

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, March 28, 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 Gary Bates. A copy of the Notice and Agenda was posted, faxed and emailed to the Herald Journal, and mailed to the Planning Commission on March 23, 2012. The meeting was called to order at 6:00 p.m.

<u>Others Present:</u>	Jennifer Leishman	Sue Zwygart	Teresa Zwygart
	Bryan Palmer	Steve Kyriopoulos	Joan Kyriopoulos
	Garyn Perrett	Don Ewing	Alison Ewing
	Scott Leishman	Elizabeth Davis	Phil Bankhead
	Robyn Bankhead	Kathryn Broughton	Mark Broughton
	Alan Sorensen	Clayton Case	Jonathan Cook
	Kate DuHadway		

Opening Ceremony: John Spence

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

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

The Commission reviewed the minutes for the Commission meeting which was held March 14, 2012. After review, John Spence made a motion, seconded by Russell Glenn, that the minutes of the March 14, 2012 meeting be approved as presented.

<u>YEA 5</u>	<u>NAY 0</u>
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 for approval a request from Sue Zwygart for a conditional use for a 3-dog kennel license at her home at 770 South 100 West. Ms. Zwygart stated that she has 3 dogs, 1 semi-outside border collie and 2 poodles that are never outside unattended. Ms. Zwygart stated that she has a fenced back yard. Ms. Zwygart stated that they are not breeding dogs. Loyal Green asked if they had any complaints from their neighbors. Ms. Zwygart stated no. John Spence asked if the border collie stays in the fenced yard when it is outside. Ms. Zwygart stated yes. Mr. Green asked about clean up of the yard. Ms. Zwygart stated that her grandchildren clean up every Saturday. After discussion, Russell Glenn made a motion, seconded by M. Kent Larsen, to approve a request from Sue Zwygart for a conditional use for a 3-dog kennel license at her home at 770 South 100 West with the condition that the dogs stay in the enclosed fence at all times when outside.

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

Bryan Palmer met with the Planning Commission to discuss temporary buildings. Mr. Palmer stated that he would like some guidance concerning a temporary structure on the open space at the Southwest Heritage Estates Subdivision that he leases. The temporary structure would be made of PVC pipe with a plastic covering. It would be up for about 2 months. It would be located on the southwest corner of the front piece of open space that is owned by the AWHC. Paul Egbert asked if the structure would be similar to what is behind Mr. Palmer's home now. Mr. Palmer stated that the structure behind his home has a metal frame. Mr. Palmer stated that the structure would be in place from the time they receive approval until about June 1, 2012. Don Hartle asked if the structure would come down on June 1, 2012. Mr. Palmer stated that it would all come down except for the ground pieces. Loyal Green asked where the structure would be in regards to the front lawns of the 2 homes facing east. Mr. Palmer explained the location of the structure. M. Kent Larsen asked how big the structure is. Mr. Palmer stated that it would be about 8 feet tall, 14 feet wide, and 100 feet long. Mr. Green questioned if buildings are allowed in open space. Open space is permitted for common use. Mr. Green doesn't know if this request is legal because it is for a private enterprise. Carl Leatham stated that he would have the same question wondering if buildings are allowed in open space. Mr. Green stated that open space can't be a commercial use. Mr. Hartle stated that he couldn't find anything in the code concerning temporary structures. Mr. Egbert read 10-1-8B in the Wellsville City code. Mr. Green stated that the answer is that Mr. Palmer can't build a temporary structure in the open space because it isn't allowed.

Dave Sonneborn was to meet with the Planning Commission to discuss potential development at Sherwood Hills. Don Hartle stated that Mr. Sonneborn came into the office about 1 month ago. Mr. Hartle added him to the agenda and sent an agenda to him. Mr. Sonneborn was not in attendance to this meeting.

