

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, April 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, Councilmen Ron Case, Colin Harrison, Carl Leatham, and City Attorney Bruce Jorgensen. A copy of the Notice and Agenda was posted, faxed and emailed to the Herald Journal, and mailed to the Planning Commission on April 20, 2012. The meeting was called to order at 6:00 p.m.

Others Present:

Jennifer Leishman	Candice Sorensen	Don Ewing
Alison Ewing	Bonnie Harrison	Jake Harrison
Leroy Mayer	Doris Mayer	Crystal Madsen
Robert Bolton	Kristine Bolton	Steve Kyriopoulos
Ruth P. Maughan	Marcene Parker	Shellie Pardoe
Bevan Higbee	Clarice Higbee	Dale Bankhead
Teena Riggs	Charee Vellings	Sandra Checketts
Luell Perrett	Sandi Perrett	Garyn Perrett
Debbie Perrett	Gary Smith	Krissy Smith
Richard Boyce	Ray Bankhead	Kelly Parkinson
Lisa Parkinson	Lou Berry	Karma Leatham
Garth Baxter	Kate DuHadway	Sarah Lindley
Don Bailey	Alan Sorensen	Travis Christensen
Ashley Coleman	Jimena Herraro	Matt Spence
Jon Leishman	Seldon Leishman	Clyde Demler
DeVon Mathews	Mark Johnson	Zach Lewis
Natalie Lewis	Jill Hales	Daniel Coleman
Cody Schenk	Carolyn Cooper	Lars Latimer

Opening Ceremony: Paul Egbert

Loyal Green reviewed the agenda with the Commission. Don Hartle added City Attorney Comments and a discussion concerning the R-1-12 zone. After discussion, John Spence made a motion, seconded by M. Kent Larsen, that the agenda be approved with the changes.

<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 April 11, 2012. There were word changes on lines 89, 109, 112, 113, 242, 253, 260, 269, 299, and 323. After review, John Spence made a motion, seconded by Paul Egbert, that the minutes of the April 11, 2012 meeting be approved with the corrections.

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

City Attorney Bruce Jorgensen stated 10 to 12 years ago, an office for the State named Private Property Ombudsman Office was organized. It is a non-partisan, neutral state office. The official name is the Office of the Utah Property Rights Ombudsman. Mr. Jorgensen stated that he received notice yesterday that a letter has been submitted to the Office of the Utah Property Rights Ombudsman concerning the proposed

truck stop. It is a fairly fast process. It takes approximately 15 business days to 30 calendar days for the office to collect the information and render a decision. Mr. Jorgensen suggested to the Planning Commission that the public hearing be held, but a decision not be made until the Office of the Utah Property Rights Ombudsman issues their verdict.

Loyal Green stated that those attending this meeting will behave civilly and respectfully to one another. The meeting will be held in an orderly fashion. Everyone has the right to be heard. Do not speak out of turn. Do not speak unless you have been recognized. Please go to the mike and state your name for the minutes.

