

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, September 9, 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 and City Councilman Ron Case. A copy of the Notice and Agenda was faxed and emailed to the Herald Journal and mailed to the Planning Commission on September 4, 2009. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Connie Gorenflo
 Tiffany Jensen Joel Jensen

Opening Ceremony: Jaye Colling

Loyal Green reviewed the agenda with the Commission. Mr. Green stated that he would like to add enforcement of conditional uses to the agenda. After review, John Spence made a motion, seconded by Russell Glenn, that the agenda be approved with the addition.

<u>Yea</u> <u>5</u>	<u>Nay</u> <u>0</u>
Russell Glenn	
Jaye Colling	
Loyal Green	
Carl Leatham	
John Spence	

The Commission reviewed the minutes for the Commission meeting which was held on August 26, 2009. There were word changes on lines 63, 64, 65, 66, 67, 68, 84, 163, 166, and 180. After review, Russell Glenn made a motion, seconded by Carl Leatham, that the minutes of the August 26, 2009 meeting be approved with the corrections.

<u>Yea</u> <u>5</u>	<u>Nay</u> <u>0</u>
Russell Glenn	
Jaye Colling	
Loyal Green	
Carl Leatham	
John Spence	

The Planning Commission continued the discussion and consideration for approval of 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. Loyal Green asked what Mr. Jensen’s intentions were since the last meeting. Mr. Jensen stated that the foundation panels have been cleaned up and moved. Mr. Jensen has hauled the trailers away. Mr. Jensen stated that he has dug the dirt away from the foundation of his home and has installed gravel to reduce the dust and mud. Mr. Jensen stated that he does have 2 trailers parked at his home, 1 at the back of his property and 1 parked to the side of his home. Mr. Jensen stated that all of his other equipment is stored at a different site in the valley. Mr. Jensen stated that he does have a skidster that is contained on a trailer. Mr. Jensen stated that the skidster is off of the trailer so that he can spread the gravel. Mr. Jensen stated that for the most part, the trailer and skidster are parked at a job site. Mr. Jensen stated that as finances allow, there is an old shed on his property that he will fix up and store tools in. Mr. Jensen stated that the neighbors to the south of him have discussed with him installing a fence as finances allow. Mr. Jensen stated that he would install a fence on the north side of his property also as finances allow. John Spence asked what type of fence would be installed. Mr. Jensen stated that on the south side, it would be a 6-foot vinyl privacy fence, and on the north side, he would install a cedar fence. Russell Glenn asked if the fence would screen the view from Don Ashford’s home at 34 East 600 South. Mr. Jensen stated no. Mr. Jensen stated that the pasture has been strictly horses. Connie Gorenflo stated that as of 6:00 p.m. this evening, there was a flatbed trailer, a skidster, 3 trucks, 1 horse van, and 1 car parked at this residence. Ms. Gorenflo stated that her objection is 3 fold: 1) it is hazardous for heavy equipment to enter and exit on Center Street. Ms. Gorenflo stated that several children catch the bus on 600 South and Center Street, 2) she likes to

