



CITY OF ELKO

Planning Department

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1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

PUBLIC MEETING NOTICE

The City of Elko Planning Commission will meet in a regular session on Tuesday, March 5, 2019 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.S.T.

Attached with this notice is the agenda for said meeting of the Commission. In accordance with NRS 241.020, the public notice and agenda were posted on the City of Elko Website at <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website at <https://notice.nv.gov>, and in the following locations:

ELKO COUNTY COURTHOUSE – 571 Idaho Street, Street, Elko, NV 89801

Date/Time Posted: February 27, 2019 2:10 p.m.

ELKO COUNTY LIBRARY – 720 Court Street, Elko, NV 89801

Date/Time Posted: February 27, 2019 2:05 p.m.

ELKO POLICE DEPARTMENT – 1448 Silver Street, Elko NV 89801

Date/Time Posted: February 27, 2019 2:15 p.m.

ELKO CITY HALL – 1751 College Avenue, Elko, NV 89801

Date/Time Posted: February 27, 2019 2:00 p.m.

Posted by: Shelby Archuleta, Planning Technician
Name Title

Shelby Archuleta
Signature

The public may contact Shelby Archuleta by phone at (775) 777-7160 or by email at sarchuleta@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is also available at Elko City Hall, 1751 College Avenue, Elko, NV.

Dated this 27th day of February, 2019.

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the City of Elko Planning Department, 1751 College Avenue, Elko, Nevada, 89801 or by calling (775) 777-7160.

Cathy Laughlin
Cathy Laughlin, City Planner

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING AGENDA
5:30 P.M., P.S.T., TUESDAY, MARCH 5, 2019
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The Agenda for this meeting of the Elko City Planning Commission has been properly posted for this date and time in accordance with NRS requirements.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES

February 5, 2019 – Regular Meeting **FOR POSSIBLE ACTION**

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action on Conditional Use Permit No. 2-19, filed by The Stage Door Elko, LLC, which would allow a bar within a C (General Commercial) Zoning District located within the Central Business District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of 3rd Street, approximately 75' northwest of Railroad Street (303 3rd Street, Suite A).

2. Review, consideration, and possible action of Conditional Use Permit No. 3-19, filed by Elite Storage and RV, LLC, which would allow for a storage facility and recreational vehicle storage within a C (General Commercial) Zoning District and abutting a R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northeast corner of the intersection of Opal Drive and S 12th Street (1500 Opal Drive – APN 001-630-056).

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration and possible approval of Final Plat No. 14-18, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Tower Hills Unit 2 involving the proposed division of approximately 17.05 acres of property into 23 lots and one remainder parcel for residential development within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally southwest of the terminus of Deerfield Way and Chukar Drive. (APN 001-929-124).

2. Review, consideration, and possible recommendation to City Council for Vacation No. 2-19, filed by Robert Morley on behalf of Trinidy Jay Shippy and Kathryn Justine Shippy, for the vacation of the 30' roadway and utility easement located along the west property line of APNs 039-001-007, 039-001-008, and 039-001-009, consisting of an area approximately 26,225 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west corner of the intersection of Last Chance Road and Industrial Way. (APNs 039-001-007, 039-001-008, and 039-001-009)

3. Review, consideration, and possible action to initiate an amendment to the City of Elko Master Plan, specifically Atlas Map 12 and the Transportation component, and matters related thereto. **FOR POSSIBLE ACTION**

II. REPORTS

- A. Summary of City Council Actions.
- B. Summary of Redevelopment Agency Actions.
- C. Professional articles, publications, etc.
 1. Zoning Bulletin
- D. Miscellaneous Elko County
- E. Training

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

NOTE: The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time. Additionally, the Planning Commission reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

Respectfully submitted,


Cathy Laughlin
City Planner

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.S.T., TUESDAY, FEBRUARY 5, 2019
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

Jeff Dalling, Chairman of the City of Elko Planning Commission, called the meeting to order at 5:30 p.m.

ROLL CALL

Present: Evi Buell
 Ian Montgomery
 Jeff Dalling
 John Anderson
 Stefan Beck
 Tera Hooiman

Absent: Vacant

City Staff Present: Scott Wilkinson, Assistant City Manager
 Cathy Laughlin, City Planner
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

January 3, 2019 – Special Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the minutes from January 3, 2019.**

Moved by Tera Hooiman, Seconded by Evi Buell.

**Motion passed unanimously. (6-0)*

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible recommendation to City Council for Rezone No. 1-19, filed by Defty Family Trust, for a change in zoning from AG (General Agriculture) to IC (Industrial Commercial) zoning district, approximately 27.605 acres of property, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest side of W. Idaho Street, approximately 1,376' northeast of I-80 Exit 298. (APN 001-679-012).

Cathy Laughlin, City Planner, went through the City of Elko Staff Report dated January 17, 2019. Staff recommended approval with the findings in the Staff Report.

John Holmes, Fire Marshal had no concerns.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 1-19.**

Commissioner Buell's findings to support the recommendation was the proposed rezone is in conformance with the Master Plan Land Use Component. The proposed rezone is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure. The proposed rezone is in conformance with the City of Elko Airport Master Plan. The proposed rezone is consistent with the City of Elko Wellhead Protection Plan. The proposed rezone is consistent with Elko City Code 3-2-4(B) & (C). The proposed rezone is in conformance with Section 3-2-11(B) IC – Industrial Commercial Zoning District. The proposed rezone is consistent with Elko City Code 3-2-17. Development under the proposed rezone will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.

Moved by Evi Buell, Seconded by Stefan Beck.

****Motion passed unanimously. (6-0)***

2. Review, consideration, and possible action of Conditional Use Permit No. 1-19, filed by Sundance Mini Storage, LP, which would allow for a mini storage facility, recreational vehicle storage, and U-Haul rental and storage within a C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally southwest of the intersection of Mountain City Highway and Sundance Drive (APN 001-01E-039 & APN 001-01E-040).

Andrew Knudsen, 5013 W Bullion Road, explained that they had applied for a CUP. They have worked close with the staff on this for the last couple years, and are continuing to work with staff to make sure they meet all the conditions. They still have conditions to satisfy, because they are still in the construction stage, and they are continuing to work on those until they are all satisfied.

One of the conditions to still be satisfied is the sidewalk was installed on the property, so they have to create an easement for the sidewalk. That has been drawn up on the new plot map. Another condition is lighting. The lighting that was installed was approved. Unfortunately, there were some complaints on the lighting, so they had to go back to staff and see what they could do. They are working on that condition and it will be satisfied. He thanked staff. Also there are letters that neighbors have written that approve and are inviting the improvements of the ground. They were also able to contact 15 others out of those that were noticed and they had no complaints.

Ms. Laughlin went over the City of Elko Staff Report dated January 18, 2019. The Applicant has requested to include vehicular storage as well. Ms. Laughlin wanted to talk about the previous Conditional Use Permit, and its 32 conditions, of which were met. Some have been satisfied and some were included in the staff memo with some minor modifications. Some of the conditions were repetitive. Going through the previous conditions of the Development Department, all of those conditions have been generally satisfied. There are a few things that they are still working on until the property gets completed, such as the lighting and the landscaping. The Engineering Department conditions have also been satisfied, with the exception of the pedestrian access easement, so that was added to the new CUP. The Public Works condition was a City Code and not an actual condition. The Utilities Department condition was a City Code as well. Under the previous Fire Department conditions, most of those were Fire Code related, and they would not be conditions. A condition is something above and beyond what code requires. There are a few Fire Department Conditions listed in the new memo. She wanted to discuss the last couple of bullet points from the previous memo. The first one was the full perimeter of the property be landscaped, and the second one being landscaping to Code. Those are possible conflicts. We require in the Commercial Zoning District that the landscaping to comply with Code. Staff felt those two were conflicting. Staff has added a condition in regards to the landscaping, but they did not add those specific previous conditions. Number 3, the buildings to be of earth toned color pallet, which has been completed. The wrought iron fencing is also done. Elevations and landscape plan be approved by staff before the CUP is finalized. That is one condition that there won't be any elevations for the building permit for the new development of this property. He will be doing a site improvement permit, which will show the grading, base, and fencing. There won't be any new buildings there, so elevations would not be required. If you wanted to require the landscape plan be reviewed by staff that would normally be done with the permitting process. That condition was not included in the new CUP. Staff recommended approval. There are a few minor modifications to the conditions from what was included in the staff report. Those are listed as follows:

1. The permit is granted to the applicant Sundance Mini Storage, LP allowing for the development of commercial storage units, recreation vehicle storage, vehicular storage, and U-Haul rentals and storage. Prohibition of storage of construction equipment and material after completion of the project.
2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.

3. The conditional use permit shall automatically lapse and be of no effect one year from the date of its issue unless the permit holder is actively engaged in developing the specific property in use for which the permit was issued.
4. CUP 1-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
5. A landscaping plan is required. All landscaping required by Elko City Code shall be maintained in a manner acceptable to the City of Elko at all times by the property owner.
6. The development of curb, gutter and sidewalk along Mountain City Highway is hindered by a pet cemetery located in NDOT right of way. A 5' wide sidewalk shall be installed in a pedestrian easement along the Mountain City Highway frontage. The property owner will be required to request a waiver for curb and gutter along Mountain City Highway based on the information provided by NDOT.
7. Lighting of the property shall be cut-off shielded lighting and directed away from the residential properties. Site lighting complying with 3-2-17 shall be presented to meet the code furthest away from the residential properties.
8. Access to the property shall be limited to Sundance Drive as shown on the plans.
9. A screen-wall or fencing is required unless determined otherwise by the Planning Commission. This condition is to be clarified by the Planning Commission on the type of screen wall or fencing that is necessary and acceptable.
10. BLA 1-19 be approved and recorded at the Elko County Recorder's office.
11. Expanded area to have an all-weather surface such as base with a minimum of 6" deep in all areas outside of designated fire department access areas.

Mr. Holmes said he wanted to strike Condition No. 2 listed under the Fire Department Conditions. There is concern that if we keep going with this parcel that they will not have a secondary access, but that can be addressed later. He then listed his other conditions that were included in the staff report. 1. IFC D102.1 Access and Loading: Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. 2. IFC Appendix C - Fire Hydrants need to be shown on plan review and needed for new area proposed.

Chairman Jeff Dalling asked if the proposed development was going to be asphalt and striped.

Ms. Laughlin said no, it would be a road base.

Chairman Dalling asked if that could carry the 75,000 pounds.

Ms. Laughlin explained that the applicant would have to prove that in their design.

Mr. Wilkinson recommended approval as presented by staff. He wanted Ms. Laughlin to further clarify Condition No. 7 on what the intent is there. She can discuss the Code requirements and we can shift the lights away from the residential property. They will need to show a plan, so they meet the minimum lighting standard. On the residential property line Ms. Laughlin can discuss that. The intent of that condition will be met. He thought the Planning Commission should consider the wrought iron fencing to be extended on the proposed expansion area on the NDOT right-of-way. We've talked about what type of screening might be required on the south and west

property lines. On the south line, the screen fencing needs to be connected to the existing building.

Ms. Laughlin explained City Code Section 3-2-17 requires that all parking areas are lit, and that 80% of that area needs to meet a certain minimum requirement of .25 candle foot. In that condition stating that staff would like that lighting away from the residential properties, and that, if presented to meet the Code, staff would like the 80% of the additional parcel area to be met along Mountain City Highway. The area along the residential properties could have 0 candle foot lit on the photometric design. Twenty percent can be zero light and eighty percent needs to meet that minimum candle foot, so the City would require that to be along Mountain City Highway.

David Sirotek, 1530 Tamarack Rd, read the following letter into the record.

The City Planner was expecting an updated map yesterday that would show the applicant's proposal for a screen wall between our fence and his interests, as required by the City, but the City didn't have it as of yesterday afternoon, so we haven't seen it. Our observations and assumptions are based on the plot map in the City packet.

Upon receipt of notice for this public hearing, my initial reaction was negative. Our family and the use of our home and property has been severely impacted by the applicant's previous mini storage facility construction, including a broken new vinyl fence, a very large trench IN our driveway, routinely clogged air intake vents, interior plaster crack from the contractor's use of an industrial compactor on high setting, contractors barking at our dogs, etc. It has been difficult. One complaint by us, regarding the side driveway trench, resulted in a former City employee sending US an order to stay off Andrew's property. We weren't on it. We didn't need to be, because the trench was literally in our driveway. We realize that the City has a right to utilize the setback but not a private contractor. I had to stop my children from playing in our yard while a very large truck brought a torn-down Arby's sign and crushed in right next to our yard. So many issues were prevalent. Naturally, I was defensive regarding a new project. Upon reflection and consideration, I looked at the plot map and packet the City posted for this latest CUP, and gave critical thought to what truly impacts us and what I can reasonably request as a condition of the Conditional Use Permit (CUP) and of the builder as a "neighbor." My husband and I went to the City Planner for assistance in navigating the documentation. We consulted an attorney who specializes in mixed use issues to determine typical equitable solutions to conflicting interests in mixed use areas, to ensure that we don't waste time or energy requesting anything unreasonable or unrealistic.

We did notice that the CUP application stated, on line 2, that the proposed use would be "mini storage." NO mention was made of RV storage and a U-Haul business on the undeveloped parcel. The City Staff Report introduction also only listed as "storage units" on the cover page. Zoning for RV storage and a U-Haul business are expressly stated as a permitted GI LI Industrial in Elko City Code 3-2-12. Because the property behind our home is Commercial, we were concerned that the use would bypass zoning conformity. This is the point at which we spoke at length with the City Planner, Cathy Laughlin. She assured us that this use is allowed as a conditional use under General Commercial, even though it is an expressly permitted use under Industrial zoning, and that other businesses of the same type are zoned Commercial. She then explained that even though the two parcels are currently separate, a Boundary Line Adjustment is being requested to combine the two. We forgot to ask her why Mr. Knudsen's application stated only mini storage use as his property use and the Staff Report did the same, but we aren't sure it even matters. The three uses are included. The mini storage is currently on a separate parcel and under another CUP. The undeveloped parcel will house the RV storage and U-Haul

storage and rentals, if approved. Ms. Laughlin stated that all of the conditions of the first CUP would apply to the one covered today, but that we can request additional conditions be imposed by the Planning Commission. This brings us to our requests for conditions that we hope will protect us from home devaluation, light trespass, noise, excessive dust, and commercial to residential conflicts. We hope to contribute to equitable solutions.

U-Haul Business: Referring to the map, we think the builder has done a good job lessening impacts on residents by placing the U-Haul business in the corner further away from homes. We had been concerned about noxious exhaust fumes inhibiting us from using our yards for entertainment. **We ask that a condition be included in the CUP to ensure that placement on the property.** The view from Mountain City Highway and Cattle Drive don't concern us. That is up to Andrew and appears to us to be a good plan along the highway. Our concern is what we see from our property.

Landscaping, screen wall, and lighting, particularly aiming to protect property value and us, are our family's top priorities.

Screen Wall: The map posted by the City and that Cathy showed us yesterday, does not show a screen wall between the business activities and our properties, but she stated is required by code, due to the abutment between Commercial and Residential. She clarified that the City stipulates a "wall that ensures that it can't be seen "from without," in this case from residential homes and yards. We do have concerns about accessing our fence in the event it needs repair. In a residential neighborhood with homes backing homes, we could ask a neighbor to assist or allow access via his property. With commercial abutment and the required screen wall, which we definitely want, too close a proximity between the two renders that impossible. We assume a gap will allow the business owner access between the screen and our fence.

With the latitude allotted to the Planning Commissioners in terms of screen walls and landscaping, we are hoping for a solution that mitigates the devaluation of our homes, provides protection from unsightly views from our windows, porch, and yard, prevents residential property damage, and allows a reasonable distance buffer to prevent weeds from encroachments into yards and from entrapment between our fence and the commercial wall. We would personally like to see an elevated landscape buffer with dense evergreen trees and other vegetation, combined with a structural wall, similar to what is seen at Rabbitbrush Apartments. This could even be combined with a lowered elevation for the RV pads.

We have seen elevated landscape berms with dense evergreens alone, with walls, and a combination of both in this city and others. We have seen distance buffers with both the berm and walls, or with only one of the two. We have seen less sightly options, and sincerely hope those aren't even considered. This provision of the development can make the difference in alleviating impacts on all involved. **We ask that the commission provide details in the motion that will ensure that those details are on the CUP.**

Landscaping: During the previous CUP hearing the Assistant City Manager noted specifically that trees would provide the best buffer for sound, and we note that it also assists with controlling light trespass and views of property that does not conform to or complement the residential feel of a neighborhood. The easement next to our house was discussed extensively in the first CUP hearing, with talk of trees and bushes. The builder then place the sewer pipe a few feet from the property line between us, and the City later said he could not place trees. **The intent of the term "landscaping" was clear, but specifics were not included in the CUP. We ask that these details be included in the motion and included in the CUP.** Vegetative options do exist, which have large growth habit and shallow root systems. This condition did not need to be negated. Even large bushes would help block the glare from the shiny top of the storage building that prevents us from leaving blinds open in our family room. **We ask that a condition for**

landscaping stipulate trees and large bushes (i.e. Ninebark, Dogwood, lilac, apricot trees, etc.). Landscaping that includes trees within the business property and between residential and commercial would comply with the “seen from without” clause clarified in code by the City Planner. Details are so helpful. We believe strategic landscaping would minimize negative impacts on our property, while enhancing Mr. Knudsen’s property. On a side note, the shade offered by trees would be attractive to RV owners seeking storage options.

Modifying our yard: *We will contribute to our own needs as well, by modifying our existing landscaping as much as we can. Some is prohibitive, due to setbacks and other limitations. The existing Septic prevents some options. We have extensive landscaping of our own, with underground irrigation and vegetation, which has been completed for years. Combining additional evergreen trees on our side and others on his would certainly create a multi-layered view improvement that could help preserve our property value. We live in a neighborhood of high value homes that would experience an extremely negative impact with the addition of an unattractive view that outweighs the same placement in an area of lower property values. Buyers at this price point are savvy and have more options, such as building, remodeling, or buying another home, than those buying lower cost homes abutting the same commercial property which means fewer buyers and decreased likelihood of expected home value inflation. These buyers would expect not to have a view of RVs through windows, on the porch, or in the yard. We are this buyer type, and we value trees to create a visual buffer.*

Commercial zoning doesn’t normally require a setback, but a commercial property directly abutting residential yards isn’t typical. That is made obvious by the need for a conditional use permit. This development is in the realm of mixed use, which many communities maintain with dense tree screens (most a combination of evergreen and deciduous) on elevated land berms on the commercial property side. Such a combination would be visually appealing to both the commercial and residential properties.

Lighting: *The mini storage property currently is utilizing lighting fixtures that are not cutoff, shielded lighting as specified in the existing CUP (8-15). While the placement of some fixtures will be changed upon completion of the final building (along Mountain City Highway), the lack of cutoff, shielded lighting will continue to create light trespass, which have been experiencing, as have other neighboring homes. The placement of the lights will certainly also be important to prevent light trespass, because placement directly across from the end of another building will cause the light to bounce. The lights being used are extremely bright. The wrought iron section across from our driveway also allows light trespass, and may even do so with cutoff, shielded fixtures, because there is no building, screen wall, or evergreen vegetation blocking the light entering our children’s bedrooms and yard. Headlights are not helping the matter. Mounting the light fixtures at a lower level may help. As far as security, the lighting would still serve the business well. **We request additional emphasis on the need for legitimate cutoff, shielded lighting fixtures, a lower placement on buildings, and some sort of shielding of light trespass in the first rows of the mini storage facility. Can the lighting fixtures be placed toward blacktop to prevent light bouncing off the facing building ends? We also request evergreen screening or wall in the current wrought iron area near the cul-de-sac. There is a fire hydrant there, so we assume evergreen trees/bushes with enough height to use to block light would be more appropriate, cost less and would reduce weeds.***

For the parcel that is currently undeveloped and slated for outdoor storage, we would like to see a condition for fully shielded, cutoff lighting, placed no higher than 3 ½ feet off the RV pad surfaces, in the RV and U-Haul areas, but please consider that even directional lights cause light pollution. Please stipulate directional lighting in a minimum quantity, that will prevent light trespass on our property. The central areas and Mountain City Highway areas of

*the RV property should not be shining in our windows, either, and our perspective is that substantial numbers of lighting fixtures should not be necessary if the applicant maintains standard, daytime business hours and have a locking entrance. **We request a condition for standard, daytime hours, like that of other similar businesses in the area.** Most are open until 5, but reasonable similar to that would help minimize traffic impacts on neighbors.*

***Unpermitted Uses:** The properties (two, because the boundary line adjustment has not yet divided the parcel) are currently being used to store light vehicles, heavy equipment, a sewer sludge tank, and construction garbage. Cathy Laughlin stated that this issue will be resolved. No light vehicle storage is listed for storage under the CUP. **Specific reference to this as a condition would be optimal.** No reference is made to heavy equipment use on the commercial property, but we are definitely impacted by the use of a backhoe for snow removal. It emits fumes from the diesel fuel, is loud, and is visually unattractive from our perspective. Heavy equipment storage is not requested as a condition of the CUP and storage like that is industrial. We assume it will not be used after the development is completed. Cathy indicated that the storage of such units is not allowed and is being resolved. We would appreciate clarification on what is planned snow removal and moving recreational vehicles.*

*We are only asking for these conditions and considerations to assist with protecting property value, family, quality of life, and to maintain reasonable, typical use of our properties. We understand that Mr. Knudsen is trying to create a business and earn a living. The difference is that he can go home. We live here. We want to be able to entertain family and friends in our home and yard, host birthday parties for our children, enjoy extended living on our porch and get adequate sleep at night. Using a single, secured entrance should help limit light trespass, due to not needing a street light on Mountain City Highway. We appreciate this aspect of the design plan. We also give nod to the placement of the U-Haul area in the area furthest in distance from residential properties, but seek to add that to conditions. Please consider our requests for conditions and discussion. The final request is in reference to the existing CUP. Cathy assured us that all conditions of the CUP will apply to the new one, while additional conditions can be applied. **We are asking that attention be paid to any potential conflicts and that they be addressed prior to motion for approval.***

David and Marina Sirotek

Ms. Laughlin explained that the reason staff asked for a new map, was because the map provided did not define the fence line. There was no screen wall shown abutting the residential properties. Staff requested a new map, which is in front of you, and they called out screen fencing along the southern property line, the screen fencing will consist of 6 foot high chain link fencing with slats. The fence along Mountain City Highway and the fence along the westerly property line is not labeled at this time. The applicant can let us know what he is planning for that.

Mr. Sirotek said it was a good design. The buffer between the fence and Mr. Knudsen's property. Mr. Sirotek thought the bare spots in the RV Parking would be a great place to plant trees and make it look nice.

Leslie Vera, 1542 Tamarack Rd, explained that they had gone through this process once before with Mr. Knudsen and his wife. She stated that they weren't against it, they just wanted to make sure it was pretty, and that it kept the value of their properties up. She had a couple areas of concern. Ms. Vera wanted to make sure that the Commission was taking into account in the CUP tonight, because she didn't know before that it had to be stated in the CUP for it to be held accountable. There was a lot of talk last time from the Planning Commission and the City, but

not all of it is being held to because it wasn't put into the CUP. She wanted to make sure that the Planning Commission takes a part in some of the planning tonight for this new business. One of the concerns she had was on the back side of their properties, where now there is a screen wall there wasn't one before, they are parked right up to the fence. Even now she didn't see any type of buffer between their screener and the property owner's fence for maintenance or access. Also, she was now concerned because a 6 foot slated fence was mentioned. She drove around to see what other people were doing and what other things have been required for other properties. There is a beautiful RV and mini storage unit going up on the south side of town abutted right up to residential. It is right up to the other properties, but they left an elevation difference and they also had a 10 foot rock wall around the whole perimeter of the property. So, if something were to run into that wall it wouldn't break thru the fence where their children are playing, or cause damage to their private property. She was also thinking about the process that they went through for the apartment buildings across the way. They did the same thing, knowing that those homes were high value. They put in a nice screener, which was a brick wall. They also left an area between the properties. They want to make sure Mr. Knudsen does this development with all of their needs being thought of. So far, the landscaping is not in. She was hoping there would be a condition added to the CUP that there would need to be Trees and other landscaping. It was brought up several times at the last meeting. It was supposed to be 100% of the perimeter and 15 to 20% towards the neighborhood to help shield it. They don't have that right now. She is the second house over, and when lights are coming down the first isle they shine right into her front yard. She was looking forward to having a visual buffer between the storage units and the neighborhood, because that's what was spoken of so highly by the Planning Commission last time. Then, when it was pulled apart, they didn't put them in because of the sewage line along the fence, but that didn't affect the cul-de-sac area. They are still being told that the rocks are enough. There are rocks all behind the storage units along Tamarack Road. She was worried because the weeds hadn't been pulled since they went in. If there was some vegetation in it would take away from the weeds growing in and taking over. She wanted to see the Planning Commission, as well as the City, require a distance between their fence and the screener that goes up. She would like it to be a solid surface that would protect her backyard. A 6 foot fence isn't going to cover and hide the recreational vehicles that will be back there. By the sounds of it, they shouldn't be able to see the recreational vehicles. They are 10 to 14 feet high, what is a 6 foot high slat fence going to do for them. Those were some things she wanted the Planning Commission to consider, because as a resident she will be sitting in her backyard. She also thought it was going to be paved and it had to be where the fire truck could get back there, and so they wouldn't have the dust after everything was developed. That is the only fire access if there is a fire behind them. Ms. Vera had some concerns regarding Fire Department access with the highly flammable RVs parked behind her home. She wanted to make sure that these things were taken care of in the CUP. A 6 foot slat fence is not going to do any good, because they will see everything from their backyard. Every RV that Ms. Vera looked at was 10 to 14 feet tall. Ms. Laughlin said that the neighbors should not see them from outside. She said she would see 7 to 8 feet of that. As you are planning this please think of a buffer between the property owner's fences and a screener. She didn't want a buffer of 2 foot rocks. She wanted the Commission to think, if an RV backed into their fence and hits one of their children. Is road base enough? She wanted to make sure in the CUP that the screen wall was in place and it should be at the lowest end 10 feet high, and a solid structure. She suggested putting in an alley for secondary access. As you make these decisions make sure to put them in the CUP so that they are held accountable.

Chairman Dalling said Don and Holly Zumwalt of 1554 Tamarack Road have a letter to the Commission in favor of the new development, as do Chad and Kim Anderson of 1529 Tamarack Road, and Alice Chacon of 1578 Tamarack Road.

Commissioner Stefan Beck asked if those houses were all in a row.

Ms. Laughlin pointed the addresses out on the map.

Juan Vera, 1542 Tamarack Road, wanted to address the issues of inadequate dust suppression. He had witnessed large amounts of dust emanate from the storage unit area when they began construction and from the parcels behind his home. Mario Estrada, who resides at 1515 Tamarack Road directly west of the storage units, residences was inundated with dust during the construction process. He and neighbors have called the City office to have the dust controlled. On one instance their response was it was coming from Tamarack Road. They were in disbelief. He witnessed firsthand an employee operating a front end loader get out of the loader, not properly parking or securing the loader, get out of the cab to clean off the dust that had accumulated on the front windshield. The wipers were insufficient to clear off the dust. In the process the loader free wheeled approximately 10 feet. He saw the panic in the operators face as he quickly got back inside the cab of the loader. This took place approximately 10 to 15 feet behind his property. The water truck should not be parked in front of the construction site for show. During the construction process the backhoe would transfer materials, soil, etc. to the parcels behind his home. All of the dust gets stirred up and comes right into the neighbor's homes. In the process no water was placed on the route driven by the backhoe. Once again the dust traveled in their direction. He requested that any suggestions for the CUP from the Planning Commission be specified in the CUP.

Brad Roberts, 1100 E. Idaho Street, said what he wanted to make a comment about was, since this item was on the agenda he was sure all the Commissioners went up there to look at the property to be sure of what they were talking about. They probably noticed that all the homes are half million, plus homes. If you stick an RV park back there, are you going to lower the assessed value of those, and lower their taxes? Or are you going to make this worthwhile, so it actually increases or maintains the value of the homes. Mr. Roberts stated that he had lived in Elko a long time, and had worked on a number projects, including something very similar to this. One of the big things the City made this other developer do was put in fire hydrants. He didn't see anything about fire hydrants. There is a water line that comes right down Tamarack that could go down Cattle Drive, loop back, and tie back in. He thought the Fire Department liked to make loops for the fire lines. Cattle Drive would provide a second access to that property. He thought it was a laid out street that had never been developed.

Ms. Laughlin explained that the City only had Right-of-Way for the eastern half of Cattle Drive, and not for the westerly half of Cattle Drive.

Mr. Roberts asked if it was County.

Ms. Laughlin explained that it was in the County and it was private property owners. The City is in the process of acquiring that.

Mr. Wilkinson pointed out that it was a planned future roadway.

Mr. Roberts said fire suppression was a big concern of his. There are a lot of parking spaces, and everyone one of the vehicles using them will have gasoline in them.

Mr. Wilkinson explained that the developer will be required to extended water looping and hydrants throughout that entire area under the Fire Code

Mr. Roberts reiterated that if this project was not done properly, it would be devaluing a whole neighborhood.

Don Zumwalt, 1554 Tamarack Road, stated that he didn't have the issues that the Sirotek's and Vera's have, because they are dealing with construction now. His house is the third one in. He said that he was for the CUP. He wanted Mr. Knudsen to finish this property, he wanted him to develop it, and he wanted it to be done. They will live through construction, noise, and dust. They knew full well when they bought that piece of property that they would have neighbors on both sides, and a commercial property behind them. He was thankful that it is not an ambulance barn or a 24 Hour Joe's Liquor. He thought that this was the quietists use. He didn't have the lighting issues that the Sirotek's do. He stated that he was the only one of his neighbors that have a chain link fence. They wanted to be able to see through. They did that knowing that if something was behind them that they didn't like, they could change the fence. They would also plant more trees across the back of the property. He put a gate in his chain link fence, and has abused Mr. Knudsen's property. If that stops he will have to go out the front, and take his gate out. He knew that it would be developed. He agreed with Ms. Vera and didn't want fire in his back yard. Whatever the Planning Commission decide to do, with Mr. Knudsen in agreement, he was good with. If he didn't like seeing over the 6 foot fence, he said he would plant trees that grow higher than 6 feet. He was to the point where it would benefit him to have this project done and clean. He wasn't worried about his property value, because he didn't think this would adversely affect it.

Mike Sallee, 1590 Tamarack Road, which is the last house on Tamarack Road, said he thought he was the least affected by this project. When he built on his property they heard Lowe's was coming and that was the perfect spot for Lowe's. They didn't want that, they wanted low impact. He said they would love it if it was all mini storage, as far as low impact. During construction it has to be terrible, but the project will be great once it's complete. He stated that he was in favor of this project.

Leslie Vera, 1542 Tamarack Road, said that she forgot one thing. In the CUP they were hoping that if they do screener of 10 feet or higher, that it is the first things that they do, so that it would protect them from the construction. The last one was 3 ½ years out and it is still going. That would give them protection, so they aren't looking at that for 10 years.

Chairman Dalling stated that he had a few questions. He stated that this was on the agenda for his first Planning Commission Meeting. Lighting was a heavily discussed topic, which we will circle back to. His other thought was that the Fire trucks and Fire Code that is up to the Fire Department and the Fire Code, which will be taken care of, because it has to by Code. He stated that the wrought iron fencing along Mountain City Highway was a big deal on the original project. Mr. Knudsen was going to have the fencing be the back side of the storage units, which was a big debate about trying to make Mountain City Highway look better.

Andrew Knudsen explained that the original plans had no fence.

Chairman Dalling said he remembered that being a big topic during the original hearing. The dust control is enforced by the City.

Ms. Laughlin said it was, and with any construction project there is going to be dust and outdoor construction storage.

Mr. Wilkinson clarified that the City does not have any authority to enforce air regulations. That is all on the State. Depending on the disturbed acreage, they may, or may not, be required to get a surface area disturbance permit from the State. The City's involvement is strictly limited to taking complaints, making the developer aware of those complaints, and encouraging them to control dust. The City has no enforcement authority on any air regulations, including dust suppression.

Mr. Dalling said dust control in this town is tough. Hopefully, with that Mr. Knudsen would use his water trucks.

Mr. Knudsen said during this project he thought they had only received one complaint on dust.

Ms. Laughlin explained that it was to the previous Development Director.

Mr. Knudsen said that they had addressed the complaint. They take every complaint as serious as they can. To this point they have only heard of one complaint.

Chairman Dalling asked if it had been 3 ½ years since the project started.

Ms. Laughlin pointed out that the previous CUP was issued in October of 2015.

Mr. Dalling asked if there was an estimate on the finishing date for the current project and the new project.

M. Knudsen said they wanted it done now. They are trying their hardest. Last spring was really wet, so that stalled them. They thought they would have their office done by fall. They were stalled on the DOT frontage for landscaping. They just got approved two weeks ago. They had been working on that for a year and a half. They believed and hoped that everything would be done.

Mr. Wilkinson clarified that the landscaping proposed on the NDOT frontage was above and beyond the requirements. It is off of the property. It is an additional enhancement, just as the wrought iron fence.

Mr. Knudsen said that wasn't in the Conditional Use Permit. As much as everyone else wants it to look good, they want it to too. This job is taking longer than they expected it to, but they are working towards it.

Chairman Dalling asked if Mr. Knudsen had a guess on the finish of the new project.

Mr. Knudsen said they would love to have the whole thing done by the end of this year, but after last year they are going to do their best.

Chairman Dalling wanted to ask about the lighting. It was a big deal on the last CUP, on the shielded lighting.

Mr. Knudsen said that was all approved by City Staff. He couldn't get a C/O on those buildings unless that lighting was up. That lighting went up, they received a concern, and then he went up there at 8 o'clock at night and taped them up. The reason he hasn't done anything, except for what is there, was they feel that some lighting is better than none. It's up there at the end of the building, the farthest away from the frontage. They don't want any activity in there that shouldn't be taking place. The electrical will come from the building that is not up, so he hasn't gone up there and dismantled the lights because he wants a little light up there. This was the first time he had heard a concern about what he had done two years ago on the lights.

Ms. Laughlin explained that when staff received the building permits for the project, there was a photometric plan submitted from their electrical engineer, and it met the Code. Staff looks at it as the 80% of the area for the .25 foot candle, so it met Code. They have talked about the light fixture. She was going to pull file from two years ago and review the plan again. Staff felt that it met Code.

Mr. Wilkinson said when they did the Rabbit Brush Apartments across the street there was a condition for cut off lighting. That property has an 8 foot wall that was determined appropriate, 3 story, so their light fixtures are pretty high up on the building. There was some concerns expressed by the neighbors, and in the end they had to change out the type of fixture, so that it was more downcast up against the building, and so it didn't have a footprint that encroached as far out. In other areas of that complex they needed the light for safety into the parking areas, so those fixtures weren't changes. Sometimes you have to work with that a little bit.

Commissioner Tera Hooiman asked if Mr. Knudsen had taken into consideration putting up some sort of a buffer.

Mr. Knudsen said he hadn't, because tonight was the first time he had heard of that concern. They talked about that with staff, and they talked about how that is a mobile vehicle lighting, not fixed lighting, so it is no different than someone pulling into the cul-de-sac, or coming up Royal Crest and making a right hand turn.

Chairman Dalling said since Mr. Knudsen didn't have any landscaping between his property and the adjacent property, where the sewer line is located, he suggested putting some landscaping on the bulb of the cul-de-sac. He thought they talked about making that really fancy with pretty landscaping. Maybe if there were some trees there it would alleviate the lights shining right into the houses. He thought if they focused on the one spot it would really make the neighbors happy.

Ms. Laughlin pointed out that the property line on the GIS map was inaccurate. She mentioned that most of the area was City of Elko right-of-way, but that doesn't mean that they couldn't landscape it, they would just be required to get a Revocable Permit.

Chairman Dalling thought that would be a good olive branch. Maybe that would help alleviate the light pollution.

Ms. Laughlin pointed out that there was some grade variation.

Mr. Knudsen said that was a drainage.

Commissioner Hooiman said something high was not needed there.

Mr. Wilkinson said if you look at the alignment of that drive isle in relation to the homes. It is shining predominately to the garage and the driveways. There is a building that blocks about $\frac{3}{4}$ of the home. The Sirotek's have a 6 foot fence. He wasn't saying that Mr. Knudsen couldn't fit a tree or two in that area. If you look at the drive isle and you look at the garage. There is a garage door and a window for the garage, and all the bedrooms are back behind the other building, so the light is not directed right into those windows, it is out to the front end of the house. He might be able to fit in a tree or two on his property. Mr. Wilkinson asked if there was a water source there. (No) He would have to cut all the asphalt and bring water in from the frontage.

Commissioner Beck said it looked like David and Leslie had the major concerns, because they are right adjacent to the property. The third house out is Don and he is able to live with the situation, understanding he is not adjacent. He also wants it done. Mike kind of wants this to get done. Commissioner Beck was having a hard time getting an exact understanding of what the overall mood was. Is Mr. Knudsen at odds with the first two houses? It sounded like there was a lack of communication. Commissioner Beck asked if they had tried to work this out. It sounded like this was easily fixable, with a fence and maybe take care of the lighting issue.

Mr. Knudsen said he didn't want to say they were passed that, because he didn't think so. Unfortunately, he was trying to satisfy the CUP, the Code, and do a construction. It seems that when he first sold the lots to these folks, every one of them knew exactly what was going on there, and nobody had any problems until the job started. Once it started, he went to all of them and told them if they had any concerns to call him. He has to do what he's been told to do. He's tried to work with everyone, but at the same time he has job to get done. There have been many things that have stopped them that have been unreasonable for them as a contractor and owner of the property. All the neighbors know that they can call Mr. Knudsen at any time with any concerns. He wants to know the concerns and take care of them, they want to know if there is activity in there that shouldn't be in there. He understands that they live there, and they take that into consideration on every move they make. They are doing everything they can. It doesn't matter what he does, or how he does it, it doesn't satisfy the neighbors.

Commissioner Beck said Mr. Knudsen had put a lot of time and money into this project, and he has the right to continue his economic goals and achievements. If he has gotten this far and he is doing a lot to get this project to go, it seems that he would have the right to continue. Maybe these complaints should have been made long ago.

Ms. Vera said they were not against the project, they just want to make sure that what is put in CUP is held to. They want to make sure that if there is a screener, that it makes it to where they can't see the stuff within it, like the City Code says. They are coming in more educated this time

around and they want to make sure that things are listed in the CUP so that the developers have to follow through with them.

Ms. Laughlin read the definition of a screen wall from the City Code: A masonry wall or opaque fence so constructed as to prevent the view of enclosed activities or uses from without.

