

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, January 25, 2012, at the Wellsville City Offices, 75 East Main in Wellsville. Commission members present were Chairman Loyal Green, Russell Glenn, Paul Egbert, John Spence, and M. Kent Larsen. Also present were City Manager/Recorder Don Hartle, Mayor Thomas G. Bailey, Councilman Carl Leatham, and Councilwoman Glenna Petersen. A copy of the Notice and Agenda was posted, faxed and emailed to the Herald Journal, and mailed to the Planning Commission on January 20, 2012. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Marcie King Trent King  
David Kurek Sandra Kurek Lance Gunnell  
Gay Olsen Nancy Motter Joyce Hawker  
Jay Baker Sharon Kunzler Koltin Kunzler  
Jonathan Cook

Opening Ceremony: John Spence

Loyal Green reviewed the agenda with the Commission. After review, John Spence made a motion, seconded by Paul Egbert, that the agenda be approved as presented.

YEA 5 NAY 0  
Russell Glenn  
Paul Egbert  
Loyal Green  
John Spence  
M. Kent Larsen

The Commission reviewed the minutes for the Commission meeting which was held December 28, 2011. After review, Russell Glenn made a motion, seconded by John Spence, that the minutes of the December 28, 2011 meeting be approved as presented.

YEA 5 NAY 0  
Russell Glenn  
Paul Egbert  
Loyal Green  
John Spence  
M. Kent Larsen

Marcie King met with the Planning Commission to discuss the need for a conditional use permit. Ms. King stated that she is a home party direct sales demonstrator for a company named Stampin' Up. She read the newsletter stating that home-based businesses need to have a business license. Ms. King came to the City Office and asked the receptionist if she needed a business license. Ms. King stated that she was referred to Don Hartle. Ms. King stated that she contacted the legal department of Stampin' Up and they told her that no city in Utah requires a business license for Stampin' Up demonstrators. Loyal Green asked what activities are done in Ms. King's home. Ms. King stated that she has open houses, teaches techniques, and books parties. Ms. King stated that she doesn't keep any inventory on-hand, and has nothing for sale in her home. Mr. Green asked if she uses the internet for her business. Ms. King stated that she has a website through Stampin' Up. Paul Egbert asked how often Ms. King has open houses. Ms. King stated once a month. Mr. Egbert asked how many people attend the open houses. Ms. King stated that 2 people have attended in the last 2 months. Russell Glenn asked if Ms. King realizes any income from the business. Ms. King stated that she wished she had income from the business. Mr. Glenn asked if the income is reported to the IRS. Ms. King stated yes. Don Hartle stated that he will research this issue with City Attorney Bruce Jorgensen.

David Kurek and Lance Gunnell met with the Planning Commission to discuss a potential rezone of property of a 3 cornered piece of property between 200 East and Highway 89/91 and from 760 South to the south. Mr. Kurek stated that the owner of the duplex located next to his business has approached him and asked if he would be interested in purchasing the property. John Spence asked if David Kurek or Lance

Gunnell would be purchasing the property. Lance Gunnell stated that he would be purchasing the property. Mr. Gunnell stated that he would purchase the property on the condition that the duplex would be left and it would remain legal. Don Hartle stated that this issue involves the property of James Wagstaff. The property is contiguous with the R-1-12 zone. Mr. Wagstaff's lot is a non-conforming lot because his home is on 87/100 of an acre instead of a full acre because of the widening of Highway 89/91. Mr. Wagstaff has stated that he would like to someday build another home to the south of his existing home. Mr. Hartle stated that the duplex is non-conforming because it has a setback of 25 feet instead of the required 30 feet. The proposed plan is to take the entire 3-cornered piece of property, rezone it to R-1-12, divide off the duplex, and rezone the rest of the property Highway Commercial. Loyal Green stated that his concern is that the property owners know what is happening, and asked if any other property owners were present. Mr. Kurek stated that one property owner is a truck driver, and the other property owner works swing shift. Mr. Hartle stated that all property owners have signed a document stating that they are in support of it. Mr. Green asked what the recommendation is. Mr. Hartle stated that the property will need to be surveyed. The property will then be rezoned to R-1-12. The duplex will be divided off, and the rest of the property will then be rezoned CH, Highway Commercial. M. Kent Larsen asked if the City Council has had any discussion or opinion concerning this issue. Mr. Hartle stated that the Planning Commission makes the recommendation to the City Council. Paul Egbert asked what the guidelines were between zones R-1-12 and CH. Mr. Hartle stated that he didn't know, and would have to review the code. Carl Leatham stated that CH, Highway Commercial is subjected to conditional use. Mr. Hartle stated that he would work with David Kurek and Lance Gunnell to proceed with the rezone.

