

Planning and Zoning Commission
Special Meeting
March 30, 2016

- 1) The meeting was called to order at 7:00 p.m.
- 2) Roll Call.
Present: Craig Agan, Jim Danks, Cathy Haustein, David Landon, Robin Pfalzgraf, Bob Smith, Mike Vander Molen, Gary Van Vark, Ann Visser, Teri Vos.
Absent: Ervin Van Wyk.

Others Present: Le Anne Krell, Amy Costello, Jerry Byers, Michael J. Moreland, John Webber, Julie Bisbee, Dennis Vander Beek, Joyce Vander Beek, Mike Kiser, John Van Den Berg, Wally Pelds, Joel Templeman, Dan Manning, Sr., Dan Manning, J., Eunice Folkerts, Lynn Branderhorst, Nick Branderhorst, Verna Van Dyk, Merlin Van Dyk, Candace De Penning, Scott De Penning, Jim Mansueto, Dan Spotten, Jim Mueller, Brad Skinner, Tony Bokhoven, Dan Vander Beek, Will Page, Michael Robinson, Chris Robinson, Caleb Woods, Sandie McDaniel, Denny McDaniel, Adam Hale, Arla Rietveld, Denny Buyert, Robert Bokinsky, Renee Bastas, Robert Van Essen, Joan Haman, Ken Haman, Jennifer Spotten, Jody Mansueto, Wayne Stienstra, Bruce Terlouw, Kris Andre, Dan Andre, Bridgette Hardesty, Brent Hardesty, Bruce Haustein, Dave Kermod, Larry J. Peterson, Rick Heimstra, Lori Parisee, Jim Nieboer, Jeff Andre, Shelly Bradfield, Mary Visser, Steve Parisee, Mike Nardini, Robert Stuyvesant, George Wesselhoft.

Dan Manning (317 6th Ave., Suite 300, Des Moines, Iowa) representing Casey's Marketing Company, stated as you know this is a special meeting concerning the site plan that they have presented to the City concerning the property at the corner of Union Street and Main Street. He stated he appreciates the opportunity to visit with them tonight as they asked that the Commission consider a change to the order in which matters are heard this evening, certainly much appreciated when they learned they would be given the opportunity to bring this matter back at the Planning and Zoning Commission and have a special meeting. They obviously don't set the agenda items. He pointed out that it is Casey's position concerning item number five, in reality it is from their perspective not a true reconsideration in that at the February 22, 2016 meeting there was a motion made that didn't pass, technically no real action took place that night. The other is that these items three and four talking about amendment to the Future Land Use Map, page 24 of the Comprehensive Plan is not the issue that is before you from their perspective. This is approval of a site plan. It must be in conformance with the laws of the City, the Zoning Ordinance, and must be in conformance with the Comprehensive Plan. They believe it is and think there is no requirement for an amendment, that is their position respectfully submitted; that they should be given the opportunity to in essence continue on where they were on February 22 and lay out that they are in full compliance with the Zoning, but in addition the genius of your Comprehensive Plan is that in recognized the Future Land Use Map may not be

exactly on point and if you at some future date decide to amend the Future Land Use Map to conform better, that is great, but Casey's does not believe they should be placed in the position where they have to go through the process of amending the Future Land Use Map when no amendment is required. The last point he wanted it clear on the record that this is not a request that they made; Casey's is not asking to amend the Future Land Use Map, they don't believe that is a requirement. They believe the Commission should take up number 5 and if the Commission chooses to go forward with the analysis of whether they should or should not amend the Future Land Use Map great. They would like to get on with this and believe they are in compliance.

Mike Nardini introduced the City legal counsel team including Mike Moreland and John Webber from Harrison, Moreland, Webber & Simplot. In addition, Bob Stuyvesant, City Attorney.

John Webber stated they believe the agenda is set in the best manner which allows the Planning and Zoning Commission to consider all of the facts that are before them and to make an informed and appropriate decision. They are aware of the positions that Casey's has taken with respect to the need for amendment of the Comprehensive Plan. They also are familiar with the position that City staff that it is not completely clear as to whether the proposed use is in accordance with the Comprehensive Plan as it presently sits. They agree in the best interest of the City and the Planning and Zoning Commission that it is better to consider the situation and the possible amendment of the Comprehensive Plan prior to readdressing the actual site plan approval because that just allows them the best position. Mr. Webber added they are retained to advise and to represent the City, they do not have an agenda with respect to what the Commission does or the City Council may ultimately do. They will not advocate to approve or not approve any of the changes. They are there to provide guidance and counsel.

Jim Danks asked that those in attendance to sign the guest register and who wish to speak limit themselves to three minutes and if someone makes the same statement they would ask you to stop as they do not need to hear the same thing over and over again. He added that they do want to give people an opportunity to express themselves.

David Landon made a motion to approve the agenda as presented. Ann Visser seconded the motion. Upon vote, Landon, Visser, Agan, Danks, Haustein, Pfalzgraf, Van Vark, Vos voted yes. Smith, Vander Molen voted no. Motion carried 8 to 2.

- 3) Public Hearing on Comprehensive Plan Amendment to the Future Land Use Map Concerning Proposed Site Plan for Casey's (Legal Description: Lot 1, except the West 70.00 feet thereof, and all of Lots 4 and 5 in Block 61, Original Pella, in the City of Pella, Marion County, Iowa).

Mike Nardini, City Administrator, gave a staff presentation pertaining to the matter:

Comprehensive Plan Amendment

- Casey's Marketing Company is proposing a new 41' by 106' 3" convenience store with gasoline sales on 1.17 acres located at 505-513 Main Street and 705 Union Street.

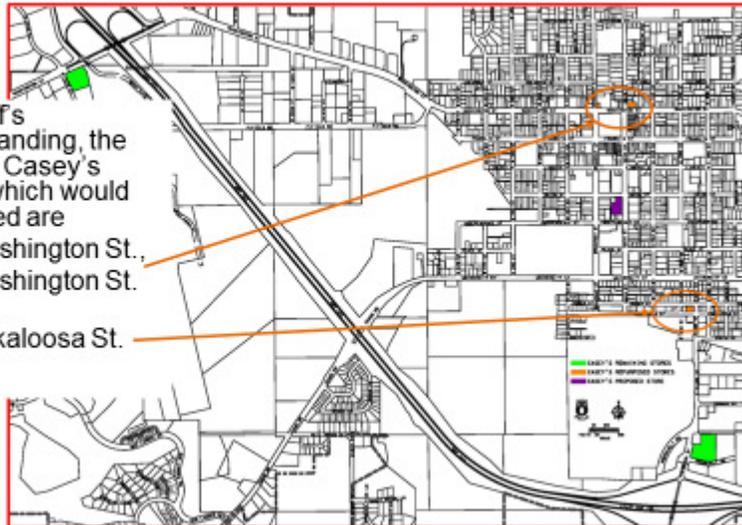


- According to Casey's representatives, the intention of the new store is to consolidate three of their existing stores into a new store which is capable of serving the community's needs.

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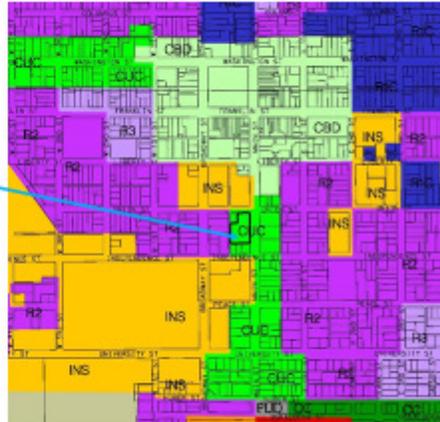
Comprehensive Plan Amendment (continued)

- It is staff's understanding, the existing Casey's stores which would be closed are
 - 640 Washington St.
 - 744 Washington St. and
 - 414 Oskaloosa St.



