

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, October 14, 2009 at the Wellsville City Offices, 75 East Main in Wellsville. Commission members present were Chairman Loyal Green, Russell Glenn, Jaye Colling, Carl Leatham, and John Spence. Also present were City Manager/Recorder Don Hartle, and City Councilmen Ron Case and Thomas G. Bailey. A copy of the Notice and Agenda was faxed and emailed to the Herald Journal and mailed to the Planning Commission on October 9, 2009. The meeting was called to order at 6:00 p.m.

Others Present: Jennifer Leishman Mark Baliff
Doug Kofford Kaye Kofford
Floyd Jensen Kim Phipps
Travis Taylor

Opening Ceremony: Russell Glenn

Loyal Green reviewed the agenda with the Commission. After review, Jaye Colling made a motion, seconded by Carl Leatham, that the agenda be approved as presented.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

The Commission reviewed the minutes for the Commission meeting which was held on September 9, 2009. After review, Russell Glenn made a motion, seconded by John Spence, that the minutes of the September 9, 2009 meeting be approved as presented.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

The Commission reviewed the minutes for the Commission meeting which was held on September 23, 2009. After review, John Spence made a motion, seconded by Carl Leatham, that the minutes of the September 23, 2009 meeting be approved as presented.

Yea 5 Nay 0
Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

At 6:05 p.m., the Planning Commission conducted the following public hearing:

First, receive public input and consider for approval a request from TAIC/Verizon for a conditional use for a telecommunications facility at the "Big Curve" in Wellsville Canyon. Doug Kofford stated that they would like to build a cell site above Rattlesnake Canyon on property owned by Mark Baliff. Mr. Kofford stated that AT&T and Sprint both have cell sites in the same area. Mr. Kofford handed out pictures. There will be a similar tower in front of the AT&T tower. The tower will be located between some trees, and will be tan in color so it blends in with the scenery. Don Hartle asked if an individual could see the building heading north on Highway 89/91. Mr. Kofford stated no, but an individual may be able to see the antenna. John Spence asked if the Verizon antenna would be higher than the current antenna.

Mr. Kofford stated no. Russell Glenn asked about trees being removed. Mr. Kofford stated that they would try to leave as much vegetation and trees as possible. Mr. Spence asked what the height of the antenna is. Mr. Kofford stated that the maximum height is 20 feet. Mr. Spence asked what kind of fence would be installed. Mr. Kofford stated that it is a vinyl coated brown. Mr. Glenn asked if there would be interference with other facilities that close. Mr. Kofford stated that there can't be any interference with other sites. Mr. Glenn asked if this is governed by the FCC. Mr. Kofford stated yes. Mr. Hartle stated that if this is approved, it should be subject to determining the easement into the property. Mr. Kofford stated that they are in the process of working that out. Loyal Green stated that approving this request should be based on the condition of access. Floyd Jensen stated that the AT&T and Sprint towers are sitting on Mr. Baliff's property without any knowledge to Mr. Baliff. Mr. Hartle stated that construction should not begin until the easement has been granted. Mr. Green stated that approving this request should be based on an agreement with the property owners as to where the boundary lines exist. After discussion, Russell Glenn made a motion, seconded by Jaye Colling, to approve the request from TAIC/Verizon for a conditional use for a telecommunications facility at the "Big Curve" in Wellsville Canyon with the following conditions: 1) obtaining the appropriate easement for access before construction begins, and 2) an agreement with all parties concerned on the location of the site.