Mr. Wilkinson wanted to put the public comments that they've had tonight in context. There was better than one hundred notices sent out. There are a few individuals that are in close proximity to the project that have provided written or actual testimony. Of those people that are in close proximity it appears that more are in favor of the project, than those that have concerns. Some valid concerns have been raised. He reminded the Planning Commission, the first go around there was the same testimony that there was a huge fire hazard with the mini storage. That was a whole line of testimony to discourage the development of the mini storage units. The requirements of the Fire Code address the fire hazard. There has been talk that we need this buffer access on the back of the properties. Mr. Wilkinson thought that was more geared towards ensuring people can utilize it to access their back yards. We don't do alleys anymore. We don't have that type of access on other projects like this one. That seems to be almost taking somebody's property and not allowing it to be fully utilized. Mr. Wilkinson didn't think the fire issue was a real concern. If they need to protect the homes they're going to go up Royal Crest and go to Tamarack and pull a hose, just like if the house is on fire. The Fire Code for hydrants, spacing, and number of hydrants will be addressed. The water system will be extended through the property to address that. He reminded the Planning Commission that the minimum consideration for the Planning Commission under a commercial use abutting a residential district is for a screen wall, whether it is required or not. It doesn't require that you put one in, but it requires a consideration of whether one is required, and if so what type and how high. On Elite Storage, that was approved abutting two residential properties. It was an 8 foot wall. There is a gap between one of the uses and Elite Storage, which is because there are utility easements in there. It wasn't a requirement to provide spacing between the uses. On the Rabbit Brush Apartments, which is a much more intense use with 3 story buildings and some topography difference, they were required an 8 foot wall. To Mr. Wilkinson requirements of 10, 12, and 15 foot walls was an overkill, and almost an approach to make it so financially costly that the project couldn't be done. There would probably be a lot of people that actually disagree with an 8 foot wall to screen the exact same use, because they would rather have 6 foot. So it is different for different people. He thought there were a lot of valid concerns. Mr. Sirotek's letter actually has verify specific recommended conditions for the Planning Commission's consideration. As you go through each and every one of those and determine whether or not they would be required to separate the uses.

Ms. Laughlin said there was a comment made that they would like the Planning Commission to consider having the screen wall built first. You may want to talk to Mr. Knudsen in regards to how this property will develop. Normally it would be grading, bring in the utilities, compaction, and then run the fencing. You may want to ask if that is even logical in the way he would construct the project out.

Commissioner Beck said it looked like the lights and the fence were within Code, but then an olive branch would be to keep Dave and Leslie happy. He asked if there was a way they could get some sort of fence started.

Mr. Sirotek said during the first meeting they offered to buy trees or shrubs for the project. One other concern he had was with the weeds between their house and the first row of storage units. He said Mr. Knudsen needed to clean that up because it is a fire hazard. When he brings up the fence on the back side of their house and butts it right up to their fence how is he going to pull those weeds.

Chairman Dalling reiterated that 3-2-10(B)(4) allows for commercial use for storage units.

Mr. Wilkinson added as a principle use, but since it abuts a residential zone a CUP is required.

Chairman Dalling referred to 3-3-2(J), which was what type of fencing or screen, and if they want 6 foot or 8 foot.

Mr. Knudsen explained that he had gone to other of the residents and asked them what they would want there. They haven't requested anything. That is the reason you see a 6 foot chain-link fence with slats. They don't want to intrude. If it was his backyard he wouldn't want to see his vinyl fence and then something two feet above it that is that close to his fence. The reason they put the chain link fence with slats was because it was what they thought was best at the time. They were still going to do the wrought iron down the highway in the front.

Mr. Wilkinson said they should deal with what is going to be required on the property lines. On the north side does the Planning Commission believe that the continuation of the wrought iron fencing is appropriate?

Chairman Dalling and Commissioner Hooiman said yes.

Mr. Wilkinson went on to the west side, where they would see some addition commercial development at some point in time. He asked what the Planning Commission believed was appropriate, long term on the west property line.

Chairman Dalling asked if Mr. Knudsen was going to put the same fencing on that lot line.

Mr. Knudsen said he had planned on the chain-link fence with the slats.

Mr. Wilkinson explained that the Planning Commission must consider what's appropriate on this property line. He thought the Planning Commission should take the time and deliberate what is appropriate on this property line and then move to the south property line. What is proposed is a 6 foot tall chain link slatted fence.

Commissioner Hooiman thought a slatted chain-link fence along that section would be fine. But, what the neighbors are asking for along their property line is something a little bit taller.

Chairman Dalling said they wouldn't go any more than 8 feet. He thought it would be way too much to ask to put a 14 foot wall there.

Commissioner Hooiman thought 8 feet was a compromise between a gigantic wall and the 6 foot slatted chain-link fence.

Chairman Dalling asked what kind of wall Commissioner Hooiman was proposing.

Commissioner Hooiman said the chain-link with slats.

Commissioner Dalling asked if Mr. Knudsen would be ok with an 8 foot chain-link slatted fence along the back side of the property.

Mr. Knudsen said he was.

Commissioner Evi Buell said she didn't know what the line of site was there with 6 foot high existing back fence, 2 feet of slatted chain-link, and then whatever is visible over that. She agreed with the onerous part, but she wasn't sure about the layering.

Commissioner Hooiman said that was what the neighbors were wanting. She was trying to find a compromise between what is being asked for and what is financially possible.

Mr. Knudsen agreed. He explained that the reason he went with a 6 foot was because he thought there were some neighbors that didn't want to see two feet of fence over theirs. He was trying to help however he could.

Mr. Wilkinson explained that the 8 foot wall was approved for Elite Storage and Mr. Wilkinson has complaints from three of the neighbors, after the fact that they don't want to see that higher fence. Here, 8 foot seems reasonable, if the Planning Commission determines that is a requirement for a CUP.

Commissioner Hooiman said that's what the neighbors were asking for.

Commissioner Buell said she didn't have an issue with that.

Mr. Knudsen pointed out that one neighbor didn't want it, and another one was indecisive.

Ms. Vera explained that her concern was with the RVs backing up to her fence. That becomes dangerous, which is why they were seeing if there was anything else. With a chain-link fence there is no protection.

Mr. Wilkinson agreed that a chain-link fence doesn't stop a vehicle if it is moving at a high rate of speed, but this will be someone backing up at a few miles per hour. If there is damage it is an insurance claim.

Mr. Roberts suggested a 3 foot concrete wall with a 6 foot chain-link fence on top. The concrete will stop the RVs.

Chairman Dalling said that was good idea, but he didn't know how cost effective it would be.

Commissioner Ian Montgomery said from what he gathered from the Commission, they were all in confirmation of having a 6 foot chain-link fence with the slats on the west side. It also seemed like they were all in confirmation with the south side having a chain-link fence with the slats, it would just depend on whether it was 6 or 8 feet tall.

Mr. Wilkinson thought a 2 foot barrier with a 6 foot chain-link fence on top of it was a great idea. If that is an issue Mr. Knudsen can't live with, he can appeal that to the City Council. If the fence is on top of the barrier it still wouldn't prevent damage, but it would stop a vehicle.

Chairman Dalling said this was a parking lot, so he didn't think there was enough room for people to be going at a high rate of speed. He thought if they did put in a 2 foot concrete barrier with the fencing above it would stop whatever was coming.

Mr. Wilkinson said if there was a two foot curb, then there won't be the weeds at the bottom of the fence. Any weeds on the other side of that post curb will be the neighbor's weeds, not Mr. Knudsen's weeds. That might be something that would resolve a couple different concerns.

Chairman Dalling asked if Mr. Knudsen would be ok with what they were discussing.

Mr. Knudsen said he talked it over with his engineer and he suggested cutting the property three feet down and then put a fence on the upside. The grade on the ground is sloped that way anyways and he will have to do some grade work. His engineer said it would be very easy to cut that three feet, to drop everything. That would be even better than the two foot stem wall, because now the RVs are going to be sitting lower.

Mr. Wilkinson said that could be a condition that you require that grading to two or three feet, whatever they agree to.

Chairman Dalling asked how the Planning Commission felt about that. He said that this whole project was going to have to meet Fire Code, so that really wasn't up to the Planning Commission. He thought the new landscaping on Mountain City Highway would be benefit to the whole City, as well as the residents. He wanted to see a landscape review by City Staff. He thought they could put that in as a condition of the CUP. He wanted to do that early on to make sure that the rest of it is landscaped. He really wanted to see something on the cul-de-sac.

Ms. Laughlin asked Mr. Dalling if staff was to review the landscaping according to code, or what they were reviewing it for.

Chairman Dalling said up to Code, and then he thought the Commission could put some specifics in there. He asked if the Commissioners wanted to see anything special on the landscaping.

Commissioner Buell said she wanted to see the lighting issues handled.

Chairman Dalling said they could put that in the CUP.

Mr. Wilkinson pointed out that there was a condition that the lighting be cut-off and shielded.

Chairman Dalling asked Mr. Wilkinson to explain what cut-off and shielded meant.

Mr. Wilkinson explained that instead of the light broadcasting up, or horizontally, there is some shielding, which makes the lighting be downcast. The issue is, for safety, even with the shielding they have to meet the 80% requirement in the Code. We have to meet the Code, and we have to

go above and beyond Code, as appropriate. We have to meet the 80%. There is a suggested condition that the 80% requirement is met towards the State Route, so that it can be darker on the other side. We have a use that we don't believe that would present a safety hazard. That is the best we can do. Mr. Sirotek suggested that the lighting be no more than 3 ½ feet off the ground, which would not be appropriate. The shielded lighting is a typical lighting standard for commercial and industrial developments.

Chairman Dalling had a suggestion. He said that Coldwell Banker had good lighting. They have goose necks that come out and the lights face towards the building. That would be just a fixture change that might address some of the light pollution.

Ms. Laughlin pointed out that once the temporary lights get moved it shouldn't be a problem. The fixtures that Mr. Knudsen has installed are shielded, downward lights. That is what staff approved. She said she needed to do a site drive by to see that that's what was installed, but what staff approved was shielded downward lights.

Mr. Wilkinson said what was on Coldwell Banker was great, but you have to keep in mind that the street is lit. Here we are trying to use a fixture to light the front of the building and the drive isles, so that it is well lit and we don't have safety issues. We don't want the light to be broadcasted past the area of need.

Commissioner Montgomery said once the final building is in, it should fix the lighting issue.

Ms. Laughlin said it would fix that.

Mr. Wilkinson believed Mr. Sirotek's condition that the U-Haul activities are restricted to the highway side was a good condition. He thought they had talked about the screen wall, the landscaping, and lighting. Requirement of a cut on that property of 2 feet. They are not allowed to encroach onto the neighboring properties. They are grading the property down and they will have a chain-link fence set at the crest. The question is how high the fence is going to be. Is it going to be 8 feet high, so then there will be a depth of 10 feet, or a 6 foot fence on the property line. He thought they could cut the property 2 feet and then there could be either a 6 foot or an 8 foot slatted fence, whatever the Planning Commission decided.

There was discussion on the changes to the conditions listed in the staff report, which Ms. Laughlin went over earlier in the meeting.

Mr. Wilkinson thought they needed to be specific that the U-Haul activity would be limited to the half of the property that fronts Mountain City Highway. On that half of the property that is where the U-Haul activity can take place, the other half there will be no U-Haul activity. That should give Mr. Knudsen plenty of room, but reduce the level of activity on the residential side.

Ms. Laughlin thought the Commission should allow Mr. Knudsen some flexibility in the striping plan that he has presented, because the layout for the lighting and the fire hydrants has not been completed yet. We don't want to restrict him to just the striping plan that has been presented.

Mr. Wilkinson explained that the parking would be driven by where staff approved the lighting. That would be self-governing.

Commissioner Buell said the only thing she didn't have that they had come to a consensus on was the height of the chain-link fence on the south property line.

Mr. Ballew drew a picture of what he was proposing. It was a two foot cut three feet from the neighbors existing fence without a fence on top and landscaping on the crest instead.

Mr. Wilkinson said that the Planning Commission should not rely on the residential fencing in consideration of the screen wall. They should look at it independently, as if they didn't even have fencing. If that fence was removed would we still required a screen fence between those uses. That is how the Commission should consider the south property line. Mr. Wilkinson thought screen fencing would be required on the south property line.

Commissioner Hooiman said they have to have a screen wall of some sort.

Mr. Wilkinson said they needed to consider the merits of it. He recommended that they didn't put the condition on the residential. If you try to plant trees close to the neighbor's fences there will be complaints about that in the future, so that won't work. If you cut it down and there was a little bit of a ledge, where you could construct a fence. A post will take a 12" post hole to put in a chain-link fence that is slatted. The question was whether it should be 6 foot tall or 8 foot tall. If it is an 8 foot tall fence along the south property line and you cut the property down two feet, there will be 10 feet to work with. Mr. Wilkinson thought that would be a pretty good outcome.

Chairman Dalling thought they should put in a 6 foot fence on top of the cut within a foot of the existing fencing.

Commissioner Buell asked if Mr. Dalling wanted them to designate where the fence had to be.

Mr. Wilkinson said they should designate that as close as is practical.

Ms. Laughlin thought they should also designate what color of slats are to go in the fence.

*****Motion: Conditionally approve Conditional Use Permit No. 1-19 subject to the conditions in the City of Elko Staff Report dated January 18, 2019, removing Fire Department Condition 2, adding a condition, and a modification to Condition 1, listed as follows:**

1. The permit is granted to the applicant Sundance Mini Storage, LP allowing for the development of commercial storage units, recreation vehicle storage, vehicular storage, and U-Haul rentals and storage. Prohibition of storage of construction equipment and material after completion of the project.
2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with

other provisions of the zoning district, shall be the responsibility of the property owner.

3. The conditional use permit shall automatically lapse and be of no effect one year from the date of its issue unless the permit holder is actively engaged in developing the specific property in use for which the permit was issued.
4. CUP 1-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
5. A landscaping plan is required. All landscaping required by Elko City Code shall be maintained in a manner acceptable to the City of Elko at all times by the property owner.
6. The development of curb, gutter and sidewalk along Mountain City Highway is hindered by a pet cemetery located in NDOT right of way. A 5' wide sidewalk shall be installed in a pedestrian easement along the Mountain City Highway frontage. The property owner will be required to request a waiver for curb and gutter along Mountain City Highway based on the information provided by NDOT.
7. Lighting of the property shall be cut-off shielded lighting and directed away from the residential properties. Site lighting complying with 3-2-17 shall be presented to meet the code furthest away from the residential properties.
8. Access to the property shall be limited to Sundance Drive as shown on the plans.
9. A screen-wall shall be on the North side a continuation of the current wrought iron fence, the west side 6 foot slatted chain link fence to be a neutral color, and the south side two foot cut grading and a 6 foot slatted chain link fence at the crest, also the neutral color, placed as close as is practical to the existing residential fences.
10. BLA 1-19 be approved and recorded at the Elko County Recorder's office.
11. Expanded area to have an all-weather surface such as base with a minimum of 6" deep in all areas outside of designated fire department access areas.

Fire Department Conditions:

1. IFC D102.1 Access and Loading: Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.
2. IFC Appendix C - Fire Hydrants need to be shown on plan review and needed for new area proposed.

Planning Commission Conditions:

1. The U-Haul facility must be on the half of the property that is nearest to Mountain City Highway.

Commissioner Buell's findings to support the motion was the conditional use is in conformance with the Land Use Component of the Master Plan. The conditional use is in conformance with the Transportation Component of the Master Plan and existing transportation infrastructure. The conditional use is in conformance with the Wellhead Protection Plan. Approval of the Conditional Use Permit is required for the proposed use to be in conformance to section 3-2-10 of the Elko City Code. Approval of the Conditional Use Permit is required for the proposed use to be in conformance with Section 3-2-3, 3-2-4, 3-2-17, and 3-2-18 of the Elko City Code. The proposed use conforms to Section 3-8 of Elko City Code.

Moved by Evi Buell, Seconded by Ian Montgomery.

**Motion passed unanimously. (6-0)*

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible recommendation to City Council for Vacation No. 1-19, filed by MP Elko, LLC., for the vacation of a portion of the public utility and drainage easement located along the north and east property lines of APN 001-660-049, consisting of an area approximately 1,300 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Mountain City Highway, approximately 370' northeast of Connolly Drive. (APN 001-660-049. 2525 Mountain City Highway)

Ms. Laughlin went over the City of Elko Staff report dated January 17, 2019. Staff recommended approval with the conditions and findings in the staff report.

Mr. Holmes had no concerns and recommended approval.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 1-19 subject to the conditions listed in the City of Elko Staff Report dated January 17, 2019, listed as follows:**

1. The applicant is responsible for all costs associated with the recordation of the vacation.
2. Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.

Commissioner Buell's findings to support the motion was the proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation is in conformance with the City of Elko Master Plan Land Use Component. The proposed

vacation is in conformance with the City of Elko Master Plan Transportation Component. The easement proposed for vacation is not located within the Redevelopment Area. The proposed vacation is in conformance with City Code 3-2-10(B). The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City Code. The proposed vacation will not materially injure the public and is in the best interest of the City.

Moved by Evi Buell, Seconded by Tera Hooiman.

****Motion passed unanimously. (6-0)***

2. Review, consideration and possible action on Temporary Use Permit No. 1-19, filed by Sundance Mini Storage, LP, to allow for a storage unit to be used as the renting office for the storage units, recreational vehicle storage, and U-Haul rentals, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally southwest of the intersection of Mountain City Highway and Sundance Drive. (3701 Sundance Drive)

Mr. Knudsen, 5013 W Bullion Road, explained that they were requesting a TUP for their office for temporary use. He thought they had met all the standards there. They are in the process of building their permanent office. The cold was coming, so they decided to pull off of the office and get the concrete in for their last storage unit building. The office will be brick. Unfortunately, when the cold set in he didn't have the ability, the time, or the money to tent the office to get it done before spring. They are waiting until spring. They are back on it now, and they are going to do what they can. He didn't expect the office to be finished until later. He talked about it with the City and they agreed to a 6 month TUP instead of a year. They would love to have the office done in 6 months.

Chairman Dalling asked if Mr. Knudsen currently had a TUP.

Mr. Knudsen explained that the TUP they had expired. That one slipped through on the expiration because the City noticed that they had started construction, then they stopped. That's when he was notified that he needed to come and get another TUP.

Ms. Laughlin went through City of Elko Staff Report dated January 16, 2019. Staff recommended approval with the conditions and findings in the staff report.

Mr. Holmes had no comments.

Mr. Wilkinson recommended approval as presented by staff.

Chairman Dalling said that they had discussed on the last TUP that there was supposed to be an ADA blue room that was supposed to be placed close to the office.

Mr. Knudsen said what is interesting about it is that they had called the company many times to bring them one, and for some reason they won't bring them one. He had also been told that it

wasn't mandatory for him to have a restroom for the public. The only thing he was told to have was a restroom for the workers. They have no employees, so that bathroom was to accommodate what is there. That's why he didn't pursue the ADA Blue Room, because he had had mixed communication on that.

Chairman Dalling said he would have to defer to City Staff on that, because he wasn't positive on it.

Ms. Laughlin explained that the Building Department put in their condition. It states the IBC Code, which is the International Building Code. There could be a Health Department provision that we are not aware of that doesn't require a public restroom. She explained that she would have to refer that to the public health department.

Mr. Wilkinson said they could qualify that condition where the City Planning Department will verify with the Building Department if the unit is required or not. If it is required Mr. Knudsen will have to personally go down and talk to the port-a-potty company.

Chairman Dalling thought that was fair.

Commissioner Buell asked for clarification on the wording for that condition.

Chairman Dalling suggested that if it was required, Mr. Knudsen would have to put an additional ADA port-a-potty by the office.

Mr. Wilkinson suggested they say located in close proximity to the temporary office.

*****Motion: Conditionally approve Temporary Use Permit No. 1-19 subject to the following conditions found in the City of Elko Staff Report dated January 16, 2019, with an additional condition, listed as follows:**

Planning Department:

1. The duration of the temporary use is no longer than 6 months.
2. Completion and certificate of occupancy for the office currently under construction required prior to the expiration of the TUP 1-19.

Building Department:

1. B Occupancies require the following:
Accessible restroom as per 2009 IBC 2902.1 / chapter 6 ICC A117.1-2009

Planning Commission:

1. The Planning Department is to verify with the Building Department the status of the requirements of an ADA restroom, and if one is required it shall be placed within close proximity of the temporary office.

Commissioner Buell's findings to support the motion was the proposed TUP is in conformance with the Land Use Component of the Master Plan. The proposed TUP is in conformance with the Transportation Component of the Master Plan. The proposed TUP is in conformance with Elko City Code 3-2-3(C)(5). The proposed TUP is in conformance with Elko City Code 3-2-17. The parcel is not located in a designated flood zone.

Moved by Evi Buell, Seconded by Tera Hooiman.

****Motion passed unanimously. (6-0)***

3. Review and consideration of the 2019 City of Elko land inventory update. FOR POSSIBLE ACTION

Ms. Laughlin explained that the City updates the land inventory as needed. There are a couple of parcels that have been brought to our attention that we felt that it was time to make an update. She wanted to go over the highlights of what was being proposed. She explained that there was a City of Elko owned parcel that was at the end of Rocky Road, it was designated as Parks and we would like to change the designation to sell. There is a potential buyer for that parcel. All of the areas that are hatched, we are proposing to add them to our land inventory list as parcels for the City to purchase. They are all owned by the BLM. There are a few more BLM parcels that we would like to designate as to purchase. Property no. 12 was previously listed as retain, we would like to change that to for sale. On the south side of the City there are a few more BLM parcels. There is one off of Errecart that we would like to list as to purchase as well. Those are the updates that we would like to make to the Land Inventory. There was one more property at the north part of the Airport that is in private hands that we would like to purchase for the Airport, as it was listed in the Airport Master plan.

*****Motion: Forward a recommendation to City Council to update the City of Elko Land Inventory as presented by staff.**

Moved by Evi Buell, Seconded by Tera Hooiman.

****Motion passed unanimously. (6-0)***

4. Review, consideration, and possible action on the 2018 Annual Report of Planning Commission activities. FOR POSSIBLE ACTION

Ms. Laughlin went through the 2018 Annual Report of Planning Commission Activities.

*****Motion: Approve the 2018 Annual Report of Planning Commission Activities as presented, and forward a recommendation to City Council to approve the report.**

Moved by Evi Buell, Seconded by Tera Hooiman.

****Motion passed unanimously. (6-0)***

II. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin reported at the City Council meeting on January 8th they accepted the letter of resignation from David Freistroffer and authorized staff to advertise for the vacancy. Under unfinished business, for a few months the Final Plat for Great Basin Estates Phase 3 has been on the agenda. NDEP has ordered a cease and desist on that project, and until that is lifted it will continue to be tabled. Under New Business there was the Deed of Dedication from Joy Global for the cul-de-sac area. That has been completed and is now dedicated to the City. There was also Map of Reversion to Acreage for Joy Global, which is combining four properties into one. The Council took no action on the Great Basin Estates Performance Agreement. Resolution 33-18 for the Vacation of P&H Drive. That was approved. Adoption of Resolution 32-18 for the vacation of D Street and Cedar Street was approved. The Preliminary Plat 13-18 for Koinonia for Copper Trails Phase 2 was approved. Council took action to adopt Resolution 31-18, which was the change in the zoning for that property to make it all R. They also adopted Ordinance 838 for the Development Agreement between the developer and the City of Elko. On January 22nd there was a presentation of an appreciation plaque to David Freistroffer. Phase 3 of Great Basin and the Performance Agreement were on the agenda again. They approved the 2019 Planning Commission Work Program. Council accepted the petition of vacation for MP Elko.

B. Summary of Redevelopment Agency Actions.

Chairman Dalling reported that they had a good meeting. They decided to do some awards. Bill Hance, newest Councilman, is the newest member of the RAC. They are going to be giving out some awards for reinvesting in the Redevelopment Area. The Block Ends is their next big project. He will be working with Catherine Wines on a redesign to make everyone happier. They already finished the park and the tower.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

E. Elko County Agendas and Minutes.

F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.

Ms. Laughlin reported that she has been trying to research some additional training, as requested. She has found a book that she was planning to order that she thought would be beneficial. We plan on adding a little something in each packet from this meeting forward that will be a little training. She has also located a couple webinars that she is looking into as well. She thanked the three Commissioners that attended the Ethics Training. It is important that we all attend that every year, because things change, laws change, and there are always new examples.

Chairman Dalling thought everyone did a great job deliberating. His only comment was to caution them. He thought they got a little out of hand on the public comment. He felt

that they asked some questions that were a little vague and asking the public to want to come up. He thought in the future they needed to refrain from those types of questions.

Commissioner Buell thought that was where the training would be beneficial. She thought they needed to be a little surer of themselves.

Chairman Dalling said if they could ever find a dollar for training it would be beneficial. He said the cheapest option would be to get someone to come to Elko. He asked if it would help to get a class if they could get Reno or Sparks in on it.

Ms. Laughlin said she had been looking into it.

Chairman Dalling said last time he talked to Curtis, he said he would make money for them to get training.

Ms. Laughlin said they were in the budget process right now.

Chairman Dalling said it would make it better for the applicants, the City, and City Staff.

Ms. Laughlin said she was going to order some books that she felt would be beneficial. Going back to the CUP, we have to separate ourselves between their civil issues and Code requirements.

Mr. Wilkinson complimented Mr. Dalling as the chair for running the meeting and complimented the Planning Commission.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

NOTE: The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time. Additionally, the Planning Commission reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Dalling, Chairman

Tera Hooiman, Secretary

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 2-19, filed by The Stage Door Elko, LLC, which would allow for a bar within a C (General Commercial) Zoning District located within the Central Business District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 5, 2019**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The Stage Door Elko, LLC is proposing a cabaret theatre space to be located at 303 3rd Street. The property has been vacant for some time. As required by Elko City Code 3-2-10(B)(5)(C) any new business such as a bar within the CBD, it requires a CUP.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 2-19 based on the facts, findings and conditions presented in Staff Report dated February 21, 2019.**
9. Findings: **See Staff report dated February 21, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Emily Anderson
3117 Clover Hills Circle
Elko, NV 89801**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 3/5

Do not use pencil or red pen, they do not reproduce

Title: Conditional Use Permit No. 2-19
Applicant(s): The Stage Door Elko, LLC
Site Location: 303 3rd St. Suite A
Current Zoning: C Date Received: 2/6/19 Date Public Notice: 2/22
COMMENT: This is to allow a bar within the
Central Business District.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: _____

Initial

City Manager: Date: 2/27/19

Recommend approval, per conditions listed in City of Elko
Staff Report.

WJ
Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	February 21, 2019
PLANNING COMMISSION DATE:	March 5, 2019
AGENDA ITEM NUMBER:	I.A.1
APPLICATION NUMBER:	Conditional Use Permit 2-19
APPLICANT:	The Stage Door Elko, LLC.
PROJECT DESCRIPTION:	

Within the CBD, any new business involving activities which are reasonably likely to discourage other businesses through light, noise, odors, types and levels of activity, or the creation of a nuisance, such as (without limitation) auto and truck service and repair facilities; mobile home, recreational vehicle and truck sales lots; gas service stations; miniwarehousing facilities; veterinary clinics; bars; and other uses determined by the city to have similar impacts, shall be required to first obtain a conditional use permit.



STAFF RECOMMENDATION:

RECOMMEND APPROVAL, subject to findings of fact, and conditions as stated in this report.

PROJECT INFORMATION

PARCEL NUMBER: UP Property, No APN
PROPERTY SIZE: n/a
EXISTING ZONING: C –General Commercial
MASTER PLAN DESIGNATION: Undesignated
EXISTING LAND USE: Developed as Commercial Land Use

NEIGHBORHOOD CHARACTERISTICS:

} The property is surrounded by Commercial zoned property, developed and undeveloped land to the north, south, east and west.

PROPERTY CHARACTERISTICS:

- } The property is currently developed.
- } The property is fairly flat.
- } The property is accessed from 3rd Street.
- } The property is not in a flood zone.

APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:

- } City of Elko Master Plan-Land Use Component
- } City of Elko Master Plan-Transportation Component
- } City of Elko Redevelopment Plan
- } City of Elko Wellhead Protection Plan
- } City of Elko Code 3-2-3 General Provisions
- } City of Elko Code 3-2-4 Establishment of Zoning Districts
- } City of Elko Code 3-2-10 Commercial Zoning District
- } City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
- } City of Elko Code 3-2-18 Conditional Use Permits
- } City of Elko Code 3-8 Flood Plain Management

BACKGROUND INFORMATION

- } The application for the Conditional Use Permit was filed as required under City Code 3-2-10(B)(5)(c).
- } There are no other conditional uses on the property.
- } The property is located in the Redevelopment Area, Central Business District.
- } The land is owned by the Union Pacific Railroad and the building will be leased from the building owner, Dennis Parker.

MASTER PLAN

Land Use

1. The Master Plan Land Use Atlas does not designate the area.

2. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.
3. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The conditional use is in conformance with the Objectives of the Master Plan.

Transportation

1. The Master Plan identifies 3rd Street as Residential Collector.
2. The site has pedestrian access along 3rd Street.
3. The existing facility meets the goals listed in the Master Plan Transportation document as Best Practice Objective 1; Provide a balanced transportation system that accommodates vehicle, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.

The conditional use is in conformance with the Transportation Component of the Master Plan and existing transportation infrastructure.

CITY OF ELKO REDEVELOPMENT PLAN

1. The property is located within the Redevelopment Area and more specifically the Central Business District.
2. Redevelopment goals and objectives:
 -) To promote and insure public safety and welfare; to eliminate and prevent the spread of blight and deterioration, and the conservation, rehabilitation and redevelopment of the Redevelopment Area in accord with the Master Plan, the Redevelopment Plan and local codes and ordinances
 -) To promote and support a pedestrian oriented downtown; and, to achieve an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.
 -) To ensure adequate vehicular access and circulation; to retain and sustain existing businesses by means of redevelopment and rehabilitation activities, and encourage cooperation and participation of owners, businesses and public agencies in the revitalization of the Redevelopment Area.
 -) To promote historic and cultural interest in the Redevelopment Area; and, encourage investment by the private sector in the development and redevelopment of the Redevelopment Area by eliminating impediments to such development and redevelopment.
 -) To achieve Plan conformance and advancement through re-planning, redesign and the redevelopment of areas which are stagnant or improperly used.
3. The proposed development repurposes the existing vacant building.

The proposed Conditional Use Permit is in conformance with the Redevelopment Plan.

ELKO WELLHEAD PROTECTION PLAN

The property is located outside the 30-year capture zone for City wells.

The conditional use is in conformance with the Wellhead Protection Plan.

SECTION 3-2-3 GENERAL PROVISIONS

Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.

1. Principal Uses: Only those uses and groups of uses specifically designated as “principal uses permitted” in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
2. Conditional Uses: Certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

1. Section 3-2-3(D) states that “No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed use is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-10(B)(5).

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed location is Union Pacific Railroad owned property and therefore not on an actual parcel so conformance with Elko City Code 3-2-4 is not required.

SECTION 3-2-10 COMMERCIAL DISTRICTS

1. Section 3-2-10(B)(5) Within the CBD, any new business involving activities which are reasonably likely to discourage other businesses through light, noise, odors, types and levels of activity, or the creation of a nuisance, such as (without limitation) auto and truck

service and repair facilities; mobile home, recreational vehicle and truck sales lots; gas service stations; miniwarehousing facilities; veterinary clinics; bars; and other uses determined by the city to have similar impacts, shall be required to first obtain a conditional use permit

2. Height Restrictions: All structures within the C general commercial zoning district must comply with the height and other requirements of the current city airport master plan, to the extent the plan applies to that location.
3. The property doesn't abut a residential zone so therefore is not required to comply with screen wall requirements set forth in subsection 3-2-3(J).
4. Development of the property is required to be in conformance with City code and conditions for the CUP.

The proposed use is in conformance with the development standards of this section of code.

SECTION 3-2-17 TRAFFIC, ACCESS, PARKING AND LOADING REGULATIONS

1. All principal permitted uses occupying basement floor area, ground level or first story floor area or second story floor area, or any combination thereof, and which are situated on property located within four hundred feet (400') of the Central Business District (CBD) public parking corridor, are exempted from providing required off street parking.

The proposed use conforms to section 3-2-17 of Elko city code.

SECTION 3-2-18 CONDITIONAL USE PERMITS

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
4. Conditional use permits shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation.

3-8 FLOOD PLAIN MANAGEMENT

The parcel is not located within a designated flood plain.

FINDINGS

1. The conditional use is in conformance with the Objectives in the Land Use Component of the Master Plan.
2. The conditional use is in conformance with the Transportation Component of the Master Plan and existing transportation infrastructure.
3. The conditional use is in conformance with the Wellhead Protection Plan.
4. Approval of the Conditional Use Permit is required for the proposed use to be in conformance to section 3-2-10 of the Elko city code.
5. Approval of the Conditional Use Permit is required for the proposed use to be in conformance with sections 3-2-3, 3-2-4, 3-2-17, and 3-2-18 of the Elko city code.
6. The proposed use conforms to section 3-8 of Elko city code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of CUP 2-19 with the following conditions:

1. The permit is granted to the applicant The Stage Door Elko, LLC.
2. The conditional use permit shall automatically lapse and be of no effect one year from the issuance unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
3. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
4. CUP 2-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
5. Signage will require a separate application with the Building Department and be subject to Elko City Code 3-9 as well as Redevelopment Agency approval.
6. Applicant to maintain an account with Elko Sanitation at all times for collection of garbage, refuse, or waste. Receptacles shall be of adequate capacity and be provided in sufficient number to hold all garbage, refuse or waste that accumulates between collections.
7. Exterior of the building to be properly lit with lighting that is shielded from the adjacent motel windows.

Building Department:

1. Building permits are required for all work proposed for access.

City Clerk:

1. A business license is required prior to opening for business.
2. A liquor license is required prior to serving liquor.

Fire Department:

1. The applicant is responsible for obtaining any and all associated building and fire related construction and/or operational permits required to gain approval for the proposed use.

Police Department:

1. Bar to be closed during any children's events.
2. No conditional use for special event sexually oriented business.
3. Lighting to be installed to illuminate the parking area within the lease agreement.
4. Limit hours of operation as deemed appropriate by Planning Commission.

CUP 2-19 The Stage Door Elko, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001214015	3 QS PROPERTY SERIES LLC		PO BOX 536	EUREKA NV	89316-0536
001214006	BR SONS LLC	DBA: MANOR MOTOR LODGE	475 3RD ST	ELKO NV	89801-3166
001215005	BR SONS LLC	DBA: CENTRE MOTEL	475 3RD ST	ELKO NV	89801-3166
001217003	BR SONS LLC	MIDTOWN MOTEL	294 IDAHO ST	ELKO NV	89801-3169
001217001	EKC PROPERTIES LLC		5217 CORNFLOWER DR	AUSTIN TX	78739-2126
001216001	MARVEL INVESTMENT COMPANY LLC		PO BOX 2645	ELKO NV	89803-2645
001215003	MARVEL INVESTMENT COMPANY LLC		PO BOX 2645	ELKO NV	89803-2645
001216002	MARVEL INVESTMENT COMPANY LLC		PO BOX 2645	ELKO NV	89803-2645
001215002	MARVEL INVESTMENT COMPANY LLC		PO BOX 2645	ELKO NV	89803-2645
001215004	MARVEL INVESTMENT COMPANY LLC		PO BOX 2645	ELKO NV	89803-2645
001264001	NORTHERN NEVADA ASSET HOLDINGS		340 COMMERCIAL ST	ELKO NV	89801-3666
001333001	ORMAZA SERIES(212 COMMERCIAL)LL		PO BOX 339	ELKO NV	89803-0339
001261006	R HANK WOODY LLC	C/O LIPPARELLI, PAUL A	2633 SPEARPOINT DR	RENO NV	89509-7029
001261001	STAHL PROPERTIES LLC	C/O THUNDERBIRD (MR. KANSAGRA)	345 IDAHO ST	ELKO NV	89801-3135
001261005	STAHL PROPERTIES LLC	C/O THUNDERBIRD (MR. KANSAGRA)	345 IDAHO ST	ELKO NV	89801-3135
001333002	USA	C/O BLM-SUPPORT SERVICES AP	3900 E IDAHO ST	ELKO NV	89801-4692
001217002	WEINS, DONALD & CAROLE ET AL		220 BLUE OAK LN	WINTERS CA	95694-2124
006090					

10

Mailed 2/21/19

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, March 5, 2019 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

Conditional Use Permit No. 2-19, filed by The Stage Door Elko, LLC, which would allow a bar within a C (General Commercial) Zoning District located within the Central Business District, and matters related thereto. The subject property is located generally on the southwest side of 3rd Street, approximately 75' northwest of Railroad Street (303 3rd Street, Suite A).

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7219 fax

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s): The Stage Door Elko LLC

(Applicant must be the owner or lessee of the proposed structure or use.)

MAILING ADDRESS: 3117 Clover Hills Circle, Elko, NV 89801

PHONE NO. (Home) 775-376-2993 (Business) _____

NAME OF PROPERTY OWNER (If different): Dennis Parker

(Property owner's consent in writing must be provided.)

MAILING ADDRESS: PO Box 669 - Elko, NV 89803

LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):

ASSESSOR'S PARCEL NO.: 004-868-003 Address 303 3rd St Ste A

Lot(s), Block(s), & Subdivision _____

Or Parcel(s) & File No. _____

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. Complete applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$750.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code.

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

RECEIVED

1. Current zoning of the property: _____
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:
alcohol / bar use in our facility
3. Explain in detail the type and nature of the use proposed on the property: See attached
4. Explain how the use relates with other properties and uses in the immediate area: See attached
5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property: N/A
6. Describe the general suitability and adequacy of the property to accommodate the proposed use: See attached

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: N/A
8. Describe the amounts and type of traffic likely to be generated by the proposed use: See attached
9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: see attached
10. Describe the type, dimensions and characteristics of any sign(s) being proposed: No sign proposed at this time
11. Identify any outside storage of goods, materials or equipment on the property: N/A
12. Identify any accessory buildings or structures associated with the proposed use on the property: N/A

(Use additional pages if necessary to address questions 3 through 12)

Conditional Use Permit Questions

The Stage Door Elko LLC

3. Explain in detail the type and nature of the use proposed on the property:

We are applying for a Conditional Use Permit for alcohol and liquor use on our business premises. We are opening a cabaret theatre space (Old Hollywood themed) where local performance arts groups, non-profits, and artists may perform, hold art installations, workshops, shows, or just for rehearsal. To enhance this experience and to have a sustainable income for the business, we will serve small plate food and serve alcohol.

4. Explain how the use relates with other properties and uses in the immediate area:

Our business location is attached to the Parker Solutions Building (that Dennis Parker owns), and is also next door to the Mid-Town Motel. The Commercial casino is across the street. Our use does not necessarily relate to any of the aforementioned properties, except possibly provide some entertainment to hotel guests and locals.

6. Describe the general suitability and adequacy of the property to accommodate the proposed use:

The property is suited perfectly to meet our needs. The lobby area is large enough to accommodate a small bar area to serve guests. The stage is in the main room as you walk in as well, so guests can enjoy beverages and food while enjoying a show or event.

8. Describe the amounts and types of traffic likely to be generated by the proposed use:

Our location would generate mostly foot traffic. Most of the zoned parking is located in the downtown corridor. We would generate foot traffic for the hosted shows and events, both in house and community wise, (i.e. Wine Walks, Art Walk, Cowboy Poetry, etc.). However, we do not believe that the traffic would be overwhelming, as we have fixed seating and a limited amount of seats for shows.

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property:

The building is located within 500 feet of the down town corridor, so most parking will take place in that area. There is an area in the front of the building that is designated for loading and unloading where people may pull in.

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.


