

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, February 22, 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 February 17, 2012. The meeting was called to order at 6:00 p.m.

<u>Others Present:</u>	Jennifer Leishman	David Kurek	Sandra Kurek
	Ray Bankhead	Phil Bankhead	Robyn Bankhead
	Evan Bankhead	Paulette Gunnell	Elizabeth Davis
	Arsenath Hartman	Laird Hartman	Chad Carlston
	James Wagstaff	Kathryn Broughton	Bart Nicholes
	Karen Nicholes	Trudy Constantineau	Marshall Lindsay
	Denise Lindsay	Kameron Lindsay	Keith Call
	Thelma Call	Keri Pattee	Ray Stokes
	Pam Stokes	Chris Jepps	Gary Hansen
	Brian Leishman	Lance Anderson	Jonathan Cook

Opening Ceremony: Paul Egbert

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

<b><u>YEA 5</u></b>	<b><u>NAY 0</u></b>
Russell Glenn	
Paul Egbert	
Loyal Green	
John Spence	
M. Kent Larsen	

The Commission reviewed the minutes for the Commission meeting which was held February 8, 2012. After review, John Spence made a motion, seconded by Russell Glenn, that the minutes of the February 8, 2012 meeting be approved as presented.

<b><u>YEA 5</u></b>	<b><u>NAY 0</u></b>
Russell Glenn	
Paul Egbert	
Loyal Green	
John Spence	
M. Kent Larsen	

At 6:05 p.m., conduct a public hearing to receive public input and consider making a recommendation to the City Council on a request by David Kurek, agent for James Wagstaff at 802 South 200 East, property tax identification #10-041-0023 (.87 acres), and for Lazaro Guerra and Fernando Trejo at 780 South 200 East and 788 South 200 East, property tax identification #10-041-0025 (1.22 acres) be rezoned from RA-1 to R-1-12. David Kurek stated that he is acting as the agent. Mr. Guerra would like to sell some acreage to Lance Gunnell, and the property has to be rezoned in order to make it possible. Don Hartle stated that the property is currently zoned RA-1. The lot in which James Wagstaff owns is a non-conforming lot because when Highway 89/91 was widened, UDOT took some of Mr. Wagstaff's property, so he currently owns 87/100 of an acre. The change in zoning would allow the lot to be conforming. The change in zoning would allow the owner of the duplex to divide off the duplex, sell the back half of the property to Lance Gunnell, and still have a conforming lot. Phil Bankhead asked why the property would be zoned residential. Mr. Kurek stated that it is the order in which they have to do it in order to sell the property. Phil Bankhead asked for a copy of the conditions given to the property owner when the blue building was built and rezoned Highway Commercial. Mr. Hartle stated that he would have to find them. Kathryn