encourage her neighbors and friends in their businesses, but she pays taxes to live in a residential zone without a construction business, and 3) encourages heavy business in Wellsville, but wants it in the appropriate place. Don Hartle stated that in a residential zone, it is either allowed or allowed by conditional use. This issue is in the R-1-12 zone. If the lot that an individual owns is big enough, they are allowed to build a single-family dwelling. In the R-1-12 zone, numerous things are allowed by conditional use. An individual has to submit an application, and come before the Planning Commission. Mr. Jensen has applied for a conditional use permit. In the R-1-12 zone, a home occupation is allowed subject to regulations. Ms. Gorenflo asked how many conditional use permits are in the area that she lives in. Mr. Hartle listed 6 different individuals with conditional use permits for a home occupation. Mr. Green stated that Mr. Jensen has been operating his business illegally because he doesn't have a business license issued from Wellsville City. Mr. Jensen has been called in to discuss the issue. Mr. Green stated that Mr. Jensen needs to be willing to meet the code conditions. Mr. Green stated that there are 2 options, 1) give Mr. Jensen a list of conditions that need to be met and a time limit to have them met, or 2) clear everything from his property and start from scratch. Mr. Green stated that only 25% of the property can be used for the business, there can be no more than 2 additional employees, and trailers are to be parked to the side or rear of the home. Mr. Glenn stated that code 10-11-18.C.2.d refers to the neighbors, under normal conditions, are not aware of the home occupation existence. Code 10-11-18.D.5 refers to parking off of the City's right-of-way. Mr. Green stated that parking trailers to the side or rear of the home may be using the 25% of the property that is allowed by the code. If Mr. Jensen is using 25% of the property to store materials, the trailers can't be parked at the home. Mr. Glenn stated that 25% of the property that can be used for the business is about 7,000 square feet. Ms. Gorenflo asked how many vehicles belong to the household. Mr. Jensen stated 3. Mr. Green stated that 3 vehicles for the household and 3 vehicles for the business, for a total of 6 vehicles would be allowed. Mr. Jensen asked what is considered the street right-of-way. Mr. Hartle stated that it is 99 feet. In exhibit B, the truck that is parked in front of the tree is parked 1/2 in the street right-of-way and 1/2 on private property. Carl Leatham stated that the trees were installed by the City in the City's right-of-way. Mr. Green asked how to proceed on this issue. Mr. Jensen stated that he is willing to try to comply with the City's code. Mr. Jensen asked about the goose-neck trailer parked on the side of his home. Mr. Glenn asked how tall the trailer is. Mr. Jensen said about 9 feet. Mr. Glenn stated that a fence would have to be 9 to 10 feet high in order to be invisible to the neighbors. Mr. Hartle stated that the maximum height of the fence can be 6 feet. Mr. Glenn stated that he wrote some reasonable conditions in addition to the specific code restrictions for a Level 1 or Level 2 home occupation permit that he feels need to be met. They are: 1) no vehicle required for the home occupation shall be parked on the street right-of-way for longer than 1/2 hour. One vehicle may be parked on the premise in front of the house, 2) No more than 1 trailer require for the home occupation may be parked on the premise and must not protrude beyond the front of the home, 3) no motorized heavy construction equipment may be stored on the premise longer than 1/2 hour, 4) One auxiliary building meeting City code allowed behind the home for storage of inventory, tools, or other materials require for the home occupation. Mr. Leatham asked how much space there is from the back of the home to the beginning of the pasture. Mr. Jensen stated that he didn't know, but that it was a strip of property. Mr. Leatham asked if the shed is large enough be stack the forms and store the trailer inside. Mr. Jensen stated no. Mr. Jensen stated that he has a single-axle enclose cargo trailer that is about 8 feet by 8 feet, the goose-neck trailer with the skidster, and a work truck at his home for the home occupation. Mr. Glenn stated that the large goose-neck trailer has to be stored somewhere else. Mr. Green stated that trailer needs to be defined. Mr. Glenn stated that he feels that the cargo trailer can be parked at the home. Mr. Jensen stated that any type of trailer hauling a skidster stands taller than 6 feet. Mr. Glenn stated that the Planning Commission can't approve something that violates the City code. Mr. Leatham asked if the goose-neck trailer can be parked somewhere else. Mr. Green stated that a level 2 home occupation permit is not for storage of equipment. Mr. Green stated that using his home to stage a business is not the intent of the home occupation. Mr. Glenn stated that Mr. Jensen may come to a point in his life that he doesn't want a construction yard for a neighbor. Ms. Gorenflo asked if it would be possible for Mr. Jensen to park his trailer in town somewhere else. Mr. Glenn stated that if Mr. Jensen owned property in the industrial zone, he could park the trailer there. Mr. Glenn asked where the yard is in the valley that Mr. Jensen parks his other equipment. Mr. Jensen stated Nibley. Mr. Green asked if Mr. Jensen had any comments about Mr. Glenn's proposal. Mr. Jensen stated no. Mr. Green asked what a reasonable time limit would be. Mr. Leatham suggests excavating out a pit that the trailer could be backed into so that it is lower and hid behind a fence. Mr. Glenn stated that there is nothing in the code that would prevent

