



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, April 3, 2018 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.D.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: March 28, 2018 2:10 p.m.

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

Date/Time Posted: March 28, 2018 2:05 p.m.

ELKO POLICE DEPARTMENT – 1448 Silver Street, Elko NV 89801

Date/Time Posted: March 28, 2018 2:15 p.m.

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

Date/Time Posted: March 28, 2018 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 28th day of March, 2018.

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.D.S.T., TUESDAY, APRIL 3, 2018
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

March 6, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action of Conditional Use Permit No. 3-18, filed by Jason B. Land on behalf on Blaine Branscomb, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Court Street, approximately 50 feet east of 9th Street (910 Court Street, APN 001-281-002).

2. Review, consideration, and possible recommendation to City Council for Rezone No. 1-18, filed by The City of Elko, for a change in zoning from R (Single-Family and Multiple-Family Residential) to PQP (Public, Quasi-Public), approximately 1.314 acres of property, to allow for incorporation into the Elko City Parks, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest corner of the intersection of College Avenue and Golf Course Road (1401 College Ave, APN 001-200-002).

3. Review, consideration, and possible action on Variance No. 3-18, filed by Daniel Broockmann for a reduction of the required front yard setback from 15' to 11.6', the required interior side yard setback from 7' to 4.8', and the required exterior side yard setback from 12' to 10.7' within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of W. Ash Street and A Street. (189 W. Ash St. - APN 001-091-001)

4. Review, consideration, and possible action on Variance No. 4-18, filed by Al Latimer on behalf of Kenworth Sales Company, for an increase in the allowable sign area from 194 square feet to 275 square feet within an IBP (Industrial Business Park) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the corner of the intersection of Ruby Vista Drive and Statice Street. (4224 Ruby Vista Dr. - APN 001-860-110)

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review and consideration of Annexation No. 1-18 filed by Legend Engineering on behalf of Ed and Sharon Netherton and JoyGlobal Surface Mining Inc., consisting of approximately 32.74 acres of property located southwest of the intersection of West Idaho Street and P&H Drive, 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. 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.
- G. Staff.

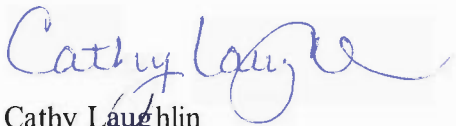
COMMENTS BY THE GENERAL PUBLIC

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,

A handwritten signature in blue ink, appearing to read "Cathy Laughlin", is written over a light blue rectangular stamp.

Cathy Laughlin
City Planner

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.S.T., TUESDAY, MARCH 6, 2018
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

David Freistroffer, Vice-Chairman of the City of Elko Planning Commission, called the meeting to order at 5:30 p.m.

ROLL CALL

Present: David Freistroffer
Jeff Dalling
John Anderson
Kevin Hodur
Stefan Beck (*excused himself at 6:43 p.m.*)
Tera Hooiman (*arrived at 5 32 p.m.*)

Absent: Vacancy

City Staff: Scott Wilkinson, Assistant City Manager
Bob Thibault, Civil Engineer
Jeremy Draper, Development Manager
Cathy Laughlin, City Planner
Shelby Archuleta, Planning Technician
John Holmes, Fire Marshal

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

February 6, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

*****Motion:** Approve the minutes from the February 6, 2018 meeting.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action of Conditional Use Permit No. 2-18, filed by Boys & Girls Club of Elko, Inc., which would allow for the expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

Tom Hannum, President of the Elko Boys and Girls Club, 202 Charwood Drive, Spring Creek, stated that he was happy with all of the conditions and said he was available for questions.

Cathy Laughlin, City Planner, explained that the application was for a Conditional Use Permit as required under the Code 3-2-8 (D), in the PQP Zoning District. The proposed Conditional Use would supersede CUP 11-12, which was previously approved for the Boys and Girls Club's current facility. The Master Plan Land Use shows this as Public. PQP is a corresponding zoning district for Public; therefore, it is in conformance with the Land Use Component of the Master Plan. It meets Objective No. 3 of the Master Plan, which is to strengthen, preserve, and promote the area around the City Park, City Hall, and the Convention Center as a civic heart of the community. Transportation Component of the Master Plan; the Master Plan identifies Country Club Drive as a Collector Roadway. The only access into the parcel is off Country Club Drive. There is pedestrian access around both frontages of the property. Staff feels that the project meets Best Practice Objective No. 1 in the Transportation Document, to provide a balanced transportation system that accommodates vehicles, bicycles, and pedestrians, while being sensitive to, and supporting adjacent land uses. There is a lot of pedestrian use to the facility, because it is located across the street from a school. Elko Wellhead Protection Plan, the property is located within a 5-year capture zone, and development would be required to conform to the Wellhead Protection Plan. Under Section 3-2-3 the General Provisions, as stated before, an expansion to any use within the PQP Zoning District requires a Conditional Use Permit. Therefore, they have met the conformance with the section of Code 3-2-3 with the Conditional Use Permit. The City feels that the suitability of parcel, and the expansion that is proposed, does not create any issues with Section 3-2-3 (D) of the City Code. Section 3-2-4 the Establishment of the Zoning Districts, the proposed development does not conform to PQP, the reason being that rear setback is not being met, but they do have an existing variance and we will be discussing that with the next application. If the new Variance is approved it will supersede the old one, and bring the property into conformance with Section 3-2-4. Section 3-2-8, which is PQP, the intent of the district is to accommodate public and Quasi-Public institutional uses. The PQP design development standards are a little different from the other zoning districts. The total ground floor area of the building shall not exceed 35% of the net site area. The minimum setback from any street line is not less than one and a half times the height of the principle building, which is being met. The interior side and rear lot lines is not less than the height of the principle building, plus one additional foot for each five feet that such building exceeds 35 feet in the aggregate horizontal dimension of the wall generally parallel to such side or rear lot line. The property does not conform, but if the variance is approved it will bring the property into conformance

with Section 3-2-8 of the Code. 3-2-17, the current facility is in conformance with the parking requirements. Staff has also calculated it with the new additional space, and they are still in conformance.

Commissioner Jeff Dalling mentioned that their parking was horrible. He asked if their parking was suitable with the addition. He said parking was usually down Country Club Drive and Convention Drive.

Jeremy Draper, Development Manager, explained that in 2011, the Boys and Girls Club partnered with the Convention Center and the School District, and they received a memorandum of understanding between the three parties, so they can use the adjacent properties for parking. That's one of the ways they conform to the code.

Ms. Laughlin continued to Section 3-8, the Floodplain Management section, the property is not located within a designated floodplain. Staff recommends approval with the conditions listed in the Staff Report dated February 22, 2018.

Mr. Draper wanted to go through the site plan for the Planning Commission. He explained that there was an existing principle building; the gym was an accessory building to the principle building. When the setbacks were calculated, they were based off the principle building. The Planning Commission at the time approved the location of the accessory building. In a PQP Zone, an accessory building can be attached or detached from the principle building. He pointed out the new area for the teen club, which comes pretty close to the existing property line. He also pointed out the accessory structure, which will be used for storage. He explained that the hatched area on the site plan was an area they were working with NDOT on for a long-term lease, which would provide the applicant with additional yard space. It will remain outside of the property, which is, as we get into the variance, why the variance will be setback so close. Staff felt like the additional yard space was justification for providing the variance. He then went over the Development Department conditions. He mentioned that the Planning Commission would need to be specific about the location of the accessory building in their motion.

Bob Thibault, Civil Engineer, and John Holmes, Fire Marshal, had no additional comments, and recommended approval.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff. He called attention to the Planning Commission and to the Applicant, under the variance there was a condition in Code that the proposed project be completed within a certain time frame. Staff went through this with the Boys and Girls Club previously, where the timing wasn't going to match up with their project. As the Planning Commission considered this item and the variance, he wanted to make sure the applicant was aware of that and that it met their time line. He explained that a variance was good for 18 months under the Code.

Mr. Hannum explained that he was aware of the 18-month period and that the project was scheduled to be built this year. The only thing that would hold that back was if the donor pulled their donation.

*****Motion:** Conditionally approve Conditional Use Permit No. 2-18 subject to the conditions in the City of Elko Staff Report dated February 22, 2018, listed as follows:

Development Department:

Included in Memorandum dated February 22, 2018 from Community Development Manager

1. The permit is granted to the applicant Boys and Girls Club of Elko.
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. Staff recommends the Planning Commission approve the location of the Accessory Building as required in 3-2-8-E-2.
4. A variance for the interior side yard setback for the principal building is required for a reduction in the setback from 49'-5" to 7'-0" as shown on the plan. Staff is in support of this reduction based on the irregular shape of the lot and the Boys and Girls Club obtaining a long term lease from NDOT for an additional 30' along this property line.
5. Slope stabilization will be required on all slope areas.

Planning Department Conditions:

1. The CUP 2-18 be approved for the building layout as shown in the provided site plan Exhibit A. Including the detached accessory building.
2. CUP 2-18 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
3. The exterior of the building shall be compatible with the existing building.

Commissioner Hodur's findings to support his recommendation was 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 expansion of the 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 3-2-8 PQP, Public-Quasi, Public with the approval of the Conditional Use Permit. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code.

Moved by Kevin Hodur, Seconded by Tera Hooiman.

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

2. Review, consideration, and possible action on Variance No. 2-18, filed by Boys & Girls Club of Elko for a reduction of the required rear yard setback for the principle structure from 49' 5" to 7', in conjunction with a Conditional Use Permit to allow for expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

Ms. Laughlin went over the City of Elko Staff Report dated February 26, 2018. Staff recommended approval with the conditions and findings listed in the Staff Report. She then went through the Planning Department conditions.

Mr. Draper said the Development Department agreed with the Planning Department's presentation. With the findings of granting of the variance, he recommended approval of the variance as presented.

Mr. Thibault and Mr. Holmes had no comments, and recommended approval.

Mr. Wilkinson recommended approval as presented by staff. He directed the Planning Commission's attention to the findings presented on page 5 and 6 of the Staff Report. He suggested they consider referencing those findings for the record.

Vice-Chairman David Freistroffer pointed out that there was a comment in the Staff Report that it doesn't generally apply to properties in the PQP, he also thought that was true. He thought it was a good variance. They don't like doing many variances, but this one seemed to be consistent and seemed to be a function of the shape and topography of the parcel.