Broughton stated that she lives across the street. Ms. Broughton read a letter that her husband had written because he was unable to attend the meeting due to being out of state. Ms. Broughton asked what guidelines are in place concerning rezoning property for commercial use. Loyal Green stated that commercial use guidelines are based on a conditional use permit. If the business wants to expand, it depends on the conditions placed on the business, and it is based on a request from an individual. Phil Bankhead stated that the owner of the property told the City Council years ago that the business would be contained inside the building, and that it wouldn't be an eyesore. There would be no parking problems. Phil Bankhead stated that the whole piece was requested to be zoned highway commercial years ago, but was denied because of the concerns with the corner. Recently, Lance Gunnell purchased the property, didn't want to rezone it to highway commercial, but said that Don Hartle told him he has to. Don Hartle stated he did not, but in order to expand now, the property would have to be rezoned highway commercial. Phil Bankhead stated that Mr. Kurek doesn't own the property. Phil Bankhead stated that Mr. Kurek doesn't want to expand his business, but he would like to be able to store more trailers. Don Hartle read from the Planning & Zoning minutes of the second public hearing concerning this property. Phil Bankhead asked if James Wagstaff's property would be rezoned highway commercial. Mr. Kurek stated no. Phil Bankhead stated that he is aware that there is a multiple family ordinance, and has witnessed there being 15 to 16 cars parked in front of the duplex. Phil Bankhead stated that Mr. Kurek has done a pretty good job of following the conditions places on his business. Phil Bankhead stated that his concern is that the expansion is only so that Mr. Kurek can park more trailers. Mr. Kurek stated that when a customer comes to drop off a trailer, the customer has to back the trailer into his business. Mr. Kurek would like to have enough space for the customer to be able to pull in, turn around, and drop the trailer without backing in. Phil Bankhead asked if Mr. Kurek would stay with the current condition of allowing 5 trailers parked at any time, or would he like to be able to park more trailers. Mr. Kurek didn't respond. Phil Bankhead stated that the area is a residential community. An exception was made years ago on one spot with one building. Phil Bankhead stated that he doesn't want to see the highway commercial zone get any bigger in that area. Phil Bankhead stated that the duplex is in violation and that it should be cleaned up before they are allowed to sell any property. Mr. Hartle stated that this issue has been discussed with City Attorney Bruce Jorgensen. Mr. Jorgensen's recommendation was to rezone the property to R-1-12, and allow a lot line adjustment. No more lots would be created. Next, reduce the size of the duplex to 13,000 square feet, and then rezone the property that is owned by Lance Gunnell to highway commercial. Phil Bankhead stated that the current multiple family dwelling ordinance requires parking in the rear of the building. Phil Bankhead stated that the duplex should have to comply with the current multiple family dwelling ordinance. Russell Glenn asked if the plan is to have Lance Gunnell purchase the duplex. Mr. Kurek stated that Lance Gunnell has been approached to purchase the duplex, but he doesn't know if Lance Gunnell plans to purchase it or not. Laird Hartman stated that he lives at 730 South 200 East. Mr. Hartman emphasized residential community, and prefers weeds to trailers. Mr. Hartman asked if it would be possible for Mr. Kurek to have customers enter on the east side of the building and loop around to the west side of the building so that the customer doesn't have to back in. The east side of the building was to remain in open space. Elizabeth Davis owns a home and property in the area. Ms. Davis had concerns at the time with parking trailers. Ms. Davis stated that her concern is that as she walks out her backdoor, all she sees is the weeds and mess from the duplex. Ms. Davis stated that she wants to repeat what Ms. Broughton said. Ms. Davis does have a problem with more trailers being allowed to park. Ms. Davis stated that she is harassed from the occupants of the duplex. Ms. Davis believes that Wellsville City is a great bedroom community, and is a great place for families and very quiet. Ms. Davis is very much against this request. Evan Bankhead stated that a mistake was made years ago by allowing the building to be built on the lot. This is a residential area, and highway commercial is stuck in it. Evan Bankhead stated that by allowing this rezone, it would be making a mistake bigger. John Spence stated that when Lance Gunnell attended Planning Commission meeting, he discussed adding a fence around the property. Mr. Kurek stated that it would be a chain-link fence with privacy slats. Phil Bankhead stated that if a fence is installed, there is no room for a turn around area. Mr. Hartle stated that the current required setback is 30 feet, and the building is setback 25 feet. Phil Bankhead stated that there is no highway commercial zone adjacent to this property. Phil Bankhead stated that Mr. Kurek and his business may not be there in a year, but the decision will always be there. Mr. Hartle stated that the Planning Commission will make a recommendation to the City Council, and that the City Council will meet in 2 weeks to make a decision concerning this issue. Phil Bankhead asked if there was any property zoned R-1-12 in the area. Mr. Hartle stated yes, to the south. Phil Bankhead stated that the rezone will not hurt, nor help James Wagstaff. Mr. Hartle stated that it will allow a non-conforming lot to conform. Ray

