

**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**

Jeff Dalling, Chairman of the City of Elko Planning Commission, called the meeting to order at 5:38 p.m.

**ROLL CALL**

**Present:**      Evi Buell  
                 Gratton Miller  
                 Jeff Dalling  
                 Stefan Beck  
                 Tera Hooiman

**Excused:**     Ian Montgomery  
                 John Anderson.

**City Staff Present:**   Scott Wilkinson, Assistant City Manager  
                         Cathy Laughlin, City Planner  
                         Ty Trouten, Police Department Captain  
                         Bob Thibault, Civil Engineer  
                         John Holmes, Fire Marshal  
                         Shelby Archuleta, Planning Technician

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments at this time.*

**APPROVAL OF MINUTES**

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

**\*\*\*Motion: Approve the minutes from the February 5, 2019 Planning Commission Meeting.**

**Moved by Evi Buell, Seconded by Tera Hooiman.**

***\*Motion passed. (4-0, Gratton Miller abstained)***

## 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 3<sup>rd</sup> Street, approximately 75' northwest of Railroad Street (303 3<sup>rd</sup> Street, Suite A).

Emily Anderson, 149 Elm Street, gave some background information. She introduced her business partner Greg, who sits with her on a non-profit that she Chairs called Ghost Light Productions, which is a theater company in town. She has an extensive background in the arts. She has worked in professional theater all over the State. She moved to Elko and started Ghost Light Productions, which is a non-profit theater company. They do a lot of shows and fundraisers for local non-profits. She is currently working with the Nevada Arts Council to bring a program to Elko that will bring urban artists to town and rural artists across the state. She just left the Chamber of Commerce after for years, so she knows a lot about small businesses, how the community works, and what it is lacking, which is the arts. Her background is in educational arts with children, teens, and adults. She has wanted to open a performance venue for a long time. Part of her mission was to bring rural arts exposure, education, and programming workshops to Elko. They found a location that they would like to have their venue in. It is going to be a studio theater. They would like to have a bar to serve alcohol during shows and events, along with food. They are in process of getting their restaurant license. The idea is that they want to host shows, so artists will have an affordable venue. The venues to do shows in Elko can be outstanding in Price to local non-profits. They want to make that space available for artists, actors, people who want to do art shows, jewelry shows, and bringing more entertainment shows and life to downtown. There are a lot of opportunities out there, but they are lacking an affordable venue. She passed out a sheet with some ideas on what they want to do. They need to have some sort of sustainable income, aside from their big nights, so they also want to do some smaller events. Bottom line they are about bringing arts and arts exposure to the area.

Ty Trouten, Captain Elko Police Department, thought this was a very unique and novel idea and would be a very welcome addition to the community. The Police Department had a couple of concerns and asked for some special conditions upon the permit, if the bar is allowed. He understood that they wanted to bring in some children's events. He pointed out that it was a tight area and it had no natural, physical, barriers built in that separate the bar area from the theater, or the tables. One of the conditions he was asking for was if there was a children's event going on, and if there were going to be children present, that the bar be closed at that time. They can't have the minors in there, because it becomes very difficult to ensure that the children aren't accessing alcohol, or being provided alcohol from others in there. The other thing that came up in discussion of this was that there be restrictions against any temporary sexually oriented business, or special event, licenses for this premise. It was Mr. Trouten's understanding that the property had an easement along the Commercial Street frontage for parking. He asked that it be in

compliance with Elko City Code 3-2-17 for additional lighting. He mentioned that lighting tended to diminish criminal activity, which protects the clients and customers.

Chairman Jeff Dalling asked if it was paved. (No)

Mr. Trouten said his last question concerned the limitation on hours. He wasn't sure what the applicants plans were. Is this going to be a bar that is open all hours, day and night?

Nitin Bhakta, 294 Idaho Street, said he was representing the Midtown Motel, which is located next to the subject property. They have several concerns regarding the bar going in. With this building in close proximity to the motel, he thought noise was going to be a big factor. They were concerned about the noise. Because there is only 5 feet of separation between the proposed bar building and the guest rooms. He has a lot of miners and guest that stay at the motel that work on swing shifts and they are in bed by 7 or 8 o'clock. Both are old buildings with thin walls. They have been in the motel for 37 years. They have seen a lot of events happen in and around town. They've seen a lot of people park in their parking lot to travel to other places. They like to have that space available for their guests. The other concern he has, with alcohol people will possibly be loitering outside the building. Noise tends to migrate. Those are some of the issues they have.

Cathy Laughlin, City Planner went over the City of Elko Staff Report dated February 21, 2019. Staff recommended approval with the conditions and the findings listed in the staff report. Staff asked that the Planning Commission add to Condition No. 1 what the permitted use will be.

