

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, April 23, 2014, at the Wellsville City Offices, 75 East Main in Wellsville. Commission members present were Chairwoman Ruth P. Maughan, Chris Clark, Paul Egbert, Jerald Leishman, and Brian Pattee. Also present were City Manager/Recorder Don Hartle, Mayor Thomas G. Bailey, Councilman Carl Leatham, City Planner Jay Nielson, 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 18, 2014. The meeting was called to order at 6:00 p.m. by Chairwoman Ruth P. Maughan.

Others Present:

Jennifer Leishman	Steve Kyriopoulos	Joan Kyriopoulos
Robert Bolton	Kristine Bolton	Leroy Mayer
Doris Mayer	Dave Nielsen	Candy Sorensen
Natalie Lewis	Rustin Walker	Katie Christensen
Don Ewing	Alison Ewing	Lisa Parkinson
Kimber Hall	Janie Isaacson	Kendall Leishman
Barbara Swanson	David Swanson	Jonathan Cook
Rachel Fry		

Opening Ceremony: Chris Clark

Ruth P. Maughan reviewed the agenda with the Commission. Ms. Maughan stated that item #6 has canceled. After discussion, Paul Egbert made a motion, seconded by Jerald Leishman, that the agenda be approved with the correction.

<u>YEA 5</u>	<u>NAY 0</u>
Chris Clark	
Paul Egbert	
Jerald Leishman	
Ruth P. Maughan	
Brian Pattee	

The Commission reviewed the minutes for the Commission meeting which was held April 9, 2014. There were word changes on lines 118, 145, 155, 161, 170, 175, and 202. After review, Brian Pattee made a motion, seconded by Chris Clark, to approve the minutes of the April 9, 2014 meeting with the corrections.

<u>YEA 5</u>	<u>NAY 0</u>
Chris Clark	
Paul Egbert	
Jerald Leishman	
Ruth P. Maughan	
Brian Pattee	

The Planning Commission discussed and clarified the motion made and action taken in the April 9, 2014 Planning Commission meeting regarding the request from Steve Kyriopoulos for a conditional use for a Auto Travel Plaza on the northeast corner of the intersection of 400 North and Highway 89/91. Ruth P. Maughan stated that there was some confusion as to what was said in the motion at the last Planning Commission meeting. Ms. Maughan asked the Planning Commission if they felt the motion was satisfactory or if it could be clearer. Paul Egbert read from the minutes of the previous Planning Commission meeting. Mr. Egbert stated that the Planning Commission doesn't have all of the details. He stated that there could be a smaller list of conditions. Mr. Egbert asked what part of the motion is confusing or questionable. City Attorney Bruce Jorgensen stated that after all the discussion, the material contained in the minutes, and the staff report, it is difficult to have the conditional use permit approved. If the conditional use permit was approved, the pressure to meet the conditions is not as specific. Mr. Jorgensen gave some background of the events that have happened since the last Planning Commission meeting. Those opposed to the auto travel plaza wonder what happens now and when. Mr. Kyriopoulos thinks that he has to meet the conditions, spend more money, and the project is approved. Mr. Jorgensen stated that there is a sense that a conditionally approved permit was issued. The concern is that it is tied to the traffic