Bankhead stated that there is irrigation water with the property being discussed. M. Kent Larsen stated that he is not in favor of spot zoning, and he sees this happening here. Mr. Larsen stated that it creates an island. Mr. Glenn stated that the only purpose of rezoning the property to R-1-12 is so that the duplex could be separated and the corner lot sold. Phil Bankhead stated that the duplex is currently not in compliance with the current code. Mr. Green stated that he appreciates the information concerning the duplex. This is the first time that the information is being heard by the Planning Commission. Mr. Green stated that the issue before them tonight is a rezoning of the property from RA-1 to R-1-12. Paul Egbert stated that the rezone of the non-conforming lot (.87 acres) is questionable whether it is helpful or not. The business can become bigger with a lot line adjustment. Mr. Hartle stated that the Planning Commission is receiving input tonight. The duplex can remain on 1 acre and sell .22 acres to Lance Gunnell. Phil Bankhead asked if this issue benefits James Wagstaff. Mr. Hartle stated that it benefits Lance Gunnell. Phil Bankhead stated that the duplex should be made to conform to the current ordinance and have parking in the rear of the building. Mr. Hartle stated that he doesn't know if he can do it, but will check with City Attorney Bruce Jorgensen concerning issues with the duplex. Mr. Egbert stated that with the expansion of the business, more conditions could be added. Mr. Hartle stated that he asked City Attorney Bruce Jorgensen about the 25-foot setback. Mr. Jorgensen stated that the lot is not a restricted lot; it is a non-conforming lot. Mr. Egbert stated that if the duplex is rezoned R-1-12, there would not be room for parking in the rear of the building. Mr. Spence stated that there are 3 different issues being discussed. Mr. Larsen stated that a change to residential should be to improve residential. Mr. Green asked if the property is rezoned highway commercial, what the intent of the property is. Mr. Kurek stated that the intent is to clean it up and park a few more trailers. Mr. Green asked how much does Mr. Kurek plan to grow his business. Mr. Kurek stated that it depends on how many people use his services. Mr. Green asked if there were no more additional conditions placed on the business, how many additional trailers could be parked on the property. Mr. Kurek stated that if Lance Gunnell was able to purchase the property, he would park a total of 15 trailers on the property. Mr. Glenn asked if a driveway around the east side of the building would be of any value. Mr. Kurek stated that it would help out considerably. Mr. Egbert stated that if the business is growing and expanding, where is the limit. Mr. Green stated that this discussion has shed light on multiple problems. Mr. Green stated that Mr. Kurek would not be allowed to do anything on the east side of the building because the property is open space on the east side. Mr. Green stated that given the number and types of new information, he would like to see this discussion continued so that the Planning Commission could make an intelligent decision. Mr. Glenn asked if there was an advantage to rezoning the property at this point. Mr. Spence stated that the discussion of the people that live in the area has concerns if the business keeps growing. Mr. Spence doesn't see a need to rezone the property to R-1-12. After discussion, Russell Glenn made a motion, seconded by M. Kent Larsen, to continue this discussion until as such time as the Planning Commission reviews the area and digests all of the information given.

**YEA 5**

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

**NAY 0**

The Planning Commission reviewed for approval a lot line adjustment for Bart and Karen Nicholes at 1261 South Center Street. Ms. Nicholes stated that Jason and Trudy Constantineau live next door to them. Jason and Trudy Constantineau would like to build a horse barn. Ms. Nicholes stated that in order to build the horse barn, they would like to sell a small a corner of their property to Jason and Trudy Constantineau. Ms. Nicholes stated that they are doing this to accommodate their neighbors. Paul Egbert asked what the required setbacks were. After discussion, Paul Egbert made a motion, seconded by John Spence, to approve a lot line adjustment for Bart and Karen Nicholes at 1261 South Center Street.

