. Spence stated that the horses violate city code also. Carl Leatham stated that Mr. Jensen is renting his neighbor's pasture, so he does have additional space. Mr. Colling asked if trailers are or are not considered vehicle. Mr. Green stated that this business that Mr. Jensen is running is out of character with the neighborhood, he has been operating it without a business license, and he is unable to meet what the code says to operate the business. Mr. Glenn stated that there is no way, based on the operation of the past year that the business could comply with city code. Mr. Leatham stated that no one is trying to put Mr. Jensen out of business, but they are trying to protect the neighborhood. Mr. Green stated that the only way to have a business is through a home occupation permit. Mr. Jensen asked if the other foundation businesses in Wellsville have permits and stated that the code is not being enforced with their businesses. Mr. Spence stated that Wellsville City is trying to enforce the code with every resident. Mr. Leatham stated that the city has received a lot of complaints about Mr. Jensen's property. Mr. Jensen asked that the discussion be continued. Mr. Green asked if Mr. Jensen was interested in meeting the city code. Mr. Jensen stated that he doesn't have any other choice. Mr. Green asked how long it would take Mr. Jensen to comply with the city code. Mr. Jensen stated 2 weeks. After discussion, Russell Glenn made a motion, seconded by John Spence, to continue this discussion in 2 weeks.

Yea 5

Russell Glenn

Jaye Colling

Loyal Green

Carl Leatham

John Spence

Nay 0

Dixie Neves met with the Planning Commission to discuss correcting tax identification number on property along 1600 South. Don Hartle explained the 3 different maps that he sent to the Planning Commission. Mr. Hartle stated that the 1978 map is a plat map of the property, the December 1995 map is showing the property that was annexed into Wellsville City, and the February 23, 2009 map is the latest copy. Dixie Neves stated that she has a letter from Mike Gleed, Cache County Recorder, stated that there is no reason for 2 parcel numbers, each having its own parcel number. Ms. Neves stated that the full piece is in the name of Walker-Neves, which is her sister. The 3 parcels that are in the county are being divided in half with a boundary line adjustment. Ms. Neves stated that her sister is in Brigham City, and couldn't make it to this meeting. Loyal Green stated that Ms. Neves can't speak for her sister.

Ms. Neves asked if she could write a letter. Mr. Green stated that would be acceptable. Mr. Hartle stated that they would have to go through the subdivision process in order to create a new lot. Jay Nielson stated that they can make 10 new tax identification numbers, but the city code stated that in order to divide any land, the subdivision process has to be followed. Ms. Neves asked what they do from here. Mr. Hartle stated that they will need to hire a surveyor/engineer and proceed with the subdivision process.