Applicant / Agent Emily Anderson
(Please print or type)

Mailing Address 3117 Clover Hills Circle
Street Address or P.O. Box

Elko, NV 89801
City, State, Zip Code

Phone Number: 775-376-2993

Email address: thestageddoor@elko@gmail.com

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 2-19 **Date Filed:** 2/6/19 **Fee Paid:** \$750 CC# 0287

2-6-2019

To whom it may concern,

I, Dennis Parker, give permission to Emily Anderson and Gregory Chavez, the owners of The Stage Door Elko LLC, to apply for a Conditional Use Permit with the City of Elko. The property is one that I own and located at 303 3rd Street, Suite A, in Elko Nevada.

Thank you,

A handwritten signature in cursive script that reads "Dennis Parker".

Dennis Parker

RECEIVED

FEB 07 2019

RECEIVED

FEB 06 2019



The Stage Door Elko LLC
Plot/Aerial View



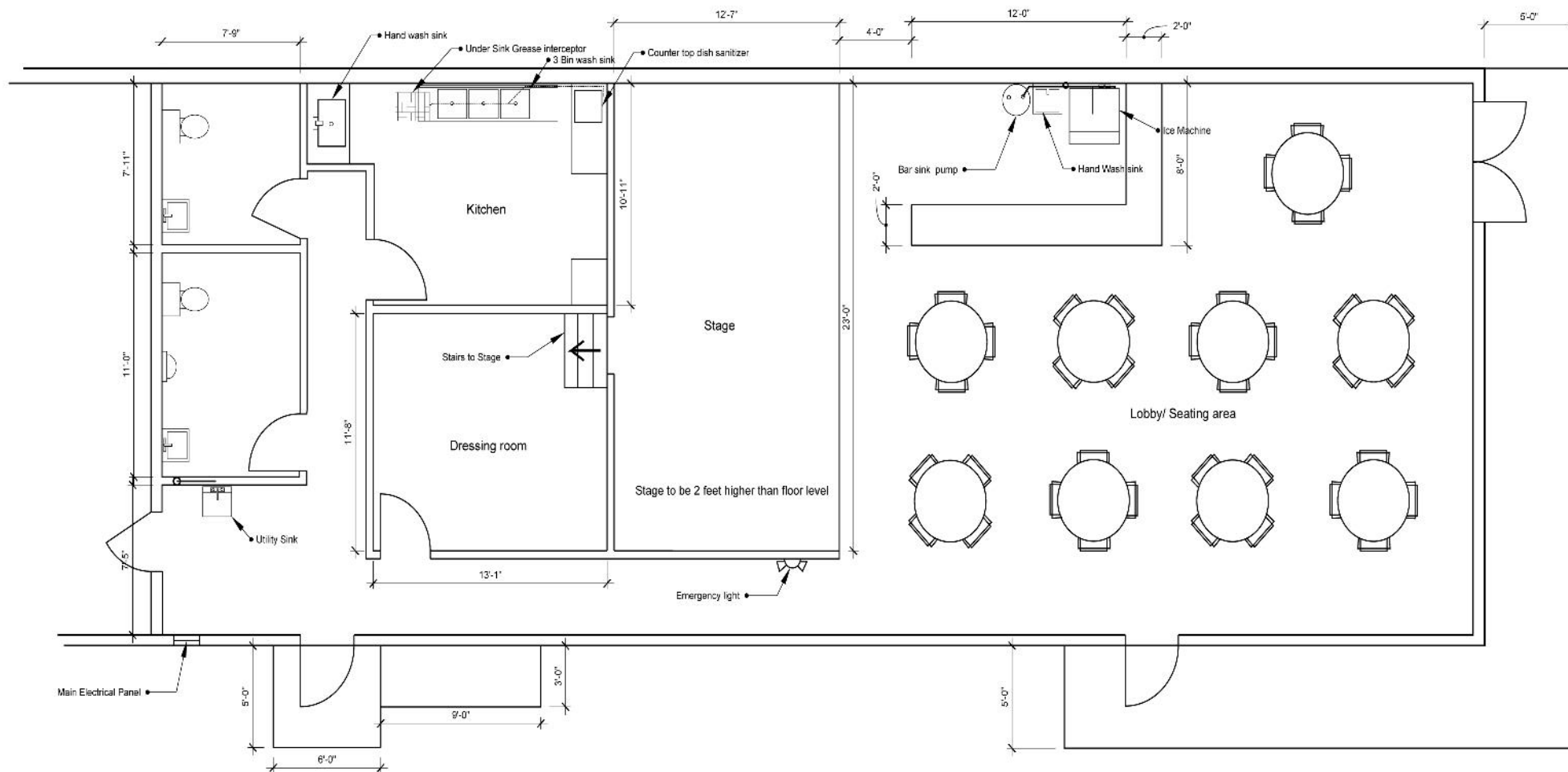
**Front Elevation
Facing 3rd Street**

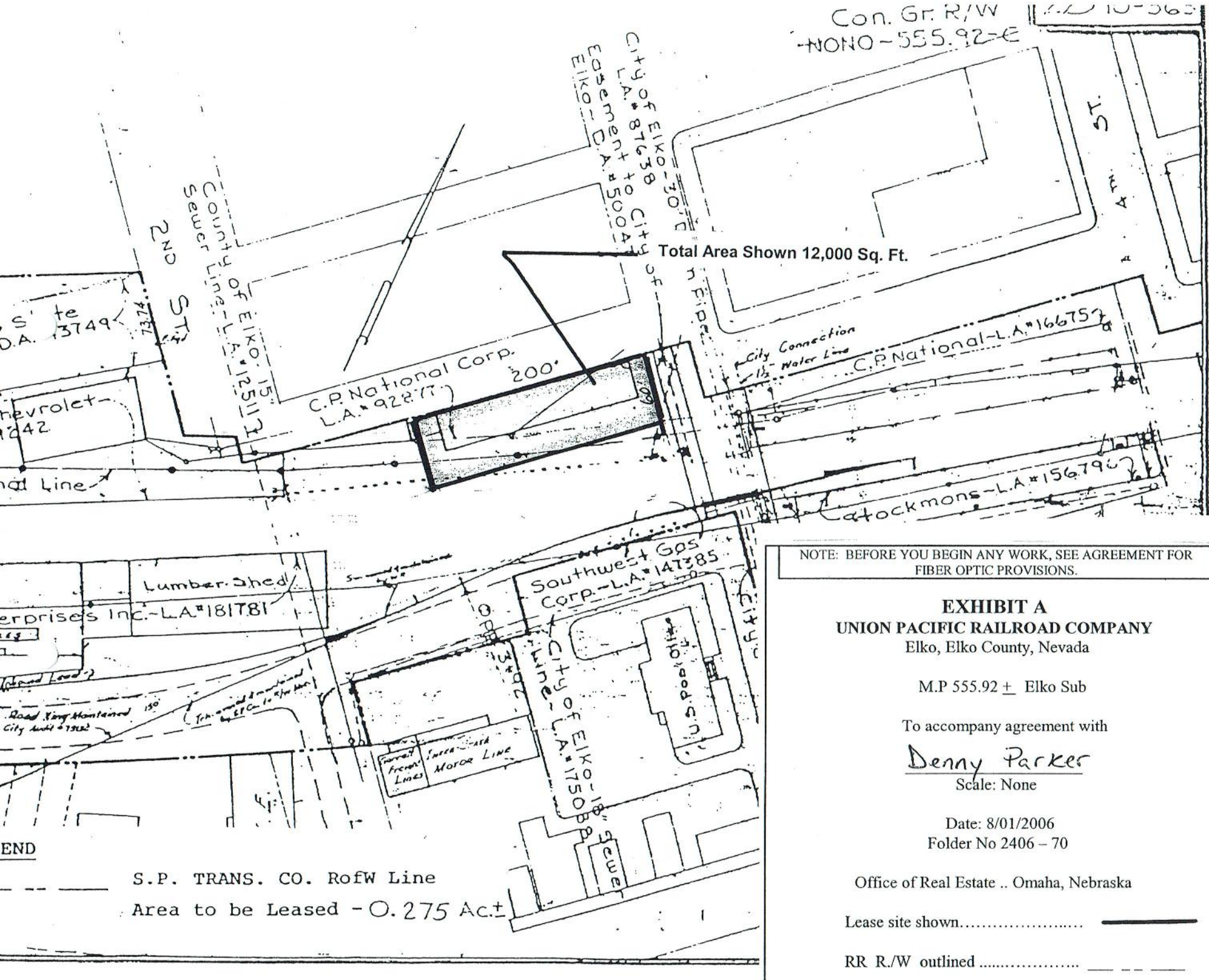


**Side Elevation
Facing Commercial Street**

**The Stage Door Elko LLC
Elevation Plan**

***No changes are being made to current the elevation of the building**





NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT A
UNION PACIFIC RAILROAD COMPANY
Elko, Elko County, Nevada

M.P 555.92 ± Elko Sub

To accompany agreement with

Denny Parker
Scale: None

Date: 8/01/2006
Folder No 2406 - 70

Office of Real Estate .. Omaha, Nebraska

Lease site shown.....

RR R/W outlined

S.P. TRANS. CO. RofW Line
Area to be Leased - 0.275 Ac.±

Elko City Planning Commission
Agenda Action Sheet

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 3-19, filed by Elite Storage and RV, LLC, which would allow for a storage facility and recreational vehicle storage within a C (General Commercial) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 5, 2019**
3. Agenda Category: ***NEW BUSINESS, PUBLIC HEARINGS***
4. Time Required: **15 Minutes**
5. Background Information: **CUP 3-17 was approved on July 18, 2017 for the development of storage units. The property owner is now proposing an expansion of the development to include two additional buildings and a modification to the approved screen wall.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 3-19 based on the facts, findings and conditions presented in Staff Report dated February 25, 2019.**
9. Findings: **See Staff report dated February 25, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Elite Storage and RV, LLC
45 Teton Drive
Lindon, Utah 82042-2272**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 3/5

Do not use pencil or red pen, they do not reproduce

Title: Conditional Use Permit No. 3-19

Applicant(s): Elite Storage and RV, LLC

Site Location: 1500 Opal Drive - Apn 001-1630-056

Current Zoning: C Date Received: 2/12/19 Date Public Notice: 2/22

COMMENT: This is to allow storage units, RV Storage, and mixed use in General Commercial Zone abutting Residential Zone.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: _____

Initial

City Manager: Date: 2/27/19

Recommend approval of CUP 3-19, contingent upon conditions listed under "Staff Recommendation" in City of Elko Staff Report.

W
Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	February 25, 2019
PLANNING COMMISSION DATE:	March 5, 2019
AGENDA ITEM NUMBER:	I.A.2
APPLICATION NUMBER:	Conditional Use Permit 3-19
APPLICANT:	Elite Storage and RV, LLC.
PROJECT DESCRIPTION:	Opal and 12th Street

Within the C general commercial zoning district, storage units shall be required to first obtain a conditional use permit. A conditional use permit is required for every new development on a lot or parcel in the C general commercial zoning district which abuts a residential zoning district. The property owner is proposing an expansion to the existing development and approved CUP.



STAFF RECOMMENDATION:

RECOMMEND APPROVAL, subject to findings of fact, conditions as stated in this report.

PROJECT INFORMATION

PARCEL NUMBER: 001-630-056

PROPERTY SIZE: 6.66 acres

EXISTING ZONING: C -General Commercial,

MASTER PLAN DESIGNATION: (COMM-GEN) Commercial General

EXISTING LAND USE: Developed, currently under development

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by developed land to the south, west, and east. There is a residential subdivision being developed to the north.

PROPERTY CHARACTERISTICS:

The property is currently under construction for the storage units previously approved under CUP 3-17.

The property is generally flat with no unusual conditions.

There is a difference in elevation at the property line along the townhomes.

The property will be accessed from Opal Drive.

The property is not in the floodway and flood zone.

APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:

-) City of Elko Master Plan-Land Use Component
-) City of Elko Master Plan-Transportation Component
-) City of Elko Redevelopment Plan
-) City of Elko Wellhead Protection Plan
-) City of Elko Code 3-2-3 General Provisions
-) City of Elko Code 3-2-4 Establishment of Zoning Districts
-) City of Elko Code 3-2-10 General Commercial (C)
-) City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
-) City of Elko Code 3-2-18 Conditional Use Permits
-) City of Elko Code 3-8 Flood Plain Management

Background Information

-) The application for the Conditional Use Permit (CUP) was filed as required under City Code 3-2-10 (B) 4 & 8.
-) The area is currently zoned General Commercial
-) The area is located at the intersection of 12th Street and Opal Drive

-) The applicant was previously approved a CUP 3-17 on July 18, 2017 for the development of storage units. The applicant is proposing an additional 2 buildings to the property as well as a modification to the approved screen wall between the residential and the commercial uses.
-) The property is not located in the Redevelopment Area.

MASTER PLAN

Land Use

1. The Master Plan Land Use Atlas shows the area as Commercial General.
2. C- General Commercial is listed as a corresponding zoning district for Commercial General in the Master Plan Land Use.
3. The listed Goal of the Land Use component states “Promote orderly, sustainable growth and efficient land use to improve quality of life and ensure new development meets the needs of all residents and visitors”.
4. Objective 4: Consider a mixed-use pattern of development for the downtown area, and for major centers and corridors, to ensure the area’s adaptability, longevity, and overall sustainability.
5. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and that of individual neighborhoods.
6. Objective 8: Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The conditional use is in conformance with the Land Use Component of the Master Plan.

Transportation

1. The area will be accessed from Opal Drive.
2. The site has pedestrian access along 12th Street and Opal Drive.
3. The existing property meets the goals listed in the Master Plan Transportation Document as Best Practice Objective 1; Provide a balanced transportation system that accommodates vehicle, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.

The conditional use is in conformance with the Transportation Component of the Master Plan and existing transportation infrastructure.

ELKO WELLHEAD PROTECTION PLAN

-) Most of the property is located outside the 30-year capture zone for several City wells.

SECTION 3-2-3 GENERAL PROVISIONS

-) Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.

1. Principal Uses: Only those uses and groups of uses specifically designated as “principal uses permitted” in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
2. Conditional Uses: Certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

J) Section 3-2-3(D) states that “No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed use is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-10(B).

SECTION 3-2-3(J)

Required Screen Walls: Under certain conditions, the planning commission may require screen walls to separate incompatible uses; e.g., separation of abutting or industrial uses and residential uses.

The existing site layout and development includes a separation between the proposed 8’ high screen fence and the property line abutting the development to the east and the 8’ high screen fence along the property line abutting the residential properties to the northeast.

A screen wall 8’ tall was originally approved with CUP 3-17. The owner has installed the 8’ tall solid wall along 12th Street and Opal Drive and is proposing a screen fence with solid slats, 95% blockage along the northeast and east property lines.

The Planning Commission is required to determine if a screen wall or screen fencing is necessary and approve of the type of screening if proposed.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.

2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed use is in conformance with Elko City Code 3-2-4.

SECTION 3-2-10 COMMERCIAL DISTRICTS

1. Section 3-2-10(B)(4) Commercial Storage Units are listed as a permitted conditional use.
2. Section 3-2-10(B)(8) Commercial Zone Abutting Residential Zone: A conditional use permit pursuant to section [3-2-18](#) of this chapter is required for every new development on a lot or parcel in the C general commercial zoning district which abuts a residential zoning district. All such developments are subject to the screen wall requirements set forth in subsection [3-2-3J](#) of this chapter.
3. Height Restrictions: All structures within the C general commercial zoning district must comply with the height and other requirements of the current city airport master plan, to the extent the plan applies to that location.
4. The property does abut a residential zone so therefore is subject to the screen wall requirements set forth in subsection 3-2-3(J).
5. Development of the property is required to be in conformance with City code and conditions for the CUP.

The proposed use is in conformance with Elko City Code 3-2-10.

SECTION 3-2-17 TRAFFIC, ACCESS, PARKING AND LOADING REGULATIONS

- J Conformance with this section is required. The current facility is in conformance and will be evaluated with plan submittal for the expanded uses.

The proposed use conforms to section 3-2-17 of Elko city code.

SECTION 3-2-18 CONDITIONAL USE PERMITS

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.

4. Conditional use permits shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation.

SECTION 3-8 FLOOD PLAIN MANAGEMENT

1. The parcel is not located within a designated flood plain.

FINDINGS

1. The proposed development is in conformance with the Land Use component of the Master Plan
2. The proposed development is in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan
3. The site is suitable for the proposed use.
4. The proposed development is in conformance with the City Wellhead Protection Program.
5. The proposed use is consistent with surrounding land uses.
6. The proposed use is in conformance with City Code 3-2-10 (B) General Commercial with the approval of the Condition Use Permit
7. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-8 and 3-2-18 of the Elko City Code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of CUP 3-19 with the following conditions:

1. The conditional use permit is granted to the property owner allowing for the development of commercial storage units.
2. The permit shall be personal to the property owner and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. The conditional use permit shall automatically lapse and be of no effect one year from the date of its issue unless the permit holder is actively engaged in developing the specific property in use for which the permit was issued.
4. Landscaping shall be such that it does not impact sight triangle.
5. Landscaping is required in conformance with City Code. Landscaping of the 12th Street and Opal Drive right-of-ways is required and may be factored in determining conformance with the code. All landscaping shall be maintained in a manner acceptable to the City of Elko at all times.
6. Lighting shall be cutoff and shielded from the residential properties
7. The Conditional Use Permit is to be recorded with the Elko County Recorder within 90 days after the approval of the conditional use permit.
8. Conformance with 9-8 of Elko City Code is required to cutoff peak flow increases in

stormwater discharges.

9. Access to the property shall be limited to Opal Drive as shown on the plans.
10. A screen-wall or fencing is required unless determined otherwise by the Planning Commission. This condition is to be clarified by the Planning Commission on the type of screen wall or fencing that is necessary and acceptable.

Building Department:

1. The proposed chain link fence will require permit and approval through City of Elko Building Department.

CUP 3-19 Elite Storage FRV, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001630091	12TH STREET ASSOCIATES LLC	C/O GASTON & WILKERSON MGT	4751 CAUGHLIN PKWY	RENO NV	89519-0924
001630094	12TH STREET ASSOCIATES LLC	C/O GASTON & WILKERSON MGT	4751 CAUGHLIN PKWY	RENO NV	89519-0924
001870033	ARMBRUSTER, JOSEPH L TR ET AL		1409 CLOVER HILLS DR	ELKO NV	89801-7931
001870004	BALES, ERICK		2271 ALBATROSS WAY	SPARKS NV	89441-5839
001870007	BARNET, GREGORY A TR		167 PLEASANT VALLEY RD UNIT 3	SPRING CREEK NV	89815-9744
001870009	BARNET, GREGORY A TR		167 PLEASANT VALLEY RD UNIT 3	SPRING CREEK NV	89815-9744
001870017	BELL, STEVEN W ET AL		1625 CLARKSON DR APT 17	ELKO NV	89801-4805
001633025	BENCH, WILLIAM R & MARTA		1703 FLAGSTONE DR	ELKO NV	89801-8818
001870031	BROADWATER, COLTON & PATRICIA		1625 CLARKSON DR UNIT 31	ELKO NV	89801-7938
001870039	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870038	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870011	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870001	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870002	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870026	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870027	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870003	CHAO, ELLEN TR		11879 DELAVAN CIR	RANCHO CORDOVA CA	95742-8061
001870000	CHAP ENTERPRISES LLC		950 IDAHO ST	ELKO NV	89801-3919
001633007	CHAPPELL, RONALD & SAUNDRA L		1735 FLAGSTONE DR	ELKO NV	89801-8818
001870030	CN&MM LLC		437 AUDRAINE DR	GLENDALE CA	91202-1101
001870029	CN&MM LLC		437 AUDRAINE DR	GLENDALE CA	91202-1101
001870032	CN&MM LLC		437 AUDRAINE DR	GLENDALE CA	91202-1101
001870019	DUSOLEIL, DANIEL L & MARJIE		1625 CLARKSON DR APT 19	ELKO NV	89801-4805
001870013	DUSOLEIL, HEIDI D		1625 CLARKSON DR APT 13	ELKO NV	89801-4804
001630056	ELITE STORAGE & RV LLC		45 TETON DR	LINDON UT	84042-2272
001870028	ELLIOTT, JOHN F & SUSAN G		3117 MIDLAND DR	ELKO NV	89801-2512
001870015	FORSYTHE, KARYN	C/O OTT, MICHEAL LIFE ESTATE	1625 CLARKSON DR APT 15	ELKO NV	89801-4804

001633010	GARLICK, MICHAEL W & KRISTEN J	1746 FLAGSTONE DR	ELKO NV	89801-8818
001633005	GONZALEZ, JESUS L & DESTINY R	1751 FLAGSTONE DR	ELKO NV	89801-8818
001870024	GOWAN, NATHAN D & CHEZLYNN A	275 3RD ST UNIT 2772	ELKO NV	89803-3231
001870014	GRAM'S GIFT LLC	2910 E WILLOW BEND DR	SANDY UT	84093-2042
001870034	GUAIMI LLC	618 IDAHO ST STE 1	ELKO NV	89801-3874
001870040	GUAIMI LLC	618 IDAHO ST STE 1	ELKO NV	89801-3874
001633026	GUNNELL PROPERTIES LLC	460 S 100 W	HYDE PARK UT	84318-3339
001870023	HARWARD, RUSTY TR	1625 CLARKSON DR APT 23	ELKO NV	89801-4805
001870008	HOBBS, STUART G	1625 CLARKSON DR APT 8	ELKO NV	89801-4804
001870036	HOFHEINS, LISA J	1625 CLARKSON DR UNIT 36	ELKO NV	89801-4803
001630069	IGLOO RECREATIONAL CENTER	PO BOX 2532	ELKO NV	89803-2532
001870010	JAKEMAN, KRISTINE K	1625 CLARKSON DR APT 10	ELKO NV	89801-4804
001633021	JESSEN, TRAEAL M	1706 FLAGSTONE DR	ELKO NV	89801-8818
001870022	LEE, MICHAEL & LINDSAY	1625 CLARKSON DR APT 22	ELKO NV	89801-4805
001870035	LEE, MICHAEL A	1625 CLARKSON DR # 35	ELKO NV	89801-4803
001633018	MAUPIN, YOLANDA TR	1730 FLAGSTONE DR	ELKO NV	89801-8818
001633003	MCCARREY, JARED	1767 FLAGSTONE DR	ELKO NV	89801-8818
001633009	MOODY, TYLER	1738 FLAGSTONE DR	ELKO NV	89801-8818
001870021	MOSCHETTI, MICHAEL J ET AL	PO BOX 2135	ELKO NV	89803-2135
001870018	NICHOLAS RENTALS LLC	2731 SUNNYSIDE AVE	ELKO NV	89801-7939
001870006	NICHOLAS RENTALS LLC	2731 SUNNYSIDE AVE	ELKO NV	89801-7939
001870042	NICHOLAS RENTALS LLC	2731 SUNNYSIDE AVE	ELKO NV	89801-7939
001633023	NUNEZ, SIXTO & ELIZABETH	PO BOX 414	ELKO NV	89803-0414
001630096	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633020	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633024	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633027	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633028	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633029	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
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001633035	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334
001633036	PARRADO PARTNERS LP	12257 BUSINESS PARK DR STE 1	TRUCKEE CA	96161-3334

C/O PREMIER
PROPERTIES
PREMIER
PROPERTIES

Cont'd

001633037 PARRADO PARTNERS LP
 001633038 PARRADO PARTNERS LP
 001633039 PARRADO PARTNERS LP
 001633031 PARRADO PARTNERS LP
 001870005 PUENTES, EMILIO
 001870012 RADDATZ, AMOS
 001633011 RAWDON, AARON HENRY & ANNIE
 001870025 REYES, ALEJANDRO QUROZ
 001634000 RIVERSIDE VILLAS NEVADA LLC
 00163400A RIVERSIDE VILLAS NEVADA LLC
 00163400B RIVERSIDE VILLAS NEVADA LLC
 00163400C RIVERSIDE VILLAS NEVADA LLC
 001633022 ROCK, RYAN TRAVIS & NICOLE
 001630047 RYDELL MANAGEMENT COMPANY LLC
 001630046 RYDELL MANAGEMENT COMPANY LLC
 001633004 SHARLOW, ROBERT E
 001870020 SHIELDS, DARVIN H & KATHLEEN
 001633019 SQUIRES, AUSTIN GRIFFIN
 001870037 STOKES, MARC
 001633006 THРАН, ROBERT & BRANDOLYN
 001870016 TRUJILLO, MANUEL J & SYLVIA M
 001870041 VILLASENOR, CECILIA

} 1p.c (continued)

} 1p.c.

} 1p.c.

12257 BUSINESS PARK DR STE 1
 12257 BUSINESS PARK DR STE 1
 12257 BUSINESS PARK DR STE 1
 12257 BUSINESS PARK DR STE 1
 1625 CLARKSON DR APT 5
 1625 CLARKSON DR APT 12
 1772 GRANITE DR
 1625 CLARKSON DR APT 25
 180 N UNIVERSITY AVE STE 200
 180 N UNIVERSITY AVE STE 200
 180 N UNIVERSITY AVE STE 200
 180 N UNIVERSITY AVE STE 200
 1637 S LABRADOR PL
 1585 LAMOILLE HWY
 1585 LAMOILLE HWY
 1759 FLAGSTONE DR
 524 BOWEN CIR
 1722 FLAGSTONE DR
 1625 CLARKSON DR UNIT 37
 1743 FLAGSTONE DR
 1625 CLARKSON DR APT 16
 1625 CLARKSON DR UNIT 41

TRUCKEE CA
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 ELKO NV
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 MERIDIAN ID
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Mailed 2/21/19

NOTICE OF PUBLIC HEARINGS

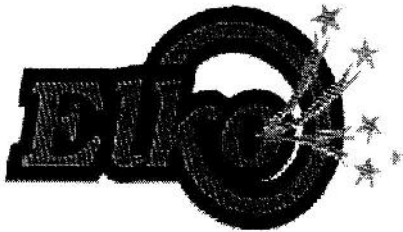
NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, March 5, 2019 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

Conditional Use Permit No. 3-19, filed by Elite Storage and RV, LLC, which would allow for a storage facility and recreational vehicle storage within a C (General Commercial) Zoning District and abutting a R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the northeast corner of the intersection of Opal Drive and S 12th Street (1500 Opal Drive – APN 001-630-056).

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7119 fax

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s): Elite Storage and RV, LLC – Dave Mitton

(Applicant must be the owner or lessee of the proposed structure or use.)

MAILING ADDRESS: 45 Teton Drive, Lindon, Utah 82042-2272

PHONE NO. (Home) _____ **(Business)** 1 (801) 372-0220

NAME OF PROPERTY OWNER (If different): Elite Storage & RV LLC

(Property owner's consent in writing must be provided.)

MAILING ADDRESS: 45 Teton Drive, Lindon Utah, 84042-2272

LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):

Parcel 4 of File No 419689

ASSESSOR'S PARCEL NO.: 001-630-056 **Address** 1500 Opal Drive, Elko Nv 89801

Lot(s), Block(s), & Subdivision _____

Or Parcel(s) & File No. Parcel 4, File No. 419689

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$750.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code.

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

RECEIVED

1. Current zoning of the property:

C (Commercial).

2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:

3-2-10 B. 4 Conditional Uses Permitted. The CUP is need for storage units, onsite residence and because project abuts residential development.

3. Explain in detail the type and nature of the use proposed on the property:

The proposed use of the property is an upscale storage unit facility completely secured by an 8-foot high screen wall or an 8 foot high screen fence at the locations delineated on the Conditional Use Permit Site Plan. The 8-foot high screen wall has been approve by separate permit. The 8-foot high screen fence is to be as proposed by the attached information. The property will have an onsite office for security and rentals operations. Customers will enter and exit through two proposed security gates. The storage options offered will be enclosed storage spaces, enclosed climate controlled storage spaces, enclosed R.V. storage and open R.V. storage in the proposed gravel area. All open R.V. storage will require the vehicle to be registered, licensed, running and maintained. Phase 1 will include the development of 7 buildings and the gravel R.V. storage area to the north as shown on the Conditional Use Permit Site Plan. Rental of the outdoor RV spaces in the gravel area will continue until such time as the Phase 1 storage units are approaching full status, then at that time the construction of the Phase 2 buildings will take place. There will be approximately 550-650 storage units in Phase 1. Phase 2 will be the addition of 1 or 2 climate control storage unit buildings, insulated storage unit buildings, enclosed R.V. storage unit buildings or covered R.V. storage as the market dictates located in the Phase 1 gravel RV parking area as shown on the Conditional Use Permit Site Plan. The size of the storage unit buildings may vary from that shown on the Conditional Use Site Plan but will be of the concept shown.

4. Explain how the use relates with other properties and uses in the immediate area:

There are several residential apartments and condominiums abutting this property. The development of storage units in this area will give these residents and others an option for storage. Being sensitive to current residential developments the proposed storage unit facility will be upper scale, secure and attractive.

5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property:

This property was removed from the FEMA flood zone with grading and the installation of the Metzler Wash storm drain. There is an easement for the portion of this storm drain that runs through this property. There is also a water line and easement that crosses this property. The buildings and foundations will be located outside of these easements as shown on the Conditional Use Site Plan.

6. Describe the general suitability and adequacy of the property to accommodate the proposed use:

The property is adequate for the proposed use as it is large enough to accommodate the use and adequate the infrastructure for this use is available.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.:

The property will be graded to drain towards Opal Drive. The design standards for City of Elko storm water management will be followed to address storm water leaving the site. The property is relatively flat and will not require mass grading or terracing.

8. Describe the amounts and type of traffic likely to be generated by the proposed use:

The original traffic study for this property was done to include this property and The Villas at Riverside property along 12th Street. Both this property and The Villas at Riverside property were analyzed for apartments. The resulting existing improvements on Opal Drive 12th Street reflect this. The traffic generated by Storage Units will be much less than apartments. (7 average daily vehicle trips per apartment compared to .30 average daily vehicle trips per storage unit).

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property:

Four parking spaces are required per 3-2-17 F. This is based on 1 space per 300 square feet of office area. The proposed office is 1200 square feet. A total of 6 standard parking spaces and one van accessible parking space is shown on the Conditional Use Permit Site Plan.

10. Describe the type, dimensions and characteristics of any sign(s) being proposed:

An electronic pole sign with reader meeting the requirements of City of Elko Code Chapter 9 – Sign Regulations is proposed in the 12th street right of way. This sign is permitted in the right of way per an existing separate approval.

11. Identify any outside storage of goods, materials or equipment on the property:

There will be an area provided for open R.V. Storage. All open R.V. storage will require the vehicle to be registered, licensed, running and maintained.

12. Identify any accessory buildings or structures associated with the proposed use on the property:

None. The onsite office is part of the climate control building.

y My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent DAVE MITTON
(Please print or type)

Mailing Address 415 TETON DR
Street Address or P.O. Box

LONDON, UT 84042
City, State, Zip Code

Phone Number: 801-372-0220

Email address: DAVEMITTON@YATCO.COM

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 3-19 Date Filed: 2/12/19 Fee Paid: \$750 CK #1494



MAXLINK PLUS™ SYSTEM

The **MaxLink Plus™** system is an evolution from the **MaxLink Industrial™** system, for those situations where a greater degree of privacy or screening is desired. Much like the **MaxLink Industrial™** system, this product utilizes the same unique and efficient system of combining the chain link wire and the Slat Warehouse MAX2900 slat as a complete package – no need for using labor to stretch the wire and then hand-insert each individual slat. Stretch the wire... and the job is done.

Using a state-of-the-art high-speed Bergandi weaving/insertion machine, Slat Warehouse can weave the specified wire in a 3.5" x 5" mesh, then mechanically insert and secure each slat to the wire with a stainless-steel staple, which holds the slat level and secure for years to come.



The slat used in the **MaxLink Plus™** system is a double-wall, flat tubular extrusion 2.880" wide with three internal support legs for strength and structure, and the addition of specifically angled 'fins' on each side, designed to mold around the chain link knuckle and give up to 98% sight blockage. The slat used in the **MaxLink Plus™** system is also formulated using High Density Polyethylene (HDPE), combined with additives to ensure color and functionality for many years of protection from exposure to the ultra-violet impact of the sun.



- **Heights** – Available in standard heights of 3', 4', 5', 6', 7', 8', 10', 12'
- **Packaging** – The **MaxLink Plus™** system is produced in a minimum increment of 25' rolls, and 5' increments thereafter. Up to 9 rolls can be packaged per pallet.
- **Warranty** – For details on the limited 15-year warranty for the **MaxLink Plus™** system, please contact Slat Warehouse directly or refer to www.slatwarehouse.com.
- **Wire Options**

Galvanized Wire – The **MaxLink Plus™** system can be produced using three options of GBW (Galvanized Before Weaving) wire. All of our galvanized wire is manufactured with 1.2 oz. (per square foot) of a protective zinc coating.



9 Gauge



10 Gauge



11 Gauge

Vinyl Coated Wire

The **MaxLink Plus™** system can also be woven into 7 different wire colors in multiple wire sizes



Vinyl Coated Wire Thickness Options

9 Gauge Finish
10 Gauge Core – Class 2B



8 Gauge Finish
9 Gauge Core – Class 2B



SKY BLUE



BROWN



BLACK



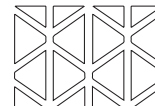
BEIGE



REDWOOD



GREEN



WHITE

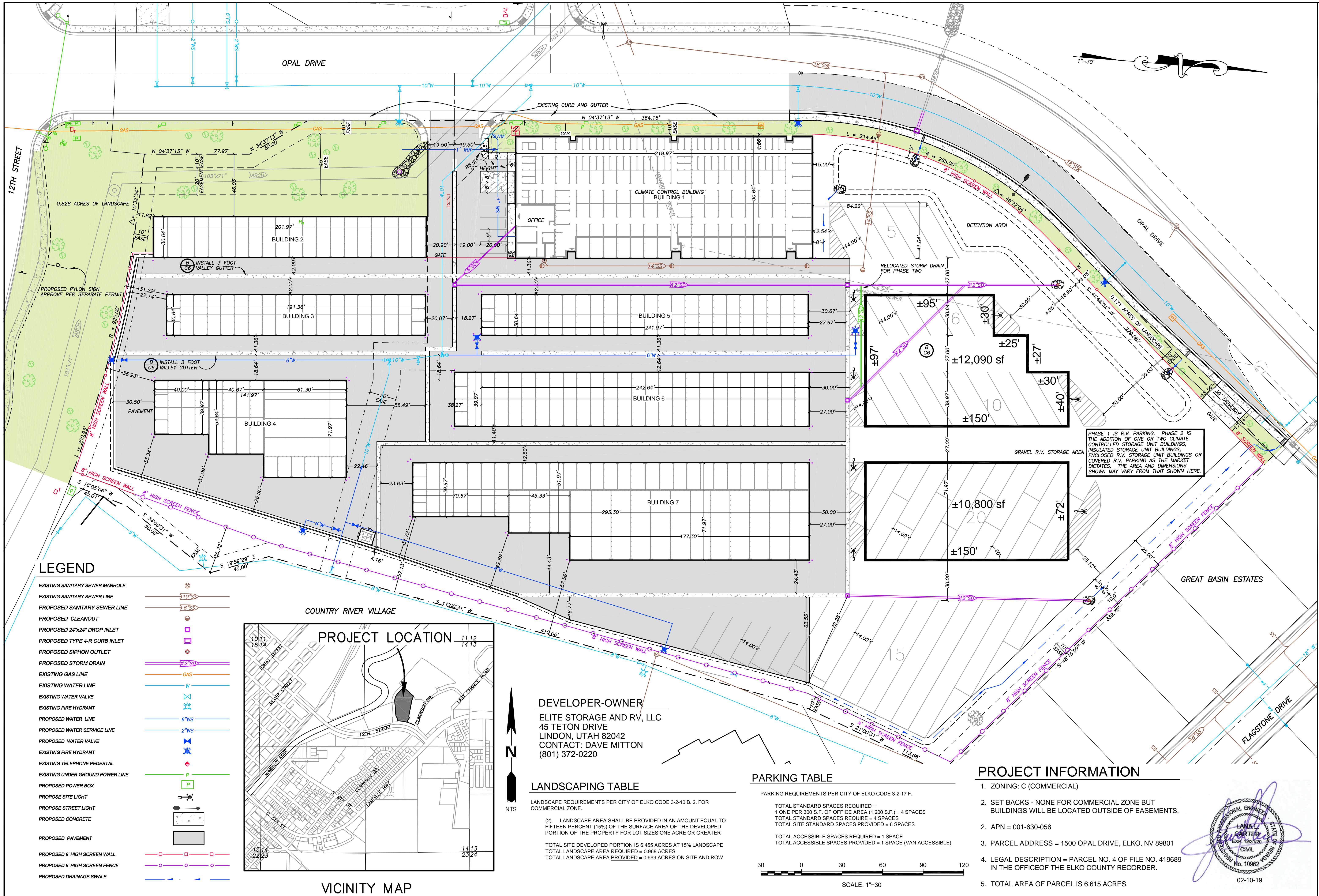


GRAY



ROYAL BLUE

*Exact representation of slat colors in printing is difficult. Please refer to actual color samples for final matching



DESCRIPTION

DATE

REV

Carter Engineering, LLC

Civil Engineering

P. O. Box 784

Elko, Nevada 89803

775-397-2531

ELITE STORAGE & R.V.