**YEA 5**

Russell Glenn  
Paul Egbert  
Loyal Green  
John Spence

**NAY 0**

M. Kent Larsen

Marshall Lindsay met with the Planning Commission to discuss his conditional use permit. Marshall Lindsay thanked his neighbors for attending the meeting to support him. Mr. Lindsay stated that his business has grown. When he filled out his original application, he listed the equipment that he had. He has since added 3 more trailers. Mr. Lindsay stated that his business is the same size as it has been for the last 5 years. Mr. Lindsay stated that his next step is to find land to store his equipment on. Mr. Lindsay stated that when he made an appointment with Don Hartle last fall to attend a Planning Commission meeting, he wanted to discuss his conditional use permit as is. Mr. Lindsay stated that in the last 2 months, he has talked with Mr. Hartle several times about finding property to store his equipment on. Mr. Lindsay stated that he was very disappointed that the Planning Commission would listen to his neighbor on January 25, 2012 without him being in attendance to defend himself. Mr. Lindsay stated that he is trying to do his best. He is not trying to run a commercial business. People use his backyard for family photos and weddings. Mr. Lindsay stated that the noise could be from buses and farmers driving by. Mr. Lindsay stated that he is paying his employees to go to work. Mr. Lindsay stated that his neighbor has complained about the noise and privacy. Mr. Lindsay stated that the neighbor's house faces his driveway. Mr. Lindsay stated that he has planted trees and installed a fence. Mr. Lindsay stated that tractors, trailers, and trucks are the tools for his business. Loyal Green reviewed the original permit dated April 9, 2003. Mr. Lindsay recorded on the application that he had 1 14-foot trailer, a truck, and landscape tools. Mr. Lindsay recorded on the application that everything would fit in the storage shed except the trailer. Mr. Green read from the Planning Commission minutes when the conditional use permit was issued. Mr. Green read from the Planning Commission minutes dated September 28, 2011 when Ms. Motter complained about the business. Mr. Green stated that the business has grown, but asked how much over and above the original conditional use permit. Mr. Lindsay stated that he has 3 additional trailers that are parked at his home now because of winter. Mr. Lindsay stated that the equipment is move to the job site when they are working. Mr. Lindsay stated that the trailers are stored in the back of his home. Mr. Lindsay stated that he has 2 trucks, 4 trailers, a tractor that is on a trailer, and a skid loader that is on a trailer that is stored behind the house in front of his shop. Thelma Call stated that she is always outside and has never heard any commotion from Mr. Lindsay. Ms. Call stated that she has never had a problem. Ray Stokes stated that he has seen and heard more noise from the gravel pit, dairy farmers, and rodeo grounds than from Mr. Lindsay's business. Keith Call stated that he is always outside and has never come close to having a complaint about noise from Mr. Lindsay's business. Mr. Call stated that he has met the workers and their families. They are very nice people. Mr. Call stated that he has zero complaints about Mr. Lindsay's business. Chris Jeppsen stated that Mr. Lindsay's business is very neat. Ms. Jeppsen stated that Mr. Lindsay offers more to the community than he creates a problem. Ms. Jeppsen stated that Mr. Lindsay's business doesn't interfere with her lifestyle. Mr. Green stated that the business has grown, and may not fit as a home occupation. John Spence stated that he has been watching this business since a complaint was issued to the Planning Commission. Mr. Spence stated that no one could tell if there was a business there or at any other time. Mr. Spence feels that Mr. Lindsay has done everything possible to try to get along with his neighbor. Denise Lindsay stated that they have bent over backward to make their neighbor happy. Ms. Lindsay stated that she feels that they have been thrown under the bus. Ms. Lindsay stated that she has talked to Brenda Hawker about her concerns with the sidewalk, and they will make sure the trucks and trailers are not parked on the sidewalk. Russell Glenn stated that the issues have been brought up by the complaint of a neighbor. Mr. Glenn asked if Mr. Lindsay is operating his business by the code. Mr. Glenn stated that the business has grown, and that Mr. Lindsay has acquired more tools and operating early in the morning. Mr. Glenn stated that the Planning Commission is charged with enforcing the code. Both level 1 and level 2 home occupation codes state that the business is to be conducted in such that the neighbors, under normal conditions, would not be aware of its existence. Mr. Lindsay stated that when he comes and goes from the house on business, he worries about it bothering the neighbors. Mr. Lindsay stated that he also leaves his home to coach teams, scout activities, attend church, family functions, and work. Mr. Lindsay stated that he reviewed a 2-block radius of his house, and he is below par when you count the things that are in people's yards. Mr. Glenn stated that the neighbors in support of Mr. Lindsay are Wellsville City people that have grown up in Wellsville City and are used to seeing and hearing farm equipment, gravel trucks, etc. Mr. Green read from the home occupation code. Paul Egbert stated that he appreciates the neighbor's input tonight. Mr. Egbert stated that it is good and beneficial that other neighbor's are okay with the business. Mr. Glenn stated that this business is on the verge of being too big for a home occupation. Mr. Green asked based on the input