*****Motion:** Conditionally approve Variance No. 2-18 subject to the conditions in the City of Elko Staff Report dated February 26, 2018 listed as follows:

Planning Department Conditions:

1. Granting of the variance is conditioned upon approval of CUP 2-18 for the expansion of the property within a PQP – Public, Quasi-Public zoning district.
2. Commencement within one year and completion within eighteen (18) months.
3. Conformance to plans approved as a part of the variance.
4. Subject to review in two (2) years if determined necessary by the planning commission.

Building Department:

1. Exterior walls less than ten feet (10') from property line for this type of building use and construction type must comply with 2009 IBC with a 1 hour fire rating.

Commissioner Hodur's findings to support his recommendation was the applicant has demonstrated the proposed hardship as developing a geometrically challenged parcel. In addition, the Planning Commission has made this finding under a prior variance application. In an effort to minimize the issue, the applicant is entering into a long-term lease with a State agency abutting the property. The circumstance presents an exceptional difficulty in expansion of the facility to meet the needs of the community. The special circumstance does not apply generally to other PQP zoned properties within the vicinity. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. The proposed variance is consistent with the Land Use component of the Master Plan. The setback standards for the PQP zone applied to existing parcels within the areas identified under Objective 3 complicate efforts in preserving and

promoting the City Park, City Hall and Convention Center as the civic heart of the community. The Boys and Girls Club, Public schools and other civic uses support the effort. The proposed variance is consistent with the Transportation Component of the Master Plan. The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system. The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells. The property does not conform to Section 3-2-4 of City Code. Approval of the variance application is required to bring the property into conformance. The proposed variance is not in conformance with Section 3-2-8 Public, Quasi-Public. Approval of the variance application is required to bring the property into conformance. The parcel is not located within a designated Special Flood Hazard Area. It does not appear that granting of the variance will result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public. The proposed variance is consistent with surrounding land uses.

Moved by Kevin Hodur, Seconded by Stefan Beck.

**Motion passed unanimously.*

3. Review, consideration, and possible adoption of Resolution 1-18, containing amendments to the Atlas Map #8 of the City of Elko Master Plan, and matters related thereto. **FOR POSSIBLE ACTION**

Planning Commission reviewed and initiated the amendment to the City of Elko Master Plan at its February 6, 2018 meeting.

Ms. Laughlin explained that they just did a Master Plan amendment, but they made a mistake and overlooked some areas on the Land Use Map that should have been changed with the previous amendment. She wanted to go over the areas that staff was proposing to change. She also added that there was a detailed memo in the packet. The biggest change was at Exit 298. The lower portion was going to Highway Commercial and upper portion going to Industrial Business Park. Staff did an analysis of the commercial districts, key element points in the community that are called out in the Master Plan for commercial land use. Exit 298 was not listed in the Master Plan as a core area for commercial, but staff felt that it was. Staff had seen some proposed development on Exit 298 with the water line extension done, and staff felt that there would be additional commercial development in that area. In the memo, staff analyzed what was remaining in Elko, what the rate of commercial land use that was being utilized and developed, and with that Staff felt that it justified adding this 256 acres to the Master Plan under Commercial Land Use. It was proposed as Highway Commercial, which means a rezone could be approved as Industrial Commercial. Staff was proposing Industrial Business Park, north of the Highway Commercial, rather than General Industrial. Staff didn't feel like that was the right location for industrial type uses. This way is would keep this area as a central hub for commercial and light industrial uses. There is also an area up North 5th Street, which was requested from Assistant City Manager Scott Wilkinson after a Stage 1 Subdivision Meeting. It was previously labeled as high-density and staff was proposing medium density. The reason was that there was a Development Agreement currently in place for single-family residential or

medium density residential. There are also some parcels adjacent to the Peace Park. They are currently developed with commercial uses and they were labeled as medium density residential, so staff is proposing it be changed to Commercial to meet the existing land use. The Court House and the Court House parking lot, which was labeled as mixed use and residential, respectively. Staff was proposing to change those areas to Public. The area surrounding the City Park. The old police station, the clinic, the VFW, Masonic Lodge, and the Girl Scout House were previously labeled as medium density residential. Staff is proposing those are changed to Public to meet the land use. The area adjacent to the Basque Clubhouse was proposed as Public as well. Across 1-80, the Senior Center was labeled as medium density residential and should be changed to Public. The large Industrial change, which was discussed at the last meeting. It is all UP property. From 15th Street to Union Pacific Way would be Industrial Business Park, and General Industrial from Union Pacific Way out to the end of City Limits. That area previously had no designation.

Mr. Draper explained that staff did an extensive analysis of the commercial change with the Development Report, which is continually updated. One of the alarming things was the absorption rate that has been seen on commercial property and what is left in the City of Elko. Since 2012, the Jennings area had an absorption rate of 1%, and due to recent activity at the 303 Exit, it is now just over 7%. With the higher percentage rates of absorption staff felt that it was appropriate to designate some of the land to commercial to allow for future commercial growth.

Mr. Thibault and Mr. Holmes had no comments.

Mr. Wilkinson recommend approval as presented by staff.

Commissioner Stefan Beck asked if Mr. Draper could explain absorption.

Mr. Draper explained that when staff looks at the absorption rate, they look at land that was vacant that is now fully developed.

Ms. Laughlin explained that the changes were listed in the staff memo.

Mr. Wilkinson suggested the Planning Commission read the more significant changes into record.

*****Motion: Adopt Resolution No.1-18, containing amendments to the Atlas Map #8 of the City of Elko Master Plan, directing that an attested copy of the forgoing parts, amendments, extensions of and/or additions to the Elko City Master Plan be certified to the City Council; further directing that an attested copy of this Commission's report on the proposed changes and additions shall have be filed with the City Council; and recommending to City Council to adopt said amendments by resolution.**

The Resolution includes the following changes to Atlas Map #8:

- **Does not change the designation of the area west of the interchange to a proposed industrial use**
- **Changes North and west of Cattle Drive to Industrial Business Park from General Industrial**

- Changes East and South of Cattle Drive to Commercial Highway
- Several Public parcels to Public
- UP property from approximately 15th Street to Union Pacific Way to Industrial Business Park, Union Pacific Way to the City of Elko Boundary General Industrial
- Developed parcel north of I-80, south of Ruby Vista Drive and West of College Parkway to Commercial Highway
- High Density Residential to Medium Density Residential in the vicinity of Dakota Drive and Copper Trail

Commissioner Hodur's findings to support its recommendation are the proposed amendment is consistent with the Land Use Component of the City of Elko Master Plan as follows: The proposed amendment meets Objective 6 of the Master Plan. The proposed amendment is consistent with Best Practice 6.2 of the Master Plan. The proposed amendment is consistent with the Transportation Component of the City of Elko Master Plan as the proposed land use designation is supported by the existing and proposed roadway infrastructure. The proposed amendment is consistent with the City of Elko Development Feasibility, Land Use, Water and Sewer Infrastructure, and Annexation Potential Report by supporting recent City actions in the vicinity and addressing potential shortfalls of designated Highway Commercial areas across the community. The proposed designation is not in conflict with the City's Redevelopment Plan. The proposed designation is not in conflict with the City's Wellhead Protection Plan. The proposed designation is not located in a special flood hazard area.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible action and possible approval of Final Plat No. 4-18, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Tower Hill Unit 1 involving the proposed division of approximately 33.804 acres divided into 23 lots and 2 remainder parcels for residential development within the R1 (Single Family Residential) Zoning District, and matters related thereto.

FOR POSSIBLE ACTION

The subject property is located generally southeast of the terminus of Stitzel Road. (001-920-079).

Scott MacRitchie, Jordanelle Third Mortgage, 312 Four Mile Trail, said he did not have a presentation. He wanted to thank Mr. Draper for the information he passed along from NDOT, so they could get started on the shared use path.

Ms. Laughlin went through the City of Elko Staff Report dated February 27, 2018. Staff recommended conditional approval with the conditions listed in the Staff Report.

Mr. Draper stated that the Development Department recommended approval of the Final Plat. He explained that the density of Unit 1 was 3.96 lots per acre. With medium density residential in

the Master Plan, it is at 5 to 8 units per acre. There are two remainder parcels. Parcel A was included in an approved part of the Preliminary Plat. Parcel B is outside of the current water zone and therefore is not included with the Preliminary Plat and will be developed when water is available for that parcel. There are some plans for a Shared Use Path along Lamoille Highway. Even though this property has no direct access to Lamoille Highway, but it does have frontage along Lamoille Highway. Anytime there is frontage they are required to make the required improvements on the frontage. As was discussed several years ago with the developer, with the three units of development for the subdivision, the improvements along Lamoille Highway were broken up across the three units. For Phase 1 Unit 1 they are required to do an equivalent of 303 lineal feet of improvements. The Shared Use Path was approved by the City Council. It is a pathway that will go from Pinion Road up to Errecart Boulevard, be offset from the Highway, and provide pedestrian and bicycle access to the area. There is currently no pedestrian access to the Hospital area. The idea is that it would eventually connect to Spring Creek and tie into the shared use path that is out there. Mr. Draper explained that he had an error in his memo. He identified Stitzel Road as a Collector Roadway, when it is considered a residential local roadway. The Master Plan identifies Stitzel as a Collector Roadway from Pinion Road up to Liberty. One of the requirements within the Subdivision Code is that Local Roadways are to discourage pass through traffic. Stitzel Road does not do that, in this case it actually promotes traffic through to Powder House Road. Due to potential volumes on Stitzel Road through this area staff feels that it is still appropriate that it was considered a Local Roadway. He explained that typically, anytime standards are modified for a subdivision there is a finding. In the case of the frontage improvements along Lamoille Highway, since Council has already taken the action on September 23, 2014, staff didn't believe that a Modification of Standards was required for requiring the public improvements as part of the shared use plan. No Modifications of Standards is required for this subdivision. He then went through the Development Department conditions.

Mr. Thibault said the Engineering Department recommended approval and had two conditions, which had already been addressed.

Mr. Holmes had no comments.

Mr. Wilkinson recommended approval as presented by staff. He stated that the verification of the bearings needed to be completed before the map was presented to the City Council. He also recommended that the Planning Commission consider an additional condition that the Performance Agreement is drafted, and the draft is submitted to the City Council in conjunction with the Final Plat.

Tom Ballew, High Desert Engineering, 640 Idaho Street, explained that Mr. Thibault's condition regarding the bearing issue had been corrected, along with the issues with the jurats. All of the errors had been taken care of and submitted to staff.