Bob Thibault, Civil Engineer, recommended approval.

John Holmes, Fire Marshal, had two condition. The applicant is responsible for obtaining any and all associated building and fire related construction annual operational permits required to gain approval for the proposed use. Also, to keep in conformance with occupancy number as associated with the business, and an occupancy load sign will be required.

Scott Wilkinson, Assistant City Manager, said they had heard some public comment with regard to noise, parking, and loitering. It looked like the applicant was proposing to lease half the building. If you look at the floor plan, half of that space would be a bar area. He thought the biggest issue with regard to that would be on half of that lease area on the 3<sup>rd</sup> Street side. That is something the Planning Commission could keep in mind as they consider the public comment in regards to noise. With regard to parking the corridor is there. Under Code the corridor is utilized for parking in the downtown area for all types of businesses within 400 feet. The corridor is probably going to be more convenient parking, than going around to Idaho Street. He saw that as less of a concern, although it could happen. There is some concern about loitering outside the building and how that might impact the occupants of the hotel. Mr. Wilkinson didn't have a response to that. That is something that may, or may not, occur. If they are on the front side of the building, in the vacant area, you would have a buffer of the whole building between them and the hotel. Personally, he wasn't convinced that this is a good location for a bar. He recommended, if approved, that Condition No. 1 would be a conditional approval for a bar associated with cabaret performances, performances by art groups, non-profit artists, artist displays, and/or art workshops, or closely related activities. Mr. Wilkinson thought that give quite a bit of room. He would go further and say that the CUP for the bar shall not be valid if the

bar is not associated with the listed activities. Rather than have a CUP issued to an individual business, he thought if they considered, in this case, being that specific it would be worth the while. Typically, he didn't like to see CUP with that much specificity in them, but he thought it was appropriate in this case for the Commission to consider that.

Ms. Laughlin pointed out that in the Staff Report there were the four conditions from the Police Department and the last two conditions that the Fire Department started are not in the Staff Report.

Commissioner Stefan Beck said Captain Trouten had some good points. He thought they should try and do everything they could to minimize the responsibility of the Police Department. He also thought the motel owner had good concerns. Commissioner Beck said he hoped this would work.

Commissioner Gratton Miller asked if the applicant already was operating out of the building.

Ms. Anderson explained that one of their friends associated with Ghost Light is trying to get a Comedy Night going, so he is touring at other venues.

Chairman Dalling asked what the square footage was of the half of the building that she is leasing.

Ms. Anderson said it was around 2,100 square feet.

Chairman Dalling asked if half of that square footage would be bar.

Ms. Anderson explained that half would be the lobby, but the bar would be located in there as well.

Commissioner Tera Hooiman asked if the front area was a gallery area, where there would be food service and where the bar would be located.

Ms. Anderson explained that the front area, with the table and chairs, would be where people would sit for cabaret nights, art nights, or whatever they had going on. That space would be movable, if they wanted to move chairs out of the way for different events. The bar would be in that area and next to it is the stage. There is also a dressing/green room, a small kitchen, and bathrooms.

Chairman Dalling asked if they were having to build the bathrooms and the other walls.

Ms. Anderson explained that the walls were already up and the bathrooms were existing.

Chairman Dalling asked if the bathrooms were ADA. (Yes) He asked if they couldn't use the Art Club Building.

Ms. Anderson said it was small. This had been a dream of hers, to start her own venue where there could be a variety of shows.



Chairman Dalling said he was worried about how they were going to make money if they were doing all the events for charity.

Ms. Anderson said there were different things depending on the nonprofit and whatever proposal letters they sent, either the rehearsal space or the show space would be for free. If it's a larger non-profit they could work out a deal where it is a portion of ticket sales. They will also get food and beverage sales. They will do different things like raffles, but most of the revenue would come in from the bar area, which is why they are trying to get their CUP.

Chairman Dalling asked if it would be a normal full bar. (Yes) He asked if there was performance and they teamed up with the College, how it would work if they had performers that were under age.

Ms. Anderson said it would depend on what kind of stipulations were put into the CUP. They have done a lot of show with Ghost Light at the museum and they get their special event liquor license, and serve and check IDs. She has a show that they want to open with. She's mentoring a 17 year old in directing. It would depend on what kind of conditions were put on them.

Mr. Wilkinson pointed out that the City doesn't allow the performers in other bars to be under age. This isn't a bar bar. It is a request in association with all of the cabaret and theater and all of that, so it is a little different. That's why he thought the CUP needed some specific conditions with it on what is being approved. He thought if they were going to have alcohol that they don't allow performers to be under age. We have had those issues in other establishments.

Ms. Anderson said they were getting their restaurant license.