CONDITIONAL USE SITE PLAN

ELKO, NEVADA

DESIGN BY: LLC

DRAWN BY: LLC

CHECKED BY: LLC

DATE: 02-10-19

JOB NO: 03-2017

DWG NO: 2017-06

SCALE

HORIZ: 1" = 30'

VERT: N/A

SHEET

1

OF 1

PROFESSIONAL ENGINEER

LANA L. CARTER

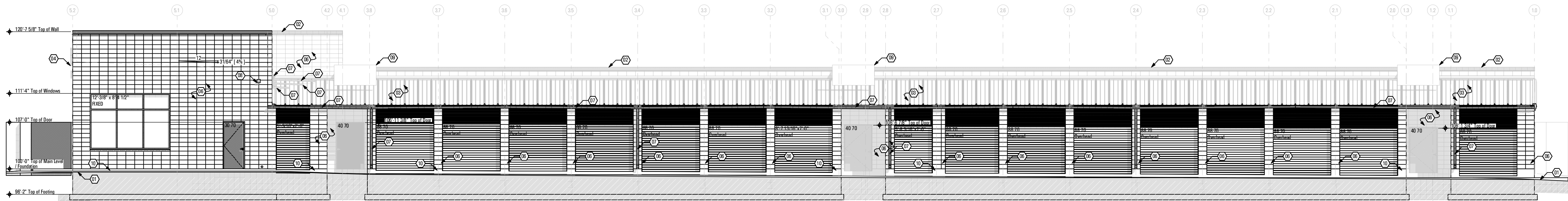
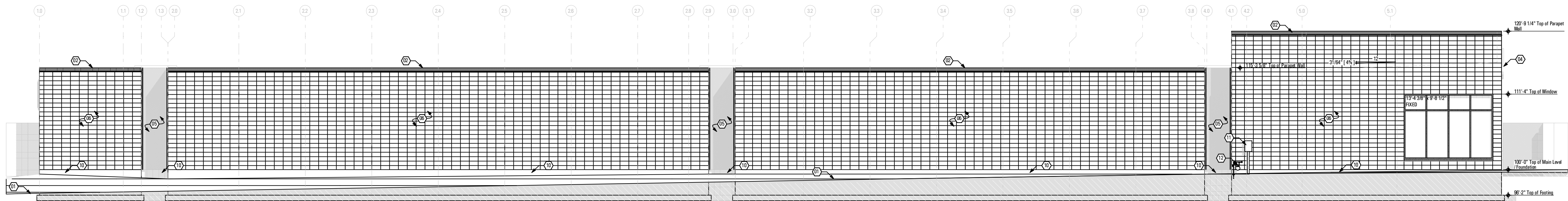
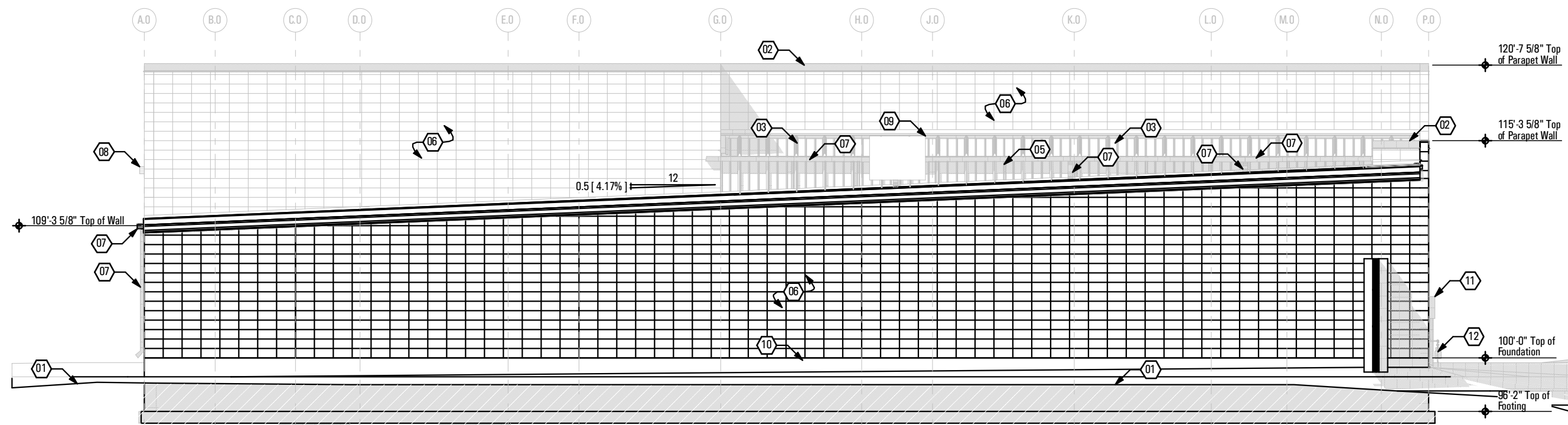
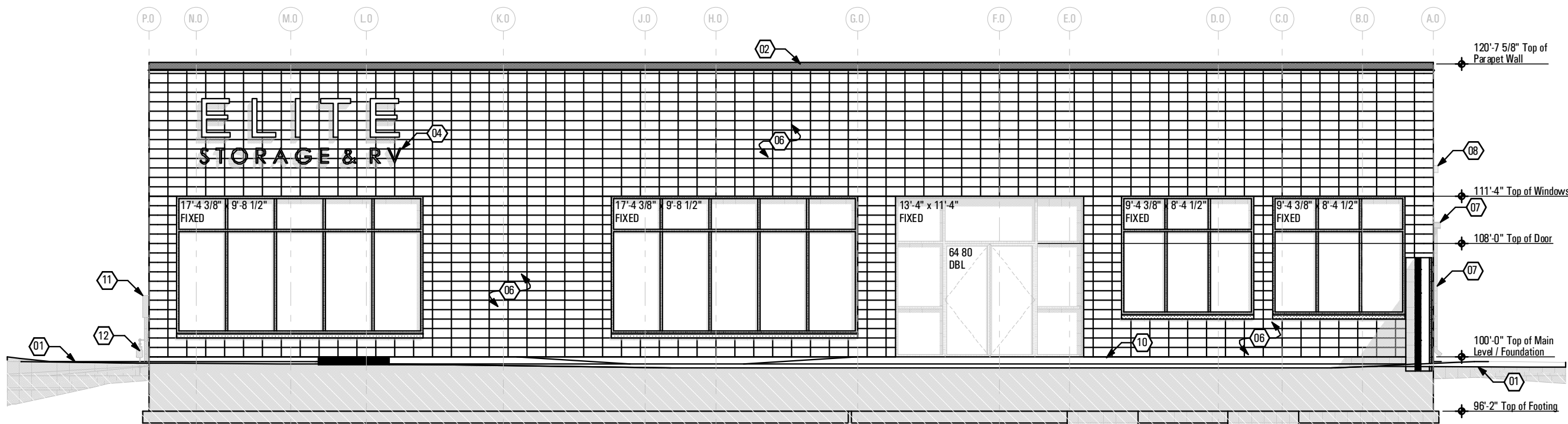
EXP. 129120

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No. 10962

02-10-19

ELITE STORAGE & RV

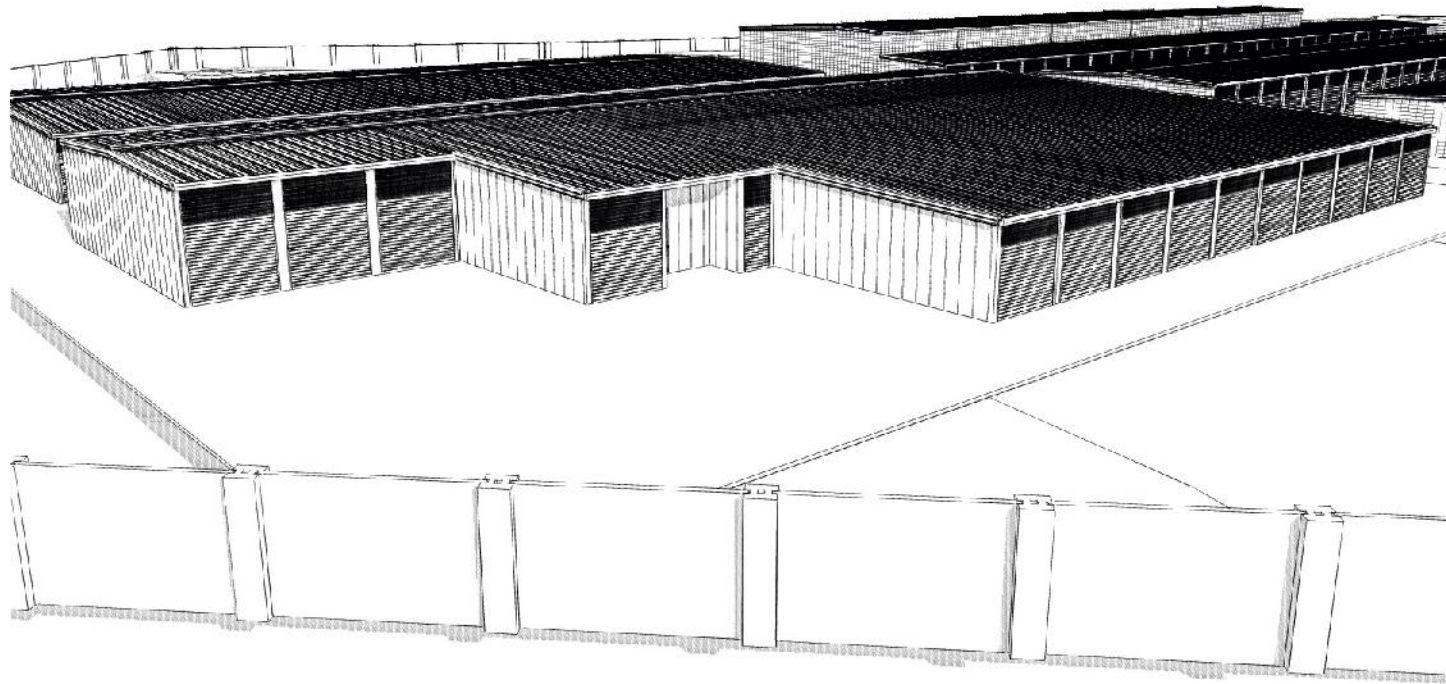
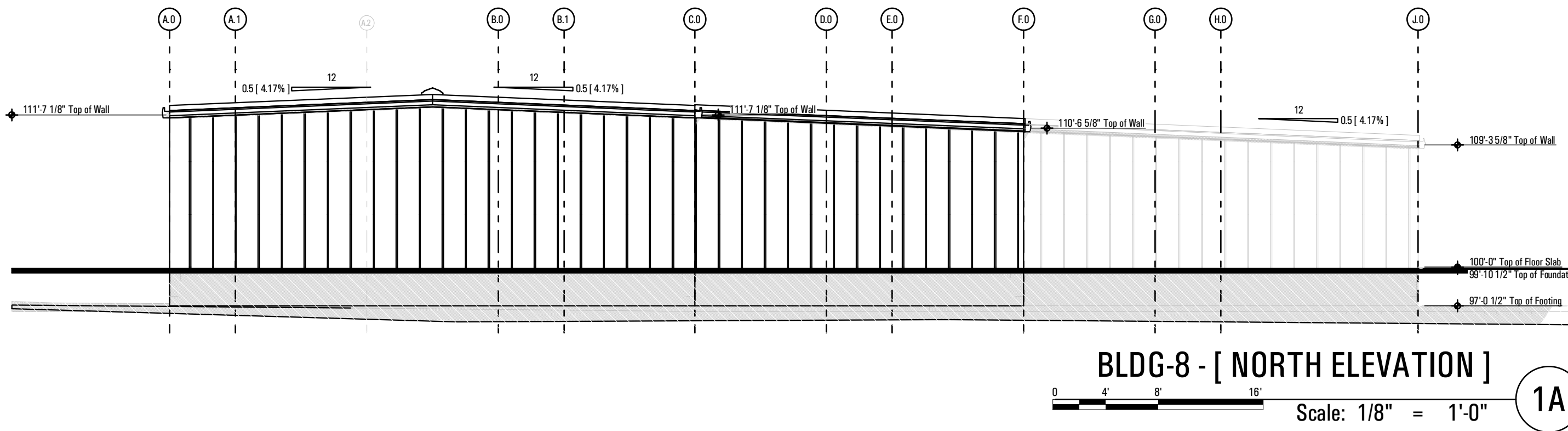
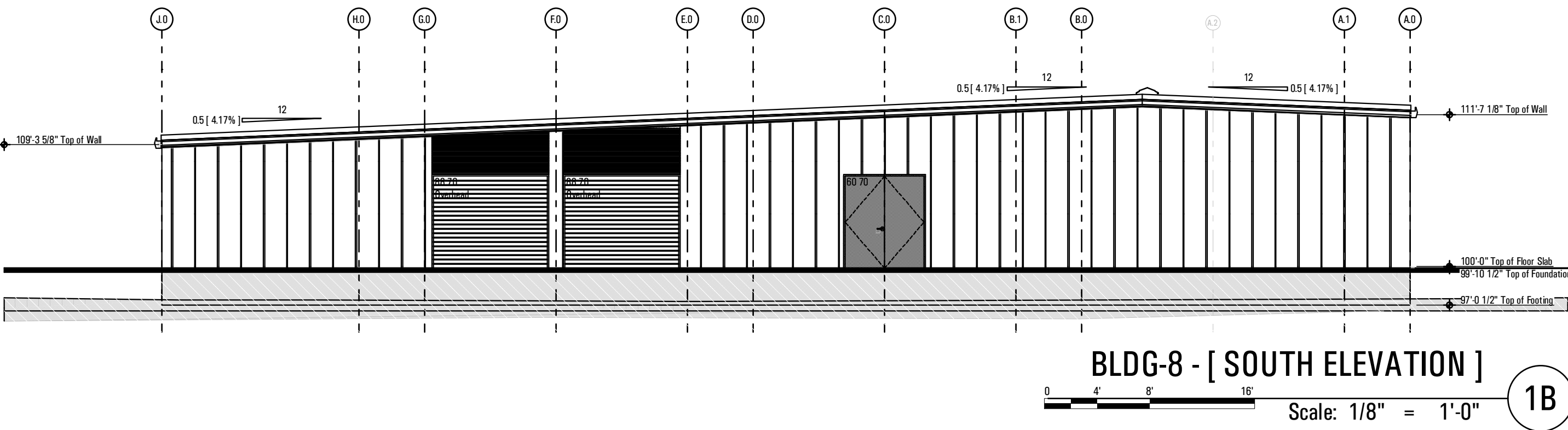
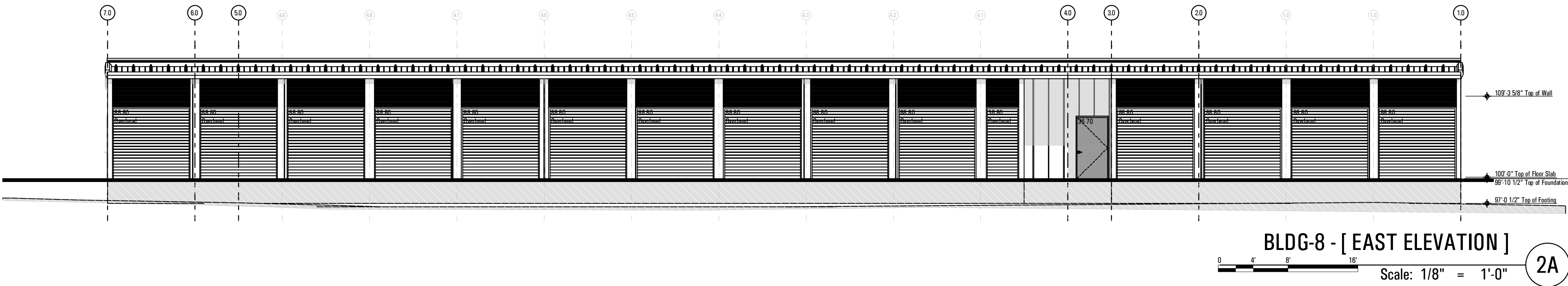
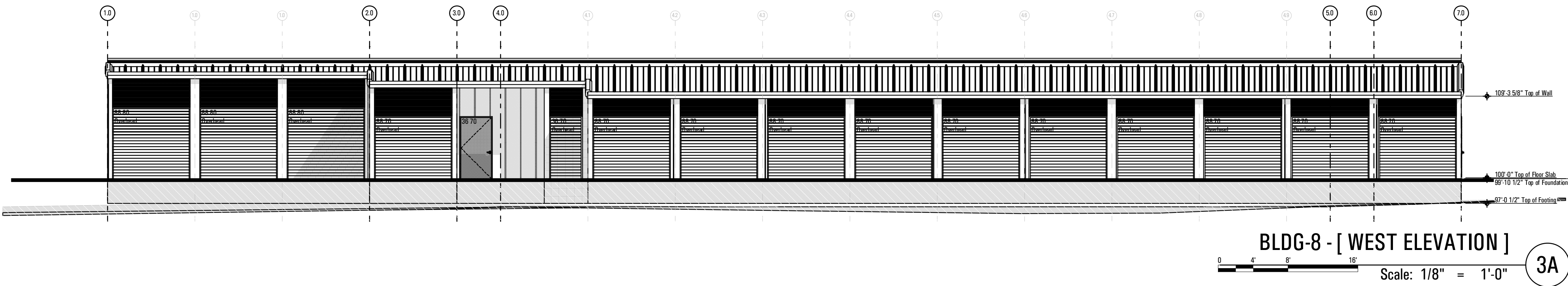


BUILDING - 1 ELEVATIONS

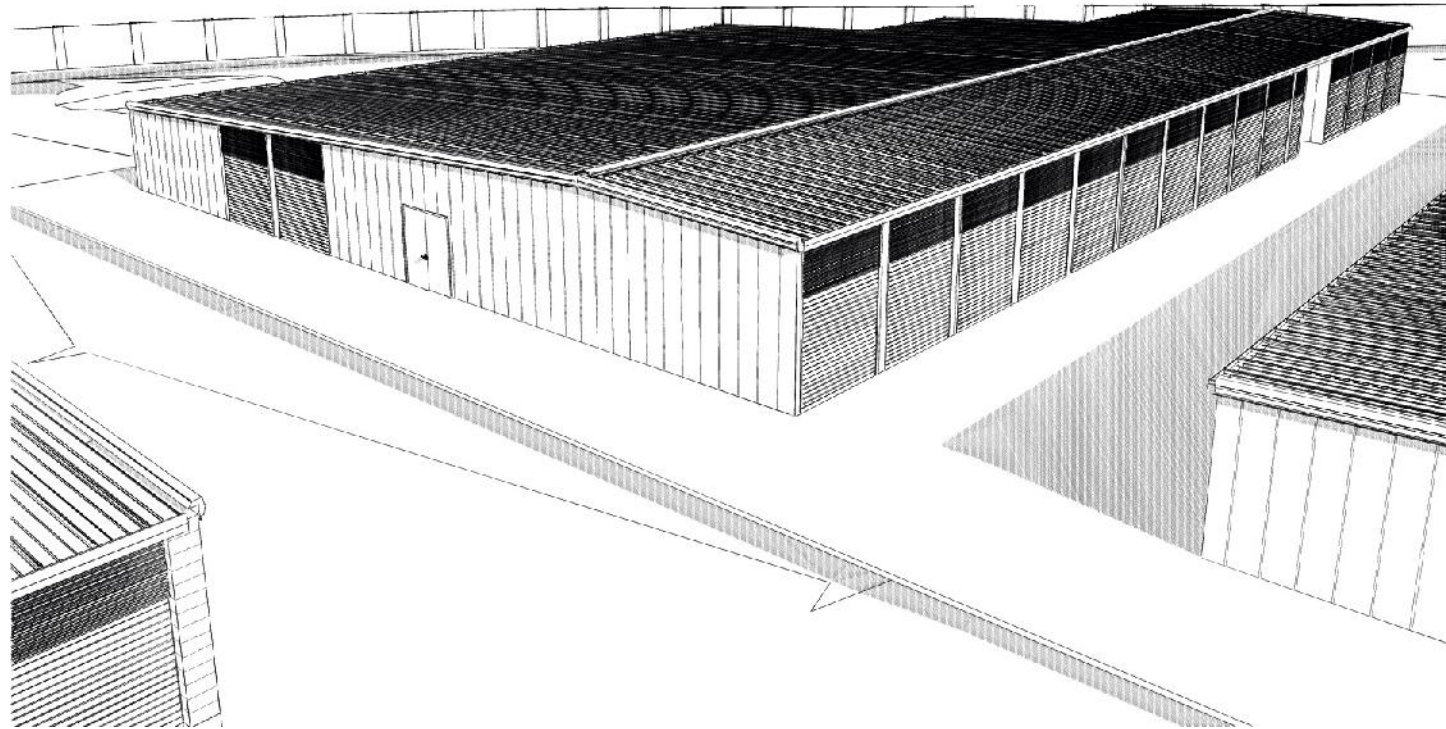
Keynotes:

- Proposed Grade - See Civil Drawings
- Metal Drip Edge
 - As Selected by Owner & Install as per MFG Specs
- Standing Seam Metal Roofing by Other
 - As Selected by Owner & Install as per MFG Specs
 - See Metal Building Drawings & Specifications
- Signage by Other
 - As Selected by Owner & Install as per MFG Specs
- Metal Panel Siding
 - As Selected by Owner & Install as per MFG Specs
- 7-5/8"x7-5/8"x15-5/8" CMU Wall
 - Stacked Bond Pattern
 - Masonry Contractor to Provide Transparent Seal Coating for All Exterior Surfaces of Masonry
 - As Selected by Owner & Install as per MFG Specs
- Gutter w/ Downspout by Other
 - As Selected by Owner & Install as per MFG Specs
 - See Metal Building Drawings & Specifications
 - Contractor to Provide Heat Trace System as Required & Provide UL Documentation of Heat Trace System.
 - Drains, Sizes & Install as per Roof System MFG & Specs
- Auxiliary Soupper by Other
 - As Selected by Owner & Install as per MFG Specs
 - Contractor to Provide Heat Trace System as Required & Provide UL Documentation of Heat Trace System.
 - Drains, Sizes & Install as per Roof System MFG & Specs
- Rooftop Unit - See Mechanical Drawings
- Foundation Wall w/ Hardcoat Plaster Finish
 - Plaster As Selected by Owner & Install as per MFG Specs
- Power Meter
 - Coordinate w/ Power Company for Final Location
- Gas Meter - Coordinate w/ Gas Company for Final Location

ELITE STORAGE & RV

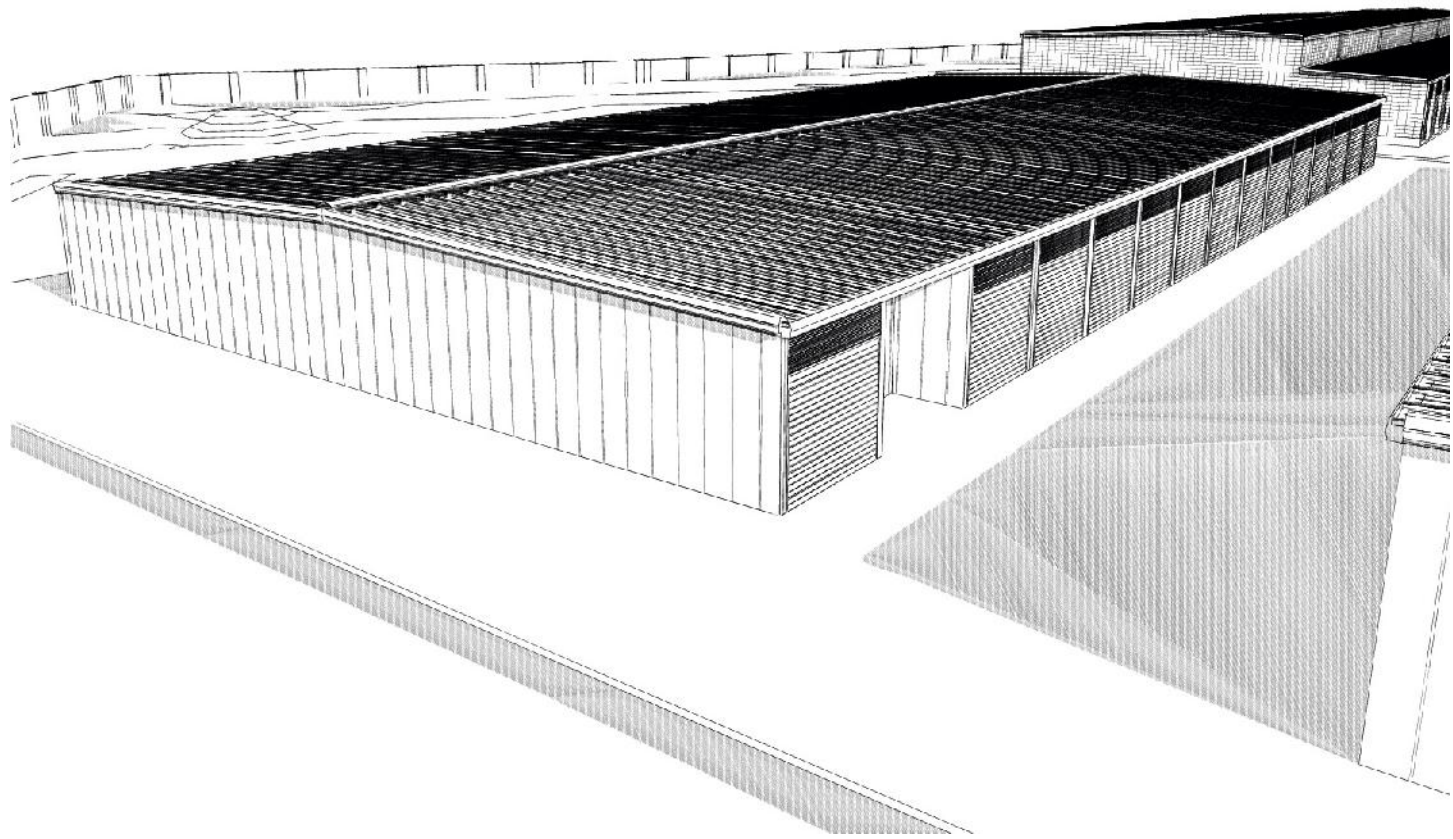
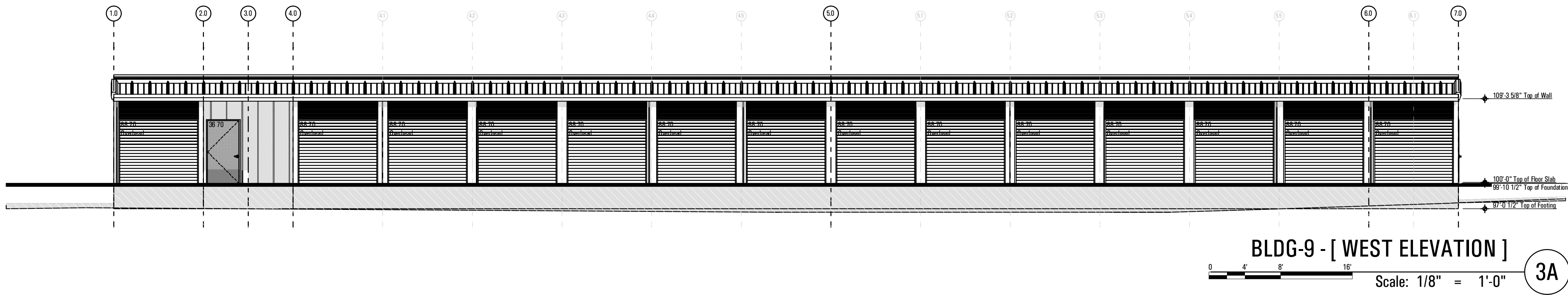


BLDG - 8: SOUTH WEST PERSPECTIVE

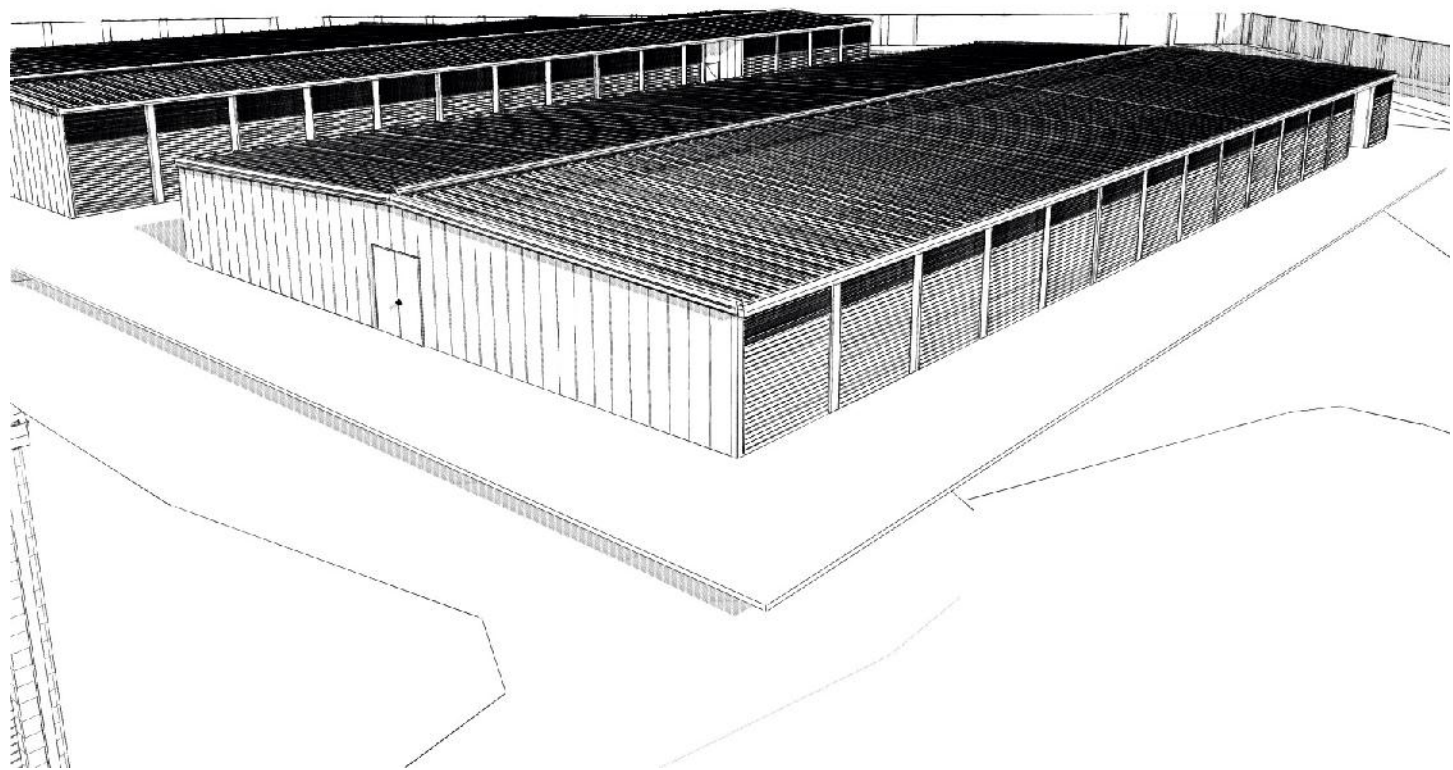
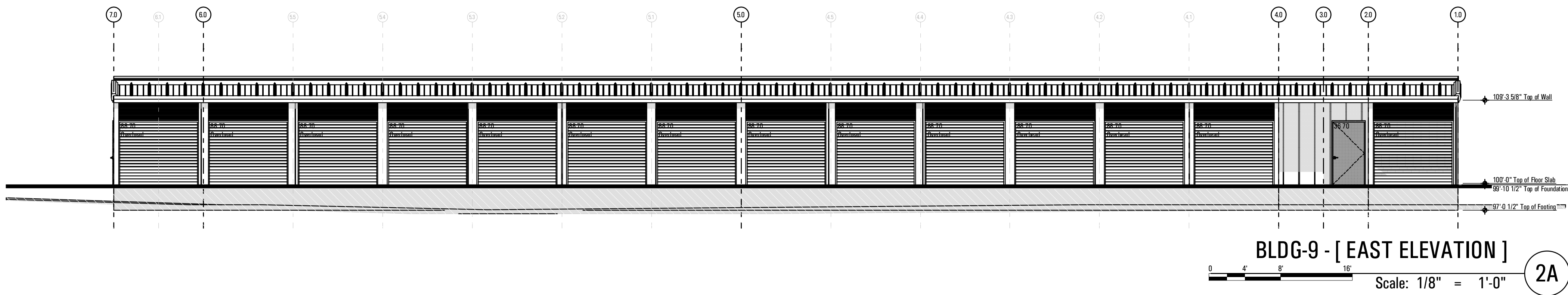


BLDG - 8: NORTH EAST PERSPECTIVE

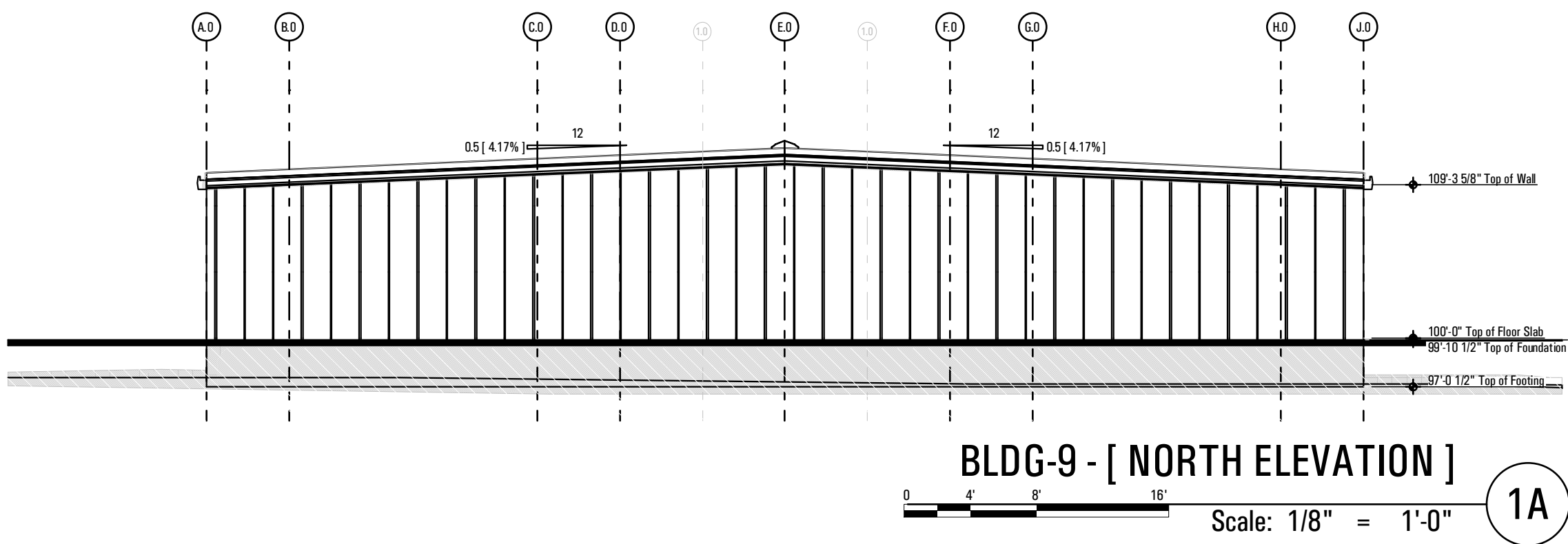
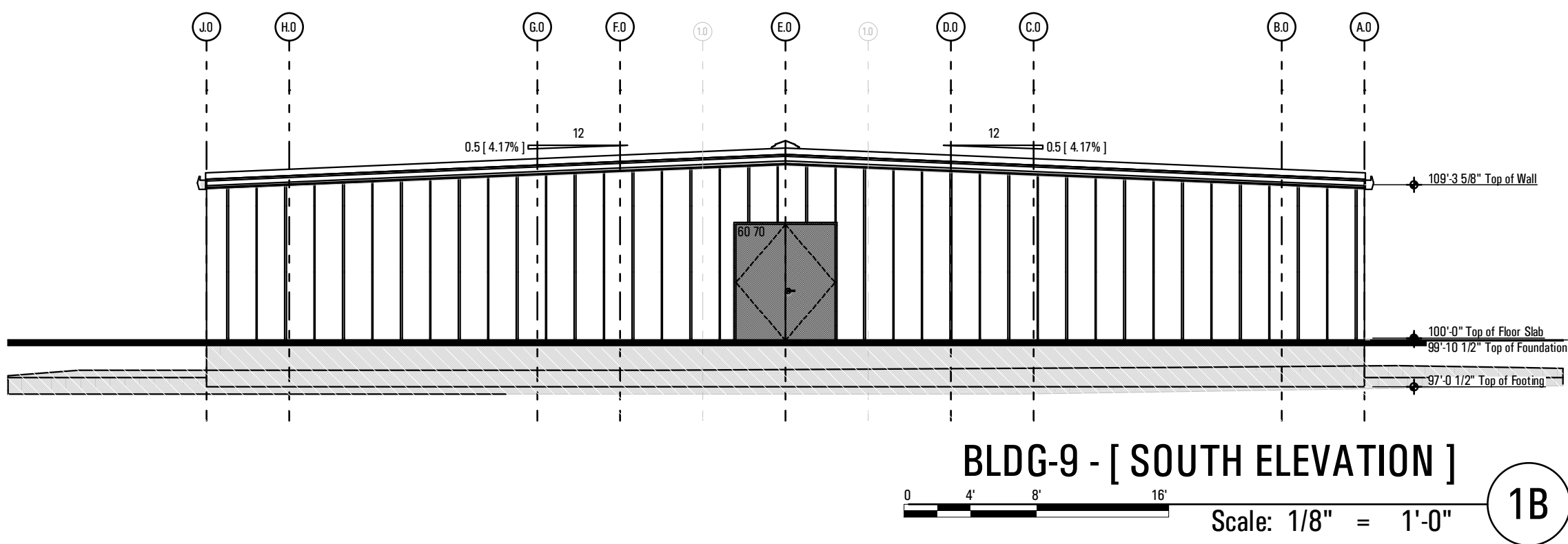
ELITE STORAGE & RV



BLDG - 9: SOUTH WEST PERSPECTIVE



BLDG - 9: NORTH EAST PERSPECTIVE



**Elko City Planning Commission
Agenda Action Sheet**

1. **Review, consideration and possible approval of Final Plat No. 14-18, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Tower Hill Unit 2 involving the proposed division of approximately 17.05 acres of property into 23 lots and 1 remainder parcel for residential development within the R1 (Single Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 5, 2019**
3. Agenda Category: ***MISC. ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **15 Minutes**
5. Background Information: **Subject property is located southwest of the terminus of Deerfield Way and Chukar Drive. (APN 001-929-124).**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Recommend to City Council to conditionally approve Final Plat 14-18 with conditions listed in Staff Report dated February 25, 2019.**
9. Findings: **See Staff Report dated February 25, 2019**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Jordanelle Third Mortgage, LLC
Scott MacRitchie
312 Four Mile Trail
Elko, NV 89801

High Desert Engineering
640 Idaho Street
Elko, NV 89801**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: _____

Do not use pencil or red pen, they do not reproduce

Title: Final Plat 14-18 Tower Hills Unit 2
Applicant(s): Jordanelle Third Mortgage
Site Location: Terminus of Deerfield Way & Chukar Dr
Current Zoning: R1 Date Received: 12/20/18 Date Public Notice: N/A
COMMENT: This is for the division of 17.050 acres
into 23 lots for residential development and a
remainder parcel.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: _____

Initial

City Manager: Date: 2/27/19

Recommend approval, pursuant to conditions listed in
City of Elko Staff Report.

CC
Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	February 25, 2019
PLANNING COMMISSION DATE:	March 5, 2019
AGENDA ITEM NUMBER:	I.B.1
APPLICATION NUMBER:	Final Plat 14-18
APPLICANT:	Jordanelle Third Mortgage, LLC
PROJECT DESCRIPTION:	Tower Hills Subdivision Unit 2 at the end of Stitzel Road above Lamoille Highway and Powder House Road

A Final Map for the division of approximately 17.05 acres into 23 lots for single family residential development within an R1 (Single Family Residential) Zoning District and one remaining lot.



STAFF RECOMMENDATION:

RECOMMEND to APPROVE this item subject to findings of fact and conditions.

PROJECT INFORMATION

PARCEL NUMBERS: 001-929-124

PARCEL SIZE: 17.05 acres for this Unit 2 of the subdivision; the entire subdivision is 33.804 acres. In Unit 2, approximately 1.412 acres are offered for dedication for street development

EXISTING ZONING: (R1) Single Family Residential

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Vacant

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

-) North: Residential / Developed
-) East: Elko County Property / Undeveloped
-) South: Agriculture (AG) / Undeveloped
-) West: Planned Commercial / Undeveloped

PROPERTY CHARACTERISTICS:

-) The property is an undeveloped residential parcel.
-) This is the second phase of the Tower Hills Subdivision.
-) The parcel has challenging topography issues with a substantial grade difference towards Lamoille Highway.
-) Frontage of the Lamoille Highway would be under NDOT jurisdiction.
-) A portion of the property is located in the 5600 water zone and therefore cannot be served at this time by the City of Elko.