Mr. MacRitchie said in the designation of Stitzel being a Residential Road verses a Collector Road. From what he understood, they were to going to keep the 60-foot right-of-way, but it would remain a Residential Road. That goes back to Type 1 curb verses rolled curb. They now have options with that.

Mr. Draper thought they had options with that. He said it also went to driveway spacing. Code requires Residential Local Roadways that the driveways can be spaced 10-feet apart, for a Collector Roadway, for residential access, it is 25-feet.

*****Motion:** Forward a recommendation to City Council to conditionally approve Final Plat No. 4-18 subject to the conditions in the City of Elko Staff Report dated February 27, 2018 listed as follows:

Development Department

(See Memorandum from Development Manager Jeremy Draper dated February 26, 2018)

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-44 of city code. In conformance with Section 3-3-44 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. The developer shall enter into the Performance Agreement within 30 days of approval of the final plat by City Council.
2. The final plat is approved for 23 single-family residential lots and 2 remainder lots.
3. The Utility Department will issue a Will Serve Letter.
4. State approval of the subdivision.
5. Lot 122 shall have access restricted to Chukar Drive; a note shall be added to the final plat **prior to City Council consideration.**
6. Update the dates in the jurats to reflect 2018 **prior to City Council consideration.**
7. Conformance with Preliminary Plat conditions.
8. 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.
9. Civil improvements are to comply with Chapter 3-3 of City code.
10. Final approval for civil improvement plans.
11. State approvals for the subdivision.
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.

Engineering Department

1. Verify the bearings on Lines L7 and L9. They do not match the bearing of the overall line.

Planning Commission:

1. The proposed Performance Agreement is to be submitted to the City Council in conjunction with the plat.

Commissioner Hodur's findings to support his recommendation are 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, 3-2-5(B) Single-Family Zoning Districts, 3-2-17 Traffic, Access, Parking and Loading Regulations, 3-3-6 Final Plat (Stage III), and 3-3-8 Information required for Final Plat Submission. The subdivision is in conformance with 3-3-20 General Provisions for Subdivision Design. 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 3-3-21 Street Location and Arrangement, 3-3-22 Street Design, 3-3-23 Block Design, 3-3-24 Lot Planning as modified by the Development Agreement, 3-3-25 Easement Planning, 3-3-26 Street Naming, 3-3-27 Street Lighting Design Standards, 3-3-40 Responsibility for Improvements, 3-3-41 Engineering Plans, 3-3-42 Construction and Inspection, and 3-3-43 Required Improvements. The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-44 Agreement to Install Improvements. The sub-divider shall provide a performance guarantee as stipulated in the performance agreement and 3-3-45 Performance Guarantee. The subdivision is in conformance with 3-8 Floodplain Management. The Final Plat is in conformance with the Preliminary Plat.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

Commissioner Beck excused himself at 6:43 p.m.

2. Review, consideration, and possible action to initiate an amendment to the City Zoning Ordinance, specifically Sections 3-2-11 IBP, IC Industrial Districts, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin explained that this was an initiation to a Zoning Ordinance Amendment. Staff revised this Section of the Code in late 2016. It was just recently that staff realized with an existing parcel that it would be hard to control the development standards of the property as it was stated previously in the Code. The way it was stated previously was if it was an Industrial use they would meet the guidelines and design development standards of Light Industrial, which would be a 10-foot setback. If it were a Commercial use, then they would be under the design development standards of the Commercial Zoning District, which is a zero setback. In twenty years, it would be impossible for staff to know if a property was developed to the Commercial standards, or the Light Industrial standards. It would have been hard for staff to enforce and follow. Staff is proposing in the IC District that all required setbacks be 5-feet for all uses.

Mr. Draper, Mr. Thibault, and Mr. Holmes had no comments.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Initiate an amendment to Section 3-2-11 IBP, IC Industrial Districts, and direct staff to bring the item back as a public hearing.**

Moved by Kevin Hodur, Seconded by Tera Hooiman.

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

3. Election of officers, and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to Section 3-4-3 A. of the City Code, the Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary in January every year. Staff overlooked the requirement for the agendas in January and February.

Vice-Chairman Freistroffer explained that they needed to elect a Chairperson, Vice-Chairperson, and a Secretary. He asked Ms. Laughlin to explain the responsibilities of each position.

Ms. Laughlin apologized for not getting the election on the January or February agendas. She explained that staff was anticipating Mr. Martinez's resignation in January and February, and she was waiting for his resignation to hold the elections, because there would have had to be an election after that anyways. Staff received Mr. Martinez's resignation and the City Council accepted it, therefore staff is now advertising for the vacancy. The Chairman's responsibilities include conducting all business at the meetings; attend Stage 1 Subdivision meetings, and other meetings as needed. The Secretary is responsible for signing the minutes and other Planning Commission documents. Vice-Chairman conducts the meetings when the Chairman is absent, and attends the Stage 1 Meetings if the Chairman is not available.

Vice-Chairman Freistroffer added that there is an Agenda Meeting with the City Planner, but it's not required.

Ms. Laughlin explained that it is not required and is informal. Mr. Martinez would reach out to her to go over the agenda and make sure all matters were being addressed. She stated that it was up to the Chair, if they wanted to have that meeting or not.

*****Commissioner Dailing nominated David Freistroffer as Chairman; a vote was taken and passed unanimously.**

*****Chairman Freistroffer nominated Jeff Dailing as Vice-Chairman; a vote was taken and passed unanimously.**

*****Chairman Freistroffer nominated Tera Hooiman as Secretary; a vote was taken and passed unanimously.**

II. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin reported on February 13th City Council held the first reading for the Surebrec and Swire Annexation, both were approved. The second reading was held for the Marijuana Ordinance, which was approved. On February 27th the City Council approved the Annual Report. They also held the second readings for the Swire and

Surebrec Annexations, and those were approved. They accepted Aaron's resignation and authorized staff to advertise for the vacancy. They will also be presenting a plaque to Aaron this upcoming Tuesday. City Council also approved the rezone for Surebrec property, approved the rezone for Swire Coca-Cola, approved the rezone for MRP, and approved the rezone for Jason Land.

B. Summary of Redevelopment Agency Actions.

Ms Laughlin reported that the RDA authorized the City to move into Project No. 2 of the Downtown Corridor Project, and have allocated an addition \$50,000 to the Storefront. The Storefront Grant Applications are due on March 30th.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

Ms. Laughlin reported that Jason Land has submitted an application for a Conditional Use Permit. We also have another Annexation Application and a Preliminary Plat application. The Ord on the Zoning Amendment will be coming back.

E. Elko County Agendas and Minutes.

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

Commissioner Tera Hooiman asked if there had been anything on the Halfway house.

Ms. Laughlin said she had been in communication with their attorney. When City Council gave those 180 days to complete the process of determining how they could accommodate the parking for the use, staff had met with them on their options. Ms. Payne got some quotes for a surveyor for the applications she would have to submit, and according to her attorney, they don't have the funds available to hire the surveyor at this point, so they would like an extension on the 180 Days. Staff has determined that they would have to come for a completely new Conditional Use Permit. She was getting quite a few complaints on the property, but those stopped after Cowboy Poetry. She hopes that the applicant continues to work with the City and get the requirements met.

Commissioner Dalling thought the Planning Commission should look at parking lots, and what constitutes a parking lot.

Ms. Laughlin explained that Section 3-2-17 addresses a lot of that.

Commissioner Dalling said there are a lot of parking lots in town that aren't parking lots.

There was further discussion regarding parking lots.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

ADJOURNMENT

There being no further business, the meeting was adjourned.

David Freistroffer, Chairman

Tera Hooiman, Secretary

DRAFT

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 3-18, filed by Jason B. Land on behalf of Blaine Branscomb, which would allow for a professional office in a RO- Residential Office Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **April 3, 2018**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The property was conditionally approved a rezone to RO- Residential Office by City Council on February 27, 2018. A professional office is a conditionally permitted use in the RO zoning district.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 3-18 with the following conditions: (listed in City Planner Memo)**
9. Findings:
 - **The proposed conditional use under the conditionally approved Residential Office district is consistent with the Land Use Component of the Master Plan. The proposed conditional use permit is consistent with existing land uses in the immediate vicinity. The proposed conditional use permit meets Objectives 2 and 4 of the Land Use Component of the Master Plan.**
 - **The proposed conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.**
 - **The proposed conditional use permit and repurposing the property and structure conforms to the Redevelopment Plan.**
 - **The proposed conditional use is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the RO-Residential Office zoning district do not present a hazard to City wells.**
 - **The proposed use of the property requires a conditional use permit to conform to Section 3-2-3 of City code.**
 - **The proposed use based on conditional approval of Variance 1-18 conforms to Section 3-2-4 of City code.**

- **The proposed conditional use is in conformance with Section 3-2-5(F)(3) RO-Residential Office based on conditional approval of variance 1-18 and conditional approval of rezone 9-18. The Planning Commission conditionally approved Variance 1-18 on February 6, 2018. The City Council conditionally approved zone amendment 9-18 on February 27, 2018.**
- **The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. Additional parking and ADA access is required for conformance under the proposed conditional use.**
- **The parcel is not located within a designated Special Flood Hazard Area.**
- **Development under the proposed conditional use 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.**
- **The proposed conditional use is consistent with surrounding land uses.**

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution: **Jason Land**
P.O. Box 281329
Lamoille, NV 89828

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 4/3

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

Title: Conditional Use Permit 3-18
Applicant(s): Jason Land
Site Location: 910 Court St - APN 001-281-002
Current Zoning: R (pending RO) Date Received: 3/6/18 Date Public Notice: 3/20/18
COMMENT: This is to allow for a Professional Office
within an RO Zoning District.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 3/23/18 Recommend approval
as presented by staff

SAU

Initial

City Manager: Date: 3/23/18
No comments/concerns.

CC

Initial



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

CITY OF ELKO STAFF REPORT

MEMO DATE:	March 12, 2018
PLANNING COMMISSION DATE:	April 3, 2018
APPLICATION NUMBER:	CUP 3-18
AGENDA ITEM:	I.A.1
APPLICANT:	Jason Land
PROJECT DESCRIPTION:	

A conditional use permit for the development of a professional office within an (RO) Residential Office zoned property.



STAFF RECOMMENDATION:

RECOMMEND APPROVAL, subject to facts, findings, and conditions.

PROJECT INFORMATION

PARCEL NUMBER: 001-281-002

PARCEL SIZE: .086 acres, 3,750 sq. ft.