Mr. Trouten said one of the concerns was the nature of the business. A restaurant that also serves alcohol is a different type of business than a bar that may also serve food. There are some businesses that are a hybrid, with a bar on one side and a restaurant on one side, but there is a physical barrier to separate the two, so that those who aren't drinking i.e. minors, juveniles can be on one side while adults can enjoy alcoholic beverages on the other side. This is a tight space, so it does presents some concerns. They've had requests come in from other bars to have a band with a juvenile member, which have been denied. How do you control that without having eyes on the whole time? That is not the job of law enforcement or anyone else. That is the reason for the condition that if there are minors and juveniles that the bar be closed during that time.

Chairman Dalling asked if the applicant was ok with that.

Ms. Anderson said she understood where Captain Trouten was coming from.

Chairman Dalling said he would still classify this as a bar. They would gave food, but He wouldn't call them a restaurant. He then asked about what she had planned for hours of operation.

Ms. Anderson said as of right now Wednesday through Saturday they would be open from 4pm to 2am. She said the closing time would depend, comedy nights start pretty late. She said they were definitely not looking to be a rager bar. They want to do art and be able to bring people and create some more nightlife and culture downtown.

Chairman Dalling asked how the applicant felt about the condition about excluding sexually oriented events, such as exotic dancers.

Ms. Anderson said she was fine with that.

Mr. Dalling said the parking should be fine because they were within 400 feet of the corridor. Mr. Dalling said he was trying figure out a way to clean up some of the empty dirt lots in town. He asked if this was different because it was on Railroad property.

Mr. Wilkinson said it was a different lease area.

Chairman Dalling asked if that meant it was a free for all.

Mr. Wilkinson explained that it wasn't leased to the proposed tenants of this building, or the lease holder of that building. He didn't think they would have any rights or authority to do any improvements to that area without the Railroad allowing for them to do that, and then they would probably be forced to lease that area from the Railroad. That dirt area is a delineated area for the railroad to lease at some point in time. The City took a look at improving that as a parking lot, and it would be several hundred thousand dollars.

Commissioner Miller asked if they had to go through any type of leasing permits to get approval from the Railroad to park in there, or if it was through Dennis Parkers lease.

Mr. Wilkinson said that Dennis Parker could sublease the premise as he sees fit.

Ms. Anderson said they were going to try to get more gravel to fill in some of the holes and smooth it out. She hoped most people would park in the corridor.

Chairman Dalling said Captain Trouten was hoping they would do some lighting on the Post Office side. He asked if Ms. Anderson was ok with that.

Ms. Anderson said she was.

Chairman Dalling asked if she was ok with Mr. Wilkinson's condition on make the CUP specific to art events.

Ms. Anderson said yes.

Mr. Wilkinson said his concern was that Conditional Use Permits run with the land. If we do a Condition Use Permit for a bar and the performing art aspect goes away, the applicants could transfer the CUP to someone else for just a bar. He wasn't sure that was a good location for that type of use. He thought a CUP that tied it to art type activities would be worth considering.

Chairman Dalling thought Ms. Anderson was in the right realm, and wished her good luck.

Commissioner Beck thought it was great what she was trying to do.

Chairman Dalling said he understood Mr. Bhakta's concerns, but he thought it helped that the applicant was only renting the front half of the building. He thought that people should respect the parking and park in the corridor. It sounded like the applicant was willing to add the lighting on the one side and close the bar when children are present.

Commissioner Evi Buell said the only question was on the hours of operation.

Chairman Dalling said he got 4pm to 2am.

Commissioner Buell asked if everyone was comfortable with that.

Commissioner Beck said yes.

Commissioner Hooiman thought that with the CUP the alcohol specific stuff should be specific to the event. If it's not specific to the event and there are juveniles there it would be an issue.

Chairman Dalling said they would have to close the bar if there are any minors.

Commissioner Hooiman asked how they would regulate that.

There was discussion about having 21 and older events and advertising them as such.

Commissioner Hooiman said she would support that if that's how it was going to be. If there is any chance that the bar is going to be open, she didn't want there to be a grey area. There are plenty of other locations to get alcohol.

Commissioner Buell asked if they needed to codify in as an additional condition the hours of operation.

Ms. Laughlin said it was Police Condition No. 4.

Commission Buell said they would need to clarify what that condition is.

Commissioner Hooiman asked if there was something with regards to the noise ordinance that would satisfy what the Bhakta's were concerned with.

Ms. Laughlin said there was nothing in the conditions.

Commissioner Hooiman asked if that was something they needed to worry about.

Chairman Dalling said all the bars downtown were supposed to have a window that the PD could see through. A lot of the bars cover them up with heavy tint or signs. That was a concern. They need to make sure that they have to have a window that the PD could see through

Mr. Wilkinson asked if that was in the Liquor Code already.

Ms. Laughlin said the Liquor Code states that there has to be visibility.