tonight, what the Planning Commission wanted to do. After discussion, Russell Glenn made a motion, seconded by M. Kent Larsen, that Russell Glenn withdraws his motion from a previous Planning Commission meeting dated January 25, 2012 on the contingency that Mr. Lindsay keeps his business the current size of operation with 4 trailers, 2 trucks, 1 tractor, and 1 skid loader.

YEA 5

NAY 0

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

Gary Hansen, Brian Leishman, and Lance Anderson met with the Planning Commission to discuss a potential development. Mr. Hansen stated that he is interested in the property on 200 East between 300 North and 400 North currently known as the old cheese factory. Mr. Hansen is aware that there is a lot of history with the building. The building has been up for sale for the last 2 to 3 years. The building is approximately 40,000 square feet. The zoning is currently manufacturing. There is 4.71 acres with some water rights. The utilities have been stubbed in. Mr. Hansen stated that he would like to remove the building and build a planned unit development. Lance Anderson submitted a concept drawing of the PUD. There will be 46 units, each with 1,500 square feet of living space, and a 2-car garage for each unit. The total number of parking stalls is 112. There will be 20 parking stalls for guests and visitors. There will be 39% open space. The buildings will consist of 4 or 6 units each. Loyal Green asked how Mr. Hansen will go about marketing this PUD. Mr. Hansen stated that individuals and families will purchase them. Some investors may purchase some units to rent out. Mr. Hansen stated that the units will consist of 2 or 3 bedrooms. Mr. Green asked if it would be an HOA-type of PUD. Mr. Hansen stated yes. Mr. Green asked if the individual will own from the outside walls in. Mr. Hansen stated that is correct. Mr. Green asked if the HOA would be responsible for insuring the outside of the building and the owner would insure the inside of the building. Mr. Hansen stated yes. Mr. Green asked if the CC&R's would state who would be responsible for the blacktop. Mr. Anderson stated that the main road through the PUD may be turned into a city road. Don Hartle stated that if the road is to be turned over to the city as a city road, it would need to be built to city specifications and be 99 feet in width. Mr. Green asked how much the HOA fees would be for each unit to maintain the PUD. Mr. Hansen doesn't know. Mr. Hansen stated that the HOA fees for the Blackhawk PUD in Providence are \$135 per month. Mayor Thomas G. Bailey stated that the developer needs to be aware that there is a head gate that runs north on the river and there has to be access to the head gate. John Spence asked if Mr. Hansen plans to purchase the building owned by Ted Rick's and property from John Kerr and clean it all up. Mr. Hansen stated that he has to be careful how big this project gets. Mr. Hansen stated that he wants to purchase the cheese plant and railroad property. Mr. Green asked what Mr. Hansen is wanting from the Planning Commission. Mr. Hansen stated that he would like to know the feelings of the Planning Commission concerning this PUD. Mr. Hartle stated that Dave Bigelow called and wanted the developer to know that the some of the water lines are run out of the pond and into the building. Mr. Hartle stated that Mr. Bigelow also said that there may be asbestos in the walls. Brian Leishman stated that they have addressed these issues with Dairy Farmers of America, the current owner of the building. The DFA is willing to participate in tearing down the building. Mr. Hartle stated that there is nothing in the current code that would allow a PUD. Mr. Green asked if the General Plan allows this type of development in this area. Mr. Hartle stated that the land use map would have to be amended. Glenna Peterson stated that if this development is allowed in this area, it would be allowed everywhere in Wellsville. Ms. Peterson asked when the building was built. Mr. Hansen stated 1928. Ms. Peterson stated that she has discussed this issue with Wilma Hall, a member of the Wellsville Historic Committee, and Ms. Hall stated that this building has historical value. Mr. Green stated that he likes the idea, and would be happy to get rid of the old building. Mr. Green stated that he would like to see it happen, and that an HOA would be involved. Mr. Hansen stated that he would have control of the landscape and maintenance for 10 years after the project has been completed. Mr. Anderson stated that they have discussed phasing the project into 2 or 3 phases. Russell Glenn stated that with a project this size, he would suggest that the HOA be professionally managed. M. Kent Larsen stated that he is concerned with the impact on roads and traffic. Mr. Larsen stated that the old building is an eyesore, a hazard, and a nuisance. Mr. Larsen stated that there are senior citizens that would like to stay in Wellsville City, but are unable to keep up their home. Mr. Larsen stated