EXISTING ZONING: (RO) Residential Office, conditionally approved by City Council on 2-27-2018

MASTER PLAN DESIGNATION: (MU-DTWN) Mixed Use Downtown

EXISTING LAND USE: Currently developed as a single family dwelling

NEIGHBORHOOD CHARACTERISTICS:

- The property is surrounded by:
 - North & Northeast: (R) Single and Multiple Family / Developed
 - Southeast: (RO) Residential Office / Developed
 - South: (C) Commercial / Developed

PROPERTY CHARACTERISTICS:

- The property is developed.
- The property fronts Court Street.
- Access to the property for parking is off the alley at the rear of the parcel.

MASTER PLAN AND CITY CODE SECTIONS:

Applicable Master 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 Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-3 General Provisions
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-5(F) RO – Residential Office District
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Section 3-2-18 Conditional Use Permits
- City of Elko Zoning – Section 3-8 Flood Plain Management

BACKGROUND:

1. The parcel is identified as APN 001-281-002.
2. The applicant is not the property owner but has entered into an agreement to purchase the property.
3. The property owner has filed written authorization with the City dated January 10, 2018, allowing the applicant to submit the application.
4. There is an approved variance for the lot size, lot width and the interior side yard setback was conditionally approved by the Planning Commission on February 6, 2018, under variance application 1-18. The conditions for the variance will be addressed with re-development of the property.
5. There is a conditionally approved zone amendment from Residential to Residential Office approved by the City Council on February 27, 2018 under zone amendment

application 9-18. The conditions for the zone amendment have been satisfied pending satisfaction of the conditions stipulated for the variance application.

6. The Conditional Use Permit application has been filed based on the conditional approval of zone amendment application 9-18.
7. The property is located approximately 90 feet east of the Court Street and 9th Street intersection.
8. The area of the parcel is approximately 3,750 square feet.
9. The parcel is approximately 37.50 feet in width. The parcel is smaller than the typical 50 foot wide or larger lot encountered in this area of the community.
10. The structure was built in approximately 1910 and as the recent survey shows, the west wall of the principal structure is constructed on the property line.
11. The property has been vacant since 2009. Any legal non-conforming uses are considered abandoned.
12. The required off street parking for business uses does not exist on the property. The required off street parking for residential uses does exist on the property. The applicant intends on demolishing an existing garage structure and developing the required off street parking with the approval of a CUP for an office use.

MASTER PLAN:

Land use:

1. The Master Plan Land Use Atlas shows a portion of the area as Mixed Use Downtown.
2. Objective 2: Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community
3. 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.
4. Downtown Mixed Use: This land use designation includes land uses that are located in or close to the historic downtown area. The area will capitalize on the existing fabric of the downtown and its walkable grid system. Mixed-use allows for a variety of land uses, and configurations. Housing or office use may be located within the same structure, with retail use primarily on the first floor.

The proposed conditional use under the conditionally approved Residential Office district is consistent with the Land Use Component of the Master Plan. The proposed conditional use permit is consistent with existing land uses in the immediate vicinity. The proposed conditional use permit meets Objectives 2 and 4 of the Land Use Component of the Master Plan.

Transportation:

1. The property fronts Court Street.
2. Parking will be established at the rear of the property off the alley.

The proposed conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.

ELKO REDEVELOPMENT PLAN:

1. The property is located within the redevelopment area. The proposed use supports several objectives in the redevelopment plan. The more important objective being repurposing of buildings and/or properties and thereby eliminating blight in the area and increasing economic activity in the area.

The proposed conditional use and repurposing the property and structure conforms to the Redevelopment Plan.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is located within the 5 year capture zone for several City wells.
2. Conformance with the Wellhead Protection Plan is required.

The proposed use of the property and allowed uses under the RO- Residential Office zoning district do not present a hazard to 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.

1. Section 3-2-3(C) states that 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 specified in Chapter 3 or imposed by the Planning Commission or City Council.
2. 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 of the property requires a conditional use permit to conform to Section 3-2-3 of City code.

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.
3. The minimum lot area required is 5,000 square for areas of the community platted with

50 foot wide lots. The parcel area does not meet either criteria stipulated for the lot area in Section 3-2-5 of city code.

4. The required lot dimensions for the proposed district in this area of the community would be 50 feet in width by 100 feet in depth as stipulated in Section 3-2-5 of city code.
5. The property is developed and the structure does not meet the setback requirements stipulated in Section 3-2-5 of city code.

As a result of the above referenced non-conformance issues, the applicant has applied for and received a conditional approval for variances on the lot size, lot width and the interior side yard setback. Variance 1-18 was conditionally approved by the Planning Commission on February 6, 2018.

SECTION 3-2-5 (RO) RESIDENTIAL OFFICE:

1. As noted in the evaluation under Section 3-2-4 the property does not conform to area, dimension and setback requirements stipulated for the zoning district.
2. Variance 2-18 application has been approved by the Planning Commission to address the conformance deficiencies.

The proposed conditional use is in conformance with Section 3-2-5(F)(3) RO- Residential Office based on conditional approval of variance 1-18 and conditional approval of rezone 9-18.

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

1. Development of ADA off-street parking is required to conform with this section of code if the property is developed as a conditionally permitted use or more intense use than single family residence.

The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. The applicant has committed to removal of the existing garage to develop ADA compliant off-street parking to be located at the rear of the property and ingress/egress from the alley way to support the proposed conditional use.

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.

The applicant has conformed to this section of code with the filing of the application.

SECTION 3-8

The parcel is not located in a designated Special Flood Hazard Area (SFHA).

FINDINGS

1. The proposed conditional use under the conditionally approved Residential Office district is consistent with the Land Use Component of the Master Plan. The proposed conditional use permit is consistent with existing land uses in the immediate vicinity. The proposed conditional use permit meets Objectives 2 and 4 of the Land Use Component of the Master Plan.
2. The proposed conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.
3. The proposed conditional use permit and repurposing the property and structure conforms to the Redevelopment Plan.
4. The proposed conditional use is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the RO-Residential Office zoning district do not present a hazard to City wells.
5. The proposed use of the property requires a conditional use permit to conform to Section 3-2-3 of City code.
6. The proposed use based on conditional approval of Variance 1-18 conforms to Section 3-2-4 of City code.
7. The proposed conditional use is in conformance with Section 3-2-5(F)(3) RO-Residential Office based on conditional approval of variance 1-18 and conditional approval of rezone 9-18. The Planning Commission conditionally approved Variance 1-18 on February 6, 2018. The City Council conditionally approved zone amendment 9-18 on February 27, 2018.
8. The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. Additional parking and ADA access is required for conformance under the proposed conditional use.
9. The parcel is not located within a designated Special Flood Hazard Area.
10. Development under the proposed conditional use 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.
11. The proposed conditional use is consistent with surrounding land uses.

STAFF RECOMMENDATION:

Staff recommends this item be **conditionally approved** with the following conditions:

Planning Department:

1. CUP 3-18 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.
2. The CUP 3-18 to be recorded with the Elko County Recorder within 90 days after the commencement of the work for the conversion from single family dwelling to professional office.
3. The garage will be demolished to develop off-street parking.

Development Department:

1. The permit is granted to the applicant Jason Land for the use of a professional office.
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 conditions of Variance 1-18 be met prior to occupancy of the building.
4. The conditions of Rezone 2-18 be met prior to occupancy of the building.

City Clerk:

1. A business license must be applied for and obtained prior to conducting business at this location.

Building Department:

1. Building Department conditions listed in Variance 1-18 be completed prior to occupancy.



City of Elko Development Department
1755 College Avenue
Elko, NV 89801
(775) 777-7210
FAX (775) 777-7219

To: City of Elko Planning Department
From: Jeremy Draper, PE – Development Manager
RE: Conditional Use Permit No. 3-18, Jason Land, 910 Court Street
Date: March 9, 2018

The City of Elko Development Department has provided this correspondence to aid in the Planning Commission's review of this Conditional Use Permit. 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 3-2-8 Public, Quasi-Public District
City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
City of Elko Zoning – Section 3-2-18 Conditional Use Permits
City of Elko Zoning – Section 3-8 Flood Plain Management

BACKGROUND INFORMATION

1. The property is conditionally zoned Residential Office (RO), as conditioned by rezone 2-18 approved by the Planning Commission on February 6, 2018.
2. Section 3-2-5 (F)(3) of City Code requires a Conditional Use Permit for a professional office.
3. The property is bounded by R-Single Family And Multiple Family Residential on the east and north, RO to the west, and C-General Commercial to the south.
4. The Planning Commission approved Variance 1-18 at its meeting on February 6, 2018, reducing the lot size, the front yard width and the interior sideyard setback.
5. The lot area is approximately 0.08 acres.

MASTER PLAN

Land Use:

- The Land Use component of the Master Plan identifies this area as Downtown Mixed Use.
- Objective 2-Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community.
- 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.
- Objective 6-Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.
- Corresponding zoning districts for Downtown Mixed Use are C-General Commercial.

Elko Wellhead Protection Plan

- The property is located within the 5-year capture zone.
- Conformance with the Wellhead Protection Plan is required.

REDEVELOPMENT PLAN

1. The property is within the Redevelopment Area.

ZONING

SECTION 3-2-3 GENERAL PROVISIONS

1. Section 3-2-3(C) states that 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 specified in Chapter 3 or imposed by the Planning Commission or City Council. The applicant has filed for a conditional use permit under Section 3-2-8(D)(3), an expansion of use exceeding 1,000 square feet. Conditional use permits are issued under the provisions of Section 3-2-18 of the Zoning Ordinance.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

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:

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - a. To exceed the heights required by the current city airport master plan;
 - b. To accommodate or house a greater number of families than as permitted in this chapter;

- c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.
3. No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
 4. 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.

With the approval of Variance 1-18, this property is in conformance with this section.

Section 3-2-5-F-Residential Office

- Conformance with this section is required
- Subsection 3 requires a Conditional Use Permit be issued for the use of the property as a professional office.

With the approval of Variance 1-18, this property is in conformance with this section.

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

1. The site plan submitted indicates a total of 3 parking spaces will be provided, meeting the provisions of this section of code.

SECTION 3-2-18 CONDITIONAL USE PERMITS

1. Section 3-2-18(A)(1) states "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." Based on this requirement and the requirements stipulated in Section 3-2-4(B), a variance will be required for the principal building setbacks.