Steve Kyriopoulos met with the Planning Commission to discuss the concept plan for a truck stop on the northeast corner of the intersection of 400 North and Highway 89/91. Loyal Green read from the Wellsville City code section 10-15-2. MR. Green read from the General Plan. Mr. Green read from the Wellsville City code section 10-9-E. Steve Kyriopoulos stated that the code requires 20-foot setback, and there is 105 feet 6 inches from the pavement to the C-store. Mr. Kyriopoulos stated that he is well above the requirement. Mr. Kyriopoulos stated that he would like to have a C-store that is between 6,000 and 8,000 square feet, gas pumps, diesel pumps, and if financing becomes available, a car wash. Russell Glenn asked if Mr. Kyriopoulos has approval from UDOT concerning the highway access. Mr. Kyriopoulos stated that a traffic study is required. He has started the process, but is as far as he can go. Mr. Kyriopoulos stated that there is a 50-foot deeded right-of-way. Mr. Kyriopoulos stated that he would like to make this a destination truck stop. John Spence asked if the project would be split into phases. Mr. Kyriopoulos stated that the first phase would be the C-store, gas pumps, and maybe the car wash. Mr. Green asked how tall the fuel storage structures are. Mr. Kyriopoulos stated that they may be 6 to 8 feet tall. Mr. Kyriopoulos stated that they can be up to 20 feet tall. It depends on the volume. Mr. Kyriopoulos stated that they will have geo-thermal heating and cooling. They will also have solar panels. Mr. Kyriopoulos discussed bio-fuels with the Planning Commission. Mr. Kyriopoulos stated that he would like the truck stop to have a park-like feel to it. Mr. Glenn asked why the fuel storage is above ground instead of below ground. Mr. Kyriopoulos stated that he feels that it is the responsible thing to do, that fuel storage below ground can be a constant problem, and he would also be fighting a high-water table. Mr. Spence asked if the tanks pictured in Mr. Kyriopoulos' proposal is what Mr. Kyriopoulos would be using. Mr. Kyriopoulos stated yes. Mr. Kyriopoulos stated that he would still like to maintain the agriculture feel to the area and have the fuel storage tanks look like grain silos. Mr. Green stated that the fuel storage tanks pictured look taller than 6 to 8 feet. Mr. Kyriopoulos stated that he doesn't know the exact height of the fuel storage tanks. Mr. Green stated that the East Field Irrigation Company has irrigation ditches that run through the property. Scott Leishman is the president of the East Field Irrigation Company. Mr. Kyriopoulos pointed out on the concept plan where the head gate to the irrigation ditch is at. Mr. Leishman stated that the ditch would run underneath the car wash and parking lot of the project. Mr. Leishman stated that the ditch serves multiple places and people. Mr. Leishman stated that the ditch is piped, but he doesn't know what kind of pipe. Mr. Leishman stated that his concern is to be able to get water from point A to point B. Mr. Leishman stated that the East Field Irrigation Company owns a 20-foot right-of-way above the pipe from the center of the pipe on each side. Mr. Kyriopoulos stated that he understands irrigation rights and will come up with a solution that everyone will agree with. M. Kent Larsen asked the size of the pipe. Mr. Leishman stated that it is an 18-inch pipe. Mr. Leishman asked about the storm water process. Mr. Kyriopoulos stated that he