At 6:05 p.m. conduct a public hearing to receive public input and consider for approval an application from Steve Kyriopoulos for "All American Auto Plaza/Truck Stop" on property on the northeast corner of the intersection of 400 North and Highway 89/91. Said property is identified by County Tax identification numbers 10-093-0001, 11-088-0018, and 11-088-0017. Robert Bolton read a letter dated April 21, 2012 opposing the truck stop. Gary Smith stated that he lives on 900 East. Mr. Smith means no disrespect to truck drivers. During 2006, many police calls were received for the Perry Police Department. From December 2007 to November 2008, Wal-Mart and the truck stop occupy most of the police officer's time. Perry Police Department has responded to calls for prostitution at the truck stop. Wellsville City has no police force. Crimes happen, even in Perry. Mr. Smith believes that the truck stop will have a negative impact on the community. Mr. Smith quoted from code 11-5-12-B. Mr. Smith submitted a report from Lewis, Young, Robertson, & Burningham dated January 2009. Kelly Parkinson stated that Wellsville City is a beautiful community with young families. The safety of the youth needs to account for something. There is not enough water pressure along 900 East, and asked where the truck would get their water from. Mr. Parkinson echoed the previous comments made. This is a 24 hour residential area. Alan Sorensen referred to a document on noise pollution and noise-related health effects. Mr. Sorensen stated that he completed his own noise test with his own meter at the Perry truck stop. Mr. Sorensen stated that at 50 feet and 100 feet, there were readings in the 70's. Crystal Madsen stated that she is speaking as a mother and from life experience. A truck stop doesn't belong in a residential area. A truck stop brings drugs. Ms. Madsen referred to child sex trafficking. Ms. Madsen asked how safety would be maintained. Ms. Madsen stated that homes and streets need to be safe guarded. Candice Sorensen submitted an article concerning particle pollution. Garth Baxter stated that Planning and Zoning is important. Planning and Zoning protects land values and open space. This property is zoned CH, Highway Commercial. Much money is being spent on attorneys. This would add to the tax base for Wellsville City. The truck stop would give service to travelers and competition to gas prices. Mr. Baxter asked for a good trucker's restaurant to be built with the truck stop. Kristine Bolton stated that all businesses are by conditional use. Overnight parking is not allowed in the CH zone, or by condition. Richard Boyce stated that he is part owner of the property. It was purchased 7 years ago. It was zoned CH, Highway Commercial, and a one time; it did have a service station on it. Sharp's Transportation is next to the property, and has 75 trucks in and out daily. Sharp's Transportation provide hundreds of jobs for people. The truck stop will be located next to an existing trucking facility. It goes along with what is there now. The property was zone CH, Highway Commercial. The value of commercial properties needs to be kept. This will not be as devastating as people claim it will be. The truck stop would be good for Wellsville City and the community. Kristine Bolton stated that she is not opposed to commercial development. The truck stop wants to be opened 24 hours per day. Sharp's Transportation is opened from 7 a.m. to 6 p.m. Wellcome Mart is opened from 6 a.m. to 10 p.m. Doris Mayer stated that her home is located directly across the street from the truck stop. Her home is the oldest home in Wellsville City still standing, and it means a great deal to her. Her husband was a truck driver and witnessed prostitution and drugs. The truck stop is a bad influence and is opposed to it. Ms. Mayer asked that the Planning Commission consider families, life, and homes in Wellsville City. Gangs from Salt Lake City will come to the truck stop and there will be a drug ring in Wellsville City. Robert Bolton stated that he is not opposed to commercial development, but is opposed to this commercial development. This project will have a profound impact on the area. Lisa Parkinson stated that she is against the proposed truck stop. The Planning Commission represents the citizens of Wellsville City. Wellsville City wants commercial development, but the truck stop is not something Wellsville City needs. Truck stops are not in residential neighborhoods for a reason. Daniel Coleman stated that citizens of Wellsville City are in favor of this truck stop as long as it is not in their backyard. This is a community that takes care of their own. Wellsville residents fill sandbags for strangers. The Wellsville City Fire