SECTION 3-8 FLOODPLAIN MANGEMENT

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

RECOMMENDATION

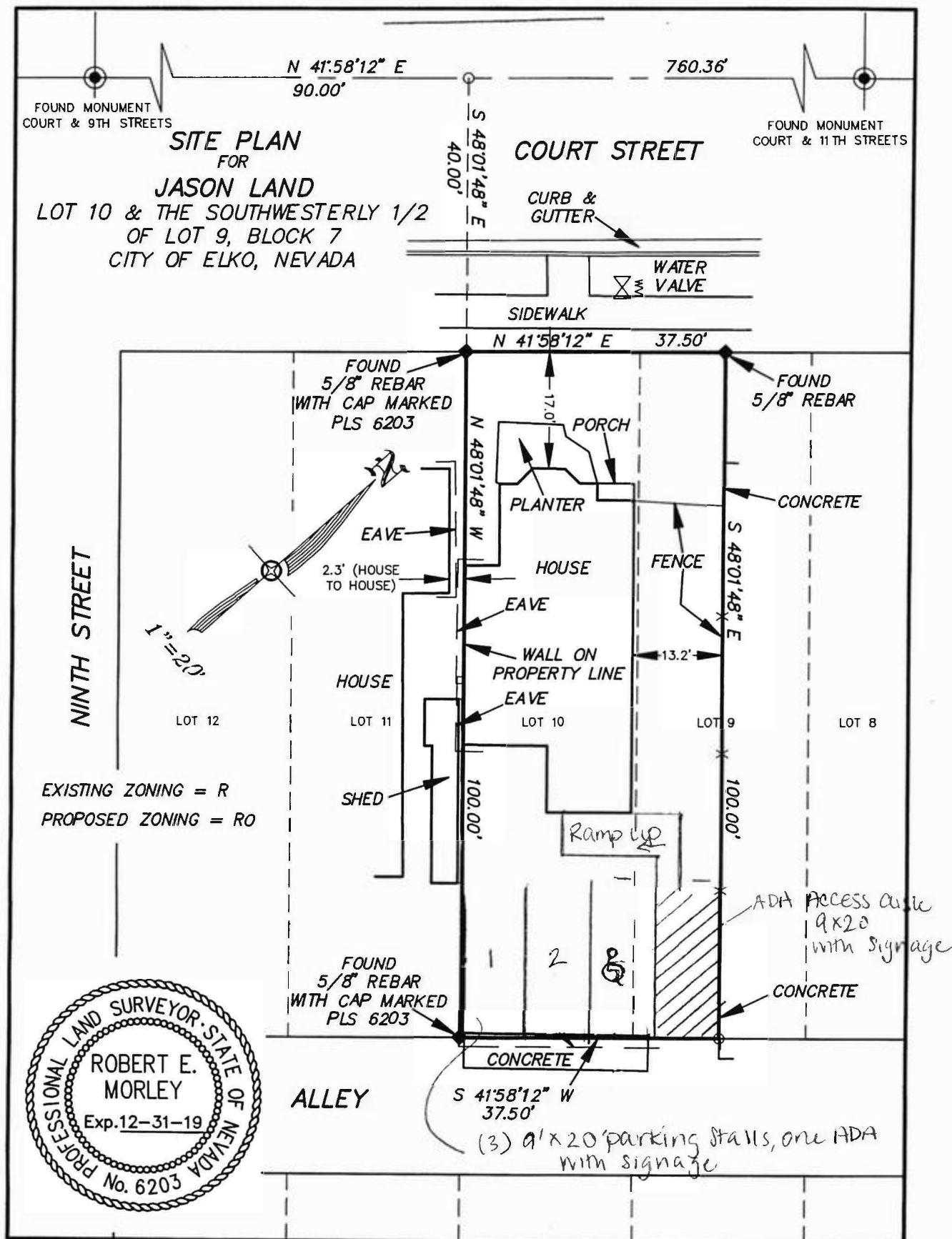
The City of Elko, Development Department recommends the conditional approval of Conditional Use Permit No. 3-18 based on the following condition(s):