Yea 5

Nay 0

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

The Planning Commission received for approval the final plat for the Phipps 200 East subdivision – amended – containing a total of 2 lots (1 additional building lot) on property at 332 South 200 East. Kim Phipps stated that she is attending this meeting for final approval of this subdivision. Russell Glenn stated that the subdivision has been amended, and asked if there has been a change that hasn't been seen by the Planning Commission. Ms. Phipps stated that the subdivision went to the City Engineer for review. John Spence asked if Ms. Phipps owns the existing home and the property. Ms. Phipps stated yes. Don Hartle stated that Ms. Phipps bought the old home on corner of 300 South 200 East. Ms. Phipps subdivided the property into 2 lots, and is now amending it for another lot. Mr. Hartle handed out a copy of the memo dated October 9, 2009 from Jones & Associates that list some changes that need to be made on the plat. Loyal Green asked if the changes could be accomplished before the final plat goes before the City Council next week. Mr. Hartle stated that a copy of the memo was forwarded to JSH, so the plat should be in the process of having the changes made. After discussion, Carl Leatham made a motion, seconded by Russell Glenn, to approve the final plat for the Phipps 200 East subdivision – amended – containing a total of 2 lots (1 additional building lot) on property at 332 South 200 East with the condition that the items listed on the memo dated October 9, 2009 from Jones & Associates be completed and approved by the City Engineer before it goes to the City Council for approval.

Yea 5

Nay 0

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

The Planning Commission met with Travis Taylor representing the Sterling Ridge subdivision to discuss CC&R's, screening, and the status of the appraisal. Don Hartle stated that City Planner Jay Nielson was out of town, but he emailed his concerns about the CC&R's to Mr. Hartle. Loyal Green stated that the Planning Commission should review what Mr. Nielson suggests. The first comment states: 1) I do not find by-laws for the Association or Articles of Incorporation which are required in 11-5-4.C.2.b (1) of the City code. Travis Taylor stated that he will have these for the City Council meeting next week. The second comment states: 2) There is no mention of the 10% maintenance endowment (11-5-4.C.2.b (7) to be gifted to the Association when Mr. Taylor departs. The developer should want to do this in phases