Mr. Wilkinson said it was already a Code requirement.

Chairman Dalling said he wanted to reiterate it, because a lot of things are in Code and no one monitors that. He thought it was best to just put it in the conditions.

**\*\*\*Motion: Conditionally approve Conditional Use Permit No. 2-19 subject to the conditions in the City of Elko Staff Report dated February 21, 2019, with modifications listed as follows:**

- 1. The permit is granted to the applicant The Stage Door Elko, LLC for a bar associated with cabaret performances, performances by art groups, non-profits, artist, art displays, and/or art workshops and closely related activities. The CUP for the bar shall not be valid if the bar is not associated with the listed activities.**
- 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.
2. Abide by occupancy regulations.
3. Post the building occupancy.

**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.

**Planning Commission:**

1. Window and storefront regulations by the Liquor License are to be observed at all times.
2. Hours of operation shall be 4:00 p.m. to 2:00 a.m.

Commissioner Buell's findings to support the motion were the conditional use is in conformance with the Objectives in 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 with Sections 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 Tera Hooiman.

*\*Motion passed unanimously. (5-0)*

Mr. Wilkinson notified the applicant and audience that there were 10 days to file an appeal if they weren't satisfied with the outcome.

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 12<sup>th</sup> Street (1500 Opal Drive – APN 001-630-056).

Commissioner Miller disclosed that he works for Farr West Engineering, which did survey work on the property.

David Mitton, 45 Teton Drive, Lindon, Utah, said he was the owner of Elite Storage and RV, LLC. They are well underway on the project. The project is considered a Class A storage unit facility. Class A requires a certain mix. They have RV storage, climate controlled units, and standard units. He explained that the northern portion of the property was 3 acres and they intend

to use it as outdoor RV storage. This difference between this facility and other storage facilities is that there are gates that are controlled electronically by an app, which will be able to be accessed by the tenants. The property will be locked down after 10pm. As it relates to the neighbors around the facility, storage is the lowest impact project allowed in the Commercial Zone. The temperature controlled units and the RV area are almost full and they don't even have a sign on the property. Elko just doesn't have any temperature controlled units. They would like to ask the Commission to approve two more buildings. They will have the same look, color, and feel of the buildings they are building now. When their current buildings are about 60% they would like to begin construction on additional climate controlled, or insulated, units. The other thing was when they initially submitted the CUP they intended to construct an 8 foot screen wall around the entire property. They were able to construct half of it as a screen wall. There is a section that is rather problematic for an 8 foot wall. When they submitted for the original CUP, they requested approval for a screen wall or a screen fence. They would like to clarify for the Planning Commission that they would like the north and east sides to be a screen fence. They submitted copies of what that would look like. It is the highest quality screen fence you can get. The 8 foot screen wall is part of the CUP, not just for security. They will have a clientele that will have expensive equipment. The 8 foot screen fence and the 8 foot screen wall is a security issue for them. If they lower the wall, or the fence, they would compromise the integrity and safety of the property. They were asking for the Commission to allow the 8 foot screen fence. If they were to lower the fence in any place that would become the point of easiest access. When they understood that the neighbors were concerned about the size of the fence, they asked their engineer and the fence company to remove the four rows of barbed wire on top of it, so it doesn't look so prison like. They were hoping that compromise would help soften the neighbors' objections to the fence. They were just asking the Commission to let them keep moving forward and have this available.

Commissioner Hooiman asked if the first application was for a 6 foot slatted fence.

Mr. Mitton said in the application it stated an 8 foot screen wall or screen fence, but when they did the illustration it all showed the screen wall. Now they are asking for a portion of the boundary to be a screen fence.

Commissioner Hooiman asked if they were going to put barbed wire on top of it.

Mr. Mitton explained that they have removed all of that. He thought it would be a nicer product for the neighbors. The other thing was on their Conditional Use Permit they are required to screen the area lighting from the neighbors. That is another reason the neighbors would want them to have an 8 foot fence, because the site will be lit at night. He wanted the Planning Commission to understand that this was all driven by security and a quality product.

Ron Chappell, 1735 Flagstone Drive, said he was one of the neighbors that Mr. Mitton was trying to wall in. When he looks out of his back door all he can see is giant poles. When they put the fence in all he will be able to see from his sliding glass door is a wall. He bought his house a year ago and he knew that they were going to build the storage units, but he didn't know that they were going to build a prison wall around it. He said that the applicant said this was for security. He asked whose security they were trying to get, the applicant's or his. The fence company said they were going to build this fence, and that they were going to tear his fence down to put it up. They want to come in and take part of the fence down, so they can construct



their fence, this wall. He was thinking that they should try to work together. If they couldn't lower the fence, maybe they could pull some of the slats down, so they wouldn't be so high and so they wouldn't be looking at a wall. He heard what they were saying and what they have to do. You also have to try to think about the people who invested all that money when they bought those homes.