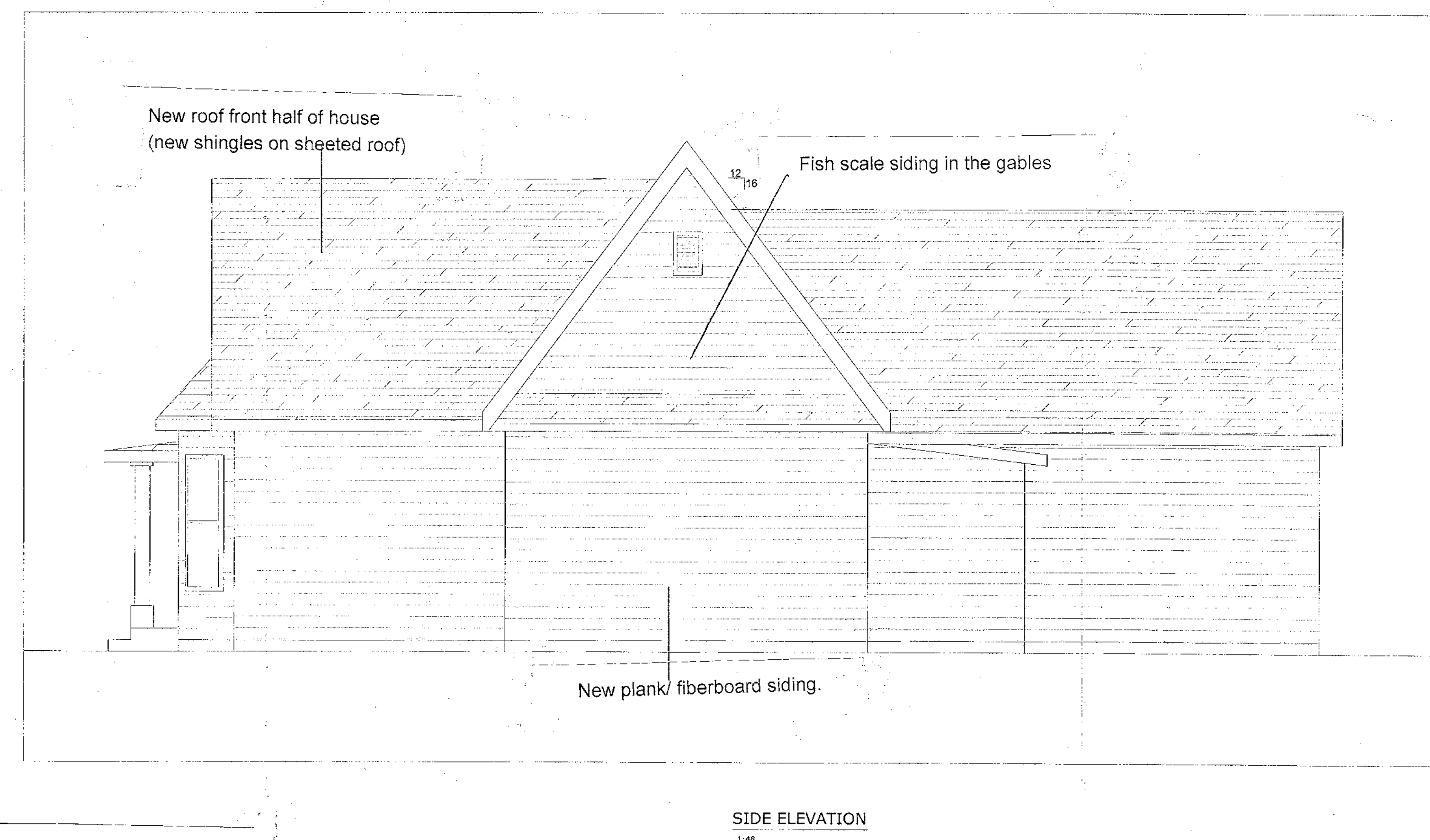
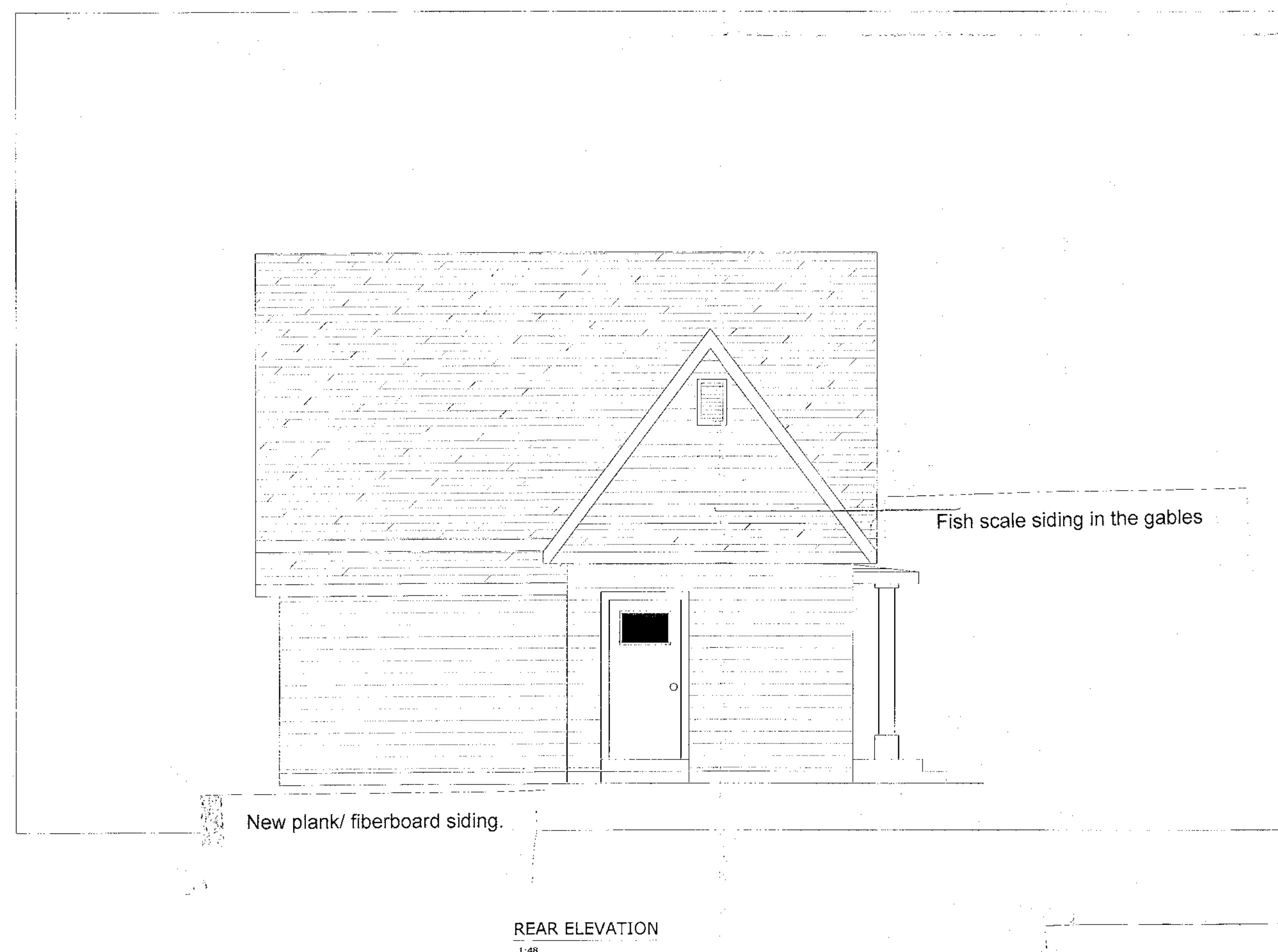
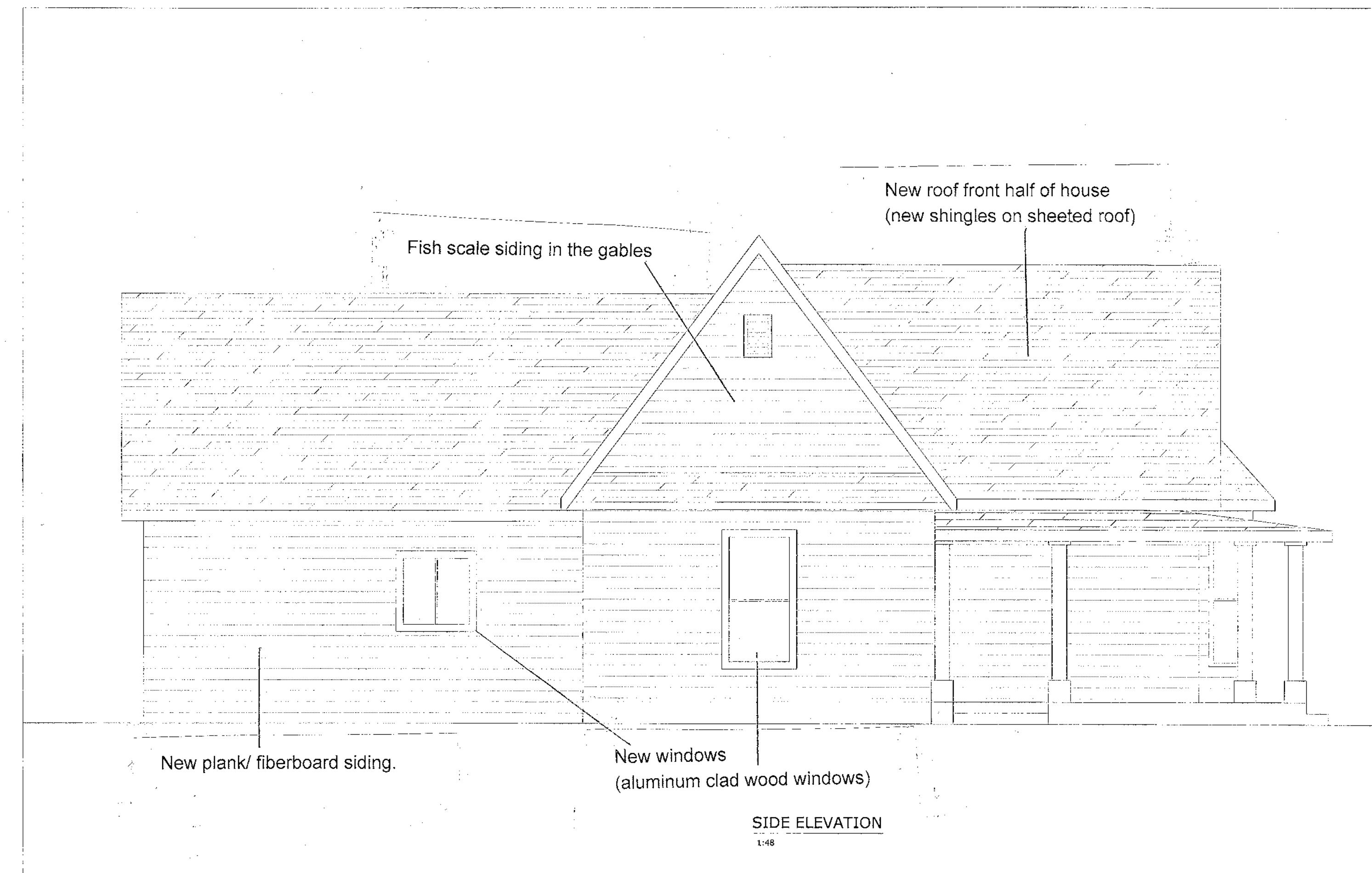
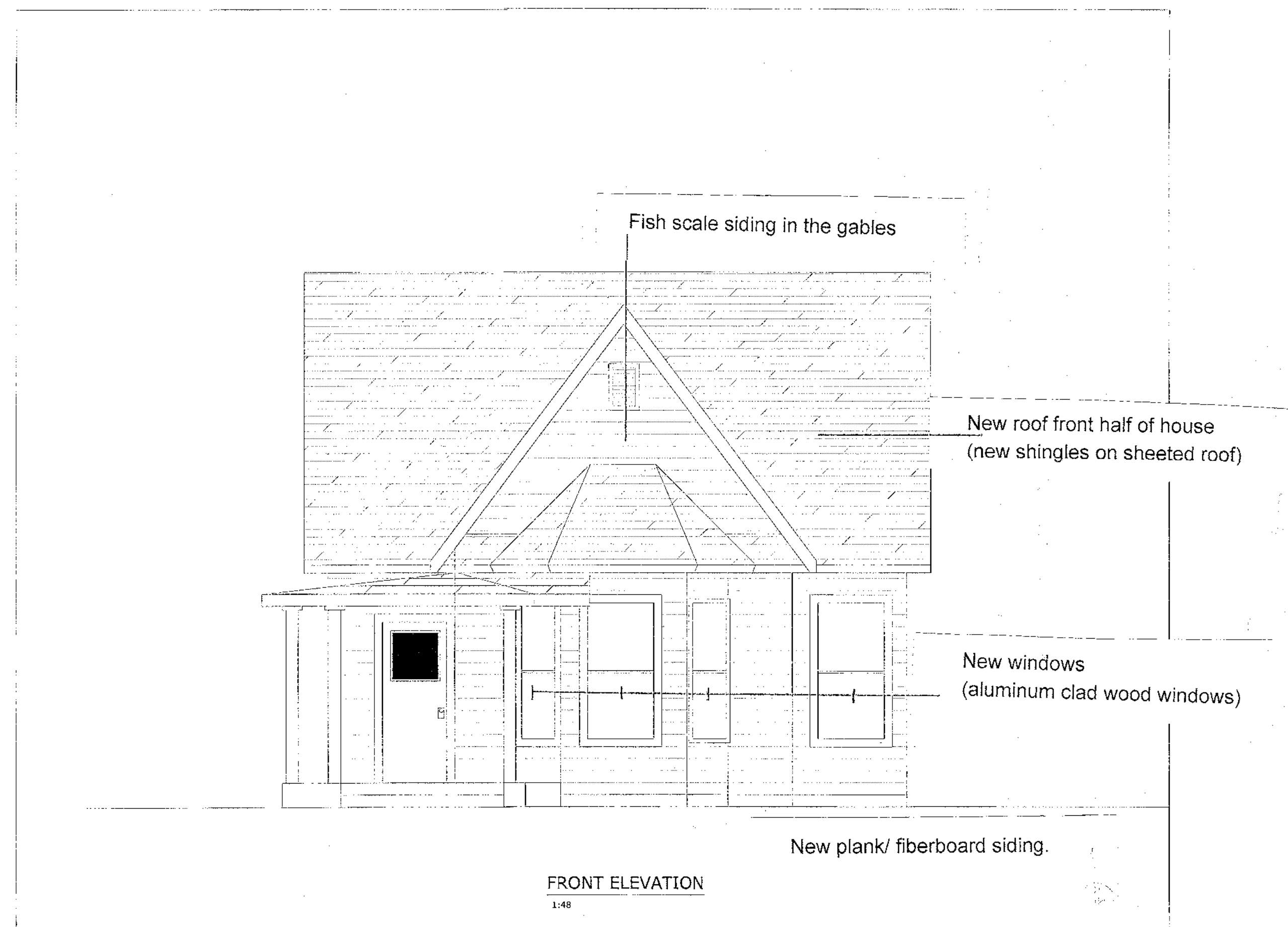
1. The permit is granted to the applicant Jason Land for the use of a professional office.

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 conditions of Variance 1-18 be met prior to occupancy of the building.
4. The conditions of Rezone 2-18 be met prior to occupancy of the building.

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Color Scheme of 910 Court Street will be composed of vintage pastels. The pastels will be neutral colors. The trim would be color #1. The fish scale siding in the gables color #2. And the plank/fiberboard siding will be color #3.