study. Mr. Jorgensen stated that the Planning Commission has delegated approvals to UDOT, which is backward. There are steps to be followed. The conditions need to be firm and specific. After those conditions have been met, the conditional use permit can be approved. This project is allowed in this zone. The project has to meet all of the conditions listed. Mr. Egbert stated that there is a list of items that without verifying, could be completed. The conditional use permit will not be issued until all conditions are met. Mr. Jorgensen stated that the feedback is that it has been approved, and an appeal has already been received by Wellsville City. Mr. Jorgensen stated that the City Council can't deal with an appeal because a conditional use permit has not been approved. Don Hartle asked when appeals can be accepted. City Planner Jay Nielson stated that anyone can appeal at anytime, but appealing after the conditional use permit has been issued is the most profitable. Mr. Egbert asked for some help on the verbiage of the new motion. Mr. Egbert stated that he believes this project should follow the steps of a subdivision; concept, preliminary, and final plan. Mr. Jorgensen stated that the Planning Commission approved the use, but the conditional use permit has not been approved. Mr. Egbert asked if the appeal appealed the use or the permit. It is hard to appeal a permit when the details aren't there. Mr. Nielson suggested a timeline for the steps of approval. Mr. Nielson stated that he is willing to take the conditions that have been discussed and develop a timeline for this project. The timeline will be based on performance. It will be fair to all parties involved. It will help answer many of the concerns that have been expressed. Mr. Egbert stated that he is opened to terminology to clarify the motion made at the previous Planning Commission meeting. Mr. Jorgensen stated that the conditions may need to be more specific. Mr. Egbert stated that more tweaking may need to be done as the details come. Mr. Jorgensen stated that the Planning Commission should clarify if the permit was approved or not. Mr. Egbert stated that the use was approved, and he didn't use the word permit in his motion. Mr. Jorgensen read from the minutes of the previous Planning Commission meeting. There have been a number of city officials that have been contacted because people believe that the permit has been approved. If a clarifying motion is on the record, people will not have to guess. Mr. Nielson stated that in the motion, discuss any other conditions that might be added. Approval is subject to the conditions discussed in this and the previous Planning Commission meeting. Some suggested verbiage is 'as details of the project unfold'. Mr. Nielson stated that it is fundamentally unfair that conditions go on forever. The decision should be what the conditions are, and once those conditions have been fulfilled, the project is approved. The Planning Commission can't still be adding conditions to this project in a year. After discussion, Paul Egbert made a motion, seconded by Brian Pattee, to clarify the action of the Planning Commission at its April 9, 2014 meeting regarding the Steve Kyriopoulos conditional use permit application, the Planning Commission conditionally approve the amended application of Mr. Kyriopoulos for an Auto Travel Plaza at the site of 500 North and Highway 89/91, subject to the satisfactory completion of the conditions listed in the Staff report. The Planning Commission made clear by this motion that it was not the intent of the Planning Commission to approve the conditional use permit at the last meeting, but rather to conditionally approve the use of the proposed site for the conditional use requested, with approval of the conditional use permit to come later when the Planning Commission is satisfied that all conditions can be and have been complied with by the applicant to the satisfaction of the Planning Commission.

YEA 5

Chris Clark
Paul Egbert
Jerald Leishman
Ruth P. Maughan
Brian Pattee

NAY 0

Ruth P. Maughan stated that she would like to discuss 3 other conditions that may be added to the official list of conditions for this project. A condition should be added that 500 North has to be used safely, and to deemphasize 400 North and 900 East. Ms. Maughan stated that 900 East should not be used at all unless there are significant improvements made to the road. Paul Egbert asked what would be considered improvements to 900 East. Ms. Maughan stated that the width of 900 East would be a significant improvement. Jerald Leishman stated that the intersection of 900 East and Highway 101 needs to be improved. Mr. Egbert stated that the intent is to use 500 North, but there are currently no road restrictions in Wellsville City. Mr. Egbert stated that other trucks use 900 East. Unless it is specifically regulated, trucks will use 900 East. The developer needs to make 500 North convenient. Mr. Leishman stated that trucks needs to use 500 North instead of 400 North or 900 East. Mr. Egbert stated that trucks are going