Comprehensive Plan Amendment (continued)

- The proposed site for the new store is zoned Commercial Mixed Use Urban Corridor (CUC), and convenience stores are an allowable use in this zoning classification.



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Comprehensive Plan Amendment (continued)

- However, it is important to note, the Pella City Code requires the development to conform to both the zoning ordinance and the City's comprehensive plan.
- In this particular case, staff was not able to clearly determine if the proposed development conforms to the City's comprehensive plan.
- As a result, staff believes action needs to be taken by the Planning and Zoning Commission and Pella City Council to address conformity with the City's comprehensive plan.
- The approach that is recommended to address conformity with the comprehensive plan is this proposed amendment.
- Specifically, this amendment would change the Future Land Use Map in the comprehensive plan from Low Density Residential to Mixed Use Commercial for the proposed development site.

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State and City Code Requirements (continued)

- Site Plan Review Requirements – Chapter 165.36 (F)
Review and Evaluation. The Planning and Zoning Commission shall review and approve the site plan based on the criteria established in Table 165.36/37-1 and conformance with applicable regulations in this Zoning Ordinance.
The Planning and Zoning Commission shall make the following findings before approval of the site plan:
 - (1) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 165.36/37-1.
 - (2) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
 - (3) The site plan conforms to the Zoning Ordinance and the Comprehensive Plan.

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State and City Code Requirements

- The Iowa State Code requires zoning regulations to be made in accordance with a comprehensive plan.
- Staff believes the goal of the state's comprehensive plan requirements is to prevent piecemeal and haphazard development.
- In addition, staff also believes the intent of the state regulations is to encourage local jurisdictions to act rationally rather than arbitrarily in making zoning decisions.
- It is also important to note, the Pella City Code requires development site plans to conform to the City of Pella's zoning ordinance and comprehensive plan.
- Listed on the following slide are the requirements pertaining to site plans as stated in the Pella City Code.

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What is the Purpose of a Comprehensive Plan?

- ▶ The comprehensive plan is intended to serve as the foundational document which guides city zoning and development decisions through the year 2035.
- ▶ Vision: The plan articulates community values and priorities, based on a public input process.
- ▶ Basis for Regulations: The plan provides the required legal basis for land use regulations, such as zoning, per Section 414 of the Iowa Code.



Background of the City of Pella's Comprehensive Plan

- ✦ The City of Pella's Comprehensive Plan was adopted by the Pella City Council in 2014.
- ✦ The plan was developed over approximately a nine month process in which a thirty member Steering Committee worked in conjunction with City staff and RDG who served as the planning consultants.
- ✦ During the development of the plan, the Steering Committee received input from the community from citizens who attended the various public meetings and participated in the online town forums.



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Background of the Comprehensive Plan (continued)

- ✘ In addition, the Steering Committee also conducted a housing survey.
- ✘ Overall, community input served as one of the key components in developing the Pella Comprehensive Plan.
- ✘ The comprehensive plan is intended to serve as the foundational document which guides city zoning and development decisions through the year 2035.



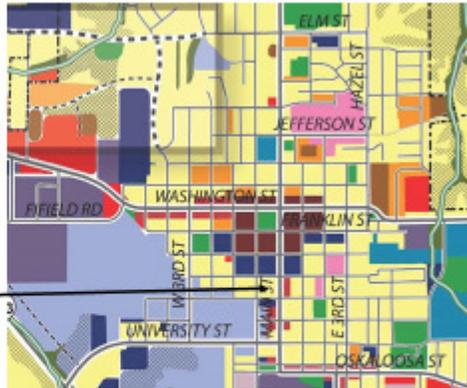
Conformance with the City of Pella's Comprehensive Plan

- ✘ In reviewing the proposed Casey's development to determine conformity with the comprehensive plan, staff considered the plan in its totality.
- ✘ Based upon staff's review, we were unable to clearly identify if the proposed Casey's development conforms with the City of Pella's Comprehensive Plan.

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Conformance with the Comprehensive Plan (continued)

- ✘ *Future Land Use Map* - The Future Land Use Map in the comprehensive plan targets this proposed site for residential development.



24 PELLA COMPREHENSIVE PLAN

Conformance with the Comprehensive Plan (continued)

Housing Goal – One of the core goals of the comprehensive plan was to provide a range of housing types at a variety of prices, to accommodate workers and residents at all stages of life.



- A key component of this goal was the utilization of infill housing or housing that is built on vacant or underused lots in existing neighborhoods.
- Infill lots are beneficial for several reasons because they often allow established neighborhoods to respond to market conditions by providing new housing types and features.
- In addition, infill housing is efficient because it utilizes existing infrastructure.

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Conformance with the Comprehensive Plan (continued)

- Likewise, the comprehensive plan also states that it is important for any infill development to complement the existing neighborhood and provide appropriate transitions where needed.
- Finally, it is important to note, this proposed site is shown in the comprehensive plan as a concept for residential infill development (Figure 2.4 page 43).



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Conformance with the Comprehensive Plan (continued)

Land Use Compatibility Matrix

- Land Use Compatibility Matrix** - The purpose of the Land Use Compatibility Matrix (Table 1.5, page 31) is to identify land uses when located in close proximity to each other which may cause conflicts.
- One of the goals of the matrix is to avoid creating new conflicts.
- Depending on the commercial classification of the proposed Casey's convenience store (i.e. high, medium, low, etc.), there could be potential conflicts with the existing residential properties which abut the proposed site.

Table 1.5 - Land Use Compatibility Matrix

	Agriculture	Parks	Low Density Residential	Medium Density Residential	High Density Residential	Mixed Use	Commercial	Downtown Mixed Use	Light Industrial/Office	General Industrial and Utilities	Civic and Public
Agriculture	-	5	3	3	2	3	3	3	3	3	3
Parks	-	4	4	4	4	4	4	4	3	2	5
Low Density Residential	-	-	4	3	3	2	3	1	1	4	-
Medium Density Residential	-	-	-	5	5	3	4	2	1	4	-
High Density Residential	-	-	-	-	5	3	3	2	1	4	-
Mixed Use	-	-	-	-	-	4	5	3	2	4	-
Commercial	-	-	-	-	-	-	5	4	3	4	-
Downtown Mixed Use	-	-	-	-	-	-	-	2	2	4	-
Light Industrial/Office	-	-	-	-	-	-	-	-	4	3	-
General Industrial and Utilities	-	-	-	-	-	-	-	-	-	1	-
Civic and Public	-	-	-	-	-	-	-	-	-	-	1

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Issues to Consider in Evaluating the Proposed Amendment

- As stated earlier, the intent of the comprehensive plan is to serve as a long-term planning document.
- Likewise, it is also important to note, the comprehensive plan can change when development priorities and conditions change.
- In addition, it is not uncommon to amend a comprehensive plan to account for a new development that was not foreseen when the document was originally constructed.
- However, careful consideration should be given before making any changes to the plan to avoid haphazard development.
- Listed on the following slides are items to consider when evaluating this proposed comprehensive plan amendment.

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Reasons for Approving the Comprehensive Plan Amendment

Based on staff's review, listed below are potential reasons to approve this amendment to the City's comprehensive plan.

- *The property is zoned for the intended use* - As stated earlier, convenience stores and gas stations are a permitted use in the CUC zoning classification.
- In addition, the highest and best use for the proposed site may be commercial rather than residential.