Travis Taylor representing Westates Development met with the Planning Commission to continue consideration for approval of the landscape and berming plan. Mr. Taylor handed out a plat map and pictures of the vegetation that will be planted in the screening strip. Mr. Taylor stated that they would like to plant a meandering screening strip. There will be 15 feet of grass, 10 feet of screening with a berm and vegetation, and then 15 feet of grass. The 3 types of plants that will be used are Mountain Green Boxwood, Red Twig Dogwood, and Burning Bush. The Boxwood will get approximately 6 feet high at maturity. The screening strip will be irrigated with a sprinkler and maintained by the HOA. Carl Leatham asked if at the corner of Center Street and 1600 South, it will be tapered meaning the corner will be graded and then planted. Mr. Leatham is concerned with keeping the sight lines clear, especially with the increase of traffic. Jay Nielson stated that no berm is shown. Mr. Taylor stated that they expect to have a berm on lots 3, 4, and 5. The planting will be on top of the berm. Mr. Taylor stated that they will still respect the site analysis. Russell Glenn asked if he owned lot 5, would he be allowed to fence his backyard. Mr. Taylor stated that the fence would need to have a gate installed so that the screening strip can be maintained. Mr. Nielson stated that the fencing would need to have a setback of 40 feet. Mr. Taylor stated that the City code doesn't address fencing. Mr. Nielson stated that the Planning Commission sets the fencing line. Mr. Taylor stated that this could be considered an illegal taking for an enlargement of an easement. Mr. Leatham asked what the purpose of the berm and landscaping was. Mr. Taylor stated that it is a screen for the backyards and to create a buffer between the road and the rear of the homes. Mr. Leatham stated that it was Mr. Taylor's plan to back the houses to the road, and if an agreement can't be reached, the plan can be scrapped and start over. Mr. Taylor stated that if the City wants a trail next to a subdivision, the City has the right to do it, but the City can't make you pay for the trail. Mr. Nielson stated that Westates Development had the option to design the subdivision without rearing the homes to the road. Mr. Taylor stated that there were 5 options, but they chose to rear the homes to the road. Paxton Guymon suggested no fencing along the street side of the vegetation. Mr. Nielson stated that suggestion is a step in the right direction, but it reduces the screening from 40 feet to 30 feet. Mr. Nielson stated that this is a reasonable compromise. Loyal Green stated that the fence issue should be part of the CC&R's for this subdivision. Mr. Green asked about the landscape of the screening strip. Mr. Taylor stated that they are 7 gallon shrubs, 4 feet tall when planted, and 6 feet tall at maturity. Mr. Green asked how long it will take the plants to reach 6 feet. Mr. Taylor stated that he didn't know. Mr. Nielson stated that he is a licensed landscape architect. Mr. Nielson stated that the code requires dense screening. Mr. Nielson stated that normal spacing for shrubs is 4 feet. Mr. Taylor stated that he has 21 plants for 108 feet of space. Mr. Nielson is concerned about spaces between the vegetation. Mr. Nielson suggests adding additional plants and some trees. Mr. Nielson stated that 7 gallon shrubs are adequate, but there should be no spacing greater than 6 feet. Mr. Nielson stated that it will take approximately 3 years for full growth. Mr. Green asked about the type of grass being used. Mr. Nielson stated that drought tolerant that can be sprinkled should be on the road side of the screening strip, and lawn grass on the opposite side of the screening strip would be most appealing. Mr. Leatham asked about planting 1 tree per lot in the backyard. Mr. Nielson stated that there is no requirement for trees, but may use some of the street trees in the landscape area. Mr. Leatham stated that it could help the property to have large, uniform trees in the backyards. Mr. Green asked about the grass. Stan Rowlan suggests drought tolerable grass with the option to upgrade. Don Hartle stated that native grass is not real green, but more brown in color. Mr. Green stated that he wished it would be green grass that can be mowed, such as Kentucky Bluegrass. Mr. Nielson stated that the points of this discussion should be documented so that there is no confusion as to the berm and landscape of the screening strip. The conditions are as follows: 1) a berm every place where the site analysis shows, 2) 7 gallon shrubs, with no more than 6 feet between the plants, 3) drought tolerable grass or better on the street side and lawn grass on the residence side of the screening strip, 4) screening strip will be sprinkled, 5) fences will be allowed at uniform distance on the house side of the screening strip, approximately 25 feet to the property line. Mr. Rowlan asked about planting some of the required trees for the front in the backyards. Mr. Green is concerned that the trees will look out of character with the rest of the shrubs. Mr. Glenn stated that there should

be no decision concerning the trees without the Shade Tree and Beautification Committee involved. Mr. Nielson stated that when planting the screening strip on the berm, the planting should start at the center of the berm and go forward toward the street side of the berm. Mr. Leatham asked about the requirements that had to be completed by September 1, 2009, or construction ceased. Mr. Hartle stated that the open space appraisal has to be completed before the final plat can be filed at the Cache County Recorder's office. Mr. Glenn asked about the location of the fence. It will be 25 feet from the city right-of-way, or approximately 15 feet from the house side of the buffer strip. The screening strip consists of 15 feet of native grass or upgrade, 10 feet of screening strip, and 15 feet of mowing grass. After discussion, Jaye Colling made a motion, seconded by Carl Leatham, to approve the landscape and berming plan for the Sterling Ridge subdivision with the following conditions: 1) a berm every place where the site analysis shows, 2) 7 gallon shrubs, with no more than 6 feet between the plants, 3) drought tolerable grass or better on the street side and lawn grass on the residence side of the screening strip, 4) screening strip will be sprinkled, 5) fences will be allowed at uniform distance on the house side of the screening strip, approximately 25 feet to the property line, to also include the attached Exhibit "A" and made a part of this motion.

Yea 5

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

Nay 0

Don Hartle stated that he had a zoning concern with a shop/garage that is being built at 770 South 100 West. There are to be no multiple family structures on this property. After reviewing the plans, it was suggested that Mr. Hartle file a residential occupancy restriction on the property.

John Spence informed the Planning Commission that on Friday, August 14, 2009, Tracy Bailey has 2 semi-trailers parked next to the building that was discussed at the last Planning Commission meeting, including a backhoe, fencing materials, and all other kinds of stuff with tarps over it. Loyal Green stated that Wellsville City needs to enforce the code with this issue. Don Hartle suggested involving City Attorney Bruce Jorgensen for the enforcement of conditional uses.

Ron Case stated that the City Council approved the code amendment for the "Health Caregiver Dwelling Unit". Mr. Case stated that after it was approved, Mr. Roundy was very appreciative to the Planning Commission and the City Council for all of their work on this issue. Mr. Case stated that the rezone for Dale McBride was approved, as was the final plat for the Steve Jensen subdivision.

At 8:04 p.m., Carl Leatham made a motion, seconded by John Spence, to adjourn the meeting.

Yea 5

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

Nay 0

Loyal Green
Chairman