Mr. Mitton said part of this might be a communication problem. Before they submitted for the CUP, Mr. Capps was in process of subdividing those properties. Mr. Mitton talked to Mr. Capps at length about the fence. Mr. Capps would have liked Mr. Mitton's fence to go in first, but he put a fence up first right on the property line. When the fences are built they start with 10 foot poles. As they set the foundations for the poles the grade moves up and down. Once the poles are in they will pull a string line and cut the tops of the poles off to 8 feet. Right now the poles are about 9 ½ feet tall. They won't be any higher than 8 feet once the fence is complete. Mr. Mitton could see where the concern was.

Mr. Chappell said what they did was they kept packing dirt until the dirt was level with his property. Once they got it wide enough then they put in the poles for the fence. He said it was more than 8 feet tall from the applicants side of the fence.

**Chairman Dalling call for a Break, which started at 6:51 p.m.**

**The Break ended at 6:54 p.m.**

Ms. Laughlin, went over the City of Elko Staff Report dated February 25, 2019. Staff recommended approval with the findings and conditions in the staff report, with a modification to Condition No. 1 allowing for the storage of RV units, either indoor or outdoor.

Mr. Thibault recommended approval.

Mr. Holmes said with listening to the applicant he wanted to add a condition that the applicant follow the 2012 IFC D103.5, which states that the electric gate shall be equipped with the means of opening the gate by the Fire Department personnel for emergency access. Otherwise, he recommended approval.

Mr. Wilkinson recommended approval as presented by staff and clarify that it would include RV storage, either indoor or outdoor.

Commissioner Beck asked the applicant if the height of the fence could be modified to the point where all parties would be satisfied.

Chairman Dalling said it sounded like part of Mr. Chappell's concern was the height of the poles.

Mr. Mitton said they were more concerned, not about putting wall around his house, but the integrity of the project, and the security of project. It is the dollar volume of property that they will have on the property. If they were to lower the fence to 6 feet then it would become the easiest point of access and people could potentially go right through the neighbors' yards. They have taken the four rows of barbed wire off the top. They were approved for an 8 foot screen fence, or wall, and they need it to be 8 feet.

Chairman Dalling said they were approved for an 8 foot screen wall, so the Commission would keep it as a wall and they would be happy.

Mr. Wilkinson said if you look at the exhibits included in the last application it stated an 8 to 9 1/2 foot tall wall, depending on what they needed to do there. That was approved by the Planning Commission. Typically, when we look at screening a property, in particular residential use, we end up at 8 foot. It is a happy medium for everybody. At the last meeting the neighbors wanted it to be 14 feet tall. It just depends, but 8 foot is what we typically see on almost all applications where we consider screen walls as a requirement for the use.

Commissioner Beck said he understood what Mr. Mitton said. His only other question was if the original agreement on the interference of the wall with the homeowners in any way compromised by later decisions to add a bunch of dirt so the wall would be higher, which would interfere with the view of the mountains. Commissioner Beck said he understood the importance of the wall.

Mr. Mitton explained that one of the main reasons they were in front of the Commission today was the area adjacent to the condos was compromised. When they built the condos they pushed all the dirt out to the crest. The entire embankment is fill dirt. When Mr. Capps cut his property he pushed all the dirt south and raised the natural grade. The difference between wall and fence is astronomical. The wall weighs 4,500 pounds per panel. The panels can't be supported with fill dirt. They need to build a fence that is consistent with the same size and same scope. Because of the fill dirt it would be impossible. The other thing they had a problem with was there is natural drainage that comes off of property, and if they build a concrete wall it would become a dam.

Lana Carter, Carter Engineering, PO Box 794, explained that all they can do with the neighbors is match the existing grade. They haven't built up their property higher than what is there, they are matching the existing grade. The drainages coming off the existing condo property are really hard to isolate where they are. They know they are coming onto the property and they are mitigating that through there, because it is an existing condition they have no control over and it was done years ago when the condos were built. There are a few different types of drains and some new work that has gone on from the condos and they are just mitigating the drainage onto Mr. Mitton's property in a concentrated flow. They don't really have a choice, that's just the way it's going. If we build the wall it creates a physical barrier to hold the drainage in. With the chain-link they could mitigate the drainage through.

Chairman Dalling asked if it was correct that the condo property was not allowed to drain on to Mr. Mitton's property.

Ms. Carter said she wouldn't know what they could do about it at this point in time.

Chairman Dalling said if they did build a wall and it dammed up, wouldn't it be the condos problem.