that Wellsville City needs a place for senior citizens. Mr. Anderson stated that there has been some discussion about having some single-level units. Paul Egbert stated that he is concerned with the density issue. Mr. Egbert stated that 3 to 4 blocks worth of houses and people would be combined into ½ of a block. Mr. Egbert stated that 112 vehicles would be dumping out onto 400 North, which is already busy and nasty now. Mr. Egbert would like to see more options for traffic going in and out of the PUD. This would be quadrupling traffic in the area. Mr. Anderson stated that the concern with density is addressed with trying to preserve open space. There is a 99-foot right-of-way on 300 North and a 66-foot right-of-way on 400 North. Mr. Egbert stated that this is a huge jump from a 4-plex to 46 units. Mr. Glenn stated that he lived for a time in an apartment complex with many more units than 86, and had one road in and one road out, and that traffic never was an issue. Mr. Leishman stated that this is a concept idea and the details need to be hammered out. Mr. Leishman stated that it would help if the Planning Commission could give them a time frame as to having a PUD in place. Mr. Spence stated that he likes the idea and that the area would be cleaned up. Mr. Spence stated that his concern is if this is started, it will open the flood gate for it to happen anywhere in Wellsville City. Mr. Spence is concerned that after 10 years, it will become rundown and turn into low-income housing. Mr. Spence also doesn't want to see an investor purchasing a lot of units to rent them out. Mr. Egbert stated that a complete new ordinance would have to be written, and that it can't piggyback on anything that is already in place. Mr. Egbert feels that this is too much at once. Mr. Glenn stated that this is not something that would happen quickly, and that it is a lengthy process. Mr. Hartle stated that he thinks it would take about 1 year to write a PUD. Mr. Egbert asked what the general public, citizens, and neighbors would think of this idea. Mr. Hartle stated that the area that is being discussed is very limited to the amount of growth that can take place. Mr. Hartle stated that it would not impact growth in the future in this area. Mr. Green stated that 4 are in favor of the project, and 1 is against it. Mr. Hansen asked the opinion of the Planning Commission to see if he should present this idea to the City Council, or wait for a public discussion. Mr. Green stated that his opinion is to present the concept idea to the City Council. Mr. Spence stated that the City Council needs to be aware of what may be happening. Mr. Leishman stated that the land use map needs to be amended and that a PUD ordinance would need to be written. Carl Leatham stated that a discussion should be held with the City Council to get their feeling about this PUD. Mr. Egbert stated that he understands the general idea, but thinks there is a need for a different, smaller density PUD. Mr. Glenn stated that the Planning Commission should address a general need, but not change the code for a project. Mr. Green stated that his biggest concern would be traffic.

At 8:38 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