MASTER PLAN, COORDINATING PLANS, and CITY CODE SECTIONS:

Applicable Master Plan Sections, Coordinating Plans, and City Code Sections are:

-) City of Elko Master Plan – Land Use Component
-) City of Elko Master Plan – Transportation Component
-) City of Elko Redevelopment Plan
-) City of Elko Wellhead Protection Plan
-) City of Elko Zoning – Section 3-2-3 General Provisions
-) City of Elko Zoning – Section 3-2-4 Zoning Districts
-) City of Elko Zoning – Section 3-2-5(B) Single-Family Residential District
-) City of Elko Zoning – Section 3-2-5(G) Residential Zoning Districts Area, Setback And Height Schedule For Principal Buildings

-) City of Elko Zoning – Section 3-8 Flood Plain Management
-) City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
-) City of Elko Zoning – Chapter 3 Subdivisions

BACKGROUND INFORMATION

1. The City Council accepted the Preliminary Plat at its meeting on October 24, 2017.
2. The subdivision is located on APN 001-929-125, shown as parcel A on map 741117 recorded at the Elko County Recorder's Office.
3. The application is for a total of 23 lots. The proposed density is 4.69 units per acre.
4. The total subdivided area is approximately 17.05 acres in size with 6.315 of that divided into 23 lots for Unit 2 with 1 remaining lot.
5. Approximately 1.412 acres are offered for dedication for street development.
6. The property is located off Lamoille Highway, NDOT jurisdiction and at the end of Stitzel Road.
7. Preliminary Plat was approved by City Council on October 24, 2017.

MASTER PLAN:

1. Conformance with the Land Use component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat.
2. Conformance with the Transportation component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat.

The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.

ELKO REDEVELOPMENT PLAN:

1. The property is not located within the Redevelopment Area.

ELKO WELLHEAD PROTECTION PLAN:

1. The property lies outside any capture zone for the City of Elko.

SECTIONS 3-2-3, 3-2-4, 3-2-5(E), 3-2-5(G) and 3-2-17

1. The proposed subdivision was evaluated for conformance to the referenced sections of code during the preliminary plat process.

The proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(B), 3-2-5(G) and 3-2-17 of city code.

SECTION 3-3-7 FINAL MAP STAGE (STAGE III)

Requirements for Presentation of Final Map or Series of Final Maps (B)(1) – The subdivider shall present to the City Council on or before the second anniversary of the date on which the subdivider recorded the first in the series of final maps: (I) a final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or (II) the next final map in the series of final maps covering a portion of the approved tentative map. If the subdivider fails to comply with the provisions of the preceding sentence, all proceedings concerning the subdivision are terminated. Unit 1 Final Map was recorded on May 23, 2018.

Pre-submission Requirements (C)(1) – The Final Plat is in conformance with the zone requirements.

Pre-submission Requirements (C)(2) – The proposed final plat conforms to the preliminary plat.

Utility Easements (D) – The affidavit has been provided on the final map for the utility companies.

SECTION 3-3-8 CONTENT AND FORMAT OF FINAL MAP SUBMITTAL

- A. Form and Content-The final plat conforms to the required size specifications and provides the appropriate affidavits and certifications.
- B. Identification Data
 - 1. The subdivision map identified the subdivision, and provides its location by section, township, range and county.
 - 2. The subdivision map was prepared by a properly licensed surveyor.
 - 3. The subdivision map provides a scale, north point, and date of preparation.
- C. Survey Data
 - 1. The boundaries of the tract are fully balanced and closed.
 - 2. All exceptions are noted on the plat.
 - 3. The location and description of cardinal points are tied to a section corner.
 - 4. The location and description of any physical encroachments upon the boundary of the tract are noted on the plat.
- D. Descriptive Data
 - 1. The name, right of way lines, courses, lengths and widths of all streets and easements are noted on the plat.
 - 2. All drainage ways are noted on the plan.
 - 3. All utility and public service easements are noted on the plat.
 - 4. The location and dimensions of all lots, parcels and exceptions are shown on the plat.
 - 5. All residential lots are numbered consecutively on the plat.
 - 6. There is no public drainage dedicated to the public shown on the plat.
 - 7. The location of adjoining subdivisions are noted on the plat with required information.
 - 8. There are no deed restrictions proposed.
- E. Dedication and Acknowledgment
 - 1. The owner's certificate has the required dedication information for all easements and right of ways.
 - 2. The execution of dedication is acknowledged and certified by a notary public.
- F. Additional Information
 - 1. All centerline monuments for streets are noted as being set on the plat.

2. The centerline and width of each right of way is noted on the plat.
 3. The plat indicates the location of monuments that will be set to determine the boundaries of the subdivision.
 4. The length and bearing of each lot line is identified on the plat.
 5. The city boundary adjoining the subdivision is identified on the plat.
 6. The plat identifies the location of the section lines.
- G. City to Check
1. The City shall check the final map for accuracy of dimensions, placement of monuments, the establishment of survey records, and conformance with the tentative map.
 - a) Closure calculations have been provided.
 - b) Construction plans have been provided.
 - c) Construction plans for manholes, catch basins and other appurtenant structures have been submitted.
 - d) An engineer's estimate has been provided.
 2. It appears the lot closures are within the required tolerances.
- H. Required certifications
1. The Owner's Certificate is shown on the final plat.
 2. The Owner's Certificate offers for dedication all right of ways shown on the plat.
 3. A Clerk Certificate is shown on the final plat, certifying the signature of the City Council.
 4. The Owner's Certificate offers for dedication all easements shown on the plat.
 5. A Surveyor's Certificate is shown on the plat and provides the required language.
 6. The City Engineer's Certificate is listed on the plat.
 7. A certificate from the Nevada Division of Environmental Protection is provided with the required language.
 8. A copy of review by the state engineer is not available at this time.
 9. A certificate from the Division of Water Resources is provided on the plat with the required language.
 10. The civil improvement plans identify the required water meters for the subdivision.

SECTIONS 3-3-9 through 3-3-16 (inclusive)

1. The proposed subdivision was evaluated for conformance to the referenced sections of code during the preliminary plat process.

The proposed development conforms to Sections 3-3-20 through 3-3-27 (inclusive).

SECTION 3-3-17-RESPONSIBILITY FOR IMPROVEMENTS

The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-17 of city code.

SECTION 3-3-18 CONSTRUCTION PLANS

The Subdivider has submitted civil improvement plans in conformance with section 3-3-18 of City code. The plans have been reviewed by city staff. Minor revisions are required as outlined in the city review letter dated January 4, 2019.

SECTION 3-3-19-CONSTRUCTION AND INSPECTION

The Subdivider has submitted plans to the city and state agencies for review to receive all required permits in accordance with the requirements of Section 3-3-19 of city code.

SECTION 3-3-20-REQUIRED IMPROVEMENTS

The Subdivider has submitted civil improvement plans which are in conformance with Section 3-3-20 of city code with the exception noted under 3-3-18.

Civil improvements include curb, gutter and sidewalk, paving and utilities within the Deerfield Way, Pheasant Drive and Chukar Drive right of way.

SECTION 3-3-21-PERFORMANCE AGREEMENTS

The Subdivider is required to enter into a Performance Agreement to conform to Section 3-3-21 of city code.

SECTION 3-3-22-PERFORMANCE AND MAINTENANCE GUARANTEES

The Subdivider is required to provide a Performance and Maintenance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-22 of city code.

SECTION 3-8

1. The property is not located within a designated flood plain.

FINDINGS

1. The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.
2. The subdivision is in conformance with 3-2-4-Establishment of Zoning Districts.
3. The subdivision is in conformance with 3-2-5-B R1- Residential Single-Family Zoning District.
4. The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations.
5. The subdivision is in conformance with 3-3-7-Final Map (Stage III).
6. The subdivision is in conformance with 3-3-8-Content and Format of Final Map Submission.
7. The subdivision is in conformance with 3-3-9-General Provisions for Subdivision Design.
 - a. The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners.
8. The subdivision is in conformance with 3-3-10-Street Location and Arrangement.
9. The subdivision is in conformance with 3-3-11-Street Design.
10. The subdivision is in conformance with 3-3-12-Block Design.
11. The subdivision is in conformance with 3-3-13-Lot Planning

12. The subdivision is in conformance with 3-3-14-Easement Planning.
13. The subdivision is in conformance with 3-3-15-Street Naming.
14. The subdivision is in conformance with 3-3-16-Street Lighting Design Standards.
15. The subdivision is in conformance with 3-3-17-Responsibility for Improvements.
16. The subdivision is in conformance with 3-3-18-Construction Plans.
17. The subdivision is in conformance with 3-3-19-Construction and Inspection.
18. The subdivision is in conformance with 3-3-20-Required Improvements.
19. The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-21-Performance Agreements.
20. The sub-divider shall provide a performance and maintenance guarantee as stipulated in the performance agreement and 3-3-22-Performance and Maintenance Guarantee.
21. The subdivision is in conformance with 3-8 Floodplain Management.
22. The Final Plat is in conformance with the Preliminary Plat.

RECOMMENDATION

Staff recommends **approval** of the subdivision based on the following conditions:

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-21 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-22 of city code. In conformance with Section 3-3-21 of city code, the public improvements shall be completed within a time of no later than two (2) years of the date of Final Plat approval by the City Council unless extended as stipulated in city code.
2. The Performance Agreement shall be approved by the City Council at the time of Final Map approval by the City Council.
3. The developer shall enter into the Performance Agreement within 30 days of approval of the final map by City Council.
4. The final map is approved for 23 single family residential lots and 1 remainder lot.
5. The Utility Department will issue a Will Serve Letter.
6. State approvals of the construction plans and final map are required.
7. Update the Treasurer's jurat to reflect Cheryl Paul instead of Rebecca Erickson.
8. Conformance with Preliminary Plat conditions.
9. Public improvements are required on the State Route 227 frontage or on the south southwest side of the State Route in accordance with NDOT approval. The extent, location and type of public improvements will be determined through the review and approval process for the civil improvement plans.
10. Civil improvements are to comply with Chapter 3-3 of City code.
11. Final approval for construction plans.
12. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition Standard Specifications for Public Works. All Right -of-Way and utility improvements are to be certified by the Engineer of Record for the project.
13. The civil improvement plans are to be revised in accordance with the city review letter dated January 4, 2019 for review and possible approval. This condition shall be satisfied prior to consideration of the Final Plat by the City Council.

14. Construction, with the exception of grading, shall not commence prior to Final plat approval by the City Council, issuance of a will serve letter by the city and approval of the civil improvement plans by the State.

Fire Department

1. 2012 IFC D104.3

D107.1 One- or two-family dwelling residential developments.

Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads, and shall meet the requirements of Section D104.3.



ENVIRONMENTAL PROTECTION

RECEIVED

JAN 14 2019

January 9, 2019

Cathy Laughlin
City Planner, City of Elko
1751 College Avenue
Elko, NV 89801

Re: Verification of Approval of Improvement Plans and Final Map – Tower Hill Subdivision
Units 1, 2 and 3 in the City of Elko, Nevada

Dear Ms. Laughlin:

The Nevada Division of Environmental Protection (NDEP) received a request from the engineer for the above referenced project to provide verification from the NDEP that the improvement plans and final maps were reviewed for this project. Based on the information that the NDEP has on file the improvement plans and final maps were reviewed and approved for each of the following units of Tower Hill Subdivision by both the Bureau of Water Pollution Control and the Bureau of Safe Drinking Water. Tower Hill Subdivision Unit 1 was reviewed and approved on April 14, 2015 for 25 lots (Control No. S9932), Unit 2 was reviewed and approved on August 24, 2015 for 23 lots (Control No. S10264) and Unit 3 was approved on October 6, 2015 for 27 lots (Control No. S10420).

Prior to 2016 the regulations that guide the NDEP subdivision review process (NAC 278) required that the final map be reviewed prior to the beginning of construction on a subdivision. For this reason the civil improvement plan review was not specifically mentioned in the final map approval letters due to the fact that the improvement plans had to be reviewed in order for the NDEP to approve the subdivision final map. This changed in 2016 with a regulation change that now allows for construction to begin after the State approves the improvement plans if **the local agency (City and/or County) also approves the project for construction**. Since 2016 the NDEP approval letters either break the civil improvement plan and final map review into two separate approval letters or one combination letter that specifically calls out the approval of each separately.

This verification of NDEP improvement plan and final map approval from 2015 does not release the developer or engineer from any other regulatory requirements that may be related to the project to include; local regulations or timelines that may have lapsed due to the review taking place in 2015.

Tower Hill Subdivision
January 9, 2019
Page 2 of 2

If you have any questions or comments regarding this letter, please contact me at (775) 687-9546, or rfahey@ndep.nv.gov.

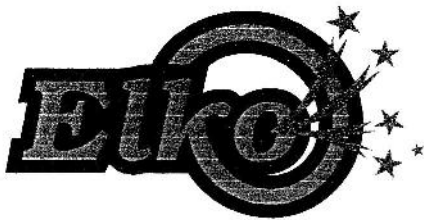
Sincerely,

A handwritten signature in black ink, appearing to read 'R. Fahey', with a stylized flourish at the end.

Ryan Fahey, Staff Engineer
Technical Services, Compliance and Enforcement
Bureau of Water Pollution Control

ECc: Jim Balderson, P.E., BSDW
Katrina Pascual, P.E., BWPC
Elizabeth Kingsland, BWPC
Scott Wilkinson, City of Elko
Ryan Limberg, City of Elko
Thomas C. Ballew, P.E., High Desert Eng.
Scott MacRitchie

Subdivision Final Map Control Nos. S9932, S10264 and S10420



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7119 fax

APPLICATION FOR FINAL PLAT APPROVAL

APPLICANT(s): Jordanelle Third Mortgage, LLC
MAILING ADDRESS: 312 Four Mile Trail, Elko, NV 89801
PHONE NO (Home) (775) 340-6005 (Business) _____
NAME OF PROPERTY OWNER (If different): same
(Property owner consent in writing must be provided)
MAILING ADDRESS: same
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):
ASSESSOR'S PARCEL NO.: 001-929-124 Address N/A
Lot(s), Block(s), & Subdivision _____
Or Parcel(s) & File No. Parcel A, File 741117
PROJECT DESCRIPTION OR PURPOSE: 23 Lot Single Family Residential Subdivision
APPLICANT'S REPRESENTATIVE OR ENGINEER: High Desert Engineering, LLC

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month), and must include the following:

1. One .pdf of the entire application, and ten (10) 24" x 36" copies of the final plat folded to a size not to exceed 9"x12" provided by a properly licensed surveyor, as well as one (1) set of reproducible plans 8 1/2" x 11" in size and any required supporting data, prepared in accordance with Section 3-3-8 of Elko City Code (see attached checklist).
2. Pre-Submission Requirements:
 - a. The final plat shall meet all requirements of the zoning district in which located, and any necessary zoning amendment shall have been adopted by the Elko City Council prior to filing of the final plat.
 - b. The final plat shall conform closely to the approved preliminary plat and be prepared in accordance with the provisions of the City Subdivision Ordinance.
 - c. The final plat submittal shall include a letter signifying approval of utility easements by all public utilities involved, and shall be so indicated by an affidavit on the map.
 - d. A complete set of construction plans for all public improvements associated with the final plat shall have been approved or substantially approved by the City Engineer.

Fee: \$750.00 + \$25.00 per lot including remainder parcels; non-refundable.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

Final Plat Checklist 3-3-8

Identification Data	
<input checked="" type="checkbox"/>	Subdivision Name
<input checked="" type="checkbox"/>	Location and Section, Township and Range
<input checked="" type="checkbox"/>	Name, address and phone number of subdivider
<input checked="" type="checkbox"/>	Name, address and phone number of engineer/surveyor
<input checked="" type="checkbox"/>	Scale, North Point and Date of Preparation
<input checked="" type="checkbox"/>	Location maps
Survey Data (Required)	
<input checked="" type="checkbox"/>	Boundaries of the Tract fully balanced and closed
<input checked="" type="checkbox"/>	Any exception within the plat boundaries
<input checked="" type="checkbox"/>	The subdivision is to be tied to a section corner
<input checked="" type="checkbox"/>	Location and description of all physical encroachments
Descriptive Data	
<input checked="" type="checkbox"/>	Street Layout, location, widths, easements
<input checked="" type="checkbox"/>	All drainageways, designated as such
<input checked="" type="checkbox"/>	All utility and public service easements
<input checked="" type="checkbox"/>	Location and dimensions of all lots, parcels
<input checked="" type="checkbox"/>	Residential Lots shall be numbered consecutively
<input checked="" type="checkbox"/>	All sites to be dedicated to the public and proposed use
<input checked="" type="checkbox"/>	Location of all adjoining subdivisions with name date, book and page
<input checked="" type="checkbox"/>	Any private deed restrictions to be imposed upon the plat
Dedication and Acknowledgment	
<input checked="" type="checkbox"/>	Statement of dedication for items to be dedicated
<input checked="" type="checkbox"/>	Execution of dedication acknowledged by a notary public
Additional Information	
<input checked="" type="checkbox"/>	Street CL, and Monuments identified
<input checked="" type="checkbox"/>	Street CL and width shown on map
<input checked="" type="checkbox"/>	Location of mounuments used to determine boudaries
<input checked="" type="checkbox"/>	Each city boundary line crossing or adjoining the subdivision
<input checked="" type="checkbox"/>	Section lines crossing the subdivision boundaries
City Engineer to Check	
<input checked="" type="checkbox"/>	Closure report for each of the lots
<input checked="" type="checkbox"/>	Civil Improvement plans
<input checked="" type="checkbox"/>	Estimate of quantities required to complete the improvements
Required Certifications	
<input checked="" type="checkbox"/>	All parties having record title in the land to be subdivided
<input checked="" type="checkbox"/>	Offering for dedication
<input checked="" type="checkbox"/>	Clerk of each approving governing body
<input checked="" type="checkbox"/>	Easements
<input checked="" type="checkbox"/>	Surveyor's Certificate
<input checked="" type="checkbox"/>	City Engineer
<input checked="" type="checkbox"/>	State Health division
<input checked="" type="checkbox"/>	State Engineer
<input checked="" type="checkbox"/>	Division of Water Resources
<input checked="" type="checkbox"/>	City Council

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I acknowledge that, if approved, I must provide an AutoCAD file containing the final subdivision layout on NAD 83 NV East Zone Coordinate System to the City Engineering Department when requesting final map signatures for recording.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent: Scott MacRitchie, Managing Director
(Please print or type)

Mailing Address: 312 Four Mile Trail
Street Address or P.O. Box
Elko, NV 89801
City, State, Zip Code

Phone Number: (775) 340-6005

Email address: scott@macritchie.com

SIGNATURE: Scott Mac Ritchie

FOR OFFICE USE ONLY

File No.: 14-18 Date Filed: 12/20/18 Fee Paid: \$1,350 ^{23 Lots + 1 remainder = 24 Lots} OK #3515

\$600
+ 750
\$1,350

LOT CALCULATIONS

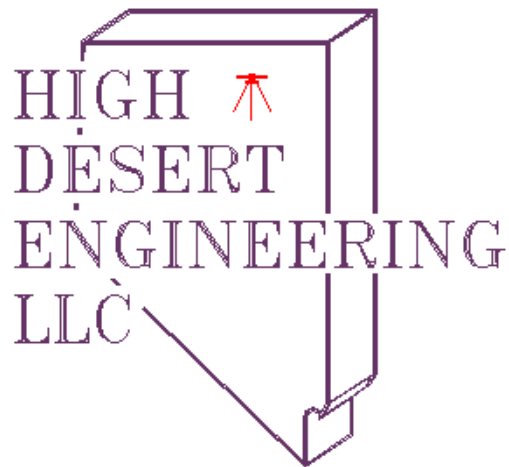
FOR

TOWER HILL SUBDIVISION UNIT NUMBER 2 ELKO, NEVADA

PREPARED FOR:

**Jordanelle Third Mortgage, LLC
312 Four Mile Trail
Elko, Nevada 89801**

**Contact:
Scott MacRitchie
(775) 340-6005**



PREPARED BY

**HIGH DESERT Engineering
640 Idaho Street
Elko, Nevada**

February, 2019

Parcel name: UNIT 2 TOTAL

North:	12958.928	East :	60886.760
Line	Course: N 00-04-57 E	Length:	54.01
	North: 13012.938	East :	60886.837
Line	Course: N 89-55-03 W	Length:	79.55
	North: 13013.052	East :	60807.287
Line	Course: N 63-25-29 W	Length:	49.08
	North: 13035.009	East :	60763.393
Line	Course: N 49-26-14 W	Length:	523.39
	North: 13375.360	East :	60365.777
Line	Course: N 56-56-14 W	Length:	50.00
	North: 13402.638	East :	60323.873
Line	Course: N 49-26-14 W	Length:	37.04
	North: 13426.724	East :	60295.734
Line	Course: S 40-33-46 W	Length:	39.55
	North: 13396.678	East :	60270.015
Curve	Length: 86.32	Radius:	100.00
	Delta: 49-27-31	Tangent:	46.06
	Chord: 83.67	Course:	S 65-17-32 W
	Course In: N 49-26-14 W	Course Out:	S 00-01-17 W
RP	North: 13461.706	East :	60194.046
End	North: 13361.706	East :	60194.009
Line	Course: N 89-58-43 W	Length:	72.59
	North: 13361.734	East :	60121.419
Line	Course: S 40-33-46 W	Length:	215.75
	North: 13197.830	East :	59981.120
Curve	Length: 87.57	Radius:	50.00
	Delta: 100-20-42	Tangent:	59.95
	Chord: 76.80	Course:	S 09-36-35 E
	Course In: S 49-26-14 E	Course Out:	S 30-13-04 W
RP	North: 13165.316	East :	60019.105
End	North: 13122.110	East :	59993.941
Line	Course: S 30-13-04 W	Length:	100.00
	North: 13035.698	East :	59943.612
Line	Course: S 65-50-29 W	Length:	224.78
	North: 12943.703	East :	59738.519
Curve	Length: 118.73	Radius:	1900.00
	Delta: 3-34-49	Tangent:	59.38
	Chord: 118.71	Course:	S 25-56-56 E
	Course In: N 65-50-29 E	Course Out:	S 62-15-40 W
RP	North: 13721.305	East :	61472.109
End	North: 12836.964	East :	59790.461
Line	Course: N 62-15-39 E	Length:	50.00
	North: 12860.236	East :	59834.715
Curve	Length: 190.75	Radius:	1850.00
	Delta: 5-54-28	Tangent:	95.46
	Chord: 190.67	Course:	S 30-41-34 E
	Course In: N 62-15-40 E	Course Out:	S 56-21-12 W
RP	North: 13721.305	East :	61472.109
End	North: 12696.276	East :	59932.039
Line	Course: S 33-38-48 E	Length:	266.50
	North: 12474.423	East :	60079.699
Line	Course: N 41-54-22 E	Length:	361.39

	North: 12743.384	East : 60321.076
Line	Course: S 48-05-38 E	Length: 100.00
	North: 12676.593	East : 60395.500
Line	Course: S 47-34-46 E	Length: 62.86
	North: 12634.189	East : 60441.904
Curve	Length: 52.56	Radius: 55.00
	Delta: 54-45-04	Tangent: 28.48
	Chord: 50.58	Course: S 12-30-18 E
	Course In: S 50-07-10 W	Course Out: S 75-07-46 E
RP	North: 12598.924	East : 60399.698
End	North: 12584.809	East : 60452.856
Line	Course: S 49-52-21 E	Length: 148.59
	North: 12489.044	East : 60566.469
Line	Course: S 70-45-36 E	Length: 70.62
	North: 12465.773	East : 60633.145
Line	Course: S 82-16-23 E	Length: 93.73
	North: 12453.171	East : 60726.024
Line	Course: S 89-55-03 E	Length: 210.00
	North: 12452.868	East : 60936.024
Line	Course: N 00-04-57 E	Length: 90.99
	North: 12543.858	East : 60936.155
Line	Course: S 89-55-03 E	Length: 105.00
	North: 12543.707	East : 61041.155
Line	Course: N 00-04-57 E	Length: 415.00
	North: 12958.707	East : 61041.752
Line	Course: N 89-55-03 W	Length: 155.00
	North: 12958.930	East : 60886.752

Perimeter: 4111.35 Area: 742,709 SF 17.050 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.007 Course: N 74-37-26 W

Error North: 0.0020 East : -0.0071

Precision 1: 587,335.71

Parcel name: UNIT 2 STREETS

	North: 13195.992	East : 60161.109
Curve	Length: 31.13	Radius: 175.00
	Delta: 10-11-37	Tangent: 15.61
	Chord: 31.09	Course: N 35-27-58 E
	Course In: S 59-37-51 E	Course Out: N 49-26-14 W
	RP North: 13107.517	East : 60312.097
	End North: 13221.316	East : 60179.150
Line	Course: N 40-33-46 E	Length: 153.39
	North: 13337.846	East : 60278.897
Curve	Length: 36.00	Radius: 275.00
	Delta: 7-30-00	Tangent: 18.02
	Chord: 35.97	Course: N 36-48-46 E
	Course In: N 49-26-14 W	Course Out: S 56-56-14 E
	RP North: 13516.673	East : 60069.981
	End North: 13366.644	East : 60300.451
Line	Course: N 33-03-46 E	Length: 42.95
	North: 13402.640	East : 60323.883
Line	Course: S 56-56-14 E	Length: 50.00
	North: 13375.362	East : 60365.786
Line	Course: S 33-03-46 W	Length: 42.95
	North: 13339.367	East : 60342.355
Curve	Length: 42.54	Radius: 325.00
	Delta: 7-30-00	Tangent: 21.30
	Chord: 42.51	Course: S 36-48-46 W
	Course In: N 56-56-14 W	Course Out: S 49-26-14 E
	RP North: 13516.673	East : 60069.981
	End North: 13305.331	East : 60316.881
Curve	Length: 23.56	Radius: 15.00
	Delta: 90-00-00	Tangent: 15.00
	Chord: 21.21	Course: S 04-26-14 E
	Course In: S 49-26-14 E	Course Out: S 40-33-46 W
	RP North: 13295.577	East : 60328.277
	End North: 13284.182	East : 60318.523
Line	Course: S 49-26-14 E	Length: 496.85
	North: 12961.090	East : 60695.977
Curve	Length: 141.30	Radius: 200.00
	Delta: 40-28-49	Tangent: 73.74
	Chord: 138.38	Course: S 69-40-38 E
	Course In: N 40-33-46 E	Course Out: S 00-04-57 W
	RP North: 13113.029	East : 60826.033
	End North: 12913.029	East : 60825.745
Line	Course: S 89-55-03 E	Length: 45.95
	North: 12912.963	East : 60871.695
Curve	Length: 23.56	Radius: 15.00
	Delta: 90-00-00	Tangent: 15.00
	Chord: 21.21	Course: N 45-04-57 E
	Course In: N 00-04-57 E	Course Out: S 89-55-03 E
	RP North: 12927.963	East : 60871.716
	End North: 12927.941	East : 60886.716
Line	Course: N 00-04-57 E	Length: 30.99
	North: 12958.931	East : 60886.761
Line	Course: S 89-55-03 E	Length: 50.00

	North: 12958.859	East : 60936.761
Line	Course: S 00-04-57 W	Length: 245.00
	North: 12713.859	East : 60936.408
Line	Course: N 89-55-03 W	Length: 50.00
	North: 12713.931	East : 60886.408
Line	Course: N 00-04-57 E	Length: 134.01
	North: 12847.941	East : 60886.601
Curve	Length: 23.56	Radius: 15.00
	Delta: 90-00-00	Tangent: 15.00
	Chord: 21.21	Course: N 44-55-03 W
	Course In: N 89-55-03 W	Course Out: N 00-04-57 E
	RP North: 12847.963	East : 60871.601
	End North: 12862.963	East : 60871.623
Line	Course: N 89-55-03 W	Length: 45.95
	North: 12863.029	East : 60825.673
Curve	Length: 176.63	Radius: 250.00
	Delta: 40-28-49	Tangent: 92.18
	Chord: 172.98	Course: N 69-40-38 W
	Course In: N 00-04-57 E	Course Out: S 40-33-46 W
	RP North: 13113.029	East : 60826.033
	End North: 12923.105	East : 60663.462
Line	Course: N 49-26-14 W	Length: 496.85
	North: 13246.197	East : 60286.009
Curve	Length: 23.56	Radius: 15.00
	Delta: 90-00-00	Tangent: 15.00
	Chord: 21.21	Course: S 85-33-46 W
	Course In: S 40-33-46 W	Course Out: N 49-26-14 W
	RP North: 13234.802	East : 60276.254
	End North: 13244.556	East : 60264.859
Line	Course: S 40-33-46 W	Length: 73.39
	North: 13188.802	East : 60217.135
Curve	Length: 22.24	Radius: 125.00
	Delta: 10-11-37	Tangent: 11.15
	Chord: 22.21	Course: S 35-27-58 W
	Course In: S 49-26-14 E	Course Out: N 59-37-51 W
	RP North: 13107.517	East : 60312.097
	End North: 13170.713	East : 60204.248
Line	Course: N 59-37-51 W	Length: 50.00
	North: 13195.992	East : 60161.109

Perimeter: 2552.36 Area: 62,146 SF 1.427 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000 Course: S 57-59-41 W

Error North: -0.0000 East : -0.0000

Precision 1: 2,552,360,000.00

Parcel name: LOT 201

North: 13375.358 East : 60365.784
Line Course: S 49-26-14 E Length: 83.39
North: 13321.131 East : 60429.135
Line Course: S 40-33-46 W Length: 100.00
North: 13245.162 East : 60364.107
Line Course: N 49-26-14 W Length: 60.00
North: 13284.179 East : 60318.525
Curve Length: 23.56 Radius: 15.00
Delta: 90-00-00 Tangent: 15.00
Chord: 21.21 Course: N 04-26-14 W
Course In: N 40-33-46 E Course Out: N 49-26-14 W
RP North: 13295.574 East : 60328.279
End North: 13305.328 East : 60316.884
Curve Length: 42.54 Radius: 325.00
Delta: 7-30-00 Tangent: 21.30
Chord: 42.51 Course: N 36-48-46 E
Course In: N 49-26-14 W Course Out: S 56-56-14 E
RP North: 13516.670 East : 60069.983
End North: 13339.363 East : 60342.357
Line Course: N 33-03-46 E Length: 42.95
North: 13375.359 East : 60365.789

Perimeter: 352.44 Area: 7,729 SF 0.177 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.005 Course: N 84-50-14 E
Error North: 0.0004 East : 0.0050
Precision 1: 70,488.00

Parcel name: LOT 202

North: 13245.164 East : 60364.104
Line Course: N 40-33-46 E Length: 100.00
North: 13321.134 East : 60429.132
Line Course: S 49-26-14 E Length: 65.00
North: 13278.866 East : 60478.512
Line Course: S 40-33-46 W Length: 100.00
North: 13202.896 East : 60413.484
Line Course: N 49-26-14 W Length: 65.00
North: 13245.164 East : 60364.104

Perimeter: 330.00 Area: 6,500 SF 0.149 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 75-57-50 E
Error North: -0.0000 East : 0.0000
Precision 1: 330,000,000.00

Parcel name: LOT 203

North:	13202.896	East :	60413.484
Line Course:	N 40-33-46 E	Length:	100.00
	North: 13278.866		East : 60478.512
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13230.095		East : 60535.489
Line Course:	S 40-33-46 W	Length:	100.00
	North: 13154.125		East : 60470.461
Line Course:	N 49-26-14 W	Length:	75.00
	North: 13202.896		East : 60413.484

Perimeter: 350.00 Area: 7,500 SF 0.172 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 75-57-50 E
Error North: -0.0000 East : 0.0000
Precision 1: 350,000,000.00

Parcel name: LOT 204

North:	13154.125	East :	60470.461
Line Course:	N 40-33-46 E	Length:	100.00
	North: 13230.095		East : 60535.489
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13181.323		East : 60592.466
Line Course:	S 40-33-46 W	Length:	100.00
	North: 13105.354		East : 60527.438
Line Course:	N 49-26-14 W	Length:	75.00
	North: 13154.125		East : 60470.461

Perimeter: 350.00 Area: 7,500 SF 0.172 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 75-57-50 E
Error North: -0.0000 East : 0.0000
Precision 1: 350,000,000.00

Parcel name: LOT 205

North:	13105.354	East :	60527.438
Line Course:	N 40-33-46 E	Length:	100.00
	North: 13181.323		East : 60592.466
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13132.552		East : 60649.443
Line Course:	S 40-33-46 W	Length:	100.00
	North: 13056.583		East : 60584.415
Line Course:	N 49-26-14 W	Length:	75.00
	North: 13105.354		East : 60527.438

Perimeter: 350.00 Area: 7,500 SF 0.172 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000 Course: S 75-57-50 E

Error North: -0.0000 East : 0.0000

Precision 1: 350,000,000.00

Parcel name: LOT 206

North: 13056.583 East : 60584.415
Line Course: N 40-33-46 E Length: 100.00
North: 13132.552 East : 60649.443
Line Course: S 49-26-14 E Length: 75.00
North: 13083.781 East : 60706.420
Line Course: S 40-33-46 W Length: 100.00
North: 13007.812 East : 60641.392
Line Course: N 49-26-14 W Length: 75.00
North: 13056.583 East : 60584.415

Perimeter: 350.00 Area: 7,500 SF 0.172 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000 Course: S 75-57-50 E

Error North: -0.0000 East : 0.0000

Precision 1: 350,000,000.00

Parcel name: LOT 207

North: 13007.812 East : 60641.392
Line Course: N 40-33-46 E Length: 100.00
North: 13083.781 East : 60706.420
Line Course: S 49-26-14 E Length: 75.00
North: 13035.010 East : 60763.397
Line Course: S 40-33-46 W Length: 99.98
North: 12959.056 East : 60698.382
Curve Length: 3.15 Radius: 200.00
Delta: 0-54-07 Tangent: 1.57
Chord: 3.15 Course: N 49-53-17 W
Course In: N 39-39-39 E Course Out: S 40-33-46 W
RP North: 13113.023 East : 60826.030
End North: 12961.084 East : 60695.974
Line Course: N 49-26-14 W Length: 71.85
North: 13007.807 East : 60641.390

Perimeter: 349.98 Area: 7,500 SF 0.172 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.005 Course: S 20-27-21 W

Error North: -0.0048 East : -0.0018

Precision 1: 69,996.00

Parcel name: LOT 208

North: 12959.060 East : 60698.385
Line Course: N 40-33-46 E Length: 99.98
North: 13035.014 East : 60763.400
Line Course: S 63-25-29 E Length: 49.08
North: 13013.057 East : 60807.295
Line Course: S 10-37-07 W Length: 98.29
North: 12916.450 East : 60789.183
Curve Length: 101.38 Radius: 200.00
Delta: 29-02-32 Tangent: 51.80
Chord: 100.29 Course: N 64-51-37 W
Course In: N 10-37-07 E Course Out: S 39-39-39 W
RP North: 13113.025 East : 60826.037
End North: 12959.058 East : 60698.389
Line Course: N 72-25-06 E Length: 67.58
North: 12979.471 East : 60762.812
Line Course: S 72-25-06 W Length: 67.58
North: 12959.058 East : 60698.389

Perimeter: 483.88 Area: 7,580 SF 0.174 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.004 Course: S 62-22-35 E

Error North: -0.0018 East : 0.0035

Precision 1: 120,972.50

Parcel name: LOT 209

North: 12916.452 East : 60789.179
Line Course: N 10-37-07 E Length: 98.29
North: 13013.059 East : 60807.291
Line Course: S 89-55-03 E Length: 79.55
North: 13012.944 East : 60886.841
Line Course: S 00-04-57 W Length: 85.00
North: 12927.944 East : 60886.719
Curve Length: 23.56 Radius: 15.00
Delta: 90-00-00 Tangent: 15.00
Chord: 21.21 Course: S 45-04-57 W
Course In: N 89-55-03 W Course Out: S 00-04-57 W
RP North: 12927.966 East : 60871.719
End North: 12912.966 East : 60871.697
Line Course: N 89-55-03 W Length: 45.95
North: 12913.032 East : 60825.747
Curve Length: 36.78 Radius: 200.00
Delta: 10-32-10 Tangent: 18.44
Chord: 36.73 Course: N 84-38-58 W
Course In: N 00-04-57 E Course Out: S 10-37-07 W
RP North: 13113.032 East : 60826.035
End North: 12916.457 East : 60789.181

Perimeter: 369.12 Area: 8,794 SF 0.202 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.005 Course: N 20-26-42 E
 Error North: 0.0048 East : 0.0018
Precision 1: 73,826.00

Parcel name: LOT 210

 North: 12958.856 East : 60936.759
Line Course: S 89-55-03 E Length: 105.00
 North: 12958.705 East : 61041.759
Line Course: S 00-04-57 W Length: 85.00
 North: 12873.705 East : 61041.637
Line Course: N 89-55-03 W Length: 105.00
 North: 12873.856 East : 60936.637
Line Course: N 00-04-57 E Length: 85.00
 North: 12958.856 East : 60936.759

 Perimeter: 380.00 Area: 8,925 SF 0.205 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 90-00-00 E
 Error North: 0.0000 East : 0.0000
Precision 1: 380,000,000.00

Parcel name: LOT 211

 North: 12873.856 East : 60936.637
Line Course: S 89-55-03 E Length: 105.00
 North: 12873.705 East : 61041.637
Line Course: S 00-04-57 W Length: 77.50
 North: 12796.205 East : 61041.525
Line Course: N 89-55-03 W Length: 105.00
 North: 12796.356 East : 60936.526
Line Course: N 00-04-57 E Length: 77.50
 North: 12873.856 East : 60936.637

 Perimeter: 365.00 Area: 8,137 SF 0.187 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 90-00-00 E
 Error North: 0.0000 East : 0.0000
Precision 1: 365,000,000.00

Parcel name: LOT 212

North:	12796.356	East :	60936.526
Line Course:	S 89-55-03 E	Length:	105.00
North:	12796.205	East :	61041.525
Line Course:	S 00-04-57 W	Length:	82.50
North:	12713.705	East :	61041.407
Line Course:	N 89-55-03 W	Length:	105.00
North:	12713.856	East :	60936.407
Line Course:	N 00-04-57 E	Length:	82.50
North:	12796.356	East :	60936.526

Perimeter: 375.00 Area: 8,662 SF 0.199 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.000 Course: S 90-00-00 E
Error North: 0.0000 East : 0.0000
Precision 1: 375,000,000.00

Parcel name: LOT 213

North:	12732.940	East :	60886.434
Line Course:	N 89-55-03 W	Length:	90.00
North:	12733.069	East :	60796.434
Line Course:	N 00-04-57 E	Length:	131.69
North:	12864.759	East :	60796.624
Curve Length:	29.12	Radius:	250.00
Delta:	6-40-24	Tangent:	14.58
Chord:	29.10	Course:	S 86-34-51 E
Course In:	N 06-45-21 E	Course Out:	S 00-04-57 W
RP North:	13113.023	East :	60826.033
End North:	12863.023	East :	60825.674
Line Course:	S 89-55-03 E	Length:	45.95
North:	12862.957	East :	60871.623
Curve Length:	23.56	Radius:	15.00
Delta:	90-00-00	Tangent:	15.00
Chord:	21.21	Course:	S 44-55-03 E
Course In:	S 00-04-57 W	Course Out:	S 89-55-03 E
RP North:	12847.957	East :	60871.602
End North:	12847.936	East :	60886.602
Line Course:	S 00-04-57 W	Length:	115.00
North:	12732.936	East :	60886.436