Ms. Carter said they could consider it that way, but there is a lot of water coming off of there and they have had to deal with it. Along that whole property line they have had to deal with it. Every time it rains there is a bunch of water that comes off of that property onto Mr. Mitton's. They have ways of mitigating it because they have a valley gutter and will eventually have a drainage.

They are going to take it over to Opal Drive and put it in the storm drain there. They have no choice but to mitigate it, or they can dam it up, but Ms. Carter didn't think that was a good idea.

Chairman Dalling asked why this wasn't a concern when they submitted the application for the first CUP.

Ms. Carter explained that it would be more practical to put a fence along the condo boundary because of the drainage, and along Great Basin Estates because they had to build it next to a fence that is already in. They can get a fence a little bit closer. They won't be taking down the neighbors' fences. There was some sort of talk between the fence contractor that they would be able to get it even closer to the existing fence if they took out the slats, but they are not going to touch the neighbors' fences. They will have to offset the fence a little. In the original application they put on the application a screen wall or a screen fence. The plan, as they were moving forward, was to do the wall all the way around, but as they got further into the project they realized that it would be more practical to put the fence in. They haven't changed the grading next to Mr. Capp's property. They had to build a platform at the top to put the fence on, but they didn't build it up higher than what it was.

Mr. Wilkinson said he had a couple comments. Mr. Capps had to build up the lot, so that the lots drained to the street. There was some fill put in there to raise those lots. Some areas had quite a bit of fill to address the FEMA flood issues. He commented that there was one property owner present, voicing concerns, out of multiple property owners that would have received notices along the property. He thought on the grading plan that there was quite a bit of topo difference between this property and the condo side, and this property and the residential side to begin with. That supports the fact that they haven't gone over there and built it up. Fundamentally, whether they were talking about a wall or a fence, he thought the concern expressed by the public was that they were looking out the backyard and seeing a difference in their fence height and neighbor's fence height of two feet. That is the objection by one property owner. Mr. Wilkinson thought whether it was a wall or a screen fence the issue was the two foot difference in fence height. The objective of screening is so that people from outside don't look in.

Mr. Mitton said his only comment was that they have tried to meet the Code, and they have worked with Scott and Cathy through the whole process. They aren't asking to do anything different than any other storage unit in town.

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

Chairman Dalling said it sounded like they were deliberating the height of the wall. He thought taking off barbed wire was a good compromise. He thought they would keep the 8 feet. It was originally a screen wall. Mr. Dalling felt that it was already approved as a screen wall, all they were doing was adding a little bit to it. He was feeling that they keep the screen wall, because that's what it was approved for.

Commissioner Buell said by definition the fence is a screen wall.

Mr. Wilkinson explained that the Planning Commission needed to be specific in that they would accept the proposed fence type that has been proposed under the application to meet the requirements for the screen wall.

Chairman Dalling said it's a CUP and they were approved with the CUP for a masonry wall. He liked the 8 feet and he would like to keep it like it was.

Commissioner Buell didn't think it specified masonry wall, it just said screen wall.

Mr. Wilkinson explained that there was some testimony provided that they intended to do a screen wall. Their site plan that was approved showed a screen wall, and the application talked about it being a masonry wall or fencing. We just approved a slatted chain-link fence on another storage project for outdoor RV storage as meeting the requirements for a screen wall.

Chairman Dalling said if they were already approved one way, why go back.

Commissioner Beck agreed that they had already approved the screen wall.

Commissioner Buell thought they were getting a little lost in the definition of a screen wall. For their purposes here it is a masonry wall or a screen fence that they both meet the requirement.

Ms. Laughlin pointed out in the previous Conditional Use Permit Application on Question No. 3 said that it would be secured by a block wall or screen fence. If you look at the plan that was submitted stated a screen wall. A screen wall, based on the definition in code, could be a block wall or a screen fence. The details that were provided were for a masonry wall.

Chairman Dalling asked if the conditions stated that it had to be a masonry wall.

Ms. Laughlin stated that the conditions stated as presented on the plan.

Mr. Wilkinson said there was testimony during the original meeting that there was going to be a masonry wall. The applicant is coming back, asking for a new CUP, so that the outdoor RV storage area may, or may not, at some point be converted to either climate control or other types of covered storage, and in that process the applicant is asking for the areas shown on the site plan today as screen fencing to be approved based on the information and the details presented that it would be a manufactured, slatted, chain-link fence that is 8 feet tall. That is what is being asked for today that clarifies that issue on those property boundaries. In keeping with the decision made last month, which was to approve an 8 foot chain-link slatted fence as meeting the requirement for the screening.

Chairman Dalling said he was keeping it as it was originally approved. He asked if they could pull up the specs for the proposed chain-link product.

Ms. Laughlin explained that a standard chain-link fence with slats has a 75% visibility factor. The product that the applicant is proposing has a 95% visibility factor.