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REMODEL for
BLAINE BRANSCOMB

910 COURT STREET
ELKO, NV
001-281-002

Jacques Errecart
JACQUES ERRECART, NCARB
ARCHITECTURE

518 COMMERCIAL STREET
ELKO, NEVADA 89801
775.738.9456

4 APRIL 17
DRAWN JEA
PROJECT # 1507
CHECKED
REVISED

A-4

ELEVATIONS

CUP 3-18 Land

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001241008	AGUIRRE, THERESA A		965 COURT ST	ELKO NV	89801-3942
001241012	AHLIN, JASON & MEGAN		530 N 300 E	SPANISH FORK UT	84660-1530
001241011	BECK, STEFAN W TR		PO BOX 1075	ELKO NV.	89803-1075
001241034	BLACKMAN, DAVID A TR ET AL	} 1 p.c.	997 COURT ST	ELKO NV.	89801-3942
001241033	BLACKMAN, DAVID A TR ET AL		997 COURT ST	ELKO NV.	89801-3942
001281005	BUCKNER, EDWARD V. TR ET AL		784 PALACE PKWY	SPRING CREEK NV.	89815-7438
001276004	CHADWICK FOUNDATION INC	C/O NEVADA BANK & TRUST C/O WESTSTATES PROPERTY	PO BOX 807	CALIENTE NV.	89008-0807
001236001	ELKO ASSOCIATES LTD		PO BOX 2688	ELKO NV.	89803-2688
001281001	GILBERT, PAUL L		13267 REEDLEY ST	PANORAMA CITY CA	91402-4019
001241007	GILLINS, DANIEL & IOLANDA		3533 RIDGECREST DR	ELKO NV.	89801-2453
001281003	HILLS HOMES LLC		451 VALLEY BEND DR	SPRING CREEK NV	89815-5733
001284004	KUNZ PROPERTIES LLC		PO BOX 1465	HOLLISTER CA	95024-1465
001281007	LAL, DIPAK BHAI ET A;		411 10TH ST	ELKO NV	89801-3903
001281008	LAUGHLIN, PATRICK J & CATALINA F		371 MOUNTAIN CITY HWY UNIT 7	ELKO NV.	89801-9516
001281009	LOCKIE, DAVID B ET AL		919 IDAHO ST	ELKO NV	89801-3918
001241018	LOSTRA ENTERPRISES LLC		930 COLLEGE AVE	ELKO NV	89801-3420
001284003	MCCONNELL, JOEL A TR ET AL		1832 SEQUOIA DR	ELKO NV.	89801-1612
001273003	MONTES DE OCA, DANIEL TR ET AL		1709 JANIE CT	ELKO NV	89801-7910
001284002	NEVADA BANK & TRUST CO - Same as Chadwick		PO BOX 807	CALIENTE NV	89008-0807
001282011	PAGE INVESTMENTS LLC		603 PINE ST	ELKO NV	89801-3543
001281006	PEREZ, GUADALUPE ET AL		700 LAST CHANCE RD UNIT 3	ELKO NV.	89801-8747
001281010	R HANK WOODY LLC	C/O LIPPARELLI, PAUL	2633 SPEARPOINT DR	RENO NV	89509-7029
001273005	SALDANA-DERODRIGUEZ, CONSUELO	} 1 p.c.	837 IDAHO ST	ELKO NV	89801-3825
001273004	SALDANA-DERODRIGUEZ, CONSUELO		837 IDAHO ST	ELKO NV	89801-3825
001282001	STEFLIK, DANIEL M & LAURIE JO		1010 COURT ST	ELKO NV.	89801-3945
001241010	THIBAUT, ROBERT & ADELINE		901 COURT ST	ELKO NV.	89801-3942
001281004	WAHRENBROCK, JON A		1800 GRISWOLD DR UNIT 1	ELKO NV.	89801-1625
001241009	ZELCO LLC SERIES 2 - Same as Thibault		901 COURT ST	ELKO NV.	89801-3942

24

Mailed 3/22/18

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, April 3, 2018 beginning at 5:30 P.M. P.D.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. 3-18, filed by Jason B. Land on behalf on Blaine Branscomb, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. The subject property is located generally on the south side of Court Street, approximately 50 feet east of 9th Street (910 Court Street, APN 001-281-002).

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):	JASON B. LAND		
(Applicant must be the owner or lessee of the proposed structure or use.)			
MAILING ADDRESS:	P.O. Box 281329 LAMUILE NV 89828		
PHONE NO. (Home)	775-340-0062	(Business)	775-738-8811
NAME OF PROPERTY OWNER (If different):	Blaine BRANSCOMB		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:	410 E 101 COURT STREET ELKO NV 89801		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-281-002	Address	410 COURT STREET
Lot(s), Block(s), & Subdivision	lot 10 the Southwesterly 1/2		
Or Parcel(s) & File No.	of lot 9, Block 7 City of ELKO Map 1		

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.

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1. Current zoning of the property: an approved R/O with conditions
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:
325F3
3. Explain in detail the type and nature of the use proposed on the property:
I'M A FINANCIAL ADVISOR WITH EDWARD JONES.
I WOULD VISIT WITH & CONDUCT MY PRACTICE
AT THE AFOREMENTIONED LOCATION. MY
BUSINESS IS MONDAY THROUGH FRIDAY.
4. Explain how the use relates with other properties and uses in the immediate area:
THERE IS A VACANT COMMERCIAL BUILDING
NEXT DOOR. R/O BUILDINGS ARE IN
THE VICINITY. BEHIND MY BUILDING &
ACROSS THE ALLEY ARE COMMERCIAL
BUILDINGS.
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: NONE
6. Describe the general suitability and adequacy of the property to accommodate the proposed use: THERE IS ENOUGH PARKING ON SITE
PER THE SIZE OF THE BUILDING.
HOURS OF OPERATION ARE MONDAY
THROUGH FRIDAY 8:00 AM TO 4:00 PM.
THIS IS A LOW IMPACT, LOW VOLUME
BUSINESS.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: AS IS. IT'S AN EXISTING DEVELOPMENT.
DRAINAGE FROM NEW PARKING AREA TO
THE ALLEY
8. Describe the amounts and type of traffic likely to be generated by the proposed use: I conduct most of my business by
phone & scheduled appointments.
I do not have walk in business.
THE TRAFFIC WOULD BE VERY LIGHT
& LOW INTENSITY.
9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: I would comply with parking
requirements per Elko City code 3-2-17.
THE GARAGE WOULD BE RAZED TO MAKE ROOM
FOR THE REQUIRED PARKING. 870 TOTAL
USEABLE SPACE OR 2.9 REQUIRED PARKING.
10. Describe the type, dimensions and characteristics of any sign(s) being proposed: sign permit will be applied for at a
later date.
11. Identify any outside storage of goods, materials or equipment on the property: none
12. Identify any accessory buildings or structures associated with the proposed use on the property: none

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

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 JASON B. LAND
(Please print or type)

Mailing Address P.O. Box 281329
Street Address or P.O. Box

Las Vegas NV 89828
City, State, Zip Code

Phone Number: (775) 340-0062

Email address: jason.land@edwardjones.com

SIGNATURE: Jason B. Land

FOR OFFICE USE ONLY

File No.: 3-18 **Date Filed:** 3/16/18 **Fee Paid:** \$750 **CK#** 1021

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MAR 06 2011

Per City of Elko Conditional Use Permit Approval.

Parking Requirements as per Elko City Code 3-2-17. The building is 900 S.F. total, of which 714 S.F. is useable office space. If I add an additional 156 S.F. to the building it would yield a useable space of 870 S.F. which requires 2.9 parking spaces. See attached site plan.

City of Elko Planning Department
1751 College Avenue
Elko, NV 89801

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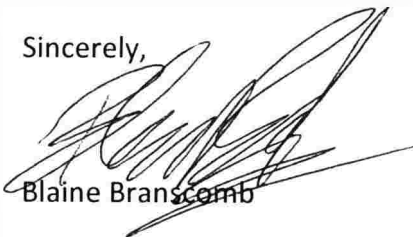
MAR 07 2018

CUP 3-18

Dear Sir or Madam,

I am the owner of 910 Court Street, Elko NV 89801. I approve and consent to Jason Land applying for the conditional use permit on the aforementioned property. My mailing address is 101 Court Street, Elko NV 89801. Furthermore, I can be reached at (775) 934-1150.

Sincerely,

A handwritten signature in black ink, appearing to read 'Blaine Branscomb', is written over a light blue rectangular background.

Blaine Branscomb

**Elko City Planning Commission
Agenda Action Sheet**

1. **Review, consideration and possible action of Rezone No. 1-18, filed by the City of Elko, for a change in zoning from R (Single Family and Multiple Family Residential) to PQP (Public, Quasi-Public), approximately 1.314 acres of property located northwest of the intersection of College Avenue and Golf Course Road, FOR POSSIBLE ACTION**
2. Meeting Date: **April 3, 2018**
3. Agenda Category: ***PUBLIC HEARINGS***,
4. Time Required: **15 Minutes**
5. Background Information: **Planning Commission initiated this rezone at their January 4, 2018 meeting.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Move to approve the location of the existing accessory structure as shown on the site plan and forward a recommendation to City Council to adopt a resolution which conditionally approves Rezone No. 1-18**
9. Findings:
 - **The proposed variance is in conformance with the Land Use Component of the Master Plan.**
 - **The proposed variance is in conformance with the Transportation Component of the Master Plan.**
 - **The property is not located within the redevelopment area and consideration of the plan is not required.**
 - **The proposed zone district and allowed uses do not present a hazard to City wells and is therefore in conformance with the city wellhead protection plan.**
 - **There is not a minimum lot area nor dimensions stipulated for the proposed zone district. The location of the accessory structure requires specific approval by the Planning Commission for the property to be in conformance with City Code 3-2-4 (B).**

Agenda Item #I.A.2

- **With Planning Commission approval of the existing accessory structure location, as shown on the site plan, the proposed rezone is in conformance with Section 3-2-8 of city code.**
- **The current use of the property under the proposed district is in conformance with Section 3-2-17 of city code.**
- **The proposed rezone is consistent with surrounding land uses.**
- **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.**
- **The parcel is not located within a designated Special Flood Hazard Area.**

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution:

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 4/3

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

Title: Rezone 1-18

Applicant(s): City of Elko

Site Location: 1401 College Ave - APN 001-200-002

Current Zoning: R Date Received: 12/12/17 Date Public Notice: 3/20/18

COMMENT: This is for a change in zoning from R to PDP to allow for incorporation into the City of Elko Parks.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 3/16/18 Recommend approval
as presented by staff w/ specific
approval for the accessory structure
location included in a motion

SAW

Initial

City Manager: Date: 3/23/18
No comments/Concerns.

W

Initial



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

CITY OF ELKO STAFF REPORT

MEMO DATE: March 13, 2018
PLANNING COMMISSION DATE: April 3, 2018
APPLICATION NUMBER: REZONE 1-18
APPLICANT: City of Elko
PROJECT DESCRIPTION:

A rezone from (R) Single Family and Multiple Family Residential to (PQP) Public, Quasi-Public initiated by the City of Elko Planning Commission.



STAFF RECOMMENDATION:

RECOMMEND APPROVAL, subject to facts, findings and conditions.

PROJECT INFORMATION

PARCEL NUMBER: 001-200-002

PARCEL SIZE: 1.314 acres

EXISTING ZONING: (R) Single Family and Multiple Family Residential

MASTER PLAN DESIGNATION: (PUBLIC) Public

EXISTING LAND USE: Developed land, previously Elko Police Department which was demolished. An accessory building and parking area are still existing on the property.