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Reasons for Approving the Comp Plan Amendment (continued)

- *Commercial uses identified in proximity to the proposed site* - Existing commercial uses are located directly east of the proposed development site. In addition, these existing uses are identified in the Future Land Use Map of the City's comprehensive plan.



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Reasons for Approving the Comp Plan Amendment (continued)

- *Commercial Corridor* - The Main Street corridor area south of the downtown is identified in the comprehensive plan as a commercial corridor.

d. Commercial Corridors
- The Washington Street, Main Street, and Oakalosa Street corridors provide retail and services for the residents of Pella. Their vitality is important not only to the economy of Pella, but also to its appearance, as these corridors provide the major gateways for downtown visitors.



Figure 11 - Primary Opportunity Areas for Business and Industrial Growth in Pella

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Reasons for Approving the Comp Plan Amendment (continued)

Site Plan Enhancements - In an effort to address potential land use compatibility issues, the Casey's site plan includes additional green space area and landscaping above the City Code requirements.

- It is important to note, this was done on a voluntary basis by Casey's.
- In addition, the building design has been modified in an effort to blend in with the abutting properties.
- Furthermore, adjustments were made in the realignment of the main driveway for the development to address potential safety issues noted by the City's traffic engineers.



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Reasons for Denying the Comp Plan Amendment

Based on staff's review, listed below are potential reasons to deny this amendment to the City's comprehensive plan.

- *Allowing the existing future use designation of the property to remain unchanged:* The comprehensive plan took a considerable amount of time and effort to develop. The proposed site in the comprehensive plan is identified specifically in multiple sections of the plan for residential use, which is different than the proposed Casey's development.
- *Infill Housing Goal:* A key component of the Comprehensive Plan's Housing Goal was infill housing. Overall, the community derives benefits from infill housing and this location may be more beneficial for the community for infill housing rather than a commercial development.

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Reasons for Denying the Comp Plan Amendment (continued)

- *Potential Conflicts with Neighboring Properties:* The Land Use Compatibility Matrix within the comprehensive plan indicates there could be potential conflicts between the proposed Casey's development and the residential properties abutting the development site.



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Summary

- Staff does not have a recommendation in regards to approving or denying this proposed amendment to the comprehensive plan.
- However, we do believe any decision made by the Commission should be based on the City's comprehensive plan and applicable zoning ordinances.
- In considering this amendment, the Planning and Zoning Commission has the following options:
 1. Recommend approval of the proposed Comprehensive Plan Amendment. 
 2. Recommend approval of the proposed Comprehensive Plan Amendment with modification.
 3. Recommend denial of the proposed Comprehensive Plan Amendment. 

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Bob Smith questioned what is the amendment?

Mike Nardini responded a change in the Future Land Use Map.

Written comments:

Jim Danks asked if written comments were received.

George Wesselhoft responded 32 letters were received, all but one expressing their opposition (see attached; some letters were in envelopes provided to the Commission members in addition to the 32 letters).

Dan Manning stated obviously the presentation tonight is about Casey's. They are in a unique position, what they are proposing to the members of the Commission is that based upon the manner in which the zoning exists and the Comprehensive Plan reads there is no requirement to amend your Future Land Use Map in order to approve the Casey's site plan. Mr. Manning referenced a packet of information provided to the Commission. Page 63, Exhibit U. On the left hand column is references to the Zoning Ordinance and on the right hand column is references to the Comprehensive Plan. The item in the ordinance that talks about approval, the property they are talking about is CUC zoning and this use is authorized as a matter of right under the laws of the City. Number 3 talks about the Comprehensive Plan must be in compliance with, not the Future Land Use Map. Mr. Manning mentioned the zoning at this location was created in 2001. RDG put the Plan together and made this presentation and the Commission approved the Comprehensive Plan. Each point they are showing is consistency, that it is well thought out that there is a corridor. Page 49 of the Comprehensive Plan there is a map that shows a commercial corridor that provides for retail and services for residents. Page 21 of the Comprehensive Plan states preferred growth area designated for commercial development. 165.12-1 of the Zoning Ordinance establishes this is an urban entry corridor leading into the City which allows for

residential, commercial and office uses. Table 1.4 page 30 of the Comprehensive Plan. What they are establishing is that this property is in full compliance with the Zoning Ordinance and in full compliance with the Comprehensive Plan. Page 64 of the documents clearly establishes exactly what the Zoning Map is for and there is a detailed analysis as to what goes into the creation of the Zoning Map. To the contrary with the Comprehensive Plan. The Future Land Use Map at page 24 and page 90 the future land use map is to be interpreted generally and is not to the specificity or rigidity of a zoning map; it is at two specific locations, it is designed that way, when you have a situation when you have inconsistency with the Future Land Use Map it says land use maps and other maps are meant to be general guides and policy rather than carry the specificity and rigidity of a map such as a zoning map as such the Planning and Zoning Commission, City staff and the City Council can exercise some discretion as to whether a proposal matches the intentions of the Plan.

Ken Haman (707 Union Street) stated he is somewhat surprised they are even here tonight as at the variance meeting on December 14 that was done in their favor 9 to 0 there were statements made by Casey's. Casey's stated "we have not found one plan that pleases us with our concerns with regards to safety and operation of the Casey's Store so at this point we do not have an option B although we have looked at many options there is just not one that suits this property; later on it was stated by Leanne the counsel at the meeting we had our engineers, our draftsman and other people look at this and any other way we configure the property raises significant concerns with regard to safety or other issues they feel are in their industry; we could build one right now in accordance with the ordinances but it is not the store that the neighborhood is going to be happy with, it is not the store that is going to suit the needs of the neighborhood, it is not the store that is going to meet their high safety standards; they looked at many other options, we don't think it meets the high safety standards especially given the proximity of the alley to our store, the neighborhood, the garages, the surrounding; that's why we are here we want to do this right; we want to do it well; we want to serve the needs of the community but want to care about high safety standards". They were denied that variance and could not put it the way they wanted and now they just want to put it in and they stated themselves safety.

Will Page (520 E. Sheridan Avenue, Des Moines, Iowa) stated he is a historic preservation consultant and he is working with the Pella Historic Trust on a potential historic district right adjacent to the property. About eight years ago they had a similar situation in his neighborhood in Des Moines. A convenience store wanted to come in and to establish a 12 pump convenience store in their neighborhood. This came as a surprise to them. At that time the City of Des Moines did not have design guidelines for a 12 pump convenience store. The guidelines they were using were for small convenience stores. This happened in different parts of the neighborhood across the City; finally the zoning was changed and we had more stringent guidelines to make sure that convenience stores of this scale were appropriate to the neighborhoods. He added he does not

want to criticize the City of Pella but it took the City of Des Moines five years to come up with design guidelines to give neighborhoods a sense of participation in the whole process and he stated his hunch is that the City of Pella is somewhat in the same situation as Des Moines was as you have guidelines for convenience stores but not for a mega convenience store. He stated he salutes the City's legal counsel when he gives you the advice to consider the Comprehensive Plan before you consider the site plan. He mentioned further that he is a baby boomer and people of his age are looking forward to retirement and down size into a place close to restaurants, entertainment, churches and social events; downtown Pella that fits the bill. Your Future Land Use Plan identifies this for residential; this is a prime place for people like him and many other people in the audience to live in. A convenience store is about transportation; you can drive your car six blocks, ten blocks to get gas but you are not going to walk ten blocks or twenty blocks to get to downtown Pella. Mr. Page stated he wanted to make one further third point: he lives in Des Moines and he knows people that work with and for Casey's; they have a good reputation about wanting to do what's in the best interest of the community and are here for a civic purpose, they want to be a good neighbor; if you look around tonight and hear what has happened in the past as far as this proposal; no one could doubt the fact that this has caused a great deal of controversy in the community; this has not been good for the community in terms of how Pella sees itself; Mr. Page concluded by stating within that context, I would appeal to you (Casey's) to withdraw this proposal.