Marshall Lindsay was to meet with the Planning Commission to discuss his conditional use permit. Mr. Lindsay's mother-in-law passed away, and Mr. Lindsay was not in attendance. Don Hartle stated that Mr. Lindsay should be rescheduled for a later meeting. Nancy Motter asked if she could address the Planning Commission concerning this issue. Ms. Motter handed out a packet of minutes from the Planning Commission meeting dated September 28, 2011 which she attended, as well as many pictures of Mr. Lindsay's business. Ms. Motter read from the minutes dated September 28, 2011, and asked if any follow-up was done. The answer was no. Ms. Motter stated that the pictures are during the months of December 2011 and January 2012. Ms. Motter stated that she feels like she is living in a construction zone. Ms. Motter stated that she has tried to work with Mr. Lindsay for the last 7 years and has gotten nowhere with this issue. Ms. Motter stated that they have chosen to sell their home and leave Wellsville City because of this issue. Joyce Hawker stated that her sons own a small business that is in a commercial area. Ms. Hawker stated that they pay rent on a building. Ms. Hawker stated that they have a lot of overhead expenses that could be money in their pocket if they moved the business to their home. Ms. Hawker stated that she is not against home-based businesses, but it is time for Mr. Lindsay to relocate his business to a commercial area. The number of employees and the coming and going at all times of the day to this residential area is a danger. Ms. Hawker stated that her grandchildren are unable to use the sidewalk to walk to school because a truck is usually parked on the sidewalk. Ms. Hawker doesn't want her residential street to turn into a commercial area. John Spence stated that Mayor Thomas G. Bailey drives by this area a lot and asked for his opinion. Mayor Thomas G. Bailey stated that at times, the green truck has been parked out in the road. Mayor Bailey stated that this business starts between 7:00 a.m. and 7:30 a.m. every morning. Loyal Green read from the Level 1 "Home Occupation" ordinance. Mr. Green stated that the duty of the Planning Commission is to uphold the ordinance. Given the evidence presented by Ms. Motter, this business has grown beyond the conditional use permit that was granted. Mr. Green read from the Level 2 "Home Occupation" ordinance. Mr. Green's opinion is that there is a problem. Don Hartle stated that a Level 2 "Home Occupation" was approved. Ms. Motter stated that the business also has to meet the Level 1 "Home Occupation" requirements also. Mr. Green asked what the opinion of the Planning Commission was. Russell Glenn stated that the City Council should revoke Mr. Lindsay's business license. Mr. Green stated that he agreed with Mr. Glenn. John Spence stated that he also agreed with Mr. Glenn. M. Kent Larsen stated that the level of business and the magnitude of equipment for this business should be located in a commercial zone. Paul Egbert stated that he is hesitant because Mr. Lindsay is not here to defend the accusations. Mr. Larsen stated that in some of the pictures, there are trailers that are loaded that are not hooked to any vehicle. Mr. Spence asked about the opinions of other neighbors. Ms. Motter stated that Keith and Thelma Call were creating some negative energy and thinks that Ms. Motter is an awful neighbor because she has brought this issue to the attention of the Planning Commission. Mr. Green stated that under Level 1 "Home Occupation", Mr. Lindsay is in violation of item I, item K, and item L. Under Level 2

“Home Occupation”, Mr. Lindsay is in violation of item 1, item 3, item 4, and item 6. Mr. Green stated that Mr. Lindsay is in violation of at least 7 items under the Level 1 “Home Occupation” and Level 2 “Home Occupation” code. Mayor Bailey stated that it is the responsibility of the Planning Commission to interpret the code. Mayor Bailey stated that the Planning Commission can recommend to the City Council that the business license for Mr. Lindsay be revoked, but the City Council will not revoke the business license until there is input from City Attorney Bruce Jorgensen. After discussion, Russell Glenn made a motion, seconded by Paul Egbert, to recommend to the City Council that the business license for Marshall Lindsay be revoked due to him being in violation of at least 7 items under the Level 1 “Home Occupation” and Level 2 “Home Occupation” code which are listed above.

YEA 5  
Russell Glenn  
Paul Egbert  
Loyal Green  
John Spence  
M. Kent Larsen

NAY 0

Jay Baker with Cache County Zoning Office provided training for the Planning Commission.

At 7:48 p.m., M. Kent Larsen made a motion, seconded by John Spence, to adjourn the meeting.

YEA 5  
Russell Glenn  
Paul Egbert  
Loyal Green  
John Spence  
M. Kent Larsen

NAY 0

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Loyal Green  
Chairman