Mr. Jensen from doing this. Mr. Jensen stated that he is not digging a pit. Mr. Green suggested that Mr. Jensen have his employees' park at the park-n-ride. Mr. Green asked how long it would take Mr. Jensen to comply. Mr. Jensen stated that all he needs to do is pull a trailer away. Mr. Jensen stated that the trailer is too tall for the fence. Mr. Green suggested that Mr. Glenn's proposal be followed, and during the next 2 weeks, as a Planning Commission, they inspect the property. After discussion, John Spence made a motion, seconded by Jaye Colling to approve 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 with the following conditions: 1) no vehicle required for the home occupation shall be parked on the street right-of-way for longer than ½ hour. One vehicle may be parked on the premise in front of the house, 2) No more than 1 trailer required for the home occupation may be parked on the premise and must not protrude beyond the front of the home, 3) no motorized heavy construction equipment may be stored on the premise longer than ½ hour, 4) One auxiliary building meeting City code allowed behind the home for storage of inventory, tools, or other materials required for the home occupation, and that the Planning Commission inspect the property before the next meeting.

Yea 5

Nay 0

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

Don Hartle stated that City Attorney Bruce Jorgensen is reviewing the information concerning Tracy Bailey and will proceed with enforcement of the code based on the City Attorney's recommendation.

The Planning Commission discussed enforcement of conditional use permits. Loyal Green stated that there is a problem with following up on conditional use permits. Mr. Green asked how to enforce conditional use permits. Mr. Green stated that in the area that he lives, there are 2 sign violations and a pile of dirt in the City's right-of-way that has been there for 4 years and now the company that rebuilt Highway 101 has dumped black top on the pile. Ron Case suggested Jerry Cokely to enforce conditional use permits. Don Hartle stated that Mr. Cokely sends out a form letter. Mr. Case asked if there could be a form letter for every violation. Mr. Hartle stated that he is not sure if Mr. Cokely would be interested in enforcing conditional use permits or not. Mr. Green stated that once the word got out, people would clean up their areas. Mr. Hartle stated no, because it is the same people with the same problem month after month. Mr. Green asked if it was possible to enforce conditional use permits without incurring attorney fees. Mr. Hartle stated that having the man power is a problem. Mr. Hartle stated that the City Council discussed raising taxes beginning July 1, 2009, but because of the economy, they decided to back off. Jaye Colling stated that the City code states that a violation of a conditional use is a fine of \$25.00 per day. Mr. Green asked if Wellsville City's contract with the Cache County Sheriff's Office includes enforcement of conditional use permits. Mr. Hartle stated that the Cache County Sheriff's Office does road and safety law enforcement. John Spence asked if the position had to be a paid position. Mr. Hartle stated that he doesn't know. Carl Leatham stated that every street in Wellsville City has a violation of the City's code, and unless there is a public complaint, no action is taken. Mr. Green stated that if the ordinances are not administered, it is unfair to those residents who do comply with the code. Mr. Hartle gave an example of violations with horses, and asked that the Planning Commission drive around in the next 2 weeks and count the number of horse violations there are in Wellsville City. Mr. Green asked if Mr. Case could discuss this issue at City Council meeting. Mr. Case stated that the City Council would like to enforce conditional use permits, and have discussed this issue, but their questions are how to enforce the conditional use permits and how to pay for it. Mr. Green suggests a citizen's committee to enforce the conditional use permits without involving money. Mr. Case asked Mr. Hartle to include this issue on the agenda for the next City Council meeting.

At 7:37 p.m., Jaye Colling made a motion, seconded by Carl Leatham, to adjourn the meeting.

Yea **5**

Russell Glenn

Jaye Colling

Loyal Green

Carl Leatham

John Spence

Nay **0**

Loyal Green

Chairman