Jim Mansueto (1304 Main Street) stated according to the Association of Convenience and Fuel Retailing the size of this new convenience store is what they classify as a hyper station, it is the largest convenience store they classify; in many cases this type of store, such stores are often used as mini truck stops; this is what we are planning to put adjacent to homes where there used to a row of single housing; any way you slice it does not fit with the existing structures in the neighborhood.

Lynn Brander Horst (227 Oskaloosa Street); she stated she just wanted to make a few points; one is that she feels we are trivializing the Comprehensive Plan, in the State of Iowa the Comprehensive Plan supersedes zoning; it would trump zoning according to Iowa Code; also the Comprehensive Plan is there to protect the people; The Comprehensive Plan started in the 1890s; they then matured on to the 1970s; they are there to help us, they are not there to help the establishment; if we were to vote to amend the Comprehensive Plan; according to Iowa Code 414.3 you cannot replace it with something that will devalue housing and not within the historic character of the neighborhood, so what would you replace it with; so if you would replace it you couldn't put a Casey's in there anyway according to the guidelines of the Comprehensive Plans in the State of Iowa; lastly this is the spring edition of Preservation Magazine, this is a national magazine and elite magazine; She is proud to say Pella made the magazine this month; nobody paid to put us there; it was their selection not ours; she read "Pella has many historic treasures such as the Pella Opera House. The Pella Historic Trust is a vital link

between Pella's past and future with a vision for preserving yesterday with a vision for tomorrow. It is especially a value at the core of Pella". Please don't make these people wrong.

David Kermode stated here we are again; it has lost on two separate occasions at the Board of Adjustment and Planning and Zoning Commission; he pointed out over 1,100 people have signed the petition against the Board of Adjustment; having gone out and obtained those signatures nobody said it was because it was north, south, east, west, they were all opposed to the Casey's being there; here we are to reconsider this for the third time; his wife has talked to Casey's representatives on two separate occasions; on the second occasion she attempted to reach out to their attorney Ms. Krell and convey to her the strong sense of displeasure and angst that their development plan had for their neighborhood; despite this she did convey her willingness and the willingness of their neighbors to sit down and talk to Casey's, the owner of the land and the City if a mutually agreeable solution could be obtained; Casey's General Stores was not interested in talking and has never reached out to their neighborhood; she also reached out to the landowner to discuss this issue; repeatedly the people opposed to the plan have offered to discuss other uses for this property; these overtures have never been reciprocated. In regards to Casey's General Stores they have been cordial and are willing to offer whatever support they can to help them find a suitable location for their perceived need to enhance services to the community. Finally, justice, honesty, and equity; Mr. Kermode referenced locally owned corporations that are part of the community and we are fortunate to have them and then stated we are now faced with a corporation that lives in Des Moines; this is why they are concerned this is coming before them a third time; he mentioned a March 8 communication to the City and other dates; he added his wife asked for this information a week or week and half ago and just two days ago received those communications which is below standards of the City of Pella; so this is where we find ourselves a place full of emotion, accusation, fear, greed and anger, this is a toxic mix for this community, choose well, be gracious and most importantly seek justice stated Mr. Kermode.

Michael Robinson stated he is categorically against any change to the Comprehensive Plan. He mentioned this is a good comprehensive plan, a lot of hard work went into this. The consulting firm that helped did an excellent job; if this comprehensive plan was good approximately two years ago, it is still good today; a large corporation from outside the City of Pella wants to have its own way regardless of the citizens and he says no, not at all, you had an opportunity and others had an opportunity; this is like the 9th inning of a baseball game; Mr. Robinson asked respectfully that you reject any attempt to change the Comprehensive Plan. its good; there is no reason to change it; you approved it, you agreed with it; yes it is a living document; he also concurs with the gentleman from Des Moines, historical preservation, if anything it is time for Casey's to step back and withdraw their proposal; they say they want to be good neighbors, he does not consider this being a good neighbor; there is no way no matter how

many Dutch facades you have on that building it is still a convenience store, gas station; while it is commercial property across the street and prior to different ownership of five lots it was all residential property; he knows it was zoned mixed use but it was residential property; there is no way this is going to blend in to the neighborhood behind, directly west or south or library; this is an incorrect location for this facility; he encourages the Commission to stand their ground and not change the Comprehensive Plan.; to quote Sam Houston: do the right thing and forget the consequences, the right thing is not to change the Comprehensive Plan.

Jim Nieboer (514 Broadway) stated his property backs up to the proposed site plan. His home was built in 1855, one of the original structures in the City of Pella; he does not want to see his property devalued, it is on the historical tour during Tulip Time; the Comprehensive Plan spends quite a bit of time and verbiage talking about housing needs of the City; the zoning, yes it is zoned mixed use commercial, but this is the wrong kind of commercial development for this location; a better development would be more of a medium density change and if you are going to change the Plan at all, it should be geared toward encouraging housing development; so they would not be opposed to a multi-story residential structure similar to what Mill Farm Partners put out by Ulrich Motors and would encourage the Commission to consider those kinds of guidelines and the need for the City's housing stock to be more diversified.

Wally Pelds (Pelds Engineering Company) stated he has had conversations with RDG if nothing else to prove that they do their due diligence before they look at a site and look at zoning and the Comprehensive Plan; they would not have spent the amount of money to this if they had not been certain they could get this accomplished; what it came down to was the verbiage that it shall comply with the Comprehensive Plan; he consulted RDG and they said didn't you look at the note, the Comprehensive Plan actually states that the zoning that is place governs; and that he would argue we do not need even need a Comprehensive Plan; in the Future Land Use Map he would argue is a really small map; the gentleman he spoke to at RDG said it could be one pen thickness; some of those half blocks are not truly represented. In addition to that, it said it refers to the zoning; it is a guide, it shows low density, high density, a commercial corridor and even talks about the three Casey's removed and rebuilt; so he would make an argument that the Comprehensive Plan already supports what we are trying to do.

Leanne Krell (Casey's Assistant Counsel) stated this may be more appropriate to the site plan review and that type of situation she wanted to be sure that those statements are accurate on the record. First of all, she believes it was Mr. Kermode told that she declined to meet with the neighbors and was unsympathetic to his wife; at the last CDC meeting she spent over a half hour in the hallway and actually missed the meeting speaking with her and offered here's my card call me she would be happy to come down, she would drive down personally, if there is something we can talk about in their site plan that they can do to help alleviate

some of their concerns and the statement given to her is there is nothing you can do we, just don't want you here. Ms. Krell stated she responded she is still open to this; that continues to be her position to the neighbors if there is something she can do that adjusting the site plan that conforms to the requirements of the zoning and conforms to the requirements of the City let her know what that is and they will evaluate that; they intend to work as good neighbors and that was their intent from the beginning. There were also statements attributed to her that the previous plan that went to the variances on was the only safe plan that Casey's could do. The statements were true at that time; based on the input from the Board of Adjustment, based on the traffic engineers, based on the input from their engineer based on the input from City they came up with a Plan B. When they presented in front of Board of Adjustment there was not a Plan B. That was the plan they wanted. They were told no. So they went away and talked to all these consultants and they came up with a new plan. That's what they intend to do with the neighbors too if there are things that could be adjusted. She just wanted to be clear that the statements attributed to her were really not the statements she had made. Ms. Krell added if there are any questions they have of her she is more than willing to answer those.