to take the more convenient route. Ms. Maughan stated that trucks will not use a route if it is unsafe. By not allowing the use of 400 North or 900 East as a condition may be a better choice. Mr. Egbert asked how to not allow the use of roads by traffic. Mr. Leishman believes that this could be accomplished through the site plan. Brian Pattee stated that it will essentially force traffic to use 500 North. City Attorney Bruce Jorgensen stated that there are other roads in Wellsville City that rotate usage with semi-trucks. This is considered a type of discrimination. Some discrimination is legal and some is not. It makes sense to discriminate and override the demand if it will make things safer. Sharp's Transportation has used 900 East for 30+ years. This project increases truck traffic. The project can be designed to not use 900 East. Mr. Jorgensen stated that 900 East should be deemphasized, if not disallowed. Mr. Jorgensen stated that 900 East was not built or intended for commercial-type traffic. Mr. Egbert stated that there is residential next to commercial all over this valley. Mr. Egbert stated that someone can't say that traffic can't use public roads. City Planner Jay Nielson stated that the currently condition of 900 East is unreasonable for additional truck traffic. Mr. Egbert stated that there are a lot of assumptions concerning this project. Mr. Nielson stated that with the condition that 900 East is in, it is difficult to justify the load of traffic from this project. Mr. Nielson stated that 900 East should be deemphasized until safety improvements can be made and the intersection fixed. There are things that can be done to make additional traffic on 900 East safer. The way to solve this problem is to not leave it opened to be solved. This condition is to cover both Wellsville City and the residents along 900 East. Mr. Jorgensen stated that by not approving the permit tonight, it puts the ball back in Mr. Kyriopoulos' court to deemphasize 400 North and 900 East, or to not use 900 East at all. Mr. Pattee stated that he doesn't feel right about completely blocking off 900 East. Mr. Pattee stated that there should be some ideas concerning this issue on the site plan. Chris Clark stated that by blocking the access to 900 East forces Sharp's Transportation to have to use 500 North. Ms. Maughan stated that 900 East shouldn't be blocked, but not be allowed to be used. Mr. Leishman stated that the design process could deemphasize 900 East, but still be used in an emergency situation. Ms. Maughan stated that this decision is up to the Planning Commission. Mr. Leishman stated that the site plan should show how the project will deemphasize 400 North and 900 East, and that it will probably take care of itself. Ms. Maughan stated that she doesn't agree. After discussion, Jerald Leishman made a motion, second by Brian Pattee, to use the site plan to deemphasize 400 North and 900 East.

YEA 4

Chris Clark
Paul Egbert
Jerald Leishman
Brian Pattee

NAY 1

Ruth P. Maughan

City Planner Jay Nielson stated that a timeline could be constructed so that it is clear when performance on the conditions is required. Paul Egbert asked when the timeline could be ready for review. Mr. Nielson stated that it will be completed by the next Planning Commission meeting. The timeline will be based on performance of the conditions. It will give clarification to the developer and the residents. After discussion, Brian Pattee made a motion, seconded by Chris Clark, to allow City Planner Jay Nielson to compose a timeline for the conditions of the proposed Auto Travel Plaza.

YEA 5

Chris Clark
Paul Egbert
Jerald Leishman
Ruth P. Maughan
Brian Pattee

NAY 0

Ruth P. Maughan asked about the payment of fees. Paul Egbert asked what the standard practice was on the fees for a conditional use permit. Don Hartle stated that there is a flat fee of \$100.00, \$5.00 for every notice within 300 feet that has to be sent, and all fees incurred by Wellsville City for the request. Most individuals pay when the business license is issued. City Attorney Bruce Jorgensen stated that there is a resolution that requires fees to be paid, so there is no need to restate it.

Ruth P. Maughan reviewed all 19 conditions that were discussed at the previous Planning Commission meeting. Ms. Maughan asked about fuel tanks above ground. Paul Egbert stated that he doesn't have a preference, but there is a height restriction of 35 feet. Ms. Maughan stated that any fuel tanks about ground should be screened on all sides.

City Attorney Bruce Jorgensen explained the appeal process for the members of the Planning Commission. Ruth P. Maughan stated that there has been an appeal submitted, and asked if it needs to be resubmitted. Mr. Jorgensen stated that it only needs to be resubmitted if there is a change in the appeal.

City Planner Jay Nielson met with the Planning Commission to discuss "berms". Mr. Nielson stated that berms are the basic concept of the new landscape code. Many people have discredited the value of berming. Mr. Nielson stated that he has remained fairly silent on the issue. Mr. Nielson stated that when implementing the new landscape code, all of the players need to be on the same page as they were when the code was written. Mr. Nielson stated that people can criticize the maintenance of berms, but they can't criticize the value of berms. Mr. Nielson stated that he will defend the fact that berms and screening are important community values. Mr. Nielson showed pictures of many examples of successful berms. Any landscape that isn't cared for shouldn't be eliminated. If a berm is designed incorrectly, grass will not grow on them. Mr. Nielson stated that the pictures that were shown were all local examples of berms. Berms can be successful in screening from parking lots. Mr. Nielson used Sterling Ridge Subdivision as an example. The developer insisted that the backyards face public streets. They are to use berms or walls for the backyards. There is still a lot of work to do on this subdivision. Mr. Nielson reviewed the setbacks of 3 subdivisions located in Wellsville. They are: 1) Mount Sterling Estates, 2) Wellsville Ranches, and 3) Southwest Heritage Estates. Setbacks are an important concept that all need to support. It is now required. Development next to the highway is not fair or appropriate. Ruth P. Maughan asked if there were any comments from the Planning Commission. Ms. Maughan thanked Mr. Nielson for his presentation. It was very informative.