Commissioner Beck asked if it was called a chain-link fence. (Yes)

**\*\*\*Motion: Conditionally approve Conditional Use Permit No. 3-19 subject to the conditions in the City of Elko Staff Report dated February 25, 2019, with modifications listed as follows:**

1. The conditional use permit is granted to the property owner allowing for the development of commercial storage units and RV Storage, either indoor or outdoor.
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 12<sup>th</sup> 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. The fence, as presented in the CUP application, is approved and required by the Planning Commission.

**Building Department:**

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

**Fire Department:**

1. The applicant will work with the Fire Department to meet the 2012 International Fire Code D 103.5 Access for Fire Personnel.

Commissioner Buell's findings to support the motion were the proposed development is in conformance with the Land Use Component of the Master Plan. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan. The site is suitable for the proposed use. The proposed development is in conformance with the City Wellhead Protection Program. The proposed use is consistent with surrounding land uses. The proposed use is in conformance with City Code 3-2-10(B) General Commercial with the approval of the Conditional Use Permit. The proposed development is in conformance with Sections 3-2-3, 3-2-4, 3-2-17, 3-8 and 3-2-18 of the Elko City Code



Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (5-0)*

Mr. Wilkinson informed the applicant and public that there is an appeal process. There is a limitation of 10 days.

## **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).

Ms. Laughlin went over the City of Elko Staff Report dated February 25, 2019. Staff recommended approval with the findings and conditions in the staff report with the removal of Conditions No. 9, 11, and 13, which have already been completed.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff as long as we strike the conditions mentioned by Ms. Laughlin.

Ms. Laughlin pointed that the Fire Department did have one condition in the Staff Report. She asked if the Fire Department still wanted that condition.

Mr. Holmes stated that that condition had been satisfied, so the Planning Commission could strike the Fire Department condition.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Final Plat No. 14-18 subject to the conditions in the City of Elko Staff Report dated February 25, 2019 with modifications listed as follows:**

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. Civil improvements are to comply with Chapter 3-3 of City code.
10. 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.
11. 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.

Commissioner Buell's findings to support the motion were the subdivision is in conformance with the Land Use and Transportation Components of the Master Plan. The subdivision is in conformance with 3-2-4 – Establishment of Zoning Districts. The subdivision is in conformance with 3-2-5(B) R1 – Residential Single-Family Zoning District. The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations. The subdivision is in conformance with 3-3-7 – Final Map (Stage III). The subdivision is in conformance with 3-3-8 – Content and Format of Final Map Submission. 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. The subdivision is in conformance with 3-3-10 – Street Location and Arrangement. The subdivision is in conformance with 3-3-11 – Street Design. The subdivision is in conformance with 3-3-12 – Block Design. The subdivision is in conformance with 3-3-13 – Lot Planning. The subdivision is in conformance with 3-3-14 – Easement Planning. The subdivision is in conformance with 3-3-15 – Street Naming. The subdivision is in conformance with 3-3-16 – Street Lighting Design Standards. The subdivision is in conformance with 3-3-17 – Responsibility for Improvements. The subdivision is in conformance with 3-3-18 – Construction Plans. The subdivision is in conformance with 3-3-19 – Construction and Inspection. The subdivision is in conformance with 3-3-20 – Required Improvements. The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-21 – Performance Agreements. The sub-divider shall provide a performance and maintenance guarantee as stipulated in the performance agreement and 3-3-22 – Performance and Maintenance Guarantee. The subdivision is in conformance with 3-8 Floodplain Management. The Final Plat is in conformance with the Preliminary Plat.

Moved by Evi Buell, Seconded by Tera Hooiman.

***\*Motion passed unanimously. (5-0)***

2. Review, consideration, and possible recommendation to City Council for Vacation No. 2-19, filed by Robert Morley on behalf of Trinidad 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)

Robert Morley, 640 Idaho Street, explained that he was representing Mr. Shippy, which was in attendance as well. Mr. Shippy owns the three parcels in question. Along the westerly line of those parcels there is a 30' roadway and utility easement that was granted to the City for access to the well that is north of the parcels, and to put a water line in. With the development of parcels, because it's an easement that is granted to the City for access, Mr. Shippy has a gate across the access but he can't lock it, because he can't restrict the access. It is a security issue at this point. Anyone can drive down the easement and access the back of Mr. Shippy's buildings where he stores materials. What they are proposing to vacate the portion of the easement that is shown on the plan, so that Mr. Shippy can secure and fence off the access and lock it. In return they are proposing to grant an easement to the City and also to relocate the water line that is in the existing easement to the new easement.

Ms. Laughlin went over the City of Elko Staff Report dated February 26, 2019. Staff recommended approval with the findings and conditions listed in the Staff Report.