Jody Mansueto (1304 Main Street) stated she would like to bring up one point in the slide show that said we can consider an amendment to the Comprehensive Plan when development priorities and conditions have changed; she asked have their priorities changed? Casey's decided that they wanted to do something different, to combine three stations in one, they chose a prime location for what they want to do, it happens to be in an area that does not comply with the Comprehensive Plan; she mentioned we might want to look up the word "comprehensive", the word means considers everything, to think zoning is going to trump that is kind of ridiculous; she would ask you really consider have our priorities changed as the City of Pella; she thinks it is obvious with the resounding opposition to this that the priorities have not changed, they want their downtown to be their downtown; she really does not want a Casey's as a centerpiece of downtown and that is exactly what you will have; it would be the largest development down there since the Molengracht. Ms. Mansueto added please do not allow this amendment, she thinks the Comprehensive Plan is adequate as stated; let's stick to it and let's use it at least until 2035 and then we can talk.

Brad Skinner, practicing attorney in Altoona, provided a letter to the Commission (attached). He stated he has been asked by Ms. Krell and by Casey's to provide an opinion; it is important to note that if you look at the conclusion of his opinion letter that the site plan meets all the requirements of the City of Pella. They are not talking about the Comprehensive Plan or Future Land Use Map, we are talking the Zoning Ordinance itself, the zoning map; it is important as you do go through the Comprehensive Plan and the Future Land Use Map that is a guide to set policy and make recommendations to City Council; it is not the law, the law is the Zoning ordinance and the Zoning Map itself. As you read through the Comprehensive Plan in his letter in regards to the Future Land Use Map the word

“fuzzy” is used in the Plan itself because it is a guide; there are a couple of Supreme Court cases from the State of Iowa; law versus a guide; the law trumps the guide; the Supreme Court has held in numerous cases that strict adherence to the Comprehensive Plan will cause problems as regard to utilization of the Comprehensive Plan of the Future Land Use Map on future cases; Mr. Skinner stated we are here tonight because Casey’s wants to put a store to south of where he is standing; obviously we have neighbors who are opposed to that however the opposition should come from the ordinance. If the City Council truly chose to prohibit such a use why did they not enforce the Comprehensive Plan and the Future Land Use Map in the form of an ordinance, they have not done that; their position is the site plan meets the law; it may not meet the Future Land Use map but that is not the law.

Dan Spotten (512 Liberty Street) stated his wife runs the north Casey’s, the one the Rus brothers ran for years; he would like to remind everyone in town that they have some of the best Casey’s, drive around, we’ve got the best Casey’s pizza; the people that work at these Casey’s in town are very respectful and very good people; no matter what Casey’s corporate tries to do please remember these people are your neighbors, they’re your friends; don’t hate the core people. Truly the rule right now is Casey’s can build there, it is commercial use. He does not understand the Comprehensive Plan, it does not make any sense to him; it does not make any difference to him. Right now there is a law, the law says Casey’s can build there; they have jumped through every hoop the City has put in front of them. Give them the opportunity to build there, it is what the law says. Mr Spotten asked the question of the land owner, when did he purchase those properties to which Mr. Dennis Vander Beek responded approximately three years ago. So in 2001 this was zoned commercial. Three years ago he purchased it thinking it was commercial, now all of sudden he can’t sell as commercial properties. Does everybody remember what was on the property, those nasty old houses. He was nice of enough to take them down and finds a buyer for that property and they put together a beautiful building. This whole thing that Casey’s is a gas station, how many folk walk up town to get their pop, cigarettes, coffee and donuts; its not just a gas station, Casey’s is providing a service to downtown. We used to have a grocery store downtown. When he first moved to town in 1979 there was a push to get rid of bars uptown; now there is a bar uptown; we can let a bar uptown but cannot let Casey’s expand and Casey’s comes in; we have a property, we jumped through all your hoops, we want to build the store and somebody still says no; the law is the law, the law says they can build. They met all the requirements.

Eunice Folkerts mentioned she has two stories: the first story it was her former husband Stu Kuyper that designed the north Casey’s store and they had a wonderful relationship with the Rus brothers and after Stu died she got a call from John Rus who said your husband promised me a Dutch mailbox, if she was Stu she would get a stone mailbox like they have in the Netherlands and put in in which they did. She thinks of the five Casey’s stores in the community and they

are precious, they serve wonderful needs just like this gentleman was saying. Second story: years and years ago she met this gentleman while serving on the Sprint car hall of fame foundation in Knoxville; she has been here 57 years and this is where her heart is, and she was in the restaurant business at the time, he said Eunice if you were going to serve pizza at Strawtown what kind of ingredients would you use. She said she would use Contadina tomato products, who could make a crust that tastes freshly baked and real cheese. He said well we are thinking about doing that at Casey's. She said it is some of the best pizza. She has nothing against Casey's, she shops at Casey's and buys her Powerball tickets at Casey's but she does not want a huge mega Casey's in a residential area in the center of town, let's have our nice five little Casey's that serve us so well they're neighborhood Casey's, that is what a small town is all about. Ms. Folkerts stated so please Casey's be gracious, use your good judgement, say thank you very much but no thanks; we'll go with what we have.

Joan Haman (707 Union Street) stated Casey's will be her backyard. She is very concerned about what Casey's will mean to her house, her family. She feels she will not even be able to open her windows due to all the pollution, the smell of gas coming into her house; she feels this will be a very serious health risk to them. They will have to breathe this every single day, 24 hours a day, 7 days a week. She does not feel she will be able to sit in her backyard anymore. She will have to listen to cars honk and idle and going in and out of a driveway; this is a nice peaceful neighborhood right now. Once and while they have to listen to a bar person walk by. Ms. Haman stated she feels this will be very disruptive to their community and will affect the value of her house. Her house is represented by the Historical Society, they gave her a plaque on her house. She just feels that the property values will not increase, any of these houses will not gain in property value; they will all decrease. It's just very hard for her to see this area of town go downhill. She feels that many downtowns feel honored and blessed with people wanting to live downtown. There are towns that are trying to rejuvenate their downtowns, they want people to live there; and that is why they live there; they like to participate in what Pella has to offer. She is very concerned about this being in their backyard.

Renee Bastas (706 Independence) stated all the points that were just made, she will triple that exactly; we they came here 28 years, they bought the house because of the historical value of the house; her husband and her worked on the house and this will destroy everything.

Wayne Stienstra (1019 Park Lane) mentioned he owns property at 615 Main right across the street from here on the National Register of Historic Places. About three years ago City Council gave the go ahead to pursue a historic district in that neighborhood; where the Casey's is going to be located is at the eastern edge of the district. It is in the process, Will Page has been working on that. At the time there were a whole row of intact turn of the century homes, yes they needed work, but having a historic designation would have provided funds for rehab on these

buildings; one by one those buildings disappeared. There was no plan, there was no accountability for taking those down; he does not know at what point Casey's got involved, but three of those properties were taken down without any abatement of asbestos. These turn of the century homes had boilers with asbestos, piping with asbestos, and this is kind of the consideration that the neighborhood is going to be given. Mr. Stienstra stated he thinks there needs to be some sort of investigation, it was not done properly. He thinks it is doing a disservice to the neighborhood (Mr. Stienstra provided a thumb drive to the Commission).