Department is volunteer. Wellsville citizens care for each other, serve each other, and suffer with each other. Mr. Coleman asked that this neighborhood not be forced to take one for the team. Dave Nielsen stated that he has lived in Cache Valley his entire life, and is partial owner in the property adjacent to Mr. Kyriopoulos'. Mr. Nielsen asked if anyone knew the traffic count on Highway 89/91. Paul Egbert stated that Highway 89/91 averages 20,000 vehicles per day, with 6% being semi-trucks. Highway 101 averages 4,800 vehicles per day, with 22% being semi-trucks. Wellsville City's 400 North averages 470 vehicles per day. Mr. Nielsen stated that there has to be a balance of roads with private property owners. Every vehicle driving south on Highway 89/91 entering Wellsville Canyon passes through Wellsville City. All uses in the CH, Highway Commercial zone are conditional uses. The property adjacent to Mr. Kyriopoulos' is approximately 20 acres. The plan for future development should enhance the ability for people to move around. Mr. Nielsen stated that he would be very interested in participating in a planning effort with Mr. Kyriopoulos that would include all 32 acres. Leroy Mayer stated that he echoes everything that has already been said about pollution and the effect it has on people. He asked about the long-term effect pollution has on livestock and crops. Mr. Mayer stated that there is a major canal that runs along the property of Mr. Kyriopoulos. Cache Valley does need a truck stop, but it should be in a better location. This is a rural area with proud people that want a non-city life. Dale Bankhead stated that he runs a farm and has a semi-truck that delivers hay. Mr. Bankhead stated that the hay usually goes to Rich County, but last year it was shipped to China. Mr. Bankhead would like to see a scale so that the trucks can weigh without having to go the LW's in Logan or Perry. Mr. Bankhead stated that 45% of all plants are made of carbon. Mr. Bankhead stated that he supports this development. He drives a tractor and has seen plenty of sexually-oriented business along the county road, but never looks in. Gary Smith asked why Mr. Bankhead doesn't put the truck stop on his property. Mr. Bankhead stated that he owns the corner property on 6100 South and has asked for commercial development in his area but has been turned down because it is zoned agriculture. Mr. Bankhead stated that if the Planning Commission would allow him to rezone his property, he would start building the truck stop tomorrow. Garyn Perrett stated that he has a question for City Attorney Bruce Jorgensen. Mr. Perrett stated that the Southwest Heritage Estates Subdivision submitted a letter and received a response from Mr. Jorgensen. Mr. Kyriopoulos submitted a letter and received no response. Mr. Perrett stated that there are no accessory uses in Wellsville City. The truck stop doesn't fit. The C3, General Commercial zone is defined, so the definitions that are part of the Wellsville City code are thrown out. There have been examples given of safety and residential impact. This fight has nothing to do with the convenience store or the gas pumps. The trucks are the issue. Mr. Perrett asked what gives Wellsville City the right to allow overnight stays in the CH, Highway Commercial zone. Mr. Perrett stated that 900 East would have to be shut down and not used as an access. Mr. Perrett would like to see City Attorney Bruce Jorgensen respond to Mr. Kyriopoulos' letter. The zoning is clear. There is no way Wellsville City could benefit from a truck stop. The area is not zoned for trucks and it is not zoned for overnight stays. Loyal Green asked if there were any questions for the public from the Planning Commission. Russell Glenn stated that the Planning Commission is gathering facts and information. Robert Bolton stated that he wanted to thank the Planning Commission, and is asking for fairness and justice. He doesn't want this to be used in an inappropriate manner.

At 7:25 p.m., the public hearing was closed.

Paul Egbert stated that Mr. Kyriopoulos is seeking approval, but that the Planning Commission is not acting on this issue tonight, and will take action at a later date. Russell Glenn stated that of all the concerns that have been discussed, 2 stand out to him as having merit, 1) traffic on 900 East, and 2) particle pollution. Mr. Glenn stated that someone needs to do a technical study of what is already in the area and opposed to what is wanted there. Mr. Glenn also asked how this proposal would differ from other commercial development regarding particle pollution. Mr. Egbert stated that some of the answers to Mr. Glenn's questions would come from the traffic study. John Spence asked Steve Kyriopoulos if there is a particular fuel company that he is working with. Steve Kyriopoulos stated that it is him. Mr. Spence stated that he visited Sharp's Transportation today. Sharp's Transportation told him that most large trucking company's contract with truck stops for discounts on fuel. Mr. Kyriopoulos stated that there is not a lot of margin in fuel, and would like the opportunity to get involved with discounting fuel for trucking companies. Mr. Spence stated that he has lived in Wellsville City his entire life, and has the same concerns. It is his job to be impartial and make the best decision to do the right thing. Mr. Spence has spent countless hours driving from Salt Lake City to McCammon Idaho visiting truck stops. Mr. Spence stated that he is not taking