and in no case should the endowment be left until the last lot. This requirement is critical to the viability of the Association. Mr. Taylor stated that his understanding was that the endowment is separate from the CC&R's. Mr. Green stated that it needs to be included in the CC&R's. Mr. Taylor asked when the endowment should take place. Mr. Green stated that as finances are available, it should be put into an account. Mr. Green stated that the endowment should be figured into each sale of each lot. Mr. Taylor asked what the 10% is based on. Russell Glenn stated that it is 10% of the development costs. Mr. Taylor asked if it included the screening strip and the detention pond. Mr. Green stated that the endowment for the area in which the HOA is responsible for maintaining. Don Hartle suggested that Mr. Taylor create a worksheet with all of the common costs and have it ready for City Council. The third comment states: 3) "Methods of Maintenance" of the common area are required in 11-5-4.C.2.b (1), but I find no maintenance standards or expectations that fulfill this requirement. Mr. Green stated that there should be language describing how the open space will be maintained. Mr. Taylor stated that he will add some language to the CC&R's. The fourth comment states: 4) The CC&R's refer to "Buffer Strip" in 3.1 on page 7. This reference should be changed to "Screening Requirement" to be consistent with the code. Mr. Taylor stated that the buffer strip is 40 feet wide, and the screening requirement is 10 feet wide within the 40-foot buffer strip. Mr. Taylor stated that he will change the reference to buffer strip with screening requirement. The fifth comment states: 5) I believe the same paragraph, 3.1 on page 7 should conclude with the same text: "Screening requirements are imposed by Wellsville City. The Board shall not relinquish, sell, trade, deed, or in any way transfer control and/or maintenance by the Association to any individual or group other than the Association, except as specified in 3.3(c) of the CC&R's. Mr. Taylor stated that he would add the text. The sixth comment states: 6) I am most familiar with retirement of the developers' interest in the Association to be that he begins to give back majority interest in the association when he has less than a majority ownership of lots. For the developer to have 20 votes per lot when all others have only one vote per lot seems a bit over-done. In reality, when there were two lots remaining in the developers name he would still have a majority of votes over all the other owners in the subdivision. Mr. Taylor stated that he is trying to avoid not being able to change any requirement in the CC&R's. Mr. Taylor stated that this is a comment from Mr. Nielson, not a requirement. Mr. Taylor stated that he feels very strongly about leaving this language as part of the CC&R's. Mr. Glenn stated that in paragraph 4.3, it states that the developer has control of the HOA for 3 years after the last lot is sold. Mr. Taylor stated that they are double covered with this language. Mr. Glenn stated that in his subdivision, the HOA took over after 50% of the lots had been sold. Mr. Glenn stated that as an HOA, they have made 2 changes to the CC&R's because they made sense and they were reasonable things to do. Carl Leatham asked if there is a requirement in the code as to how many votes a developer can have. Mr. Taylor stated that the City doesn't have any input concerning this issue. Mr. Taylor suggested cutting the number in half, so that the developer has 10 votes per lot. Mr. Glenn stated that he feels very strongly about having 1 vote per lot no matter who owns the lot. Mr. Taylor stated that they are trying to run this as a business. The City has no right to dictate how many votes per lot, and Mr. Taylor doesn't agree with having 1 vote per lot that is still owned by the developer. Mr. Taylor stated that they plan to phase in members of the subdivision as HOA board members. Mr. Green stated that he would like to see some language concerning raising HOA dues. Mr. Taylor stated that there is a state law that limits the amount that HOA dues can be raised. Mr. Taylor stated that the funds would be used only for HOA expense. John Spence asked when people purchase a lot, do they review the CC&R's. Ron Case stated that a concern that was expressed at City Council meeting last week was having the individual who was purchasing a lot to sign a disclosure form. Mr. Taylor stated that in paragraph 4.1, he will remove the 20 votes for lots owned by the developer, and in paragraph 4.3 he will remove the 3 years. Mr. Taylor stated that he will add language referencing the concept plan. Russell Glenn reviewed several concerns that he had with the CC&R's. Mr. Taylor stated that he will make the changes and bring them to the City Council meeting next week. Mr. Hartle stated that 90% of the input was from Russell Glenn. Mr. Hartle asked that Mr. Taylor email a copy of the changes to Mr. Glenn. After discussion, Jaye Colling made a motion, seconded by Carl Leatham, to approve the CC&R's for the Sterling Ridge subdivision based on the agreed changes, Russell Glenn's review of the changes, and the final approval by the City Council.

Yea 5

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

Nay 0

Don Hartle stated that he met with City Attorney Bruce Jorgensen and Tracy Bailey. Without going into great detail, there have been some changes that have occurred in Mr. Bailey's business, and that is why he has had to use the building and property for storage. Mr. Bailey will try to get what he can inside of the building, and will make a dedicated effort to keep the semi-trailers off of the property. Mr. Hartle stated that Mr. Bailey, City Attorney Bruce Jorgensen and himself will meet again in 6 months to review the matter.

Don Hartle stated that at 308 North Center, an individual has built a barn on the property line, and it should have a 30-foot setback. Mr. Hartle asked how the Planning Commission wants him to handle this issue. After discussion, it was decided to have City Attorney Bruce Jorgensen write a letter to the individual stating that the barn has to be moved to a 30-foot setback.

The Planning Commission meeting falls on November 25, 2009, which is Thanksgiving Eve. Mr. Hartle asked if a meeting is needed, that it be moved to Tuesday, November 24, 2009. The Planning Commission agreed.

Ron Case stated that at the last City Council meeting, they discussed the enforcement issue. Mr. Case stated that a city the size of Wellsville relies heavily on voluntary compliance. Mr. Case stated that they discussed allocating funds to hire someone to monitor enforcement of conditional use in the next budget. At this point in time, Wellsville City can't do a whole lot.

At 8:30 p.m., John Spence made a motion, seconded by Carl Leatham, to adjourn the meeting.

Yea 5

Russell Glenn
Jaye Colling
Loyal Green
Carl Leatham
John Spence

Nay 0

Loyal Green
Chairman