Mr. Thibault recommended approval with the two conditions that were listed in the Staff Report for the Engineering Department.

Mr. Holmes had no comment.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 2-19 subject to the conditions listed in the City of Elko Staff Report dated February 26, 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.

**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.

Commissioner Buell's findings to support the motion were 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 with the recommended conditions is in conformance with Section 8-7 of City Code. The proposed vacation will not materially injure with public and is in the best interest of the City. Elko County has provided a letter in support of the proposed vacation.

Moved by Evi Buell, Seconded by Gratton Miller.

*\*Motion passed unanimously. (5-0)*

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**

Ms. Laughlin explained that we have this initiation to amend the City of Elko Master Plan. There are two sections that Ms. Laughlin was proposing to be amended. This was brought upon by a subdivision development that recently had a Stage 1 Meeting, and looking at how that is in relation to the Master Plan. Currently, El Armuth Drive is shown in the Master Plan as a future roadway from Mountain City Highway to a connection at the frontage road. Due to some property owners taking a quiet claim deed of the section of land, there is no possibility of the connection between Sagecrest Drive and Celtic Way. There are also some topography issues with a major drainage that would make it difficult to build a connection road. In the Transportation Document it is proposed to change the wording on El Armuth Drive to state that Mountain City Highway to Sagecrest Drive would be El Armuth, and Celtic Way down to Hondo Lane. There would not be a connection to the frontage road. She explained that the area that is clouded is shown as dashed for proposed future roads. We would make it solid from Mountain City Highway to Sagecrest and eliminate Sagecrest to Celtic. It would go from Celtic down to Hondo. She proposed that Sundance Drive be the connecting element to the frontage road.

Mr. Thibault had no comments.

Mr. Holmes said in light of the recent fires in the area, he recommended approval.

Mr. Wilkinson said he was in favor of approval.

Commissioner Miller asked if there wouldn't be a connection from Sundance to El Armuth at any point in the future.

Ms. Laughlin explained that the way El Armuth is shown tying in and connecting to the frontage road. If you look at the end of El Armuth at Hondo Lane there is a property there, so there wouldn't be a possibility to connect that into frontage. Sundance might have a possibility for some sort of connectivity. Sundance as a connection to the frontage road is more feasible than El Armuth.

Mr. Wilkinson said in reality there may be a frontage road extended up into the vacant area below Sundance, you may not have any connectivity through the County property. For the most part we will probably be looking at Cattle Drive through Sections 19 and 18 providing the connectivity back up to Mountain City Highway.

**\*\*\*Motion: 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.**

**Moved by Evi Buell, Seconded by Gratton Miller.**

*\*Motion passed unanimously. (5-0)*

## **II. REPORTS**

### **A. Summary of City Council Actions.**

*Ms. Laughlin report that on February 12<sup>th</sup> the City Council they approved the annual update to the appraiser list. They also approved Vacation 4-18. They approved the Final Plat for Humboldt Hills and their Performance Agreement. The Final Plat for Great Basin Estates continues to be tabled. They also approved the 2018 Annual Planning Commission Report. Gratton Miller was appointed as a Planning Commissioner. The Land Inventory Update was approved. City Council approved the initiation to acquire property for the Cattle Drive extension. They also approved a waiver for curb and Gutter for Medallus Urgent Care on the corner of 12<sup>th</sup> and Lamoille Highway. At the February 26<sup>th</sup> meeting the City Council accepted the petition for Vacation 2-19. They approved a resolution for the land sale of a parcel of land located on the corner of 8<sup>th</sup> and Elm Street. They finalized the Vacation with MP Elko for the small easement along the north and east property lines, where the Dotty's expansion is going. They also approved the Rezone for Defty Family Trust for the property that is next to Golden Gate Petroleum.*

### **B. Summary of Redevelopment Agency Actions.**

*Ms. Laughlin reported that there was an RDA meeting on February 26<sup>th</sup>. They approved the annual report, and Ms. Laughlin gave a presentation on the progress that has been made from 2008 to present for the RDA.*

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Miscellaneous Elko County

E. Training

*Ms. Laughlin said that she had included in the packet a two page training on What Every City Planner Would like Their Planning Commissioners to Know. She also provided a webcast.*

*Mr. Wilkinson asked Ms. Laughlin to provide the RDA presentation to the Planning Commission.*

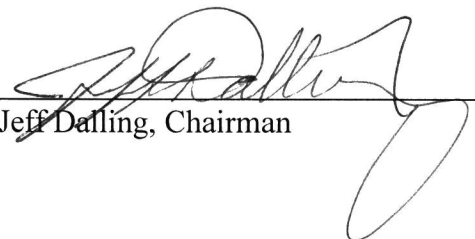
#### **COMMENTS BY THE GENERAL PUBLIC**

*There was no public comment 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