Bruce Terlouw (822 197th Place) stated he was before them about fifteen years ago. He went through a similar situation where they put a structure next to his existing house. He was very opposed to it and very emotional about it. He worked with the people that did it. To be honest it turn out very well. He has heard a lot of emotions on both sides of it. He wished people could talk more and get along more. He added he does not look at Casey's as a big corporate entity because he is very good friends with one of the managers that lives in Pella, Iowa. If he looks at the architecture he's seen tonight the library never should have been built because that's totally out of context with the housing around it; they tore down a church that fit the neighborhood and built a library, looks very nice by the way. People talk it out and work it because there are a lot of things you can do to protect the neighborhood. Aesthetically the design he seen tonight would look beautiful.

John Webber recommended to the Commission that before they close the public hearing they formally accept the written comments that have been submitted so they are part of the record.

Mike Vander Molen made a motion to accept the comments (see attached). David Landon seconded the motion. Upon vote, all voted yes. Motion carried 10 to 0.

Dan Manning asked that the information they provided to the Commission is also made part of the record as well as the Zoning Ordinance and the Comprehensive Plan.

Mr. Webber stated he believes the Zoning Ordinance and Comprehensive Plan are already in the public record but certainly there is no harm in accepting those along with the materials from Casey's.

Bob Smith made a motion to accept just Casey's materials (see attached). Craig Agan seconded the motion. Upon vote, all voted yes. Motion carried 10 to 0.

The public hearing was closed.

- 4) Comprehensive Plan Amendment to the Future Land Use Map Concerning Proposed Site Plan for Casey's.

Mr. Agan asked for explanation whether there is approval or denial by the Planning and Zoning Commission will this go to the City Council either way.

Mr. Webber responded in the affirmative that their job is to receive public input and then under their ordinance to make a recommendation to the City Council for the City Council to make the final decision.

Mr. Agan stated to be very frank this is a City Council decision, people have the right to have the decision made by persons elected rather than appointed.

Mr. Smith commented that the Commission can only make a recommendation; 165.47 of the Zoning Regulations say no substantial amendment or modification to the Comprehensive Plan shall be made without first being referred to the Commission, he disagreed it needed to happen; the Council will get the opportunity.

Cathy Haustein stated her understanding that Casey's wishes the Commission to deny the amendment.

Mr. Danks responded that we need to listen to what Mr. Nardini stated; Casey's has stance we want to talk about site plans; City has another stance that we need to look at the Comprehensive Plan and that puts us in a position where they need to take a form of action. He asked what is the Comprehensive Plan amendment?

Bob Smith stated his recollection is that it would be a change to page 24, to change the subject property to a different color.

Mr. Nardini responded traditionally it has been an amendment to the Future Land Use Map and that designation would change from low density residential.

Mr. Smith added is at a loss if they were going to do it why only change one out of 136 pages; the record is replete with everybody's cherry picked pieces; he does not get it; he does not think we need to do it; his personal opinion is this is not a rezoning; they have a site plan that is undeniably in compliance.

Mr. Nardini suggested that no. 2 option for action is Comprehensive Plan amendment with modification.

Mike Vander Molen asked regardless of what action is taken on the Comprehensive Plan they can still approve, deny or table the site plan correct?

John Webber responded in the affirmative, two separate matters.

David Landon mentioned that he has sat on the Commission for ten years and he participated in two steering committees on the revisions to the Comprehensive Plan; what he has observed in the only true opportunity for the public, for the

citizens of Pella, for the businesses in Pella for the community to influence the growth and development of the community is through participation in the updates or revisions of the Comprehensive Plan; we go to great extent to include the community in that process; we just recently did that in 2014; it is interesting that nobody brought up tonight that in the previous Comprehensive Plan that this piece of property in the previous edition was commercial mixed use land use, but during the public process of the Comprehensive Plan the community of Pella intentionally changed this piece of property to low use residential; that didn't happen by mistake, it happened intentionally; he stated he will go a little further and passed out a handout to his fellow Commission members (see attached). He wrote down his thoughts to logically think through this process. Mr. Landon read through his thoughts; over the last couple of days he reviewed the minutes of every meeting have had since 2012 and this is the first site plan that as a Commission member we have been informed that must conform to both the current zoning and the Comprehensive Plan; they have had instances of rezoning and have utilized the process for determining and in every case they have utilized the process to determine if the rezoning conforms to the Comprehensive Plan; in those cases they determined conformance by using the Future Land Use Map and land use categories and characteristics table; they have used it ever since he has been on the Commission; they have approved rezoning applications using that process; likewise they have denied rezoning applications when they do not conform to the Comprehensive Plan using the aforementioned process; and they have approved rezoning applications where they don't currently conform contingent on amending the Future Land Use Map to bring the rezoning and the Map into agreement as long as that rezoning does not constitute spot zoning; never once in his ten years on the Commission has a rezoning ever been approved or denied because the Comprehensive Plan was a guide, had fuzzy lines, or was aspirational. In fact, during the October 24, 2011 meeting the Planning Commission was asked to rezone a parcel from Agricultural to Light Manufacturing. The Future Land Use Map at that time targeted the area to be rezoned Business Park/Light Industrial thus being consistent with the Comprehensive Plan. When consistory members from the adjacent land owner, a church organization, spoke at a public hearing with concerns of rezoning the Commission stated the Comprehensive Plan had public hearings so there was lot of opportunities to participate; he is concerned of the apparent disingenuous of upholding the Future Land Use Map when it supports a decision the Commission wants to make and discounting the Future Land Use Map when it conflicts with the decision they want to make; the Commission was told at their February 22 meeting of 2016, that the City of Pella Code that a site plan conforms to both the current zoning and the Comprehensive Plan, that's the law; he is not sure it is new law, previously ignored requirement an oversight or this is the first time the condition has existed, however the Code is clear; for the past ten years that he has been a member this Commission has used the process; the process is to use the Future Land Use Map Land Categories and Characteristics Table; using the process the Commission has used the last ten years in his opinion the site plan does not conform to the Comprehensive Plan.

Bob Smith mentioned one other thing, on page 95 of our Comprehensive Plan under Code revisions; some of the recommendations of this Plan may require changes to the zoning and subdivision codes; as part of the Comprehensive Plan process the project consultants provided staff with a memo listing potential changes to the zoning code and subdivision ordinances that would help remove any unnecessary impediments to the development and implementation of this plan; nowhere were any of the inconsistencies regarding this subject property or other properties listed; all listed were a couple of ticky-tack comments and that kind of stuff; you would think that if we had to do something that it would have been brought up; the reason it isn't there is because nobody contemplated you would equate a Future Land Use Map with a zoning regulation; where you put hyper focus on it, where you tell the person whose rights are about to be changed and people within 300 feet; that has not happened with respect to the Future Land Use Map; Mr. Smith added he can see them in conformance because frankly they were never intended to be the same; he is still at a loss why they need to do anything with respect to the Comprehensive Plan.

Mr. Landon stated there could be another explanation what it could not show up on the memo; that is an oversight or neglect of the consultants.

Mike Vander Molen stated to him you need to read the zoning ordinance and Comprehensive Plan together and the Comprehensive Plan is meant as a guide for future use; the zoning ordinance is now; we have a site plan before us much different in nature and character than a rezoning request; we approved the Comprehensive Plan in 2014 and if he would have known they were approving a land use map that was taking away property owner rights, he never would have approved that document. That was not his understanding. He agrees with Mr. Smith that the zoning ordinance needs to be given full deference here.

Cathy Haustein stated is one way the Comprehensive Plan and the zoning could match would be if there was commercial housing there right. She thinks the zoning is still commercial, if it was rentals wouldn't still be considered commercial. Is that what we were going for when they did the Plan and didn't change the zoning? If you just changed it to single family you could not have apartments there, maybe it was not an oversight.