Perimeter: 435.32 Area: 11,668 SF 0.268 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.004 Course: S 29-08-56 E
Error North: -0.0038 East : 0.0021
Precision 1: 108,830.00

Parcel name: LOT 214

North:	12864.763	East :	60796.624
Line Course:	S 00-04-57 W	Length:	131.69
North:	12733.073	East :	60796.434
Line Course:	N 89-55-03 W	Length:	80.00
North:	12733.188	East :	60716.434
Line Course:	N 64-18-51 W	Length:	37.87
North:	12749.602	East :	60682.306
Line Course:	N 21-34-40 E	Length:	140.82
North:	12880.554	East :	60734.095
Curve Length:	64.67	Radius:	250.00
Delta:	14-49-19	Tangent:	32.52
Chord:	64.49	Course:	S 75-49-59 E
Course In:	N 21-34-40 E	Course Out:	S 06-45-21 W
RP North:	13113.033	East :	60826.036
End North:	12864.769	East :	60796.626

Perimeter: 455.06 Area: 12,584 SF 0.289 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.007 Course: N 21-01-42 E
Error North: 0.0065 East : 0.0025
Precision 1: 65,007.14

Parcel name: LOT 215

North:	12880.547	East :	60734.092
Line Course:	S 21-34-40 W	Length:	140.82
North:	12749.596	East :	60682.304
Line Course:	N 64-18-51 W	Length:	21.09
North:	12758.737	East :	60663.298
Line Course:	N 48-05-38 W	Length:	88.63
North:	12817.934	East :	60597.336
Line Course:	N 40-33-46 E	Length:	123.55
North:	12911.794	East :	60677.678
Curve Length:	64.67	Radius:	250.00
Delta:	14-49-19	Tangent:	32.52
Chord:	64.49	Course:	S 61-00-40 E
Course In:	N 36-23-59 E	Course Out:	S 21-34-40 W
RP North:	13113.019	East :	60826.032
End North:	12880.539	East :	60734.091

Perimeter: 438.77 Area: 11,407 SF 0.262 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.009 Course: S 10-20-37 W
Error North: -0.0085 East : -0.0015
Precision 1: 48,751.11

Parcel name: LOT 216

North: 12911.803 East : 60677.679
Line Course: S 40-33-46 W Length: 123.55
North: 12817.943 East : 60597.337
Line Course: N 48-05-38 W Length: 75.02
North: 12868.050 East : 60541.504
Line Course: N 40-33-46 E Length: 121.14
North: 12960.079 East : 60620.279
Line Course: S 49-26-14 E Length: 56.85
North: 12923.110 East : 60663.468
Curve Length: 18.16 Radius: 250.00
Delta: 4-09-47 Tangent: 9.09
Chord: 18.16 Course: S 51-31-07 E
Course In: N 40-33-46 E Course Out: S 36-23-59 W
RP North: 13113.034 East : 60826.038
End North: 12911.810 East : 60677.684

Perimeter: 394.73 Area: 9,155 SF 0.210 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.008 Course: N 36-25-38 E
Error North: 0.0067 East : 0.0050
Precision 1: 49,340.00

Parcel name: LOT 217

North: 12960.073 East : 60620.273
Line Course: S 40-33-46 W Length: 121.14
North: 12868.044 East : 60541.498
Line Course: N 48-05-38 W Length: 75.02
North: 12918.150 East : 60485.666
Line Course: N 40-33-46 E Length: 119.38
North: 13008.843 East : 60563.296
Line Course: S 49-26-14 E Length: 75.00
North: 12960.072 East : 60620.273

Perimeter: 390.53 Area: 9,019 SF 0.207 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.001 Course: S 14-39-46 W
Error North: -0.0014 East : -0.0004
Precision 1: 390,540.00

Parcel name: LOT 218

North:	13008.844	East :	60563.296
Line Course:	S 40-33-46 W	Length:	119.38
	North: 12918.152		East : 60485.666
Line Course:	N 48-05-38 W	Length:	75.02
	North: 12968.259		East : 60429.833
Line Course:	N 40-33-46 E	Length:	117.62
	North: 13057.614		East : 60506.319
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13008.843		East : 60563.296

Perimeter: 387.02 Area: 8,887 SF 0.204 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.001 Course: S 14-39-46 W
Error North: -0.0014 East : -0.0004
Precision 1: 387,020.00

Parcel name: LOT 219

North:	13057.615	East :	60506.319
Line Course:	S 40-33-46 W	Length:	117.62
	North: 12968.260		East : 60429.833
Line Course:	N 48-05-38 W	Length:	75.02
	North: 13018.367		East : 60374.000
Line Course:	N 40-33-46 E	Length:	115.86
	North: 13106.385		East : 60449.342
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13057.614		East : 60506.319

Perimeter: 383.50 Area: 8,755 SF 0.201 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.001 Course: S 14-39-46 W
Error North: -0.0014 East : -0.0004
Precision 1: 383,500.00

Parcel name: LOT 220

North:	13106.386	East :	60449.342
Line Course:	S 40-33-46 W	Length:	115.86
	North: 13018.368		East : 60374.001
Line Course:	N 48-05-38 W	Length:	75.02
	North: 13068.475		East : 60318.168
Line Course:	N 40-33-46 E	Length:	114.10
	North: 13155.156		East : 60392.365
Line Course:	S 49-26-14 E	Length:	75.00
	North: 13106.385		East : 60449.342

Perimeter: 379.98 Area: 8,623 SF 0.198 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.001 Course: S 14-39-46 W

Error North: -0.0014 East : -0.0004

Precision 1: 379,980.00

Parcel name: LOT 221

North: 13155.157 East : 60392.365
Line Course: S 40-33-46 W Length: 114.10
North: 13068.476 East : 60318.168
Line Course: N 48-05-38 W Length: 75.02
North: 13118.583 East : 60262.335
Line Course: N 40-33-46 E Length: 112.34
North: 13203.927 East : 60335.388
Line Course: S 49-26-14 E Length: 75.00
North: 13155.156 East : 60392.365

Perimeter: 376.46 Area: 8,492 SF 0.195 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.001 Course: S 14-39-46 W

Error North: -0.0014 East : -0.0004

Precision 1: 376,460.00

Parcel name: LOT 222

North: 13203.928 East : 60335.388
Line Course: S 40-33-46 W Length: 112.34
North: 13118.584 East : 60262.336
Line Course: N 48-05-38 W Length: 78.05
North: 13170.715 East : 60204.248
Curve Length: 10.89 Radius: 125.00
Delta: 4-59-34 Tangent: 5.45
Chord: 10.89 Course: N 32-51-56 E
Course In: S 59-37-51 E Course Out: N 54-38-17 W
RP North: 13107.519 East : 60312.096
End North: 13179.861 East : 60210.157
Curve Length: 11.35 Radius: 125.00
Delta: 5-12-03 Tangent: 5.68
Chord: 11.34 Course: N 37-57-45 E
Course In: S 54-38-17 E Course Out: N 49-26-14 W
RP North: 13107.519 East : 60312.096
End North: 13188.804 East : 60217.134
Line Course: N 40-33-46 E Length: 73.39
North: 13244.558 East : 60264.858
Curve Length: 23.56 Radius: 15.00
Delta: 90-00-00 Tangent: 15.00
Chord: 21.21 Course: N 85-33-46 E

Course In: S 49-26-14 E Course Out: N 40-33-46 E
RP North: 13234.803 East : 60276.254
End North: 13246.199 East : 60286.008
Line Course: S 49-26-14 E Length: 65.00
North: 13203.931 East : 60335.388

Perimeter: 374.58 Area: 8,850 SF 0.203 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.002 Course: N 04-21-41 W
Error North: 0.0023 East : -0.0002
Precision 1: 187,290.00

Parcel name: LOT 223

North: 13208.796 East : 60169.382
Line Course: N 49-26-14 W Length: 135.88
North: 13297.156 East : 60066.155
Line Course: N 40-33-46 E Length: 85.00
North: 13361.730 East : 60121.428
Line Course: S 89-58-43 E Length: 72.59
North: 13361.703 East : 60194.018
Curve Length: 86.32 Radius: 100.00
Delta: 49-27-31 Tangent: 46.06
Chord: 83.67 Course: N 65-17-32 E
Course In: N 00-01-17 E Course Out: S 49-26-14 E
RP North: 13461.703 East : 60194.056
End North: 13396.675 East : 60270.025
Line Course: N 40-33-46 E Length: 39.55
North: 13426.721 East : 60295.744
Line Course: S 49-26-14 E Length: 37.04
North: 13402.635 East : 60323.883
Line Course: S 33-03-46 W Length: 42.95
North: 13366.639 East : 60300.451
Curve Length: 36.00 Radius: 275.00
Delta: 7-30-00 Tangent: 18.02
Chord: 35.97 Course: S 36-48-46 W
Course In: N 56-56-14 W Course Out: S 49-26-14 E
RP North: 13516.668 East : 60069.981
End North: 13337.840 East : 60278.897
Line Course: S 40-33-46 W Length: 153.39
North: 13221.311 East : 60179.150
Curve Length: 15.89 Radius: 175.00
Delta: 5-12-03 Tangent: 7.95
Chord: 15.88 Course: S 37-57-45 W
Course In: S 49-26-14 E Course Out: N 54-38-17 W
RP North: 13107.512 East : 60312.097
End North: 13208.791 East : 60169.382

Perimeter: 704.61 Area: 22,334 SF 0.513 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.005
Error North: -0.0048
Precision 1: 140,922.00

Course: S 02-29-27 E
East : 0.0002

Parcel name: PARCEL C

North: 12713.705 East : 61041.407
Line Course: N 89-55-03 W Length: 155.00
North: 12713.928 East : 60886.407
Line Course: N 00-04-57 E Length: 19.01
North: 12732.938 East : 60886.434
Line Course: N 89-55-03 W Length: 170.00
North: 12733.183 East : 60716.434
Line Course: N 64-18-51 W Length: 58.96
North: 12758.738 East : 60663.300
Line Course: N 48-05-38 W Length: 616.80
North: 13170.706 East : 60204.253
Line Course: N 59-37-51 W Length: 50.00
North: 13195.985 East : 60161.114
Curve Length: 15.25 Radius: 175.00
Delta: 4-59-34 Tangent: 7.63
Chord: 15.24 Course: N 32-51-56 E
Course In: S 59-37-51 E Course Out: N 54-38-17 W
RP North: 13107.510 East : 60312.101
End North: 13208.790 East : 60169.387
Line Course: N 49-26-14 W Length: 135.88
North: 13297.150 East : 60066.159
Line Course: S 40-33-46 W Length: 130.75
North: 13197.820 East : 59981.135
Curve Length: 87.57 Radius: 50.00
Delta: 100-20-42 Tangent: 59.95
Chord: 76.80 Course: S 09-36-35 E
Course In: S 49-26-14 E Course Out: S 30-13-04 W
RP North: 13165.306 East : 60019.120
End North: 13122.100 East : 59993.955
Line Course: S 30-13-04 W Length: 100.00
North: 13035.688 East : 59943.627
Line Course: S 65-50-29 W Length: 224.78
North: 12943.694 East : 59738.534
Curve Length: 118.73 Radius: 1900.00
Delta: 3-34-49 Tangent: 59.38
Chord: 118.71 Course: S 25-56-56 E
Course In: N 65-50-29 E Course Out: S 62-15-40 W
RP North: 13721.295 East : 61472.124
End North: 12836.954 East : 59790.476
Line Course: N 62-15-39 E Length: 50.00
North: 12860.226 East : 59834.730
Curve Length: 190.75 Radius: 1850.00
Delta: 5-54-28 Tangent: 95.46
Chord: 190.67 Course: S 30-41-34 E
Course In: N 62-15-40 E Course Out: S 56-21-12 W
RP North: 13721.295 East : 61472.124
End North: 12696.266 East : 59932.054
Line Course: S 33-38-48 E Length: 266.50
North: 12474.413 East : 60079.714
Line Course: N 41-54-22 E Length: 361.39
North: 12743.374 East : 60321.090
Line Course: S 48-05-38 E Length: 100.00

	North: 12676.583	East : 60395.514
Line	Course: S 47-34-46 E	Length: 62.86
	North: 12634.180	East : 60441.919
Curve	Length: 52.56	Radius: 55.00
	Delta: 54-45-04	Tangent: 28.48
	Chord: 50.58	Course: S 12-30-18 E
	Course In: S 50-07-10 W	Course Out: S 75-07-46 E
RP	North: 12598.914	East : 60399.713
End	North: 12584.799	East : 60452.870
Line	Course: S 49-52-21 E	Length: 148.59
	North: 12489.034	East : 60566.484
Line	Course: S 70-45-36 E	Length: 70.62
	North: 12465.763	East : 60633.160
Line	Course: S 82-16-23 E	Length: 93.73
	North: 12453.161	East : 60726.039
Line	Course: S 89-55-03 E	Length: 210.00
	North: 12452.859	East : 60936.039
Line	Course: N 00-04-57 E	Length: 90.99
	North: 12543.849	East : 60936.170
Line	Course: S 89-55-03 E	Length: 105.00
	North: 12543.697	East : 61041.169
Line	Course: N 00-04-57 E	Length: 170.00
	North: 12713.697	East : 61041.414

Perimeter: 3855.74 Area: 466,959 SF 10.720 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.011 Course: S 44-27-01 E

Error North: -0.0078 East : 0.0076

Precision 1: 350,520.00

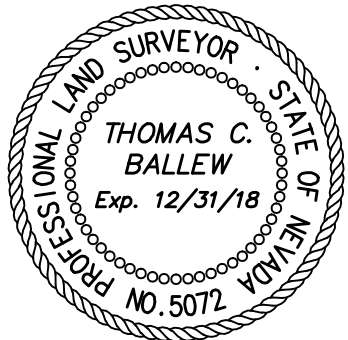
TOWER HILL SUBDIVISION – UNIT NUMBER 2
ELKO, ELKO COUNTY, NEVADA

LAND SURVEYOR’S CERTIFICATE:

I, THOMAS C. BALLEW, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF NEVADA, CERTIFY THAT:

- THIS PLAT REPRESENTS THE RESULTS OF A SURVEY CONDUCTED UNDER MY SUPERVISION AND DIRECTION AT THE INSTANCE JORDANELLE THIRD MORTGAGE, LLC.
- THE LANDS SURVEYED LIE WITHIN SECTION 10, TOWNSHIP 34 NORTH, RANGE 55 EAST, M.D.B.& M., AND THE SURVEY WAS COMPLETED ON THE ____ DAY OF _____, 20 ____.
- THIS PLAT COMPLIES WITH THE APPLICABLE STATE STATUTES AND ANY LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL.
- THE MONUMENTS DEPICTED ON THE PLAT ARE OF THE CHARACTER SHOWN, OCCUPY THE POSITIONS INDICATED HEREON AND ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

THOMAS C. BALLEW, P.L.S. No. 5072



DATE

CITY ENGINEER’S REPRESENTATIVE CERTIFICATE:

I, _____, REPRESENTATIVE FOR THE CITY ENGINEER OF THE CITY OF ELKO, NEVADA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND FIND IT SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, WITH ALL APPROVED ALTERATIONS; THAT ALL PROVISIONS OF N.R.S. 278.010 THROUGH 278.630, INCLUSIVE, AND ALL LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH; THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT; AND THAT THE MONUMENTS AS SHOWN ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THE MONUMENTS HAVE NOT BEEN SET AND THAT A PROPER PERFORMANCE BOND HAS BEEN DEPOSITED GUARANTEEING THEIR SETTING ON OR BEFORE _____.

CITY OF ELKO CITY ENGINEER’S REPRESENTATIVE

DATE

APPROVAL – CITY OF ELKO PLANNING COMMISSION

AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, PLANNING COMMISSION HELD ON THE 24TH DAY OF OCTOBER, 2017, A TENTATIVE MAP OF THIS SUBDIVISION WAS DULY AND REGULARLY APPROVED PURSUANT TO N.R.S. 278.330. THIS FINAL MAP SUBSTANTIALLY COMPLIES WITH SAID TENTATIVE MAP AND ALL CONDITIONS PURSUANT THERETO HAVE BEEN MET.

CHAIRMAN, CITY OF ELKO PLANNING COMMISSION

DATE

APPROVAL – CITY OF ELKO CITY COUNCIL

AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, CITY COUNCIL HELD ON THE ____ DAY OF _____, 20____, THIS MAP WAS APPROVED FOR SUBDIVISION PURPOSES PURSUANT TO N.R.S. 278.461 THROUGH 278.469, INCLUSIVE, AND ALL APPLICABLE LOCAL ORDINANCES. ALL OFFERS OF DEDICATION, AS SHOWN HEREON, WERE ACCEPTED FOR PUBLIC USE.

MAYOR, CITY OF ELKO, NEVADA

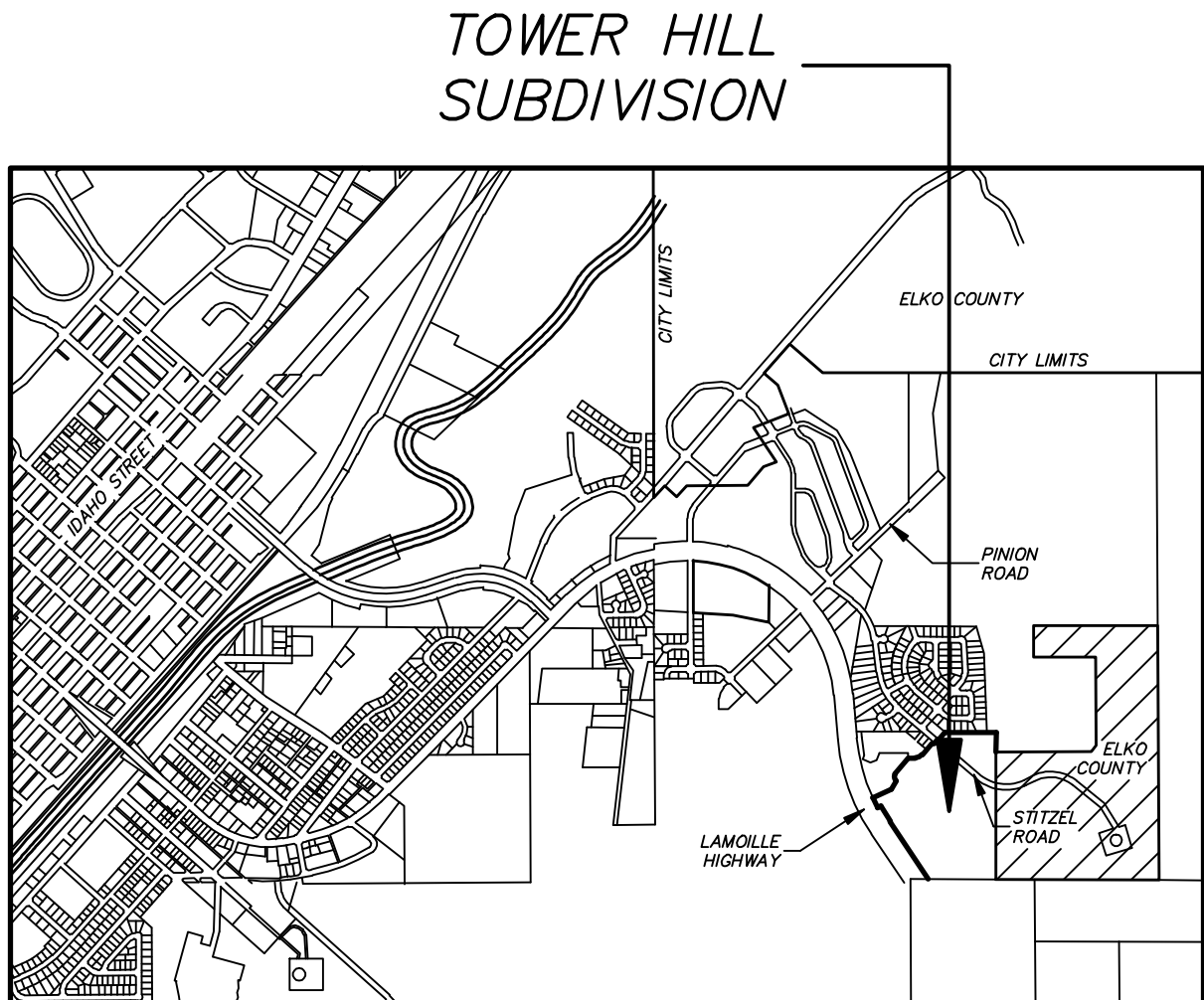
DATE

ATTEST: CITY CLERK, CITY OF ELKO, NEVADA

DATE

LEGAL DESCRIPTION:

PARCEL A AS SHOWN ON THE FINAL MAP OF TOWER HILL SUBDIVISION, UNIT NUMBER 1, FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AT FILE NUMBER 741117.



VICINITY MAP

APPROVAL – NEVADA DIVISION OF WATER RESOURCES

THIS FINAL MAP IS APPROVED BY THE DIVISION OF WATER RESOURCES OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES CONCERNING WATER QUANTITY SUBJECT TO REVIEW OF APPROVAL ON FILE AT THIS OFFICE.

NEVADA DIVISION OF WATER RESOURCES

DATE

APPROVAL – NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

THIS FINAL MAP IS APPROVED BY THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES. THIS APPROVAL CONCERNS SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY AND WATER SUPPLY FACILITIES AND IS PREDICATED UPON PLANS FOR A PUBLIC WATER SUPPLY AND A COMMUNITY SYSTEM FOR DISPOSAL OF SEWAGE.

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER POLLUTION CONTROL

DATE

ASSESSOR’S CERTIFICATE:

I, KATRINKA RUSSELL, CERTIFY THAT THE ASSESSOR’S PARCEL NUMBER SHOWN ON THIS PLAT IS CORRECT AND THAT THE PROPOSED PARCELS ARE A DIVISION OF SAID ASSESSOR’S PARCEL NUMBER 001–929–124.

ELKO COUNTY ASSESSOR

DATE

TREASURER’S CERTIFICATE:

I, REBECCA ERICKSON, CERTIFY THAT ALL PROPERTY TAXES ON ASSESSOR’S PARCEL NUMBER 001–929–124 HAVE BEEN PAID FOR THIS FISCAL YEAR.

ELKO COUNTY TREASURER

DATE

OWNER’S CERTIFICATE:

KNOWN OF ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, SCOTT A. MACRITCHIE, MANAGING DIRECTOR OF JORDANELLE THIRD MORTGAGE, LLC, BEING THE OWNER OF THOSE PARCELS AS SHOWN ON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP AND OFFERS FOR DEDICATION ALL OF THE RIGHTS–OF–WAY AND EASEMENTS FOR PUBLIC ACCESS, PUBLIC UTILITY AND PUBLIC DRAINAGE PURPOSES AS DESIGNATED HEREON. IN WITNESS I, SCOTT MACRITCHIE, SET MY HAND ON THE DATE SHOWN.

JORDANELLE THIRD MORTGAGE, LLC

BY: SCOTT MACRITCHIE, MANAGING DIRECTOR

DATE

STATE OF NEVADA }
COUNTY OF ELKO } S.S.

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE ____ DAY OF _____, 20____, BY SCOTT MACRITCHIE, MANAGING DIRECTOR OF JORDANELLE THIRD MORTGAGE, LLC.

NOTARY PUBLIC IN AND FOR ELKO COUNTY, NEVADA

MY COMMISSION EXPIRES: _____

APPROVAL – PUBLIC UTILITY EASEMENTS

THE PUBLIC UTILITY EASEMENTS, AS DESIGNATED HEREON, ARE APPROVED BY THE RESPECTIVE PUBLIC UTILITIES EXECUTING BELOW.

FRONTIER COMMUNICATIONS

DATE

SIERRA PACIFIC POWER COMPANY d/b/a NV ENERGY

DATE

SATVIEW BROADBAND

DATE

SOUTHWEST GAS CORPORATION

DATE

ELKO COUNTY RECORDER:

FILE NUMBER: _____

FILED AT THE REQUEST OF: _____

DATE: _____

TIME: _____

D. MIKE SMALES, ELKO COUNTY RECORDER

SHEET 1 OF 2

FINAL MAP
OF

TOWER HILL SUBDIVISION
UNIT NUMBER 2

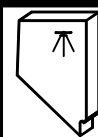
LOCATED IN:

SECTION 13, T.34 N., R.55 E., M.D.B.& M.

ELKO

ELKO COUNTY

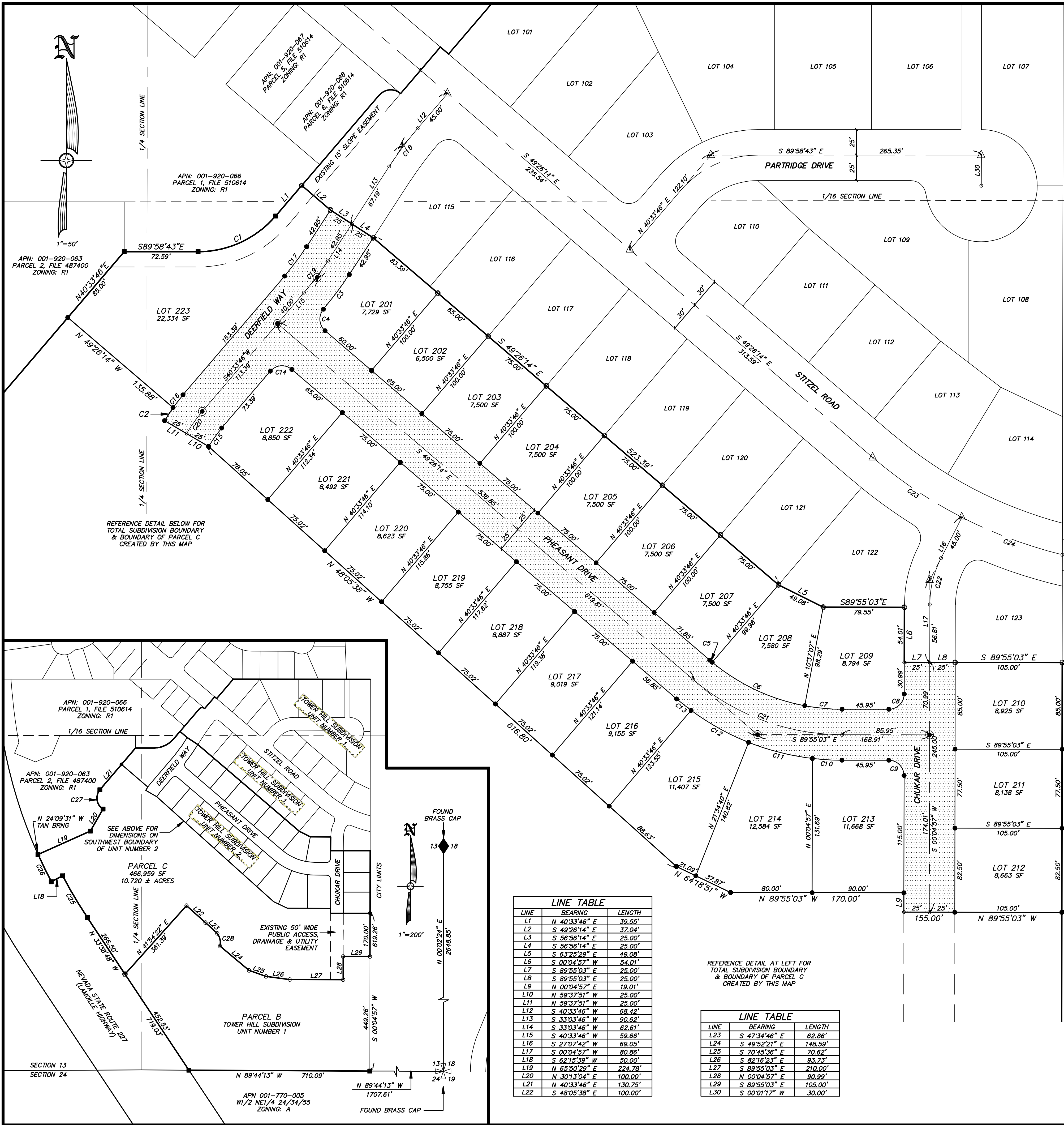
NEVADA



HIGH DESERT
ENGINEERING
LLC

640 IDAHO STREET
ELKO, NEVADA 89801
(775) 738–4053

215010



**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible recommendation to City Council for Vacation No. 2-19, filed by Robert Morley of High Desert Engineering on behalf of Trinidad Jay Shippy and Kathryn Justine Shippy, for the vacation of a roadway and utility easement located along west property lines of APN 039-001-007, 008 & 009, consisting of an area approximately 26,225 sq. ft., and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 5, 2019**
3. Agenda Category: ***NEW BUSINESS, MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **15 Minutes**
1. Background Information: **January 19, 1978, an easement was granted to the City of Elko for a water line and roadway. This easement is outside the City of Elko incorporated boundaries but since the easement was granted to the City of Elko, it is within the jurisdiction of the City of Elko and not Elko County to vacate the easement. The property owner is proposing to relocate the water line in a new easement granted to the City of Elko. City Council accepted the petition February 26, 2019. CL**
- 5.
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 2-19 based on facts, findings and conditions as presented in the Staff Report dated February 26, 2019.**
9. Findings: **See Staff Report dated February 26, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Trinidad Jay Shippy and Kathryn Justine Shippy
2135 Industrial Way
Elko, NV 89801

High Desert Engineering
Robert Morley
640 Idaho Street
Elko, NV 89801**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: _____

Do not use pencil or red pen, they do not reproduce

Title: Vacation No. 2-19

Applicant(s): Trinity Jay Shippy + Kathryn Justine Shippy

Site Location: Apns 039-001-007 thru 039-001-009 - Industrial Way

Current Zoning: County M1 Date Received: 2/11/19 Date Public Notice: N/A

COMMENT: This is to vacate the 30' roadway + utility

easement along the west property line of Apns 039-001-007 +

039-001-008, + 039-001-009, located in Elko County, but dedicated

to the City of Elko

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: _____

Initial

City Manager: Date: 2/27/19

Recommend approval, subject to Staff Recommendation/conditions
listed in City of Elko Staff Report.

CC

Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	February 26, 2019
PLANNING COMMISSION DATE:	March 5, 2019
APPLICATION NUMBER:	Vacation 2-19
APPLICANT:	Trinidy J. Shipping and Kathryn J. Shippy
PROJECT DESCRIPTION:	APN 039-001-007 thru 039-001-009

Vacation of an existing utility and access easement along the west property line abutting all three parcels. In conjunction with a relocation of a water line and a dedication of a new water line easement.



STAFF RECOMMENDATION:

RECOMMEND to APPROVE subject to findings of fact and conditions as presented in this report.

PROJECT INFORMATION

PARCEL NUMBER: 039-001-007, 008 & 009

EXISTING ZONING: Elko County Property

MASTER PLAN DESIGNATION: Elko County Property

EXISTING LAND USE: Developed, Industrial

BACKGROUND:

1. The property has been developed as industrial land use.
2. The property is located in the county and not within city limits.
3. The easement continues to the north through parcel APN 039-001-002 and that portion of the easement will remain.
4. The easement was granted to the City of Elko on January 19, 1978 to construct, reconstruct, repair, operate and maintain an alley, street or roadway for right-of-way purposes and water line or distribution system.
5. The property owner is proposing to relocate the existing water line into a new easement granted to the City of Elko along the northerly property line of APN 039-001-007.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

North: Elko County (Industrial land use) / Developed

East: Elko County (Industrial land use) / Developed

South: Elko County (Industrial land use) / Developed

West: RMH / Developed

PROPERTY CHARACTERISTICS:

The property is currently developed.

There is a city of Elko water line within the existing easement.

It does not appear that there are any other utilities located in the easement.

MASTER PLAN AND CITY CODES:

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive

City of Elko Master Plan – Land Use Component

City of Elko Master Plan – Transportation Component

City of Elko Redevelopment Plan

City of Elko Code – Section 8-7 Street Vacation Procedures

NRS 278.479 to 278.480 inclusive

1. 278.480(4) If any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the

governing body, shall, not less than 10 business days before the public hearing described in subsection 5.

2. NRS 278.480 (5) Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.31895.
3. Per NRS 278.480(6) Public utility companies have been notified of the vacation on February 12, 2019.
4. The utilities located within the area are proposed to be relocated with a new water line easement being granted to the City of Elko.

MASTER PLAN – Land Use:

1. The Master Plan Land Use Atlas shows the area as Industrial General.
2. The property is located outside City of Elko incorporated boundary.

The proposed vacation is in conformance with the Master Plan Land Use component.

MASTER PLAN - Transportation:

1. The area is accessed from Industrial Way.
2. Industrial Way is an Elko County maintained roadway.

The Master Plan Transportation component is not applicable as the property is located in Elko County.

REDEVELOPMENT PLAN

-) The area is located outside the Redevelopment Area.

ELKO CITY CODE SECTION 8-7 STREET VACATION PROCEDURES

1. If it is determined by a majority vote of the city council that it is in the best interest of the city and that no person will be materially injured thereby, the city council, by motion, may propose the realignment, change, vacation, adjustment or abandonment of any street or any portion thereof. In addition, any abutting owner desiring the vacation of any street or easement or portion thereof shall file a petition in writing with the city council and the city council shall consider said petition as set forth above.

) The City Council accepted the petition at their meeting on February 26, 2019 and referred the matter to the Planning Commission for further consideration.
2. Except for a petition for the vacation or abandonment of an easement for a public utility owned or controlled by the city, the petition or motion shall be referred to the planning commission, which shall report its findings and recommendations thereon to the city

council. The petitioner shall, prior to the consideration of the petition by the planning commission, pay a filing fee to the city in an amount established by resolution of the city council and included in the appendix to this code.

) The filing fee was paid by the applicant.

3. Whenever any street, easement or portion thereof is proposed to be vacated or abandoned, the city council shall notify by certified mail each owner of property abutting the proposed vacation or abandonment and cause a notice to be published at least once in a newspaper of general circulation in the city setting forth the extent of the proposed vacation or abandonment and setting a date for public hearing, which date may be not less than ten (10) days and not more than forty (40) days subsequent to the date the notice is first published.
4. Order of City Council: Except as provided in subsection E of this section, if, upon public hearing, the City Council is satisfied that the public will not be materially injured by the proposed vacation or abandonment, and that it is in the best interest of the city, it shall order the street vacated or abandoned. The city council may make the order conditional, and the order shall become effective only upon the fulfillment of the conditions prescribed.

Elko County Planning Department has been notified of the proposed vacation and they have responded with a letter of support.

The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City code.

FINDINGS

1. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive.
2. The proposed vacation is in conformance with the City of Elko Master Plan Land Use component
3. The proposed vacation is in conformance with the City of Elko Master Plan Transportation component.
4. The easement proposed for vacation is not located within the Redevelopment Area.
5. The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City Code.
6. The proposed vacation will not materially injure the public and is in the best interest of the City.
7. Elko County has provided a letter in support of the proposed vacation.

STAFF RECOMMENDATION:

Staff recommends forward a recommendation to City Council to adopt a resolution which conditionally APPROVES the proposed vacation with the following conditions:

1. The applicant is responsible for all costs associated with the recordation of the vacation.
2. Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.

Engineering Department

1. The granting of the new easement shall be recorded prior to the recording of the resolution vacating this existing easement.
2. The new water line shall be constructed and the old water line abandoned in place, prior to the vacation of the easement.

Utility Department

1. Submit construction drawings for approval by City showing new water main and abandonment of old.
2. Gate over existing easement
3. New water infrastructure is accepted prior to easement vacation.

COREY L. RICE, PLS, WRS
SENIOR PLANNER
775-748-0214
crice@elkocountynv.net

PEGGY PIERCE-FITZGERALD
PLANNING TECHNICIAN/
GIS OPERATOR
775-748-0215
pfitzgerald@elkocountynv.net



Elko County Planning & Zoning Division

540 Court Street, Suite 104
Elko, Nevada 89801
775-738-6816 Ext. #214 (fax) 775-738-4581
www.elkocountynv.net

February 20, 2019

Cathy Laughlin
City of Elko
Planning Department
1751 College Avenue
Elko, NV 89801
claughlin@elkocitynv.gov
(775)777-7160

RECEIVED

FEB 26 2019


RE: Vacation No. 2-19/Thinidy Jay Shippy and Kathryn Justine Shippy

Dear Ms. Laughlin,

Since the 30' wide utility and access easement on the westerly property lines of APNs 039-001-007, 039-001-008 and 039-001-009 is exclusively for the use of the City of Elko, Elko County Planning and Zoning has no comments and is in support of this application to vacate this easement.

Please contact me if you have any questions or need more information.

Sincerely,



Corey L. Rice, PLS, WRS
Senior Planner
Elko County Planning and Zoning



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@ci.elko.nv.us

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7119

February 13, 2019

Elko County Planning and Zoning
540 Court Street, Suite 104
Elko, NV 89801

RE: Vacation No. 2-19/Trinidy Jay Shippy & Kathryn Justine Shippy

In accordance with the Communication Policy between the City of Elko and Elko County, the City of Elko hereby notices and advises the Board of County Commissioners of the County of Elko of the City's intention to consider Vacation No. 2-19, filed by Trinidy Jay Shippy and Kathryn Justine Shippy to vacate the 30' wide roadway and utility easement granted to the City of Elko along the west property line of APNs 039-001-007, 039-001-008, and 039-001-009. They are proposing to relocate the City of Elko water line and with that dedicate a new roadway and utility easement to the City of Elko, which will run through APN 039-001-007.

Please find enclosed a copy of the application and related site plans for your review and comment.

Review by the Elko City Planning Commission is scheduled for their March 5, 2019, regular meeting.

Please submit written comments to the Elko City Planning Department. We will be looking for a response on this matter before the scheduled Elko City Planning Commission Meeting, as the property is located within the Elko County boundaries and outside of the Elko City Limits.

Please feel free to contact me if you have any questions concerning this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



February 27, 2019

Shelby Archuleta
City of Elko Planning Department
1751 College Avenue
Elko, Nevada 89801

RECEIVED

FEB 27 2019

RE: Proposed Vacation No. 2-19

Dear Ms. Archuleta:

Per your request in the letter dated February 12, 2019 regarding the proposed vacation of a portion of the roadway and utility easement located generally along the west property line of APNs 039-001-007, 039-001-008, and 039-001-009. NV Energy does not have facilities within the area to be vacated.

If you have any questions/concerns please feel free to contact me at 775-834-3097 or at jakejohnson@nvenergy.com

Sincerely,

A handwritten signature in cursive script, appearing to read "Jake Johnson".