Kimber Hall, representing Wellcome Mart met with the Planning Commission to discuss concerns regarding diesel storage tanks above ground or below ground. Mr. Hall handed out a specification sheet as well as a hand-drawn map showing the project. Mr. Hall would like to install road and off-road diesel behind the existing building known as Wellcome Mart. This will be a card lock facility with no overnight parking. There will be 2 above ground tanks. The first tank will hold 6,000 gallons of road diesel and the second tank will hold 4,000 gallons of off-road diesel. Mr. Hall stated that he has discussed this matter with County Fire Chief Rod Hammer. The containment area will be made of cement walls. The liner will be covered with cement. The containment area must be big enough to hold 110% of the largest tank plus 2 inches of rain water. The containment area will be built for a 12,000 gallon tank. There will be a cement pad in front of the tank containment area that will contain semi's largest tanks while unloading, which is 4,000 gallons. Mr. Hall stated that he will also have the plan reviewed by Blaine Zwahlen, who is an environmental engineer. The tanks must be 25 feet both ways from the car wash building. Mr. Hall stated that he would like to have 3 diesel pumps: 2 for road diesel, and 1 for off-road diesel. There will be cement pads on both sides of the pumps, with gravel around the remaining area. Mr. Hall stated that Bruce Miller is working with the state for an access entrance off of Highway 101 to the pumps. A meeting is scheduled with Jeff Gilbert representing UDOT for May 7, 2014 or May 24, 2014. Paul Egbert asked if the drawing is drawn to scale. Mr. Hall stated no. Mr. Egbert asked if it will be the size of area that the fill is in. Mr. Hall stated yes. Brian Pattee asked if the property is all 1 parcel. Mr. Hall stated yes. Ruth P. Maughan asked if the pumps will be to the south and east of the car wash. Mr. Hall stated yes, 25 feet each way from the car wash. Mr. Egbert stated that a bulk of this property is in the flood plain and asked how that would be addressed. Mr. Hall stated he didn't know. Don Hartle stated that Wellsville City will have to review the flood plain maps. City Planner Jay Nielson stated that the property is in the flood plain. Mr. Hall stated that is why he is asking for above ground tanks. Ms. Maughan stated that landscaping will be required and screening all around the tanks will be required. Mr. Egbert stated that he would like to see the details of the containment area. Mr. Hall asked about the pumps being on cement with gravel around the cement. Ms. Maughan stated that asphalt will be required. Mr. Egbert stated that this is an add-on to an existing business. Mr. Pattee asked if the storm water rule would require asphalt. Mr. Hartle stated yes. Mr. Pattee stated that this project will have to meet the landscape code. Mr. Pattee would like to see a detailed site plan. City Planner Jay Nielson stated that this is an expansion of an existing use and requires a

conditional use permit. Mr. Hartle stated that signage is a separate conditional use permit. Mr. Hall stated that there will be 1 truck entrance. Ms. Maughan asked if Mr. Hall will be eliminating any existing entrance. Mr. Hall stated no. Mr. Hartle stated that he believes when the original plan was approved, the design was for 2 entrances to the entire property onto Main Street. Mr. Hall stated that he hopes that is not the case. Mr. Egbert stated that he would like some input on how this project will deal with wetlands. Mr. Hall stated that he will have to find out that information. Mr. Hartle stated that he will give some names to Mr. Hall that will help him with it. Ms. Maughan thanked Mr. Hall for his attendance to this meeting.