Teri Vos stated in addition to what David Landon just spoke to, that is the ten year precedent that has been set on this board; that is what they have been doing and to add to that when you set a precedent; if you change the precedent, you are going to have people lining up asking why we didn't handle their situation the same; alongside the zoning ordinance; so this document was more than just a guide; those that participated they all heard more than once it is more than a guide; Ms. Vos pointed to page 90 of the Comprehensive Plan where it says in bold face the primary criteria for approval of an amendment to the Comprehensive Plan should be whether it complies with the spirit of the goals on

page 9 and the principles of land and development on page 13-15; she hopes everyone has read those pages because what you see this is about neighborhoods, biking and walking, quality of life, public safety, housing options, infill development. Do the math and this document will show you by the pages it references that if we are to make an amendment we must look at those pages, and those pages do not allow us to make an amendment change for Casey's tonight.

Jim Danks he stated he thinks we have two points, what Ms. Vos is saying is the case, on the opposite side, in a court of law, the zoning code should rule; a Comprehensive Plan is subject to change; when they did two nights ago to modify the Comprehensive Plan; we have two different points that makes it very difficult for the Commission to be consistent and to protect the owners of the properties as well as the neighbors.

Ann Visser asked can it rule without the Comprehensive Plan? She thinks they have documentation that it has to go hand in hand. Is the land use map a part of the Comprehensive Plan, who determines?

Mr. Landon stated there is a current land use map that is reflection of the current zoning.

Mr. Landon made a motion to recommend to City Council to deny the proposed Comprehensive Plan amendment. Robin Pfalzgraf seconded the motion.

Bob Smith asked for clarification on what a yes vote means.

Mr. Webber responded a yes vote would be to recommend to the City Council that the proposed amendment to the Comprehensive Plan to change the classification of the one particular parcel would not be approved. A vote in support of the motion says leave it alone, make no changes.

There was discussion on the motion.

Upon vote, Landon, Pfalzgraf, Agan, Haustein, Visser, Vos voted yes. Danks, Smith, Vander Molen, Van Vark voted no. Motion carried 6 to 4.

- 5) Site Plan Reconsideration for Casey's Marketing Company.
Dan Manning addressed the Commission on the site plan and stated they are asking that the site plan technically on February 22, 2016 no action was taken, that the Planning and Zoning Commission consider the site plan; the request for the site plan must conform to the existing zoning and the comprehensive plan. He mentioned they have submitted to the Commission in the packet they have provided with the information from their perspective that says they do in fact comply with the Comprehensive Plan, they do comply with the Zoning Ordinance and the Zoning Map. Obviously we have here tonight their engineer Wally Pelds who spoke earlier, Amy Costello and Leanne Krell representing Casey's, his

partner Joel Templeman, the property owners. As Mr. Landon pointed out in the previous item the Zoning Ordinance specifically states that in reviewing a site plan that you conform to the Comprehensive Plan not the Future Land Use Map. He did not call it a fuzzy map, that language is in the Comprehensive Plan. That was presented to you by RDG. That language is part of the Plan the Commission adopted. He stated what he is submitting to the Commission is that you must look through your Comprehensive Plan; when they established this corridor and determined CUC zoning was appropriate, they don't just talk about Main Street, they talk about Washington Street; pages 63 and 64 of the packet of information provided to the Commission they want to emphasize you don't just look at the Future Land Use Map to determine whether a particular site is in conformance with the Comprehensive Plan, you have to look at how the two documents interact with one other; as you walk through the Zoning Ordinance, you are talking about an urban entry corridor five block area from Pella Windows facility to the Central Business District; that whole area is zoned CUC; go to page 67 Main Street is part of the Gateway Corridor District and there is anticipation of conversions; as you go along, you will see numerous commercial enterprises; you will see numerous homes that have been converted to commercial use; that runs all the way along from Union Street down to Huber Street in that corridor, that was designated back in 2001 and that is what you see and in essence essentially what is happening; he stated he would also suggest nowhere in the Comprehensive Plan is there a discussion about Main Street being utilized for single family residential uses; what you have is the Future Land Use Map, one page document, page 24 of a hundred page or so document colored in yellow; he added he does not mean to quibble with anyone about the size of the map or what is intended but he does think it is fair for a property owner and anyone who wants to develop the property be able to look at the Comprehensive Plan and not be stuck, wait what does page 49 say; he stated he thinks it is important to go to page 30 of the Comprehensive Plan because that is the land use categories and characteristics matrix that Mr. Landon referred to in terms of what you are to rely upon; that's found in exhibit D page 21 of the packet they provided; page 30 of the Comprehensive Plan; when you make the determination that the zoning in this area is for CUC mixed use zoning you then go to the land use categories and characteristics and in that you see: what do we have here Main Street which is a major arterial street, uses that provide for daily convenience shopping and service needs of nearby residents, that is what a property owner has a right to anticipate, to see when they see and buy, that's what a developer is entitled to see, so every case is not a surprise in terms of the land they buy and how they can utilize it, so we know what is intended; the Comprehensive Plan was put together in 2014. Mr. Manning stated what they are saying is your own language clearly spells out that is what is anticipated and when there is ever a conflict, the Future Land Use page 24, when that happens you defer to the Zoning Map; it says it specifically, they call it a fuzzy map, and so from their perspective what is being analyzed there and anticipated there is not single family residential uses; it is commercial uses, and commercial uses that are authorized as a matter right under the Zoning Ordinance; he also pointed out back on February 22, as they looked at the minutes of that

meeting, there was confusion on one legal opinion different than another concerning how the Comprehensive Plan and Zoning Map interact; he stated they have an affidavit from the attorney that said he was asked questions but never gave a legal opinion; we are trying to walk through with the Commission and be clear that they really do work well together and the only difference is the map and when the map that's what the expressed language of the Comprehensive Plan says, that's how you interpret it.

Mr. Landon asked Mr. Manning can you explain Figure 2.4 as not being very specific in conjunction with the Future Land Use Map as to the intent of what this Comprehensive Plan is proposing for this piece of property;

Mr. Manning responded as this reads it is a suggestion, he is not going to argue.

Mr. Landon questioned if it has fuzzy lines or is unclear. Mr. Manning responded this is not single family residential but it is consistent with what's on page 30 of the Comprehensive Plan. It doesn't say, it lays out that retail uses are authorized in this area and this is a retail use with their site plan; take a look at page 30 of Comprehensive Plan, land use categories and characteristics and mixed use;

Mr. Landon and Mr. Manning further discussed the Future Land Use Map of the Comprehensive Plan and also the term fuzzy.

Mr. Manning stated anytime you have by your own adopted Plan you have a conflict you defer to the Zoning Map that is what the Plan says; taking that directly from the book itself: page 24 and page 90; both of those pages specifically say when you have a conflict, page 22 of the Comprehensive Plan, they specifically make the reference that the boundaries between land uses on the map are fuzzy lines and meant to show approximate areas rather than rigid boundaries; it does not have the specificity or the rigidity of an engineering map or zoning document; page 90 repeats that same language; from their perspective when all there is to go on is the Future Land Use Map, when everything else they refer to the maps show this a commercial corridor, all those things consistent with what the zoning map says; when they have the one thing there is an explanation in their own document in how to react; when you have that situation you defer to the zoning map because it is more detailed; he does not mean to argue but that is the perspective of Casey's.

Cathy Haustein asked where they were getting the term single family residential.

Mr. Manning responded what they are proposing is a commercial use for the location, the only time they see there is a reference for this particular corridor is if you look to the Future Land Use Map that is yellow.

Mr. Haustein questioned on page 30 mixed use can include a range of uses, the question of low impact commercial uses, does anyone have a definition.