Jake Johnson
NV Energy



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

NV Energy
Mr. Jake Johnson
6100 Neil Road
Reno, NV 89511

SUBJECT: Proposed Vacation No. 2-19

Dear Mr. Johnson:

Please be advised that the City of Elko Planning Department is processing a request filed by Trinity Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician
sarchuleta@elkocitynv.gov

Enclosures



CITY OF ELKO

Planning Department

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Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

Southwest Gas Corporation
Engineering Department
PO Box 1190
Carson City, NV 89702-1190

SUBJECT: Proposed Vacation No. 2-19

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Trinity Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician
sarchuleta@elkocitynv.gov

Enclosures

Shelby Archuleta

From: Tariq Ahmad <taroil@yahoo.com>
Sent: Tuesday, February 12, 2019 11:13 AM
To: Shelby Archuleta
Subject: Re: Proposed Vacation 2-19 Review

We agree to vacate

Tariq I. Ahmad SPEC
PH 775 333 6626
FAX 775 333 0225

Notice: This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Please, virus check, all attachments to prevent widespread contamination and corruption of files and operating systems. The unauthorized access, use, disclosure, or distribution of this e-mail may constitute a violation of the Federal Electronic Communications Privacy Act of 1986 and similar state laws. The communication does not reflect an intention of the sender or the sender's client or principal to conduct a transaction or make an agreement by electronic means. Nothing contained in this message or in any attachment shall satisfy the requirements for a writing, and nothing contained herein shall constitute a contract or electronic signature under the Electronic Signatures Global and National Commerce Act, any version of the Uniform Electronic Transaction Act or any other statute governing electronic transactions.

On Tuesday, February 12, 2019, 8:31:35 AM PST, Shelby Archuleta <sarchuleta@elkocitynv.gov> wrote:

Good Morning,

Attached is letter for review of Vacation 2-19. Please review and get back to me.

Thank you!

Shelby Archuleta

Planning Technician

City of Elko

Planning Department



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

Satview Broadband
Mr. Tariq Ahmad
PO Box 18148
Reno, NV 89511

And VIA EMAIL: taroil@yahoo.com

SUBJECT: Proposed Vacation No. 2-19

Dear Mr. Ahmad:

Please be advised that the City of Elko Planning Department is processing a request filed by Trinity Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician
sarchuleta@elkocitynv.gov

Enclosures

Shelby Archuleta

From: Poole, John <john.g.poole@ftr.com>
Sent: Tuesday, February 19, 2019 3:06 PM
To: Shelby Archuleta
Cc: Whitaker, William
Subject: Re: Proposed Easement Vacation Review

Hi Shelby;

My outlook email is up temporary, so yes these all are clear by Frontier to abandon Easements along with last two off Industrial Way you sent by mail. Doc # 744502 .

Thanks, John

From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
Sent: Monday, February 11, 2019 12:11 PM
To: Poole, John
Subject: Proposed Easement Vacation Review

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Good Afternoon Mr. Poole,

I was informed this morning from Mr. Whitaker that you are now the person that will be reviewing vacation proposals.

I have attached four vacation proposals that were sent to Mr. Whitaker as far back as November.

Currently Vacation 2-18 and Vacation 3-18 have been approved by our City Council and are just waiting for a response from a Frontier representative.

Vacation 4-18 will be considered at tomorrow nights City Council meeting and after that it will be ready to go.

Vacation 1-19 will be considered at the City Council meeting on Feb 26th.

At this time Vacation 2-18 and 3-18 are priority and we will need these reviews as soon as possible.

Please let me know if you have any questions and I will do my best to answer them.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219



CITY OF ELKO

Planning Department

Website: www.elkocity.com

Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

Frontier Communication

Mr. John Poole

1520 Church Street

Gardnerville, NV 89410

SUBJECT: Proposed Vacation No. 2-19

Dear Mr. Poole:

Please be advised that the City of Elko Planning Department is processing a request filed by Trinity Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta

Planning Technician

sarchuleta@elkocitynv.gov

Enclosures



CITY OF ELKO

Planning Department

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Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

Beehive Broadband
2000 N. Sunset Road
Lake Point, UT 84074

SUBJECT: Proposed Vacation No. 2-19

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Trinity Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician
sarchuleta@elkocitynv.gov

Enclosures



CITY OF ELKO

Planning Department

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Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

February 12, 2019

Elko Heat
P.O. Box 2347
Elko, NV 89803

SUBJECT: Proposed Vacation No. 2-19

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Trindy Jay Shippy and Kathryn Justine Shippy to vacate a portion of the roadway and utility easement located generally along the east property line of APNs 039-001-007, 039-001-008, & 039-001-009. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on March 5, 2019. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta
Planning Technician
sarchuleta@elkocitynv.gov

Enclosures



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801 *

(775) 777-7160 * (775) 777-7119 fax

APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

APPLICANT(s): Trinidy Jay Shippy and Kathryn Justine Shippy
MAILING ADDRESS: 2135 Industrial Way, Elko, Nevada 89801
PHONE NO (Home) _____ (Business) (775) 934-2129
NAME OF PROPERTY OWNER (If different): _____
(Property owner's consent in writing must be provided.)
MAILING ADDRESS: Same as Applicant
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):
ASSESSOR'S PARCEL NO.: 039-001-007 thru 039-001-009 Address Industrial Way
Lot(s), Block(s), & Subdivision Portion of Block A, Hi-Rita Industrial Park, Unit No. 1
Or Parcel(s) & File No. File No. 215089

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

Fee: A \$600.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

Legal Description: A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

FEB 11 2010

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

Trinidy Jay shippy and Kathryn Justine Shippy
(Name)

2193 Industrial Way, Elko NV 89801
(Address)

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

Shippy Investments, LLC
(Name)

2135 Industrial Way, Elko NV 89801
(Address)

1. Describe the nature of the request: _____

2. Describe any utilities currently located in the area proposed for vacation, and if any are present
how they will be addressed: _____

Use additional pages if necessary

This area intentionally left blank

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent Robert E. Morley
(Please print or type)

Mailing Address 640 Idaho
Street Address or P.O. Box

Elko, Nevada 89801
City, State, Zip Code

Phone Number: (775) 738-4053

Email address: _____

SIGNATURE: Robert E. Morley

FOR OFFICE USE ONLY

File No.: 2-19 **Date Filed:** 2/11/19 **Fee Paid:** \$600 CK# 14792

City of Elko
1751 College Avenue
Elko, Nevada 89801

RECEIVED

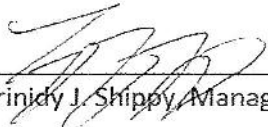
FEB 14 2019

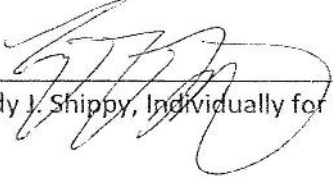
Re: Application for vacation of City Easement

To Whom It May Concern:

Shippy Investments, LLC and Trinidy Jay Shippy & Kathryn Shippy hereby authorize Robert E. Morley to act as their representative and agent at it pertains to the recently submitted Application for Vacation of City Street Easement or other Public Way submitted by Trinidy Jay Shippy and Kathryn Justine Shippy.

Shippy Investments, LLC


By: Trinidy J. Shippy, Manager


Trinidy J. Shippy, Individually for Trinidy Jay Shippy and Kathryn Justin Shippy

RECEIVED

FEB 11 2019

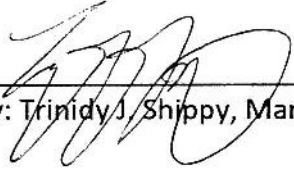
City of Elko
1751 College Avenue
Elko, Nevada 89801

Re: Application for vacation of City Easement

To Whom It May Concern:

Shippy investments, LLC has no objection to and is willing to join in the vacation of the existing City roadway and utility easement as applied for by Trinidy Jay Shippy and Kathryn Justine Shippy located along the West line of Section 13, T.34 N., R.55 E., M.D.B. & M., adjacent to our property on Last Chance Road and Industrial Way being Assessor's Parcel Numbers 039-001-008 and 039-001-009.

Shippy Investments LLC



By: Trinidy J. Shippy, Manager

FEB 11 2019

EXHIBIT A
30' ROADWAY AND UTILITY EASEMENT VACATION
FOR CITY OF ELKO, NEVADA
January 3, 2019

A parcel of land located Section 13, T.34 N., R.55 E., M.B.D. & M., City of Elko, Nevada, being a portion the 30' Roadway and Utility Easement conveyed to the City of Elko, by deed in Book 261, Page 33, Official Records, on file in the Office of the Elko County Recorder, Elko, Nevada, more particularly described as follows:

Commencing at the Northwest Corner of said Section 13, thence S 00° 43' 52" W, 261.56 feet along the Westerly Line of said Section 13 to Corner No. 1, the True Point of Beginning;

Thence continuing S 00° 43' 52" W, 904.52 feet along the said Westerly Line of Section 13 to Corner No. 2, a point being on the Northwesterly Right of Way of Last Chance Road;

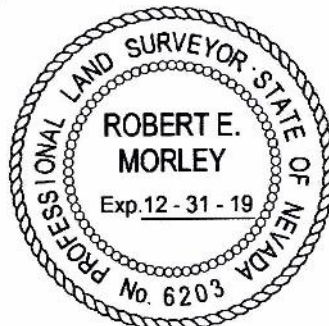
Thence N 41° 19' 05" E, 46.11 feet along the said Northwesterly Right of Way of Last Chance Road to Corner No. 3;

Thence N 00° 43' 52" E, 843.80 feet to Corner No. 4, a point being on the Northerly Line of that Parcel conveyed to Trinidy Jay Shippy and Kathryn Justine Shippy, by deed, Document No. 744502, on file in the office of the Elko County Recorder, Elko, Nevada;

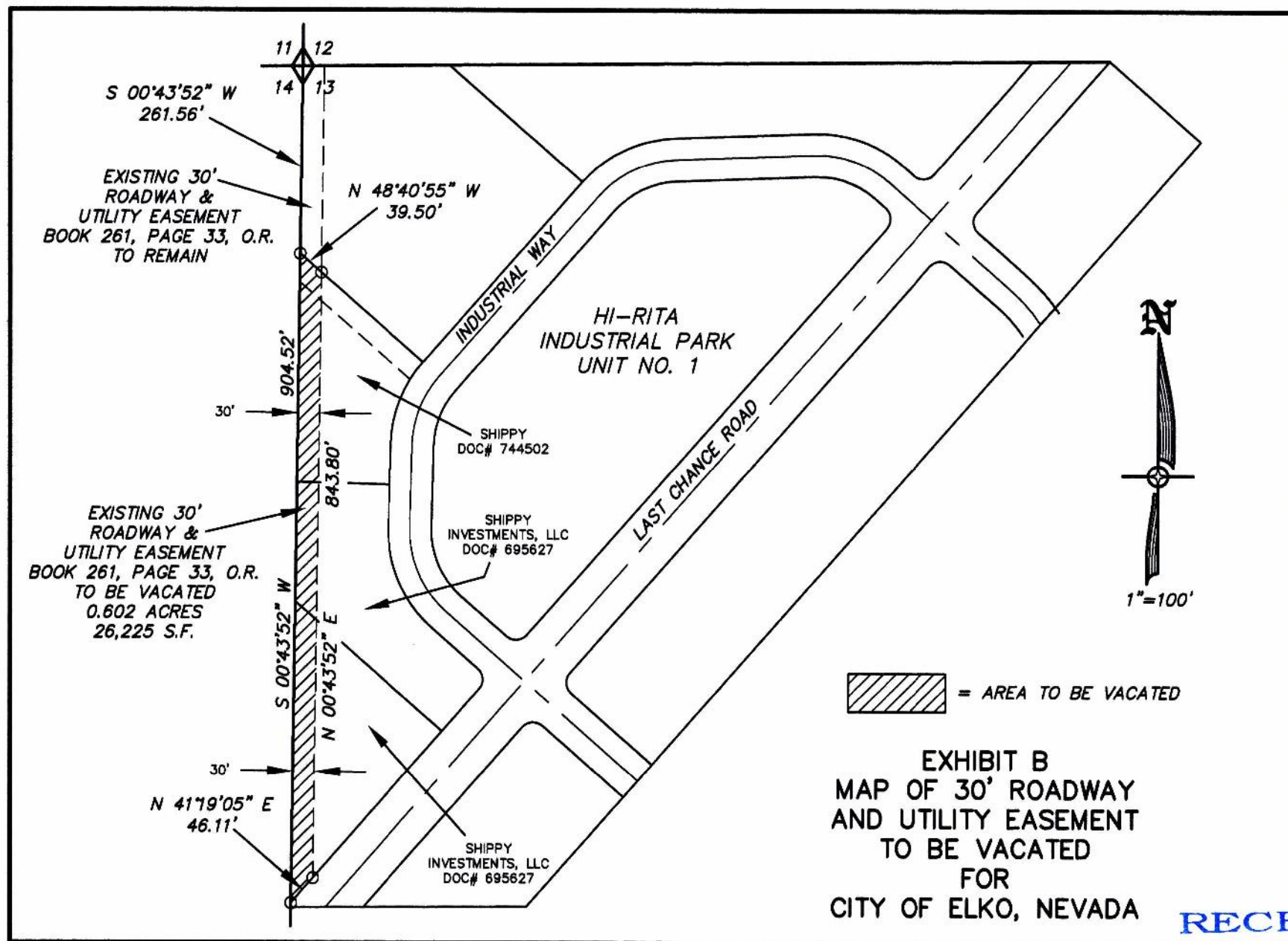
Thence N 48° 40' 55" W, 39.50 feet along the said Northerly Line of Shippy Parcel, to Corner No. 1, the point of beginning, containing 26,225 square feet more or less.

Reference is hereby made to Exhibit B, Map of 30' Roadway and Utility Easement to be Vacated for City of Elko, Nevada, attached hereto and made a part hereof.

Prepared by Robert E. Morley, PLS
640 Idaho Street



High Desert Engineering
Elko, NV 89801



RECEIVED

FEB 11 2019

FEB 11 2019

EXHIBIT A
30' ROADWAY AND UTILITY EASEMENT
CITY OF ELKO, NEVADA
January 4, 2019

An Easement for a Roadway and Utility purposes being 30' in width located Section 13, T.34 N., R.55 E., M.B.D. & M., City of Elko, Nevada, more particularly described as follows:

Commencing at the Northwest Corner of said Section 13, thence S 00° 43' 52" W, 261.56 feet along the Westerly Line of said Section 13 to Corner No. 1, the True Point of Beginning, a point being the most Northerly Corner of that Parcel conveyed to Trinity Jay Shippy and Kathryn Justine Shippy, by deed, Document No. 744502, on file in the office of the Elko County Recorder, Elko, Nevada ;

Thence S 48° 40' 55" E, 228.48 feet along the Northerly Line of said Shippy Parcel to Corner No. 2, a point being on the Northwesterly Right of Way of Industrial Way;

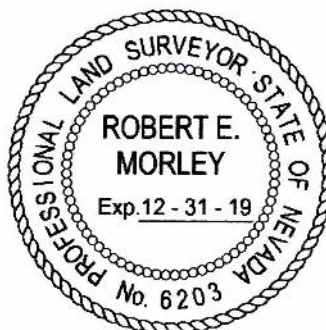
Thence from a tangent bearing S 41° 19' 05" W, on a curve to the left with a radius of 180.00 feet, through a central angle of 09° 35' 39", for an arc length of 30.14 feet along the said Northwesterly Right of Way of Industrial Way to Corner No. 3;

Thence N 48° 40' 55" W, 205.30 feet to Corner No. 4, a point being on the said Westerly Line of Section 13;

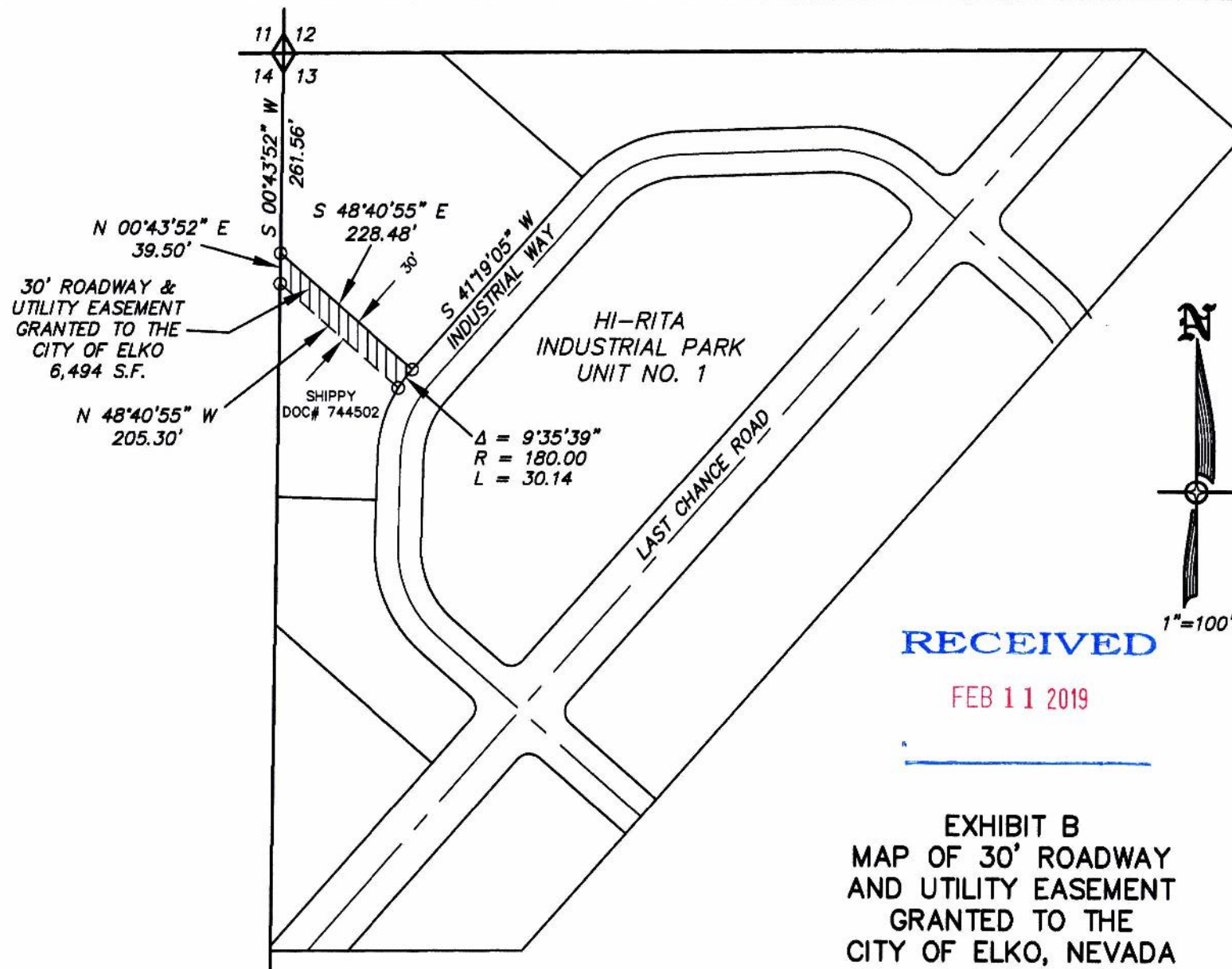
Thence N 00° 43' 52" E, 39.50 feet along the said Westerly Line of Section 13 to Corner No. 1, the point of beginning, containing 6,494 square feet more or less.

Reference is hereby made to Exhibit B, Map of 30' Roadway and Utility Easement to be Granted to City of Elko, Nevada, attached hereto and made a part hereof.

Prepared by Robert E. Morley, PLS
640 Idaho Street



High Desert Engineering
Elko, NV 89801



**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to initiate an amendment to the City of Elko Master Plan, specifically Atlas Map 12 and the Transportation component, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 5, 2019**
3. Agenda Category: **MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**
4. Time Required: **10 Minutes**
5. Background Information:
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information:
8. Recommended Motion: **Move to initiate an amendment to the City of Elko Master Plan Future Transportation Atlas Map 12 and Transportation Component and direct staff to bring the item back as a resolution and public hearing.**
9. Prepared By: **Cathy Laughlin, City Planner**
10. Agenda Distribution:

- Country Club Drive
- Court Street, Oak Street to 5th Street and 9th Street to 14th Street
- Delaware Street, between Statice Street and Paradise Drive
- El Armuth Drive ([Mountain City Highway to Sagecrest Dr. & Celtic Way to Hondo Lane](#))
- Enfield Avenue
- Fairway Drive, between Skyline Drive and Keppler Drive
- Forest Lane, between Montrose Lane and Enfield Avenue
- Garcia Lane – South 11th Street
- Highland Drive
- Indian View Heights Drive
- Jennings Way, south of Mountain City Highway
- Keppler Drive
- La Nae Drive, between Bluffs Avenue and Cottonwood Drive
- Mittry Avenue (Chris Ave to College Parkway)
- Montrose Lane
- Opal Drive
- Rocky Road (future)
- Ruby View Drive
- Sagecrest Drive
- Sewell Drive
- Spruce Road, between 5th Street and -Jennings Way
- Stitzel Road, between Pinion Road and Liberty Drive
- Sundance Drive

Regional Roadways

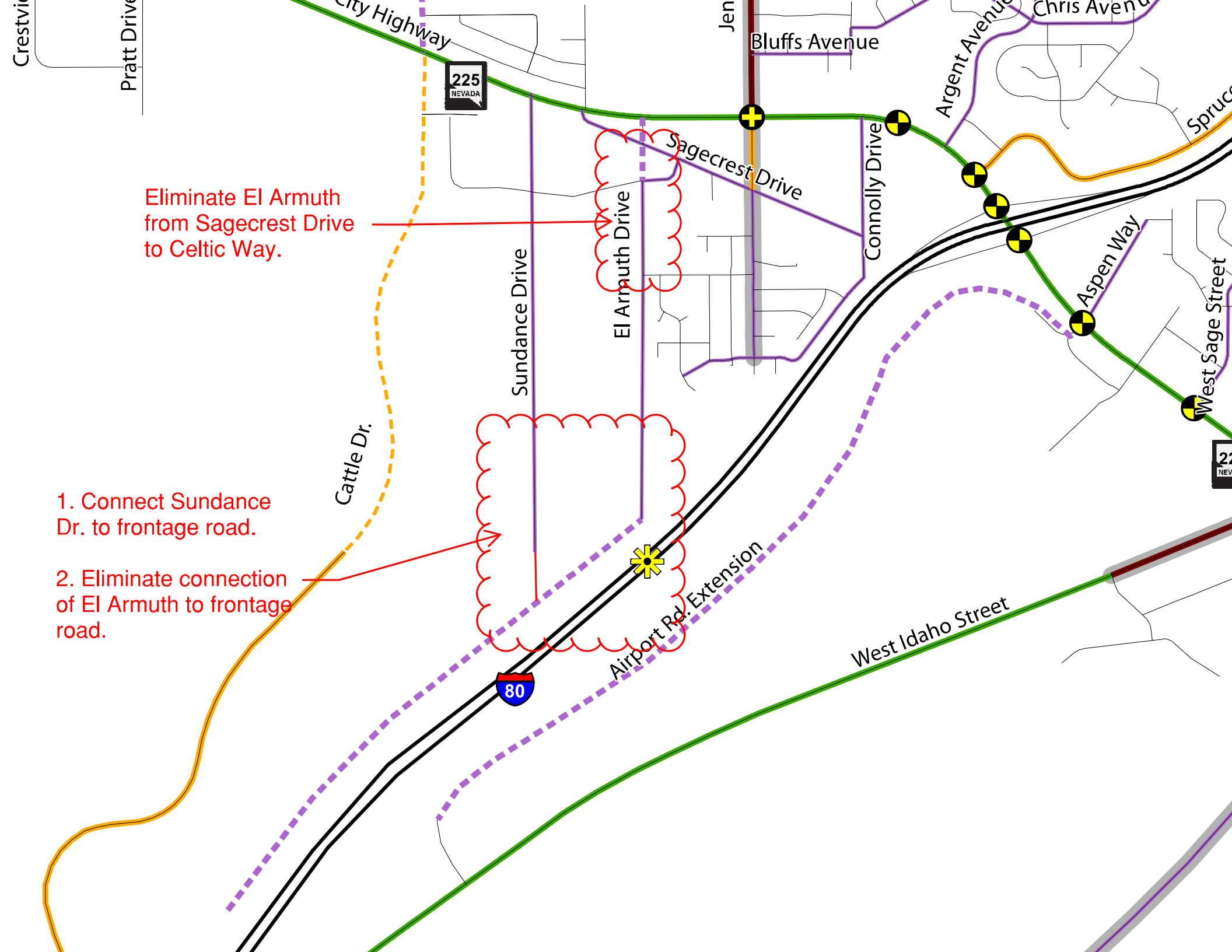
Regional Roadways are those collector or arterial streets characterized by moderate to high traffic volumes with significant traffic origins or traffic destinations outside of the corporate boundaries of the City of Elko. The following are considered Regional Roadways:

- Jennings Way Loop
- 5th Street
- Ruby Vista Drive, east of Jennings Way
- Delaware Street
- Idaho Street
- Silver Street
- Manzanita Lane
- 12th Street, south of Idaho Street
- Last Chance Road
- Bullion Road, west of Errecart Boulevard
- Errecart Boulevard

* Note that the Elko City Council approved the above list of Regional Roads; however, at this time Manzanita Lane and Last Chance Road are not recognized by the RTC as regional roads.

Roadway Capacity

Level of service (LOS) is a term used to measure and describe the operational conditions of a roadway network. Letters A through F are used to measure the LOS of a roadway segment or intersection. The following definitions are given for each level of service letter.



Zoning Bulletin

in this issue:

Preemption—Solar company contends solar farm siting is governed solely by state statutory law, preempting any local zoning control

1

Due Process/Equal Protection/Takings—Years after developer purchases property, county amends master plan, which then limits development options on developer's property

3

Affordable Housing/Zone Change/Statutory Applicability—Despite majority vote in favor, zoning commission denies zone change request related to affordable housing application because state statutory law requires super majority vote when zone change protest is filed

5

Municipal Police Power/Due Process/Equal Protection—Hookah lounge operator challenges county ordinance restricting hookah lounge hours of operation
Zoning News from Around the Nation

7

8

Preemption—Solar company contends solar farm siting is governed solely by state statutory law, preempting any local zoning control

Local authorities maintain they have oversight of solar farm project siting

Citation: *Board of County Commissioners of Washington County v. Perennial Solar, LLC*, 2018 WL 5993859 (Md. Ct. Spec. App. 2018)

MARYLAND (11/15/18)—This case addressed the issue of whether Maryland's Public Utilities Article § 7-207, which grants the Maryland Public Services Commission general regulatory powers over generating stations, including Solar Energy Generating Systems, preempts local zoning regulation regarding the location and construction of such generating stations. The case also addressed the issue of whether Maryland's Public Services Commission's jurisdiction is limited to public services companies, or if, for example, private solar companies are also subject to Public Services Commission regulation.

The Background/Facts: In September 2015, Perennial Solar, LLC ("Perennial") filed an application for a special exception and variance to construct a solar farm in Washington County, Maryland (the "County"). Perennial proposed construction of this Solar Energy Generating System ("SEGS") on an approximately 86-acre parcel of land in an Agricultural (Rural) zoning district. County zoning regulations permitted a SEGS in such a zoning district, but only with a special exception.

Eventually, the County Board of Zoning Appeals (the "BZA") granted Perennial's request for special exception and variance. There



after, neighboring landowners appealed the decision to circuit court. Perennial asked the court to dismiss the appeal, arguing that under Maryland statutory law—namely, Maryland’s Public Utilities Article of the Maryland Code (“PUA”)—Maryland’s Public Services Commission (“PSC”) had exclusive jurisdiction for approving SEGS, including site location approval. Perennial pointed to PUA § 7-207, which grants the PSC general regulatory powers over generating stations, including SEGS.

The aggrieved neighbors and the Board of County Commissioners of Washington County (collectively, the “Appellants”) opposed Perennial’s motion to dismiss the appeal. The Appellants

argued that “legislative intent reveal[ed] that local regulation of SEGS—particularly their location—[was] not preempted by state law.”

The circuit court agreed with Perennial, and granted the motion to dismiss the appeal. The circuit court determined that PUA § 7-207 preempted the County zoning ordinance. The court held that the PSC had exclusive jurisdiction to approve the type of SEGS proposed by Perennial.

The Appellants appealed. On appeal, the Appellants argued that the approval of Perennial’s proposed SEGS would be inconsistent with the local planning and zoning controls of the County zoning ordinance, and thus any conflict should be resolved in favor of local oversight. Appellants also argued that Perennial’s proposed SEGS project was not governed by the PSC because the PSC regulated only SEGS operated by “public service companies” (i.e., common carrier companies, electric companies, gas companies, sewage disposal companies, telegraph companies, telephone companies, water companies, or any combination of such companies). Perennial continued to maintain that jurisdiction of its application for special exception lay solely with the PSC, not the County.

DECISION: Judgment of Circuit Court affirmed.

Agreeing with Perennial, the Court of Special Appeals of Maryland first held that, pursuant to PUA § 7-207, “the PSC preempts, by implication, local zoning regulation” of SEGS that require a Certificate of Public Convenience and Necessity (“CPCN”).

In so holding, the court explained that state law may preempt local law expressly or impliedly or by conflict. Relevant here, the court further explained that “preemption by implication occurs when a local law ‘deals with an area in which the [State Legislature] has acted with such force that an intent by the State to occupy the entire field must be implied.’” The court pointed to secondary factors used to evaluate whether a local law is preempted by implication, and emphasized that “the comprehensiveness in which the Legislature has spoken about the issue is the primary indicator of implied’ preemption.”

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Here, the court found that PUA § 7-207 defined the “nature and extent” of the PSC’s regulatory powers over generating stations. The court also found that § 7-207 detailed the application process required to construct a generating station in Maryland. On the other hand, the court found that the County Zoning Ordinance and Comprehensive Plan were “much less thorough regarding the construction of generating stations.”

The court concluded that “based on the comprehensiveness of § 7-207, local zoning regulations and comprehensive plans are impliedly preempted by state law for SEGSS requiring a CPCN.” The court held that § 7-207 “grants the PSC broad authority to determine whether and where the SEGSS may be constructed and operated.”

The court also held that, contrary to the Appellants’ assertions, the applicability of § 7-207 was not limited to public services companies. The court found that although the statute specified that the PSC “shall supervise and regulate public service companies,” the statute did not state that the PSC’s jurisdiction was limited to public service companies only. In fact, the court found that the statute expressly required “a person”—including a partnership, firm, association, corporation, or other entity—obtain a CPCN permit to construct a generating station in Maryland. Thus, the court concluded that “Perennial, in its attempt to construct a SEGSS, [was] subject to PSC regulation.”

See also: *Howard County v. Potomac Elec. Power Co.*, 319 Md. 511, 573 A.2d 821 (1990).

Due Process/Equal Protection/Takings— Years after developer purchases property, county amends master plan, which then limits development options on developer’s property

Developer sues, alleging master plan amendments arbitrarily and capriciously targeted its property, violating its constitutional rights

Citation: *Pulte Home Corporation v. Montgomery County, Maryland*, 2018 WL 6204906 (4th Cir. 2018)

The Fourth Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

FOURTH CIRCUIT (MARYLAND) (11/29/18)—This case addressed the issue of whether a county and county planning commission violated a developer’s due process and/or equal protection rights when it amended a master plan, which governed zoning requirements for the developer’s property.

The Background/Facts: Between November 2004 and January 2006, Pulte Home Corporation and Shiloh Farm Investments, LLC (collectively, “Pulte”) purchased 540 acres of real property (the “Property”) in Montgomery County (the “County”). Pulte was a real estate developer. Pulte sought to construct between 954 and 1,007 detached homes and townhomes on the Property.

At the time of Pulte’s purchase of the Property, the Property was governed by a zoning master plan (the “1994 Master Plan”), which provided for development of land into four stages. In the fourth stage of land development, the area containing Pulte’s Property was to be developed into residential communities at specified densities. The 1994 Master Plan also provided that once all prerequisite conditions for such land development had been met, “the County Council [would] consider Water and Sewer Plan amendments that would permit the extension of public facilities to the [] area.” The 1994 Master Plan also stated that properties in Stage 4 development were subject to approval by the County Planning Board. Further, the 1994 Master Plan provided that it was intended to be updated and revised “about every 10 years.”

In May 2009, Pulte submitted its Water and Sewer Category Change Request application for review by the County and the Maryland-National Capital Park and Planning Commission (the “Commission”). The County and the Commission, however, never acted on Pulte’s application. Then, in April 2014, the County adopted amendments to the 1994 Master Plan (the “Amendments”). Among other things, the Amendments imposed a 6% cap on impervious surface cover and an 80% open space requirement on Pulte’s Property. The County also enacted other zoning regulations that added environmental regulations to Pulte’s Property and downzoned Pulte’s land to an agricultural classification.

Alleging arbitrary and capricious targeting of its Property, Pulte sued the County and Commission. Pulte alleged that, as a result of the Amendments and other new requirements and limitations, it could only develop at most 17% of its Property. Pulte asserted due process, equal protection, and regulatory takings claims. More specifically, Pulte alleged that the County and Commission violated its substantive or procedural due process rights under the Fourteenth Amendment to the United States Constitution because Pulte had a constitutional property interest in developing its Property, which was deprived by the County and

Commission. Pulte also alleged that the County violated its equal protection rights by targeting its land for more stringent zoning regulations, while treating differently other landowners who were similarly situated. Pulte further alleged that the County and Commission imposed a regulatory burden on its Property that rose to the level of a taking of its private property without just compensation—in violation of the Fifth Amendment to the United States Constitution.

Finding that, based on the pleadings made, Pulte was unable to prove facts in support of its claims entitling it to relief, the district court entered judgment on the pleadings in favor of the County and Commission.

Pulte appealed.

DECISION: Judgment of district court affirmed.

The United States Court of Appeals, Fourth Circuit, first held that Pulte could not succeed on its substantive or procedural due process claims because Pulte had no constitutional property interest to develop its land under the 1994 Master Plan or to have its Water and Sewer application processed in light of the discretion reserved to the local authorities under the 1994 Master Plan. In so holding, the court explained that one had a constitutionally protected property interest “only if it has a ‘legitimate claim of entitlement’ rather than a mere ‘abstract need or desire’ or ‘unilateral expectation.’” Moreover, the court noted that, under governing Maryland state law, in order to obtain a vested right in an existing zoning use, the landowner must obtain a valid permit (which Pulte had not done). Further, the court emphasized its longstanding rule that “any ‘significant discretion’ left to ‘zoning authorities defeats the claim of a property interest.’” Here, the court determined that Pulte could not show that the County or Commission deprived it of any constitutionally protected property interest since the 1994 Master Plan “placed large discretion in the hands of the local authorities,” apprised all that it would be revised about every 10 years, and provided that, even after prerequisites were satisfied, the County could “delay action on water and sewer change applications, conduct further studies, or take whatever land use actions its deemed necessary.” In short, because the 1994 Master Plan gave the County discretion to adopt the Amendments and to take the other actions it took with regard to Pulte’s Property, the court concluded that Pulte’s procedural and substantive due process claims were “not viable.”

Turning to Pulte's equal protection claim, the court noted that, since Pulte had not alleged deprivation of a fundamental right or discrimination based on a suspect classification, it would uphold the distinct zoning changes affecting Pulte's Property if they were "rationally related to a legitimate state interest." In other words, if the Amendments here revealed "any rational reason for [their] adoption," the court would uphold them—"even if its purported rationale was not the actual motivation behind it." And, here, the court found that the County and Commission had "rational distinctions" for treating Pulte's land differently than other similarly situated landowners based on detailed environmental concerns specific to Pulte's Property. Accordingly, the court concluded that Pulte's equal protection claims failed.

With regard to Pulte's takings claim, the court analyzed the regulation under a three-factor test. The court considered: "(1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the governmental action." Looking at the first factor, the court determined that, even if Pulte suffered an 83% diminution in the value of its Property, that alone was not enough to establish a taking—especially in light of the fact that Pulte remained "able to construct a sizeable residential community on its [Property]." Regarding the second factor, the court noted that Pulte had no guarantee that its Property would maintain its existing zoning classification or that a water and sewer change application would be granted. Finally, turning to the third factor, the court found that the development restrictions were designed to "protect a vulnerable watershed and source of drinking water," which was "an entirely appropriate form of local regulation." Thus, the court concluded that Pulte was unable to establish that the regulatory actions of the County and Commission amounted to a taking of Pulte's Property under the Fifth Amendment.

See also: *Biser v. Town of Bel Air*, 991 F.2d 100 (4th Cir. 1993).

See also: *Siena Corporation v. Mayor and City Council of Rockville Maryland*, 873 F.3d 456 (4th Cir. 2017).

See also: *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631, 11 Env't. Rep. Cas. (BNA) 1801, 8 Env'tl. L. Rep. 20528 (1978).

Case Note:

In its decision, the Fourth Circuit admonished landowners and developers for "attempting to use a bevy of federal constitutional claims to displace state law and local decision[-]making." The court defended the need for local zoning authorities to respond to "constantly changing environmental, economic, and social conditions," and urged that the resolution of "routine land-use disputes" was "simply not the business of the federal courts."

Affordable Housing/ Zone Change/ Statutory Applicability—Despite majority vote in favor, zoning commission denies zone change request related to affordable housing application because state statutory law requires super majority vote when zone change protest is filed

Zoning change applicant argues that statutory super majority vote requirement is inapplicable to affordable housing applications

Citation: *Housing Authority of Town of Branford v. Planning and Zoning Commission of Town of Branford*, 2018 WL 6131330 (Conn. Super. Ct. 2018)

CONNECTICUT (10/24/18)—This case addressed the issue of whether Conn. Gen. Stat. § 8-30g—which requires a majority vote of a zoning commission on a zoning change when the proposed change is protested by at least 20% of the owners of area lots—applies to affordable housing applications.

The Background/Facts: The Housing Authority of the Town of Branford (the “Authority”) owned an apartment complex in the Town of Branford (the “Town”). The Authority sought to replace the 50-unit affordable housing apartment complex with a new 67-unit affordable housing apartment complex. The Authority and Beacon Communities, Inc. (“Beacon”), a real estate development and property management company, (collectively, the “Applicants”) sought a zone change for the property because “some applicants, after obtaining zoning approval under [Connecticut’s affordable housing statute] § 8-30g, require a legal opinion for a lender or funding source stating that the development ‘complies with zoning.’” Thus, in September 2017, the Applicants filed applications for a text amendment to create a new zone and for a site plan and coastal site plan.

The Town’s Planning and Zoning Commission (the “PZC”) eventually approved the three applications by a three to two vote. Nevertheless, because during the public hearing process on the applications a § 8-3 protest had been filed, the PZC deemed the three to two vote to be a denial of the applications since it was not a majority vote. Section 8-3(b) provides that when a zone change is proposed, if a protest of that zone change is filed by at least 20% of the owners of the area lots, the zone change cannot be adopted except by a vote of two-thirds of all members of the zoning commission.

The Applicants appealed. In light of the fact that the PZC had approved the applications—albeit not by a supermajority—the parties agreed that, on appeal, the dispositive issue for the court to decide was whether § 8-3(b)’s super majority vote requirement applied to affordable housing applications.

DECISION: Denials of PZC reversed and applications remanded to PZC for approval.

The Superior Court of Connecticut, Judicial District of Hartford, Land Use Litigation Docket at Hartford, held that § 8-3(b) does not apply to affordable housing applications made under § 8-

30g. In so holding, the court looked to the “apparent intent of the legislature” in drafting the statutes. The court found that Chapter 126a of the General Statutes (which governs affordable housing) “seem[ed] to indicate that the legislature contemplated zone changes as part of the affordable housing process” but did “not specifically mention or incorporate by reference § 8-3(b).” The court also found that § 8-3 did not reference § 8-30g. Further, the court noted that § 8-30g was enacted in 1988 while § 8-3(b) had been promulgated more than 60 years earlier. The court commented that, therefore, “[a]s the later and more specific expression of the legislature’s intent regarding affordable housing, § 8-30(g) prevails.”