is in the process of pursuing a permit for storm water. Mr. Leishman stated that they can't have storm water running into the ditch. Mr. Kyriopoulos stated that he understands, and plans to have a storm water retention pond. Mr. Green stated that the retention pond would have a drain that would go under Highway 89/91, and he doesn't know if the pipe is big enough to handle the water. Paul Egbert stated that UDOT would review it and make sure that it is engineered and designed to handle it. Mr. Leishman stated that there would need to be some kind of contract between Mr. Kyriopoulos and the East Field Irrigation Company to guarantee water delivery, and it would have to be approved by the East Field Irrigation Company board. Mr. Kyriopoulos stated that they would have to get together and come up with a plan that is acceptable to everyone. Mr. Leishman stated that there would have to be some type of spill protection concerning the fuel. Mr. Kyriopoulos stated of course. Mr. Leishman stated that the containment must be able to contain what fuel is stored in the storage tanks. Mr. Kyriopoulos stated that he doesn't know about that, but would build the facility to code. Mr. Green asked that the representative from the Southwest Heritage Estates address their concerns. Garyn Perrett stated that their first concern is the impact this business would have on the City streets of 900 East and 400 North. Mr. Perrett stated that the cost to the City would be substantial, and that the impact to the community is in the millions of dollars. Mr. Perrett stated that the second concern is with overnight parking of semi-trucks. Mr. Perrett read section 3-10-13 from the Wellsville City code. Wellsville City has 1 commercial zone. Mr. Perrett stated that unless the semi-truck plans to be parked for 10 hours, the same space couldn't be rented out to another semi-truck or the business would be considered an adult motel which would have to be located in the sexually-oriented business zone. Mr. Green asked Mr. Perrett to explain what he does for a living. Mr. Perrett stated that he was a Civil Engineer who works with city government. Mr. Green stated that he considers Mr. Perrett an expert. Joan Kyriopoulos stated that the concern is very offensive to truck drivers. Mr. Green stated that after City Council meeting last Wednesday night, he went home and looked up on the internet truck stops and pornography. Mr. Kyriopoulos stated that this was getting out of control. Mr. Kyriopoulos stated that he is not starting a brothel. Mr. Perrett asked Mr. Kyriopoulos asked what this business would do for Wellsville City. Mr. Kyriopoulos stated that it will bring tax revenue to the City. Mr. Perrett stated that the Wellsville City code defines what should happen in the highway commercial zone. Mr. Perrett stated that semi-trucks can pull into a truck stop and connect to utilities. Mr. Perrett stated that if utilities are offered, it would be no different than a motel room. Mr. Egbert stated that this would be a legal business without prompting any criminal acts. Mr. Perrett stated that overnight parking of semi-trucks should not be allowed. Mr. Glenn stated that some semi-trucks have to idle all night long. Mr. Leishman stated that it is tough to have an upscale truck stop. Mr. Perrett read Wellsville City code 3-10-13 again. Mr. Egbert stated that the Planning Commission and City Council will have to review the code and address all of the issues. Phil Bankhead stated that he sat on the Planning Commission when the code was written. Mr. Bankhead stated that utilities for semi-trucks didn't exist back then. Mr. Bankhead stated that the original intent of the code is that a hotel can't rent the same room out several times a night. Mr. Perrett stated that the City code is up for interpretation. Don Ewing stated that his issue is traffic. Mr. Ewing stated that making a left-hand turn from the Southwest Heritage Estates Subdivision is very dangerous now. Mr. Ewing feels that there should be no more enter/exit from Highway 89/91. Mr. Ewing stated that pollution of noise and air are other concerns that he has. Don Hartle stated that when the concept plan for the Southwest Heritage Estates Subdivision came to the Planning Commission, the same concerns were presented. Mr. Hartle stated that the concerns are recycling. Mr. Perrett asked what semi-trucks Mr. Kyriopoulos is targeting. Mr. Kyriopoulos stated that everything that comes into this valley is from a semi-truck. Mr. Perrett stated that this type of project should be located near a traffic light. Mr. Kyriopoulos stated that this property has an existing use of highway commercial, historic use of highway commercial, and he is just improving the history of the lot. Mr. Kyriopoulos stated that 22,000 vehicles travel Highway 89/91 every day, and that 16% of those have multiple axles. Mr. Kyriopoulos stated that he is not creating more traffic, but trying to get the existing traffic to stop and spend some money in Wellsville. Mr. Green stated that the traffic flow will change. Mr. Glenn stated that the residents that live on 900 East don't want trucks passing in front of their houses every day. Mr. Green stated that everyone that owns property near this project has property rights. Mr. Glenn is concerned about access to the project off of Highway 101. Mr. Green stated that there has been a lot of discussion concerning this project. Mr. Green stated that there is a road master plan for the commercial area of Wellsville City that is established and needs to be followed. Mr. Egbert read sections 1-12-3, 1-12-4, and 1-12-7 from the Wellsville City code. Mr. Egbert stated that the access issues would require additional discussions with UDOT. Mr. Egbert stated that depending on vehicle movements, the state could limit access to a right-turn in and right-turn out. The more ideal access could be directly across

from the access into the Southwest Heritage Estate Subdivision. Mr. Ewing stated that he wanted to be on record as opposing this option. Mr. Kyriopoulos stated that he is providing travel services per Wellsville City code. Mr. Kyriopoulos stated that the concept plan was present to City Attorney Bruce Jorgensen, who stated that it was right on. Mr. Kyriopoulos stated that the property is zoned for this type of use, and it is a proper use. Mr. Green asked what Mr. Kyriopoulos' due diligence is. Mr. Kyriopoulos stated that he is to come up with an irrigation plan and find out the height of the fuel storage tanks. Mr. Green stated that the traffic study needs to be completed. Mr. Kyriopoulos stated that the traffic study can't be completed until the plan is completed with Wellsville City approval. Mr. Hartle asked for a revised concept plan that shows the footage on it. Mr. Glenn stated that out of respect to Mr. Kyriopoulos and his interest, a lot of time and money has been spent to develop this plan. Mr. Glenn asked if there is a way to get the traffic study completed before any more money is spent. Mr. Green stated that the Planning Commission has a responsibility to create compatibility between zones in the Land Use map. Mr. Green stated that another issue is the roads, particularly 900 East and 400 North. Mr. Green stated that with growth, there has to be a road system. Mr. Green stated that the General Plan states that developments should take place at major intersections. Mr. Green wonders if 400 North is a major intersection. Mr. Green stated that City Planner Jay Nielson is against frontage roads. Mr. Green stated that a huge issue will be coming to some kind of common agreement. Mr. Green asked Don Hartle to have enough time in the next Planning Commission meeting to have a workshop to talk about this project in detail, and to produce compatibility between zones. Mr. Spence stated that City Attorney Bruce Jorgensen may want to review the ordinance concerning sexually-oriented businesses. Mr. Green stated that a truck stop is a legitimate use in the highway commercial zone. Mr. Green stated that the highway commercial zone was rezoned to general commercial to allow Sharp's Trucking to be where they are now. Mr. Egbert asked about the existing billboard on the property. Mr. Kyriopoulos stated that he would like to improve it. Mr. Egbert stated that the Wellsville City code doesn't allow him to enlarge or improve it in any way. Mr. Kyriopoulos stated that the State law may trump it. Mr. Egbert asked about landscaping. Mr. Kyriopoulos stated that it is a mixed-zone use. Mr. Kyriopoulos stated that the landscape will have a nice, authentically, pleasing look. Mr. Egbert stated that there can be no trees within UDOT right-of-way. Mr. Kyriopoulos stated that he understands. Mr. Egbert referred to the landscape around the Wal-Mart located in south Logan as an example of landscaping that has been done around it for noise and lighting.