Mr. Manning responded the next sentence says provides for daily convenience shopping and service needs of nearby residents. The third column talks about the type of zoning, one of the authorized uses.

Ms. Haustein questioned in 2001 when this was zoned was there a different definition of a convenience store?

Mr. Danks responded he does not believe the definition has changed. They are still working with RDG and does not think RDG has changed their definitions.

Ms. Haustein mentioned she has seen this called a mega store and someone called it a hyper station and questioned the size of the store as far as fitting the zoning. She asked for an example.

Wally Pelds respond it is a little over 4,600 square feet as a footprint on the ground; about the size of the one at the first exit (Westpoort), about the same size in footprint.

There was discussion about the convenience store size. Mike Vander Molen asked if this was typical size?

Mr. Pelds responded they never have built one like this architecturally, complete redesign; the number of pumps is very standard based on usage and amount of traffic.

Ms. Haustein asked so they are anticipating a lot of traffic by the twelve pumps?

Mr. Pelds responded no more so than is being generated by the three stores they are replacing.

Mr. Landon questioned twelve pumps in the center of town but only eight on the four lane highway and they are sized by traffic?

Mr. Pelds responded that one was acquisition; he added he wanted to state one more thing they have done this in numerous locations; comprehensive plan guides; rezoning is very rigid; this is the exact boundary; so his discussions with RDG there is flexibility in that plan; one is rigid which is the Zoning Ordinance, the Comprehensive Plan that helps guide when you are making a zoning change; when they have gone to a location where there is a zoning change it is very rigid; on the Comprehensive Plan future land use there is no legal description; one is a little more forgiving, the other one is rigid.

Mr. Landon asked why then did the City of Pella intentionally changed the future land use map from CUC to low density residential in this particular property?

Mr. Pelds stated he discussed with RDG why did you not put multi family, that was an example, they had more discussions why the conflict, it is because the Comprehensive Plan is a guide.

Mr. Landon reiterated it intentionally changed on purpose. The community's intention was to change it.

Mr. Pelds respond it is kind of a chicken and egg. The zoning is what governs. If we chose to change the Comprehensive Plan to light industrial on your property, that is not going to change the zoning of your property. It is a guide; it is not in stone that we are going to tear your house and put something industrial there; the Comprehensive Plan guides you when you are looking at a zoning change specifically to prevent exactly what Mr. Landon said spot zoning.

Mr. Landon maintained it was the community's intention.

Mr. Danks stated the zoning ordinance still runs.

Ms. Haustein questioned can anyone tell her the definition of light use commercial.

George Wesselhoft read from the Zoning Ordinance the definition of Convenience Food Sales— establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.

There was discussion about the term light use commercial and the staff review of the site plan. Ann Visser stated she thinks Ms. Haustein's question is can someone clarify what that zoning is.

John Webber responded the issue is in the Zoning Ordinance this is a permitted use, it specifically authorizes this type of a business. The term Ms. Haustein is referring to talking about the light use commercial property that is a term that is referenced in the Comprehensive Plan. Not everything that is referenced in the Comprehensive Plan is necessarily defined in the Zoning Ordinance. He added the Comprehensive Plan gives you a description of the characteristics, all of these guiding principles. The ordinance requires that the development is in accordance with both the zoning ordinance and the Comprehensive Plan. You need to use common sense in making the factual determinations; you can go ask twenty people what a light use commercial use and you probably going to get fifteen different definitions; you are going to have to use on your own basis factually speaking do I believe this is an appropriate use within the Comprehensive Plan; you have heard the position that Casey's has expressed and that is their position and now the question is when you make your own determination do you share that belief or not, and you are the decision makers, you get to make those decisions using your Plan as a guideline. The ordinance says it has to be in accordance with

the comprehensive plan. His opinion is neither one trumps the other. You cannot ignore the zoning ordinance, you cannot ignore the comprehensive plan. How much weight you give each one is a factual decision that you need to make.

Bob Smith stated you commented with respect to the idea of the site plan conforming to the zoning ordinance and comprehensive plan; 165.36 (3)(F) - everyone ignores the first sentence The Planning and Zoning Commission will review and approve the site plan based on the criteria established in Table 165.36/37-1 and conformance to the applicable regulations in this Zoning Ordinance. In making that decision they are to make a finding before approval, the finding is the three things and the last one is the site plan conform. In the first sentence we are not to consider that, it is not there.

Mr. Webber responded there position is you have to read the entire code section, read it in its entirety.

Mr. Landon added it has to be in conformance with both.

Mr. Webber stated you have to make a determination that it is in conformance with both; that's a fact question they have to make, different people may have different views.

Mr. Manning summarized Casey's position is that the site plan does conform with both the zoning ordinance and the comprehensive plan and that the only legal opinion that you have received concerning this matter is from your legal counsel and Mr. Skinner supporting the notion is that the zoning is the law as it exists today, the Comprehensive Plan is a guide, and from their perspective when there is a conflict when that one aspect Future Land Use Map it is very clear, you refer to the Zoning Map not the Comprehensive Plan; you need to read the entire Comprehensive Plan at page 49, 30, 22.; throughout there is reference this corridor for commercial uses that has been the anticipation; finally they came upon this site in February of 2015 and have been working with the staff and throughout the City staff review, it wasn't until the eve of the February 22 hearing there was ever dispute about this; they believe the legal opinions they provided are consistent with the fact that this does comply and their site plan should be approved.

Mike Moreland clarified for the record that Mr. Skinner's legal opinion was provided to Casey's and not to the City.

Mr. Manning stated they agree that is what it was intended for and asked that all the information provided it be part of this presentation as well.

Mike Nardini reviewed the action options. There was discussion about the different options in so far as action.

David Landon made a motion to deny the proposed site plan on the basis that he does not believe it complies with the Comprehensive Plan. Cathy Haustein seconded the motion. There was discussion on the motion. Upon vote, Landon, Haustein, Pflazgraf, Visser and Vos voted yes. Agan, Danks, Smith, Vander Molen and Van Vark voted no. Motion failed 5 to 5.

Mr. Danks questioned if all eligible people voted. Robin Pflazgraf stated her position. She thought this was important enough for her to cast a vote. One of those she has not seen in writing but was an attorney.

Mr. Moreland stated just so the record was clear Ms. Pflazgraf was advised of a conflict of interest based on upon her stated public position against the project.

Ms. Pflazgraf responded months ago she signed the petition before she was on the board.

Mr. Landon stated for clarification that was for a different site plan.

Mike Vander Molen made a motion to approve with conditional approval of the site plan per option 1 that the City staff would not issue a building permit until the Comprehensive Plan amendment is approved by City Council. Craig Agan seconded the motion. There was discussion on the motion. Upon vote, Vander Molen, Agan, Danks, Smith, Van Vark voted yes. Haustein, Landon, Pflazgraf, Visser, Vos voted no. Motion failed 5 to 5.

Mr. Webber mentioned there will be a report to City Council on the proposed amendment of the Comprehensive Plan. There is no action to approve to deny on the site plan unless the Commission believes they can resolve those issues this evening there is probably is not a reason to continue. There was discussion about the action taken. Mr. Webber stated the recommended denial will be in front of City Council.

- 6) Other Business. Mr. Vander Molen requested that the Commission not reply to City staff as reply all as there are issues as far as public meeting requirements, reply to staff and not reply to the entire Commission.

Mr Manning stated they are where they were at February 22; one suggestion would be a straight up or down to approve, would that put us at 5 to 5 again. Mr. Danks responded the Council will take action.

- 7) The meeting was adjourned at 10:00 p.m.

Respectfully submitted,
George Wesselhoft
Planning and Zoning Director