The court found further support for its interpretation that § 8-3(b) did not apply to affordable housing applications under § 8-30g in § 8-30g’s requirements. The court noted that an adoption of the PZC’s interpretation of the statutes to find that the protest provisions of § 8-3(b) overrode § 8-30g “would thwart the purpose” of the affordable housing act. The court also found that § 8-30g did not allow a commission to “use its traditional zoning regulations to justify a denial of an affordable housing application.” Moreover, the court found that the burden of proof in § 8-30g—requiring a commission to prove their decision was supported by sufficient evidence—was the “only effective reason for a commission to deny an affordable housing application.” In other words, the court found that an affordable housing application could not be rejected “just because it involves a zone change.”

Thus, in summary, the court concluded that the protest petition provision of § 8-3(b) was not a proper ground for the denial of the Applicants’ applications. Further, found the court, “[i]n improperly relying on § 8-3(b) to deny the applications, the [PZC] failed to comply with § 8-30g and ha[d] not sustained its burden of proof.” In short, the court concluded that the PZC’s “inclusion of a condition requiring approval of the zone change for the site plan to be approved was unequivocally illegal.”

See also: *Wisniowski v. Planning Com’n of Town of Berlin*, 37 Conn. App. 303, 655 A.2d 1146 (1995).

Municipal Police Power/Due Process/Equal Protection—Hookah lounge operator challenges county ordinance restricting hookah lounge hours of operation

Hookah lounge operator argues such restrictions violate its constitutional substantive due process and equal protection rights

Citation: *Baddock v. Baltimore County*, 2018 WL 6187574 (Md. Ct. Spec. App. 2018)

MARYLAND (11/28/18)—This case addressed the issue of whether a county ordinance requiring hookah lounges to close between midnight and 6:00 a.m. violated constitutional substantive due process and/or equal protection rights.

The Background/Facts: In May 2014, the Baltimore County Council (the “Council”) passed an ordinance requiring hookah lounges in Baltimore County (the “County”) to close between midnight and 6:00 a.m. every day. Thereafter, a corporation operating a hookah lounge (“Towson Nights”) in the County, challenged the ordinance as being unconstitutional. Specifically, among other things, Towson Nights argued that: (1) the County’s placement of time restrictions in a zoning ordinance was *ultra vires* (i.e., beyond the County’s legal power or authority); (2) the ordinance’s restrictions on hookah lounge hours of operation violated substantive due process (i.e., deprivation of a property right without due process of law); and (3) singling out hookah lounges, but not similar businesses, for the hour of operation restriction violated equal protection rights.

The ordinance’s constitutionality was upheld

(and Towson Nights’ claims rejected) by an administrative law judge, then by the County Board of Appeals, and then by the County Circuit Court.

Towson Nights appealed.

DECISION: Judgment of circuit court affirmed.

Notably, the Court of Special Appeals of Maryland first determined that the County ordinance restriction on the hours of operation of hookah lounges was “not a zoning law,” but rather an “exercise of the County’s police power” and an “economic regulation.” The court found this was the case “regardless of whether the restriction [on hours of operation] [was] encompassed within the [County zoning regulations’] definition of ‘hookah lounge.’ ” The court explained that the partial restriction on hours of operation contained within the zoning regulations definition of “hookah lounge” bore “all the hallmarks of traditional police power legislation,” and did not affect whether any particular site within the County could or could not be operated as a hookah lounge, and was “not a zoning law.” Having concluded the ordinance’s restriction on hours of operation was not a zoning law, the court held that, contrary to Towson Nights’ position, the County did not act *ultra vires* by enacting such time restrictions in the zoning regulation.

The court next held that the ordinance’s time restrictions did not violate due process because they were based on the County’s “valid health and safety reasons” for regulation of hookah lounges. The court explained that “economic regulation” is constitutionally valid when it “rests upon some basis within the knowledge and experience of legislators.” Here, the court found that the County enacted this time restriction regulation to shield the public from crime and public health concerns related to tobacco use.

Finally, the court also rejected Towson Nights’ contention that requiring hookah lounges—but not similar businesses such as cigar bars or liquor licensed establishments—to close at midnight was an arbitrary distinction that violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. The court said that “[i]n the context of economic regulation, equal protection ‘is not a license for courts to judge the wisdom, fairness, or logic of legislative choices.’ ” More specifically, the court rejected Towson Night’s contention by noting that legisla-

tive bodies—like the County—are “permitted to make commercial classifications that distinguish between entities” as long as they are rationally based. Finding the County’s hours of operation limitation for hookah lounges was based on “legitimate concerns for the public safety and welfare,” the court concluded that the requirement was a valid exercise of the County’s police power and did not violate equal protection.

See also: *Frey v. Comptroller of Treasury*, 422 Md. 111, 29 A.3d 475 (2011).

Zoning News from Around the Nation

FLORIDA

In November, the Miami City Commission approved an “inclusionary zoning” measure, which would “mandate inclusion of affordable housing in new private development projects.” The zoning measure aims to produce “thousands of new affordable dwellings” in a designated zone encompassing approximately 30 city blocks. The proposal would also reportedly “upzone” the area, “providing the developers more buildable density to offset the lower revenue they will generate from setting aside specific percentages of units for strictly defined affordable and workforce

housing.” The Commission was to set to vote on the proposed measure again in December.

Source: *Miami Herald*; www.miamiherald.com

MICHIGAN

The Michigan Legislature is considering several zoning related bills. The Senate recently passed S.B. 1189, which would prohibit local government “from adopting, maintaining, or enforcing regulations that restrict, or require mitigation for, the trimming or removal of any vegetation other than a heritage tree located on certain private property.” In the House, House Bill 6499 would amend the Michigan Zoning Enabling Act “to increase the number of children allowed to live at a state-licensed residential facility.”

Source: *Gaylord Herald Times*; www.petoskeynews.com/gaylord

OREGON

The Brookings City Council is considering an option to add to its comprehensive plan an “overlay zone” to allow “outright permitted” or conditional use permits for homeless shelters. Reportedly, among other things under possible consideration are site requirements, proximity to services, and concentration of such facilities.

Source: *Curry Coastal Pilot*; www.currypilot.com

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Subdivision—Property owner proposes, and town approves, lot line revisions

Abutting neighbor argues lot line revisions constitute a subdivision with resultant lots too small to satisfy the minimum lot area requirements for lots created by subdivision

Citation: *Cady v. Zoning Board of Appeals of Town of Burlington*, 330 Conn. 502, 196 A.3d 315 (2018)

CONNECTICUT (12/11/18)—This case addressed the issue of whether a landowner's proposed map of his property that included revised boundary lines between adjacent lots constituted a subdivision.

The Background/Facts: In 2013, GM Retirement, LLC ("GM") purchased a lot (the "Claire Hill Lot") in the Town of Burlington (the "Town"). In 2014, GM purchased two more lots (the "Wark and Legowski Lots"), which were adjacent to the Claire Hill Lot. In 1959, those three lots had been four lots, which were affected when the state widened a bordering road. The state road project made one of those four lots non-conforming in size, leaving three conforming lots. In 1986, the non-conforming lot was combined with the Claire Hill Lot. Thus, as of 2014, GM's property consisted of three lots, totaling 1.63 acres.

After GM's purchase of the lots, GM submitted to the Town zoning enforcement officer (the "ZO") for approval a map of the three lots with revised property boundaries. GM proposed lot line revisions which reconfigured the three lots on its property. The ZO determined that there had been three preexisting lots which could be "reconfigured as needed to comply with current minimum bulk requirements of the R-15 zoning district for purposes of lot improvement and that no subdivision was required in order to proceed to do so." The ZO also concluded that the lot line revision map, reconfiguring the lots into conforming R-15 zone lots, permitted development.

GM's abutting neighbor, Bruce A. Cady ("Cady") appealed the ZO's decision to the Town's Zoning Board of Appeals ("ZBA"). The ZBA denied the appeal and upheld the ZO's decision.

Cady then appealed to the trial court. Among other things, Cady argued



that “the proposed realignment of boundary lines for the three lots constituted a subdivision under [Conn. Gen. Stat.] § 8-18 and that the resultant lots were too small to satisfy the minimum lot area requirements for lots created by subdivision after October 1, 1983.” Section IV.B.5 of the Town’s Zoning Regulations—which were adopted on October 1, 1983—required a minimum lot area of 43,560 square feet for “any lot created by subdivision and recorded after October 1, 1983,” and a minimum lot area of 15,000 square feet for any “lot in existence as of October 1, 1983.” The sizes of GM’s reconfigured lots were 30,261 square feet, 16,866 square feet, and 24,057 square feet.

The trial court agreed with Cady and reversed the decision of the ZBA. The trial court determined that GM’s proposed lot line revision did constitute a subdivision because “any change other than a ‘minor lot line adjust-

ment . . . whereby no new lot is created’ constitutes a subdivision.” More specifically, the trial court concluded that, here, the change proposed by GM was not a “minor lot line adjustment but was a subdivision” because a new lot was created and that lot failed to meet the greater area requirements of the Town’s Zoning Regulations.

GM appealed. Among other things, on appeal, GM argued that its revisions of the lot lines did not constitute a “subdivision,” and thus, the Town Zoning Regulation requiring a minimum lot area for certain construction did not apply to the proposed lots.

DECISION: Judgment of Superior Court reversed, and matter remanded with instructions.

Agreeing with GM, the Supreme Court of Connecticut concluded that substantial evidence supported the ZBA’s determination that GM’s lot line revisions did not constitute a subdivision.

In so concluding, the court looked to the statutory definition of “subdivision” found in Conn. Gen. Stat. § 8-18. The statute defines “subdivision” as “the division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of subdivision regulations . . . for the purpose . . . of sale or building development . . .” (Conn. Gen. L. § 8-18.) Based on that definition, the court explained that in order to constitute a subdivision, two requirements must be met: “(1) [t]he division of a tract or parcel of land into three or more parts or lots, and (2) for the purpose, whether immediate or future, of sale or building development.” With that definition of “subdivision” in mind, the court found that GM’s line revision here did not constitute a subdivision “because one lot was not divided into three.” The court found that the evidence showed that “three conforming lots simply were reconfigured into three differently shaped, yet still conforming, lots.”

The court further concluded that because GM’s lots were in existence prior to the adoption of the Town’s Zoning Regulations, the proposed lots met the minimum size requirements of the R-15 zone.

See also: *McCraun v. Town Plan and Zoning Commission of Town of Bloomfield*, 161 Conn. 65, 282 A.2d 900 (1971).

Case Note:

In its decision, the appellate court addressed the trial court’s determination that GM’s revised lot lines constituted a subdivision because it was more than a “minor lot adjustment.” The appellate court noted that nothing in the language of § 8-18 indicated that the determination of whether a particular proposal constitutes a subdivision “depends on the degree of the lot line adjustment.” “Indeed, § 8-18 does not address a lot line adjustment or the size of an adjustment at all; instead, it addresses ‘the division of a tract or parcel of land . . .’ ” said the court. Similarly, the court

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noted that, under § 8-18 "subdivision" definition, "division of a tract or parcel of land into three or more parts or lots" demonstrates that the creation of one new lot does not constitute a subdivision. Accordingly, the appellate court concluded that the plain language of § 8-18 did not support the interpretation of the statute adopted by the trial court.

Proceedings/ Jurisdiction—Local environmental groups argue that developer's exemption from state's Highlands Water Protection and Planning Act expired for failure to commence construction within three years of receiving final approvals

Developer and state Department of Environmental Protection contend exemption did not expire because conditions in planning board's final approval requiring additional approvals remained unsatisfied

Citation: *N.J. Highlands Coalition v. New Jersey Department of Environmental Protection*, 2018 WL 6539897 (N.J. 2018)

NEW JERSEY (12/13/18)—This case addressed the issue of whether Exemption 17—an exemption from New Jersey's Highlands Water Protection and Planning Act for the construction of affordable housing projects—had expired for failure to commence construction within three years after receiving all final approvals required pursuant to New Jersey's Municipal Land Use Law. Specifically, the case addressed the meaning of "all final approvals" under the Highlands Water Protection and Planning Act.

The Background/Facts: Bi-County Development Corporation ("BDC") owned property in the Borough of Oakland (the "Borough"). BDC sought to develop its property as an affordable housing project. In furtherance of the development project, BDC sought and

obtained both preliminary and final site plan approval from the Borough's Planning Board (the "Board"). Notably, that approval came with 57 conditions.

As an affordable housing project, BDC's development project was eligible to qualify for exemption from New Jersey's Highlands Water Protection and Planning Act (the "Highlands Act" or the "Act"). Pursuant to Exemption 17 of the Act, development projects that meet certain, specified criteria are exempt from the Act's requirements. The exemption, however, "shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the 'Municipal Land Use Law' [the 'MLUL']" (N.J. Stat. Ann. §§ 13:20-28(a)(17), 40:55D-4.) BDC's project qualified for Exemption 17.

Eventually, N.J. Highlands Coalition and the Sierra Club, NJ (the "Petitioners") petitioned the State Department of Environmental Protection ("DEP"), arguing that Exemption 17 had expired for BDC because construction of BDC's project failed to commence within three years after receiving all final approvals required pursuant to the MLUL.

The DEP concluded that BDC's project could proceed under Exemption 17 because its qualifications had not expired. In so concluding, the DEP noted that several of the 57 conditions associated with the final site plan approval remained unsatisfied. Two of those unsatisfied conditions required BDC to obtain additional approvals from the Board and from DEP. Accordingly, the DEP determined that the Board's preliminary and site plan approvals were "not a 'final approval'" in reasoning that BDC had not obtained "all final approvals required pursuant to the MLUL" as Exemption 17 prescribed.

The Petitioners appealed. The Superior Court, Appellate Division, affirmed the DEP's determination.

The Petitioners again appealed. On appeal, the Petitioners argued that Exemption 17 incorporated the MLUL definition of "final approval." That definition provides that "final approval" "means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees." (N.J.S.A. 40:55D-4.)

The DEP and BDC responded, arguing that this case did not involve an interpretation of the MLUL but instead involved an interpretation of the phrase "all final approvals required" contained in Exemption 17 of the Highlands Act.

DECISION: Judgment of the Superior Court, Appellate Division, affirmed.

The Supreme Court of New Jersey affirmed the deci-

sion of the DEP and the Appellate Division that BDC's project could proceed under Exemption 17 because its qualification had not expired.

In so affirming, the court emphasized that "the operative phrase to be applied" when examining whether Exemption 17 had expired for BDC's development project was the phrase "all final approvals" in the Highlands Act. The court noted that phrase used the plural form when referencing "approvals." The court found evidence that the Legislature intended there to be "not just one 'final approval' for purposes of Exemption 17" in its addition of the word "all" in the phrase, to underscore that point. Rejecting Petitioner's argument, the court noted that Exemption 17 had a "distinctly different language" than the singular "final approval" in the MLUL, and concluded that the legislative intent was not to import the MLUL definition of "final approval."

With this interpretation of the language, the court affirmed the determinations of the DEP and Appellate Division that because two conditions of the Board's final site plan approval required additional approvals that were not yet satisfied, "all final approvals" had not yet been met so as to trigger the three-year limitations period for Exemption 17 application to BDC's development project. Accordingly, the court affirmed that Exemption 17 had not expired here.

Case Note:

In its decision, the Supreme Court of New Jersey emphasized that its interpretation of the Highlands Act's language "should not be exported to MLUL controversies." The court said that its finding of a clear distinction between the Highlands Act's language of "all final approvals" and the MLUL's language of "final approval" "should prevent this decision from having an impact on application of the defined term 'final approval,' in the MLUL context." To be clear, the court further stated: "We make no findings about the finality of approval for purposes of the MLUL when conditions are imposed on a project by a planning board."

Referendum—City rejects petitions for referendum of zoning resolutions, finding the resolutions were administrative in nature

Petitioners argue the resolutions were legislative in nature and therefore referable

Citation: *Baker v. Carlson*, 2018 UT 59, 2018 WL 6239919 (Utah 2018)

UTAH (11/28/18)—This case addressed the issue of whether resolutions approving a developer's proposal to amend a site development master plan and approving a developer's proposal to amend an agreement for development of land were referable such that referendums on the resolutions could be placed on the ballot.

The Background/Facts: In the mid-2000s, the Cottonwood Mall in the City of Holladay (the "City") closed. In 2007, the owner of the Cottonwood Mall site (the "Site"), Cottonwood Mall, LLC ("CM"), asked the City to rezone the Site to permit mixed uses. The City then approved the creation of a new zoning district for the Site—a Regional/Mixed-Use ("R/M-U") zone. The City also developed regulations related to development in an R/M-U zone. Under those regulations, any developer wishing to build in an R/M-U zone was required to submit a site development master plan ("SDMP") to the City for approval. The SDMP would control the development of all property within an R/M-U zone and was meant to serve as a guide for the overall development of the entire site (similar to a City's general plan for a community). The City regulations also required that, once an SDMP was approved, the City and developer must enter into an Agreement for the Development of Land ("ADL"), which would grant specific rights pursuant to the SDMP and address additional development-related issues.

Under that framework, CM submitted and the City approved an SDMP (the 2007 SDMP) and an ADL (the 2008 ADL). However, CM ultimately abandoned the project. Then, in 2016, CM began negotiating with Ivory Development, LLC ("Ivory") for purchase of the Site and CM's rights in the redevelopment project. Ivory proposed to the City amendments to the SDMP and the ADL. In May 2018, the City passed Resolutions 2018-16 and 2018-17, which, respectively, approved Ivory's amended SDMP (the "2018 SDMP") and Ivory's amended ADL (the "2018 ADL").

A group of citizens from the City (the “Petitioners”) petitioned to subject the Resolutions to a public vote by referendum. Upon receiving their petitions, the City determined that the Resolutions were administrative in nature and therefore not referable. The City declined to place the referenda on the ballot.

The Petitioners then initiated a judicial action. They asked the district court to order: (1) that the Resolutions were legislative in nature and therefore referable; and (2) the City to place the referenda regarding the Resolutions on the ballot.

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the district court held that: (1) Petitioners were entitled to summary judgment as to the claims related to Resolution 2018-16 (approval of the 2018 SDMP) because Resolution 2018-16 was legislative in nature and therefore referable; and (2) Ivory and the City were entitled to summary judgment as to the claims related to Resolution 2018-17 (approval of the 2018 ADL) because Resolution 2018-17 was administrative in nature and therefore not referable. Accordingly, the district court ordered that the City place the referendum petition on Resolution 2018-16 on the ballot, putting the City’s approval of the 2018 SDMP to a public vote.

All parties appealed.

DECISION: Judgment of Third District Court affirmed.

Agreeing with the district court, the Supreme Court of Utah held that Resolution 2018-16 (approval of the 2018 SDMP) was referable because it was legislative in nature, and Resolution 2018-17 was not referable because it was administrative in nature.

In so holding, the court explained that, in determining whether a municipality’s action is legislative or administrative in nature, the court looks to whether the action has “two ‘key hallmarks’ of legislative power”: (1) it involves the “promulgation of laws of general applicability”; and (2) it is “based on the weighing of broad, competing policy considerations.” In comparison, the court noted that an “administrative power” would involve “applying the law to particular individuals or groups based on individual facts and circumstances.”

Here, the court concluded that the City was exercising its legislative powers when it approved Resolution 2018-16 because the 2018 SDMP “promulgated a law of general applicability and its approval required the weighing of broad, competing policy considerations.” Even though the site-specific rezoning here only affected one piece of property, the court found it was “generally applicable because all present and future owners of the [S]ite would be bound by the decision to rezone the property.” Similarly, the court found that the 2018 SDMP applied to “all parties, present and future, that meet its terms by executing a corresponding ADL

with the City.” Moreover, the court found that in issuing Resolution 2018-16, approving the 2018 SDMP, the City “considered broad, competing policy considerations” including “everything from traffic impact in the area surrounding the Site to the City’s economic stability as a whole.”

The court also concluded that the City was exercising its administrative powers when it approved Resolution 2018-17 because the 2018 ADL “applie[d] only to the contracting parties and its approval involved the application of law to specific facts.” The court found that the 2018 ADL was not generally applicable, but rather had “very limited and specific applicability in that it applie[d] only to those parties that negotiated its terms.” Moreover, the court found that in approving Resolution 2018-17, the City did not weigh broad, competing policy considerations, but rather applied the 2018 SDMP to the specific circumstances of the parties negotiating the 2018 ADL.

See also: *Carter v. Lehi City*, 2012 UT 2, 269 P.3d 141 (Utah 2012).

Case Note:

In reaching its conclusion regarding the legislative nature of the SDMP, the court emphasized that it did “not mean to suggest that every site development plan approved pursuant to a zoning ordinance will be legislative in nature.” Rather, the nature of a site development plan depends entirely on how the municipality reaches its decision, said the court. An “open-ended” municipal decision made without reference to “fixed criteria” may be legislative, while a municipal decision involving “application of existing law to the facts presented by an individual applicant” or that is “limited to the evaluation of specific criteria fixed by law” would be administrative, said the court.

Exhaustion of Administrative Remedies/Jurisdiction—City argues developer's Land Use Petition Act action should be dismissed for failure to exhaust administrative remedies

Developer maintains it did exhaust administrative remedies before bringing judicial action

Citation: *Aho Construction I, Inc. v. City of Moxee*, 430 P.3d 1131 (Wash. Ct. App. Div. 3 2018)

WASHINGTON (12/06/18)—This case addressed the issue of whether an applicant seeking rezone and subdivision of property took steps necessary to exhaust administrative remedies as required before it could bring a Land Use Petition Act action in court. More accurately, as described by the court, this case addressed the issue of “how loud, listing, learned, legally lucid, and longwinded a party’s presentation of an issue or legal argument must be before an administrative agency in order to exhaust remedies.”

The Background/Facts: Aho Construction I, Inc. (“Aho”) owned a 22-acre tract of property (the “Property”) in an R-1 single-family zone in the City of Moxee (the “City”). Aho sought to rezone and subdivide the Property. Aho submitted applications to the City to rezone and subdivide the Property. Pursuant to Washington’s State Environmental Policy Act of 1971, chapter 43.21C RCW (“SEPA”), Aho also filed an environmental checklist with the City. It also submitted to the City a preliminary plat for approval. Of importance here, Aho’s proposed plat map did not extend an existing City street, Chelan Avenue, through the proposed subdivision.

The City conducted a review of the preliminary plat application under SEPA and issued a preliminary mitigated determination of nonsignificance (“MDNS”). The preliminary MDNS was issued for “purposes of additional comments from the public, government entities, and Aho.” The preliminary MDNS required Aho implement various mitigation measures, including extending Chelan Avenue across the entirety of the subdivision.

Aho requested from the City relief from the mitiga-

tion requirement of extending Chelan Avenue. Along with that request, Aho forwarded to the City a report by Aho’s engineer, which disputed the need to extend Chelan Avenue. Aho’s general counsel also wrote City officials, complaining about the lack of justification for extending Chelan Avenue across the plat.

Despite those requests, when the City issued its final MDNS, it retained the condition to the subdivision plat approval that Aho extend Chelan Avenue across the entire plant.

Aho appealed to a City hearing examiner the City’s final SEPA MDNS, as well as the condition of the grant of the rezone and the subdivision plat approval on extending Chelan Avenue. Before the hearing examiner, Aho representatives argued about the “propriety of conditioning approval of the project on the extension of Chelan Avenue.”

Eventually, the hearing examiner reversed the City’s MDNS condition of extension of Chelan Avenue in that the avenue lacked an environmental impact. However, the hearing examiner upheld the condition of extension of Chelan Avenue on other grounds when reviewing the rezone application approval and the preliminary plat approval.

Neither Aho nor the City appealed the hearing examiner’s SEPA determination. Pursuant to the City’s Municipal Code (the “Code”), the City Council automatically conducted a closed record hearing to consider the hearing examiner’s recommendations with regard to the conditions imposed on the rezone application and the preliminary plat. Aho’s representatives appeared and made objections at that City Council hearing.

The City Council voted to approve the hearing examiner’s recommendation to require extension of Chelan Avenue as part of the rezone application and the preliminary plat application approval.

Subsequently, Aho filed suit against the City in superior court. Among other things, Aho brought a petition under Washington’s Land Use Petition Act (“LUPA”) (RCW chapter 36.70C). In its LUPA claim, Aho contended that the City “adopted erroneous interpretations of the law and violated Aho’s constitutional right against the taking of its property without just compensation.” Aho also argued that the requirement of extending Chelan Avenue across the proposed subdivision constituted “an unreasonable exaction that lacks proportionality to the impact of [the] proposed [subdivision] and that fails an essential nexus between a legitimate state interest and the exaction imposed.”

The City filed a motion to dismiss, asking the court to dismiss Aho’s causes of action based on an argument that Aho failed to exhaust its administrative remedies before bringing the judicial action. More specifically, the City argued that Aho had failed to raise before the City Council the arguments that it was now making in court.

RCW 36.70C.060 addresses standing under LUPA and incorporates an exhaustion of remedies requirement for standing. The statute declares that standing to bring a land use petition under LUPA is limited to petitioners who have exhausted their administrative remedies "to the extent required by law." Thus, under LUPA, a superior court lacks jurisdiction over a LUPA petition if the petitioner has failed to exhaust his or her administrative remedies.

Here, the superior court agreed with the City that Aho had failed to exhaust its administrative remedies, necessitating dismissal of its land use petition under LUPA.

Aho appealed.

DECISION: Judgment of superior court reversed, and matter remanded.

The Court of Appeals of Washington, Division 3, held that Aho took the steps necessary to exhaust its administrative remedies and advance its position before the City Council such that it could bring a LUPA action against the City in superior court.

In so holding, the court noted that Washington's Administrative Procedure Act (RCW 34.05.554(1)) also requires exhaustion of remedies before challenging agency action in superior court. The court noted that the "same exhaustion principles" are applied "regardless of whether the exhaustion requirement arises from the Administrative Procedure Act, LUPA, or some other source." The court further explained that in order for a litigant (such as Aho, here) to establish exhaustion of administrative remedies, the litigant must first raise the appropriate issues before the agency. Thus, here, the court had to determine whether Aho apprised the City Council of the issues Aho then sought to litigate in its LUPA action.

The court explained that "[i]n order for an issue to be properly raised before an administrative agency, there must be more than simply a hint or a slight reference to the issue in the record." The court thus concluded that "the Washington test for exhaustion of remedies imposes a minimal burden on the challenger of the administrative agency action," that cannot be mathematically measured. Still, the court listed factors "germane to determining sufficiency of exhaustion," which include (but are not limited to):

the number of sentences devoted to an issue in any written brief given to the administrative agency; the amount of language devoted to the argument compared to the amount of language devoted to other arguments; the clarity of the presentation before the administrative agency; citations to statutes and case law and the accuracy of the citations; if the party asserts numerous issues in a brief, whether the issue on appeal was separated in the brief or introduced with a heading; and whether the challenger's presentation to the administrative agency applied facts to the law.

Analyzing those factors to the evidence here, the court found that Aho "repeatedly asserted to the [C]ity

that the [C]ity's demand for an extension of Chelan Avenue lacked proportionality and a nexus to a public interest and constituted a taking of property without just compensation." The court noted that Aho did this in its submission to the City of: (a) its engineer's report disputing the need to extend Chelan Avenue; (b) its general counsel's letter to City officials complaining about the lack of justification for extending Chelan Avenue; and (c) its arguments before the hearing examiner concerning the propriety of condition approval of the project on the extension of Chelan Avenue.

The City argued, however, that Aho failed to exhaust administrative remedies before the City Council because it failed to specifically raise the Chelan Avenue extension issue before it. The court rejected this argument, holding that "[n]evertheless, exhaustion of remedies before the hearing examiner should extend to exhaustion of remedies before the [C]ity [C]ouncil since the [C]ity [C]ouncil merely reviewed the hearing examiner's record and decision in a closed record meeting." "If the [C]ity [C]ouncil did not understand that it was reviewing Aho's arguments of a missing nexus, a lack of proportionality, and a taking, one wonders what the [C]ity [C]ouncil believed itself to be reviewing," noted the court. The court concluded that "[n]otice to the [C]ity [C]ouncil of those issues by the hearing examiner's record fulfill[ed] the purpose of the doctrine of exhaustion of remedies."

Accordingly, the court reversed the dismissal of Aho's LUPA petition, and remanded the proceedings.

See also: *King County v. Washington State Boundary Review Bd. for King County*, 122 Wash. 2d 648, 860 P.2d 1024 (1993).

See also: *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wash. 2d 861, 947 P.2d 1208 (1997).

See also: *Wells v. Western Washington Growth Management Hearings Bd.*, 100 Wash. App. 657, 997 P.2d 405 (Div. 1 2000).

See also: *Kitsap Alliance of Property Owners v. Central Puget Sound Growth Management Hearings Bd.*, 160 Wash. App. 250, 255 P.3d 696 (Div. 2 2011).

See also: *Washington Attorney General's Office, Public Counsel Unit v. Washington Utilities and Transportation Commission*, 4 Wash. App. 2d 657, 423 P.3d 861 (Div. 2 2018).

Case Note:

In its decision, the court also concluded that, "[b]ased on Washington case law . . . if a party fails to cite a statute or ordinance before the administrative agency, the party may not rely on the statute or ordinance in the superior court suit challenging the agency action." The party, however, may still rely on other statutes or constitutional clauses, said the court.

Zoning News from Around the Nation

NEW YORK

The Woodstock Town Board has drafted a “series of regulations” governing short-term rentals. Among other things, the proposed regulations would prohibit short-term rentals in multi-family dwellings of three or more units. They would also require annual fire and safety inspections in all registered short-term rentals. And, they would allow non-owner-occupied short-term rentals, limited to one unit per owner and 180 days per year. The regulations now await Town Planning Board review.

Source: *Hudson Valley One*; <https://hudsonvalleyone.com>

OKLAHOMA

In early December 2018, State Sen. Roger Thompson

filed a bill that would give counties more authority over land use. More specifically, Senate Bill 10 would allow county commissioners to “create boards of adjustment with a resolution.” Those boards of adjustment could then adopt zoning regulations.

Source: *The Journal Record*; <http://journalrecord.com>

PENNSYLVANIA

Dallas Township supervisors recently approved a new zoning law that “limits where natural gas companies can operate and requires them to appear at public hearings prior to getting approval for any work.” The new zoning law reportedly shrinks to less than 20% the area of land in the township classified for natural gas operations.

Source: *The Citizens Voice*; www.citizensvoice.com

What Planners Wish Their Planning Commissioners Knew

by Jim Segedy, Ph. D., FAICP, and Lisa Hollingsworth-Segedy, AICP

Lisa recently visited with Paulding County, Georgia's Planner, Chris Robinson, whose career has included work at two regional planning commissions, two counties, one city, and one state agency. She asked him "over the years and in all the places where you have worked as a planner, what did you wish your planning commissioners knew?"

Chris' answers started us down a road studded with memories of our own experiences over the years as we worked to empower planning commissioners at their job. It never hurts to remind ourselves who we are, and what we're doing on the planning commission in the first place.

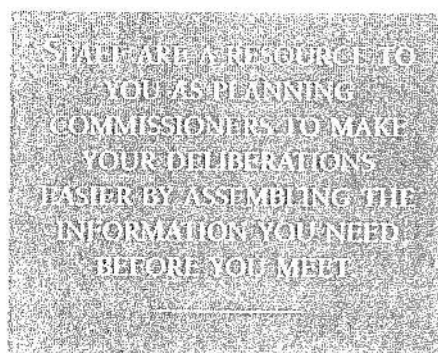
So with our thanks to Chris for his perspective, and apologies to David Letterman, here's our Top Ten List of things planners wish their planning commissioners knew. One caveat: each state has slightly different planning and zoning laws, and local commissions' procedures will vary. Still, the basic ideas we set out should be relevant for most of you.

10. *The responsibilities and duties of being a planning commissioner.* Planning commission involvement is not an appointment to accept for status or just to add to your resume. It involves training, study, and preparation for every meeting. You will need a clear understanding of the commission's role in administrative and legislative actions, as well as legal issues such as due process, "takings," preemption, and more.

Planning commissioners are responsible for working together to ensure that the community grows and develops according to the vision established in the plan. As you consider an appointment (or accepting a re-appointment) carefully consider the significant commitment required, from the amount of time involved in preparing to make informed

decisions to the (potentially lengthy) meetings each month.

9. *Proper adoption of the zoning ordinance, map, and amendments is very important.* Planning commissioners should be familiar with their state's code language that spells out the procedures for how a zoning ordinance and/or map can be amended. Requirements for advertising and public hearings are the most common items addressed, but some states specify additional standards.



8. *The relationship between the comprehensive plan and the zoning ordinance.* Your comprehensive plan (or master plan, or something similar) is the critical guidance document for your community. It likely contains an examination of current conditions, identifying goals and objectives for the future, and a general framework for how to achieve those goals – and why. The plan establishes the framework for decision-making and the public purpose for local government regulations pertaining to land use.

7. *The definition of "hardship" when granting a variance.* Typically, a variance from the zoning code's standards is allowed only when there is a "hardship on the property." In other words, the property cannot be developed under the current rules because of specific conditions on the site or its unusual configuration. "Hardship," as the word is defined in zoning codes, does not relate to the

financial well-being of the property owner, or whether the site could generate greater profit (that is, more than a "reasonable return") if a variance were granted. As one of the leading treatises on zoning law states, "the courts have consistently held that a variance may not be granted solely on the ground that such relief will enable the applicant to make a greater profit."¹

The technical zoning definition of hardship is too often ignored by planning and zoning boards (the body authorized to grant variances differs from state to state). One consequence of this, and of too readily granting variances, is that the community's zoning ordinance and comprehensive plan will be undermined. Bottom line: it is important to know the criteria in your ordinance for granting variances, and then make decisions in accordance with those criteria.

6. *Politics is for politicians – not planning commissioners.* In most places, planning commission appointments are made by elected officials. Sometimes these officials have "expectations" about their appointees and the decisions they are called on to make. This has the potential of damaging the commission's integrity as an independent body. As Greg Dale (who has frequently written on ethical issues for the PCJ) has noted: "As a planning commissioner you have an ethical obligation to remain in a position of objectivity and fairness. Any time you take a position at the urging of an elected official, you run the risk of tainting your credibility as an objective decision-maker."²

One of the fundamental purposes behind the creation of planning commissions early in the 20th century was to

¹ Anderson's *American Law of Zoning*, 4th Edition, Sec. 20.23, p. 495.

² "Who Do You Work For," in PCJ #16 (reprinted in *Taking a Closer Look: Ethics & the Planning Commission*; for details: www.plannersweb.com/ethics.html).

provide for an independent, non-partisan, body to provide advice to the governing body on planning, zoning, and other land use matters. As planning historian Laurence Gerckens has noted, "it is worth recalling that citizen planning commissioners were put into that position ... to provide insights into the problems and potential of the community, and to provide leadership in the solution of problems before they arise."³

5. *"Health, safety, and welfare."* These three words are the foundation upon which a community's comprehensive plan and land use ordinances are built. Planning commission decisions should be based on impacts on the health, safety, and welfare of the community, not just on the welfare of any one individual or group.

Planning commissioners should also be familiar with the concepts of "due process" and "takings" so they are not "buffaloed" by applicants who will argue that an adverse decision will violate one or both of them.⁴ Your by-laws and/or zoning ordinance should contain a checklist or form that will keep you on track and document due process and findings for approval or denial.

4. *Conflicts of interest – and how to avoid them.* As a planning commissioner, you are called upon to check your personal interests at the door of each meeting. It is critical that you keep the community's best interests in focus, not how the proposal may impact your own business, property, or income. You and your fellow commissioners should be familiar with your commission's rules on conflicts of interest (which we hope your

commission has!) and scrupulously adhere to them.

It is also important to put aside personal feelings about either the applicant or members of the public who may be testifying. Jim recalls that during his term as a planning commissioner, he heard fellow commissioners say, "they seem like nice people," or "my kid plays soccer with the their kid." These should have nothing to do with your review of a project. If you can't focus on making objective decisions based on your ordinance's criteria, you probably shouldn't be serving on a planning commission.

3. *The role of planning staff.* If your community employs planning staff, it is part of their job not just to ensure that development applications are complete,

but to conduct a basic evaluation of the permit request against the standards contained in your ordinance. In some communities, staff may also prepare recommended findings based on their technical review of the application. But staff should never direct you how to vote, and you

should always independently evaluate the recommendations you receive, the material presented by the applicant, and any testimony or public comments you hear.

Staff are a resource to make your deliberations easier by assembling the information you need before you meet. Most staff welcome questions from commissioners in advance of the meeting. This can help keep the meeting on track and keep you as a planning commissioner well informed.

2. *Site visits to subject properties are important.* Looking at photos and maps just isn't the same as seeing the site and observing the conditions that may be impacted by a proposed development. Driving by the site for a quick look usually isn't as revealing as getting out of your car and walking around the site. Issues involving scale or density, for example, can seem abstract without a

real feel for the specific area potentially affected by the project.

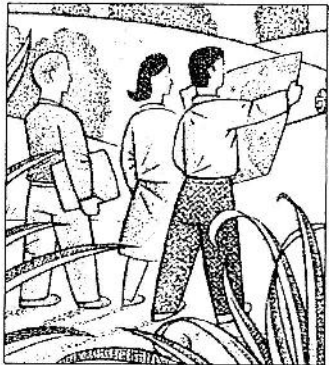
Some planning commissioners are reluctant to go on site visits because they are concerned about running afoul of Sunshine Laws, or even trespassing. Site visits are fact-finding missions, so as long as you restrict conversations to details of the permit request and don't stray into the area of discussing possible decisions, you should be fine. Of course, be guided by advice your commission receives from its legal counsel on site visits.

1. *Why avoiding ex-parte communications is critical.* Decisions must be made on the basis of fact – and in the light of day. Information gathered should come through appropriate channels: the permit application; maps and photos that support it; what you observe on a site visit; clarifications provided by your staff; and public hearing comment. If your decision is based, even in part, on information you privately received from the applicant or from someone opposing a project, you are – in our opinion – leaving yourself open for a court challenge.

However, in the review process for this article, we heard from one planner who informed us that ex-parte communications are allowed in her jurisdiction, though members are encouraged to report the content of such communications at the commission meeting and to remain objective.

Your best bet is to follow the communication and decision-making standards spelled out in your planning commission by-laws and/or your zoning ordinance procedures. If your commission or board doesn't have provisions addressing how to handle ex-parte contacts, set aside some time to develop them. ♦

Jim Segedy is the Director of Community Planning for the Pennsylvania Environmental Council. Lisa Hollingsworth-Segedy is the Associate Director for River Restoration for American Rivers' Western Pennsylvania Field Office. They both thank Chris Robinson for his contributions to this column.



³ "Community Leadership & the Cincinnati Planning Commission," *PCJ* #18 (Spring 1997).

⁴ Editor's Note: for a good overview of procedural due process and "takings," we'd recommend respectively "Procedural Due Process in Practice," by Dwight Merriam, FAICP, Esq., and Robert Sitkowski, AIA, Esq. (*PCJ* #31), and "Taking on Takings Claims," by Dwight Merriam (*PCJ* #60). Both articles are included in our publication, *Taking a Closer Look: Planning Law* (2008). For details: www.planuweb.com/law.html