this decision lightly. M. Kent Larsen stated that if you look at the zoning map, there are 5 zones that meet in this area. It is tough working with zone compatibility. There is no magic answer. Mr. Larsen grew up in Wellsville City, worked in Heber City, and retired in Wellsville. Mr. Larsen promises that the citizens of Wellsville City will get the best decision out of the Planning Commission. Loyal Green asked if Mr. Kyriopoulos has met with East Field Irrigation Company. Mr. Kyriopoulos stated that they have discussed a solution, and he needs to present the plan to the East Field Irrigation Board. Mr. Green stated that there can be no decision until the East Field Irrigation issue is settled. The traffic study can't be completed until approval is given by Wellsville City. This is a catch 22. Mr. Green stated that Mr. Nielsen referred to roads, which is the key issue and asked what would be done to protect 900 East. Mr. Green stated that land values in the Southwest Heritage Estates Subdivision may be affected. A big concern is development of 400 North. A road system is needed to move traffic. Mr. Green would like to see 400 North be extended to the east boundary line of Mr. Kyriopoulos' property. Mr. Green stated that he had a question for City Attorney Bruce Jorgensen. The CH, Highway Commercial zone has no permitted uses, only conditional uses. There is no further interpretation of conditional uses. Mr. Green read from Wellsville City code 10-6B-2. Mr. Green stated that there is no such statements listed in commercial zones. Wellsville City is a statutory code. Mr. Green stated that the Planning Commission needs some guidance on how to make this decision. Mr. Green stated that truck stop is not listed in the code. Mr. Green asked how the Planning Commission is to make a determination on this issue if truck stop is not listed. Mr. Green stated that the code can't be changed unless it is amended. Bruce Jorgensen stated that an amendment to the code may be required. An auto and truck service station is allowed in the CH, Highway Commercial zone. The code should be applied exactly across the board or not. Mr. Green stated that the Planning Commission has been instructed by the Mayor and City Council to follow the code. Mr. Green asked how the Planning Commission could vote when it is not in the code. Mr. Jorgensen stated that the code was similar with Sharp's Transportation was approved. Mr. Green stated that in C3, General Commercial, tractor-trailer use is allowed. Mr. Jorgensen stated that the Planning Commission will get some direction from the Office of the Utah Property Rights Ombudsman. Mr. Egbert asked if it would be possible to give partial or preliminary approval. Mr. Jorgensen stated that it would be difficult because once the Planning Commission approves something; they are stuck with that approval. Mr. Jorgensen stated that most gave opinions tonight, but lawsuits need studies. Mr. Jorgensen stated that studies applied to this site would be the most helpful. Mr. Jorgensen agrees that using 900 East would be a terrible idea. Mr. Jorgensen recommended that no partial approvals be given. Mr. Egbert asked if the project could be approved like a subdivision is approved with a concept, preliminary, and final plat. Mr. Egbert stated that this project is hard to approve without details. Mr. Green stated that conditional uses are placed on a business, and the business can't exist without following the conditions. Mr. Green stated that he can foresee several workshop sessions doing what the code asks. Mr. Green stated that the code could be amended for businesses. Mr. Jorgensen stated that in some respects, this project has followed the subdivision code concerning concept, preliminary, and final plats. Mr. Jorgensen stated that he has viewed 4 different maps, and it has been talked about completing the entire site, and then just doing the project in phases. Mr. Jorgensen stated that a final proposal needs to be submitted. Mr. Kyriopoulos stated that he has worked on the proposal for 1 year now. The application has been turned in. Mr. Kyriopoulos stated that early in the process, he was told that this project would fit in the CH, Highway Commercial zone. Mr. Jorgensen stated that the project is subject to concerns that have been raised. Don Hartle handed Mr. Jorgensen a map of the project. Mr. Jorgensen stated that he hadn't seen this map of the project yet. Mr. Glenn stated that he appreciated all of the input concerning this project. Mr. Larsen stated that the Planning Commission should review the CH, Highway Commercial zone and its definitions. Mr. Green stated that he respects everyone's opinions and that the Planning Commission will follow the code. Mr. Glenn stated that the code doesn't allow a truck stop with amenities, and the code would have to be amended. Mr. Kyriopoulos stated that his desire is to use the existing code. He is not interested in amending the code. Mr. Kyriopoulos would like to apply the code that is in use at this time. Mr. and Mrs. Tubbs submitted letter supporting approval of the truck stop.

See Steve Kyriopoulos file for the following documents presented during the Planning Commission public hearing held April 25, 2102:

Robert G. Bolton	Dated: April 21, 2012
Lewis, Young, Robertson, & Burningham	Dated: January 2009
Alan Sorensen	Dated: April 25, 2012
Candice Sorensen	No date

After discussion, John Spence made a motion, seconded by Paul Egbert, to continue this discussion until an opinion from the Office of the Utah Property Rights Ombudsman is received.

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

NAY 0

Don Hartle stated that Planning Commission member Paul Egbert brought up a conflict in the open space code. The code stated that the required open space in the R-1-12 zone would allow for 70 feet of frontage instead of the required 82 ½ feet of frontage. Mr. Hartle stated that several years ago, the Planning Commission seen no value of open space in the back of the 12,000-foot lot. Mr. Hartle asked if the code should be amended to require 82 ½ feet of frontage in the R-1-12 zone instead of 70 feet of frontage with open space. Mr. Hartle stated that he would schedule the public hearings. Loyal Green stated that 70 feet of frontage is a stretch in his opinion. All of the Planning Commission members agreed.

At 7:55 p.m., Russell Glenn 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

Loyal Green
Chairman