The Planning Commission held a workshop on the request of South Valley R.V. Repair rezone request to include the following:

- A. When a portion of the property was zoned CH – Don Hartle stated that he is unable to find in the Planning Commission minutes where the property was rezoned to CH. Mr. Hartle stated that he is unable to find where the code amendment was adopted. Mr. Hartle stated that it may be in the City Council minutes. Mr. Hartle will review the City Council minutes from 1981 to 1985.
- B. Authority to determine family – The Wellsville City code defines family in 10-2-1.
- C. Parking – Those living in the duplex are still on the street. Parking on the street should not be long-term, and not during the winter months.
- D. Additional value to the Wagstaff property – Don Hartle stated that Mr. Wagstaff does have enough property for another building lot to the south of the existing home.
- E. Open Space – It is not required in the R-1-12 zone.
- F. Chicken Coops – Don Hartle will have the County Building Inspector review the chicken coops. Each structure can't share a wall or roof. If they find the chicken coops are sharing a wall or roof, all except 200 feet of the chicken coops will have to be torn down.

Loyal Green asked what action the members of the Planning Commission wanted to take. Paul Egbert stated that the chicken coops are out of compliance because there is no building permit. Mr. Egbert stated that he is not sure how to handle the situation of the duplex. John Spence stated that letters need to be sent to the duplex regarding the family code and to the owner of the chicken coops regarding the building permit process. Mr. Spence stated that the owners need a chance to try and fix the problem. Mr. Green asked Don Hartle to send a letter to the owner of the chicken coops stating that the coops are out of compliance. Mr. Green asked Don Hartle to send a letter to the owner of the duplex concerning the family ordinance and encourage parking off of the city street. Mr. Green stated that any input given to the Planning Commission will help them to be better prepared to make decisions in that area. Phil Bankhead stated that the CH zone is there, but asked not to make it any bigger. If the CH zone is made bigger to help Dave Kurek, it's wrong because Mr. Kurek doesn't own the property. Mr. Bankhead asked that the Planning Commission not make

a bigger mess and follow the General Plan. Robyn Bankhead stated that the Planning Commission should never make a change to zoning based on a specific project. Mr. Green asked if there would be a problem rezoning the property to R-1-12 to help Mr. Wagstaff. Mr. Bankhead stated that he has no problem rezoning to property to R-1-12. Ms. Bankhead stated that rezoning the property makes the neighbors nervous because it is one step closer to what Mr. Kurek wants. John Spence asked if Mr. Wagstaff cares if the property is rezoned. Ms. Bankhead doesn't know, but possibly. Paul Egbert asked if property can be rezoned without any direct reason for a rezone. Russell Glenn stated that a request has to be made in order to rezone property. Carl Leatham stated that a request has been made to rezone the property. Mr. Egbert asked if the rezone has to be justified. Mr. Leatham stated no. M. Kent Larsen stated that he has heard the history of the building, and all of the businesses that have rented the building have conducted their business inside of the building. Mr. Larsen stated that it created a precedence, and remains the original intent that all business should be conducted inside of the building. Anything else goes beyond the original intent. Mr. Green stated that the Planning Commission members need to be careful about expressing their opinions so as an illegal meeting is not held. Mr. Green stated that the more information the Planning Commission has, the better decisions the Planning Commission can make. Mr. Green stated that the Land Use map and Wellsville City code will help guide the Planning Commission on what they should do.

At 8:47 p.m., John Spence made a motion, seconded by Paul Egbert, to adjourn the meeting.

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

NAY 0

Loyal Green
Chairman