Rustin Walker met with the Planning Commission to discuss safety concerns regarding the proposed "Auto Travel Plaza". Mr. Walker reviewed a drawing with the Planning Commission. Mr. Walker has been in the trucking industry for 10 years. Truckers are going to navigate the safest and easiest way possible. Mr. Walker reviewed traffic patterns. Mr. Walker drew a diagram of a possible scenario that could happen at the proposed 500 North intersection. Mr. Walker read a quote from the traffic study. Mr. Walker stated that 900 East can't accommodate 2 semi-trucks abreast. Mr. Walker stated that visuals make more sense. He wanted to make his concerns known to the Planning Commission. Mr. Walker stated that homes along 900 East do not want any more traffic on that road. Mr. Walker stated that it is next to impossible to deemphasize 400 North and 900 East. Mr. Walker asked that 2 conditions be placed on this project; 1) 900 East not be allowed to be used by semi-trucks, and 2) 500 North be a lighted intersection. Mr. Walker thanked the Planning Commission for their time. Paul Egbert stated that he received an email from John Dorny, the author of the traffic study. The document hasn't been finalized, and the creator says that it will be modified. Ms. Maughan thanked Mr. Walker for his comments.

Robert Bolton met with the Planning Commission to discuss concerns regarding the proposed "Auto Travel Plaza". Mr. Bolton stated that it is the facts of this matter that makes this case drawn out. Cars navigate through 500 North every day. From northbound traffic, there is a slight grade and hill with no clear line of sight. The Southwest Heritage Estates Subdivision has 1 way in and out of the subdivision. The traffic study stated that if this project was approved, there would be a 600% increase of traffic. Mr. Bolton stated that he doesn't need an engineering degree to know that the intersection of 500 North and Highway 89/91 needs a traffic light. Mr. Bolton stated that the engineer of this project was present at the previous Planning Commission meeting, and there were no questions asked of him. The intersection is rated a "C" with a traffic light, an "F" without a traffic light. Mr. Bolton stated that the implications would be disastrous. Mr. Bolton stated that Mr. Kyriopoulos is prepared to install a traffic signal and pay for it at the cost of \$600,000 to \$700,000. Mr. Kyriopoulos has asked that the City Council support him in this effort. Mr. Bolton stated that the Planning Commission is handing off the decision of a traffic light at the intersection to UDOT. Paul Egbert stated that Wellsville City has no control over a traffic light. There is a state law that warrants traffic lights. Wellsville City can't require a traffic light as a condition because they have no control over it. Mr. Bolton stated that this is a disaster waiting to happen. There is public record and comment of all the factors of this project. A disaster is inevitable. Mr. Bolton stated that Paul Egbert has sat through the process of this project since the beginning. Because UDOT will be involved, Mr. Bolton believes that it is a conflict of interest because Mr. Egbert works for UDOT. Mr. Bolton stated that it raises a real question of this project from the beginning of this process. Ruth P. Maughan stated that Mr. Bolton misquoted the Planning Commission by saying that they are not showing any interest in the intersection. The main issue of this project is safety at the intersection. It took years and years for Wellsville City to get a signal at the intersection of Main Street and Highway 89/91. Mr. Bolton stated that during this process, there have been many discussions of the particulars of the intersection. There are many things that can't be anticipated. There are warning signs, but after the fact, it is too late. It can be prevented now. Ms. Maughan thanked Mr. Bolton for his comments.

Don Hartle stated that he received a call from Sherwood Hills Recovery Resort asking if the Planning Commission would like them to report every 6 months. Paul Egbert stated yes. It was suggested that when Sherwood Hills Recovery Report visits this time, a discussion could be held concerning further requests of visits.

Don Hartle stated that the Planning Commission asked Peter Boyer to return every 6 months to report to the Planning Commission per his conditional use permit. Mr. Hartle asked if that was still the case. Brian Pattee stated yes.

Ruth P. Maughan stated that there is a home along Main Street that needs to be cleaned up. Don Hartle stated that he talked with the homeowner, and he claims that he is not running a business out of the shed. Ms. Maughan asked that the homeowner attend a future Planning Commission meeting.

At 7:55 p.m., Paul Egbert made a motion, seconded by Brian Pattee, to adjourn the meeting.

YEA 5

Chris Clark
Paul Egbert
Jerald Leishman
Ruth P. Maughan
Brian Pattee

NAY 0

Ruth P. Maughan
Chairperson