BACKGROUND:

1. Planning Commission made a motion at their January 4, 2018 meeting to amend the district boundaries and therefore the City of Elko is the applicant for the rezone.
2. The surrounding area is developed with public land use although many parcels are zoned Residential.
3. The property was previously developed with a principal structure utilized as the City's Police Department and related accessory structures. The principal structure has been demolished. The accessory structure has been leased to the local VFW.
4. The property has developed parking areas.
5. The property is accessed off Golf Course Road and VFW Drive.

NEIGHBORHOOD CHARACTERISTICS:

- The property is surrounded by:
 - Northeast: Developed as City of Elko Swimming Pool
 - Northwest: Developed as Elko Family Medical and Clinic
 - East: Developed as City of Elko Park
 - Southwest: Developed as VFW Hall

PROPERTY CHARACTERISTICS:

- The property is developed.
- The property can be accessed from Golf Course Rd, College Ave. or VFW Drive

MASTER PLAN AND CITY CODES:

Applicable Master Plans and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-8 PQP Public, Quasi-Public District

- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Section 3-2-21 Amendments
- City of Elko Zoning – Section 3-8 Flood Plain Management

MASTER PLAN - Land use:

1. The Master Plan Land Use Atlas shows the area as Public. This parcel was part of the Master Plan Amendment Resolution 10-18.
2. PQP is listed as a corresponding district for the Public land use designation.
3. Objective 3: Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
4. This parcel would be identified in the Master Plan as intended to meet the goals of Objective 3.

The proposed variance is in conformance with the Land Use Component of the Master Plan.

MASTER PLAN - Transportation:

1. The area can be accessed from Golf Course Rd, College Ave. or VFW Drive.

The proposed variance is in conformance with the Transportation Component of the Master Plan.

ELKO REDEVELOPMENT PLAN:

The property is not located within the redevelopment area and consideration of the plan is not required.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is located within the 2 year capture zone for City wells.

The proposed zone district and allowed uses do not present a hazard to City wells and is therefore in conformance with the city wellhead protection plan.

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.
 - No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
 - No building or other structure shall hereafter be erected or altered:
 - a. To exceed the heights required by the current City Airport Master Plan;
 - b. To accommodate or house a greater number of families than as permitted in this chapter;
 - c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.

- No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
- 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.

There is not a minimum lot area nor dimensions stipulated for the proposed zone district. The location of the accessory structure requires specific approval by the Planning Commission for the property to be in conformance with City Code 3-2-4 (B).

SECTION 3-2-8 PQP- Public- Quasi-Public District:

1. There is no minimum lot area or dimensions stipulated for this section of code
2. The accessory building location requires approval by the Planning Commission under Section 3-2-8(E)(2): Accessory buildings, whether attached or detached, shall be located in accordance with location on the lot as approved by the planning commission.
3. The height of the accessory structure meets the requirements stipulated in code.

With Planning Commission approval of the existing accessory structure location, as shown on the site plan, the proposed rezone is in conformance with Section 3-2-8 of city code.

SECTION 3-2-17 Traffic, Access, Parking and Loading Regulations:

1. The property has developed parking and access sufficient for the accessory structure use.

The current use of the property under the proposed district is in conformance with Section 3-2-17 of city code.

SECTION 3-2-21 Amendments:

1. The applicant has conformed to this section of code with the filing of the application.

SECTION 3-8

1. This parcel is not designated in a Special Flood Hazard Area (SFHA).

FINDINGS

1. The proposed variance is in conformance with the Land Use Component of the Master Plan.
2. The proposed variance is in conformance with the Transportation Component of the Master Plan.
3. The property is not located within the redevelopment area and consideration of the plan is not required.

4. The proposed zone district and allowed uses do not present a hazard to City wells and is therefore in conformance with the city wellhead protection plan.
5. There is not a minimum lot area nor dimensions stipulated for the proposed zone district. The location of the accessory structure requires specific approval by the Planning Commission for the property to be in conformance with City Code 3-2-4 (B).
6. With Planning Commission approval of the existing accessory structure location, as shown on the site plan, the proposed rezone is in conformance with Section 3-2-8 of city code.
7. The current use of the property under the proposed district is in conformance with Section 3-2-17 of city code.
8. The proposed rezone is consistent with surrounding land uses.
9. 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.
10. The parcel is not located within a designated Special Flood Hazard Area.

STAFF RECOMMENDATION:

Staff recommends this item be **conditionally approved with the following conditions:**

Planning Department:

1. The location of the remaining accessory structure is approved by the Planning Commission under Section 3-2-8 (E)(2) as shown on the site plan included with the application. The approval is included in the motion of the Planning Commission.



CITY OF ELKO
DEVELOPMENT DEPARTMENT
1755 COLLEGE AVENUE
ELKO, NEVADA 89801
(775)777-7210
(775)777-7219 FAX

To: Elko City Planning Commission
From: Jeremy Draper, Development Manager
RE: Rezone 1-18, Elko City, 1401 College Ave
Date: March 13, 2018

The City of Elko Development Department is providing this correspondence to aid the Planning Commission's review of Rezone Application 1-18.

Project Information



- The property is located generally at the intersection of Golf Course Road and College Ave
- The property is identified as a portion of APN 001-200-002.
- The parcel is currently partially developed.
- The parcel is currently zoned R-Single Family and Multiple Family Residential.
- The proposed rezone would result in a rezone of proposed parcel 1 being 1.314 acres of PQP-Public Quasi Public.

- The property is bound by R, to the north and west, and PQP to the south and east.
- The property is not located within a FEMA Floodzone.
- The property is the location of the former Elko Police Station, a small accessory shop remains on the property and a parking lot remains.

Master Plan

Land Use:

- The Land Use component of the Master Plan identifies this area as Public.
- This area is identified in the Master Plan under Objective 3 to Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
- The property was the location of the former Elko Police Station.
- Corresponding zoning districts for Public/Quasi-Public are: PQP-Public, Quasi-Public.

Elko Wellhead Protection Plan

- The property is located within the 2-year capture zone.
- Conformance with the Wellhead Protection Plan is required.

Section 3-2-4-Establishment of Zoning Districts

- Conformance with this section is required

Section 3-2-8- (PQP) Public, Quasi-Public District

- Conformance with this section is required, a site plan review of the existing accessory structure should be conducted by the Planning Commission.

Section 3-2-17-Traffic, Access, Parking and Loading Regulations

- Conformance with this section is required

Section 3-2-21-Amendments

- Conformance with this section is required

Findings

1. The proposed rezone does not appear to frustrate the Master Plan's goals and policies.

2. The rezone of this property helps to meet Objective 3 of the Land Use Component of the Master Plan, preserving the Civic Center of the City.
3. The proposed rezone is in conformance with City Code 3-2-4-B and C
4. The proposed rezone is in conformance with City Code 3-2-17
5. The proposed rezone is in conformance with City Code 3-2--8
6. The proposed rezone is in conformance with the City of Elko Wellhead Protection Plan.
7. 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.

Recommendation

The City of Elko **Development Department** recommends that the proposed zone changes be approved.

LEGAL DESCRIPTION TO ACCOMPANY A ZONE CHANGE

A parcel within the southeast quarter of Section 10, and the southwest quarter of Section 11, Township 34 North, Range 55 East, M.D.B.&M., which is further described as follows:

Beginning at a point at the intersection of the northwesterly right-of-way of College Avenue and the southwesterly right-of-way of Golf Course Road, that bears North $1^{\circ}18'56''$ East, a distance of 804.85 feet from the centerline monument at the intersection of Court Street and 13th Street as shown on the map of the Smith's Addition to the City of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927;

Thence, North $48^{\circ}11'00''$ West, along the right-of-way of Golf Course Road a distance of 264.70 feet;

Thence, South $14^{\circ}49'00''$ West, a distance of 202.00 feet;

Thence along a tangent circular curve to the left, with a radius of 14.70 feet, a central angle of $90^{\circ}00'00''$, and an arc length of 23.09 feet, to a point along the northeasterly right-of-way of VFW Drive;

Thence, South $48^{\circ}11'00''$ East along said northeasterly right-of-way of VFW Drive, a distance of 235.30 feet;

Thence, along a tangent circular curve to the left, with a radius of 14.70 feet, a central angle of $90^{\circ}00'00''$, and an arc length of 23.09 feet, to a point along the northwesterly right-of-way of College Avenue;

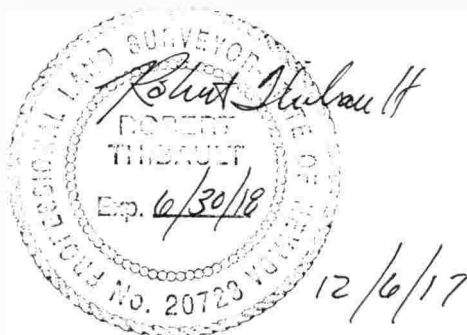
Thence, North $41^{\circ}49'00''$ East along said northwesterly right-of-way of College Avenue, a distance of 202.00 feet more or less, to the point of beginning.

This parcel contains a total of ± 1.314 acres.

The basis of bearings for this description is the map of the Smith's Addition to the City of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927.

Description prepared by:

Robert Thibault, PE, PLS
City of Elko
Civil Engineer



RECEIVED

DEC 12 2017

Initial: _____

RECEIVED

DEC 6 2 2017

Initial _____

0 60' 120'



GOLF COURSE ROAD

202.00'
S41°49'00"W

264.70'
N48°11'00"W

L=23.09', R=14.70'
 $\Delta=90^{\circ}00'00''$

AREA TO BE CHANGED
FROM R TO PQP
1.314 ACRES
APN: 001-200-002

VFW DRIVE

S48°11'00"E
235.30'

N41°49'00"E
202.00'

N1°18'56"E
804.85'

L=23.09', R=14.70'
 $\Delta=90^{\circ}00'00''$

CENTERLINE
INTERSECTION OF
COURT STREET
AND 13TH STREET

VFW DRIVE

FOURTEENTH STREET



CITY OF ELKO
1751 COLLEGE AVE
ELKO, NEVADA 89801
775-777-7210

SCALE

HORZ 1"=60'

VERT NONE

DISPLAY MAP FOR
ZONE CHANGE
APN: 001-200-002

DRAWN BY
BT
CHECKED BY
BT
DATE
12/6/2017

APN: 001-200-004
MEDICAL CLNC

RECEIVED

DEC 12 2017

Initial: _____

20.1'

24.9'

16.5 FT TALL
ACCESSORY BUILDING
976 SF

PROPERTY LINE

GOLF COURSE ROAD

APN: 001-200-002
CITY OF ELKO
FORMER POLICE DEPARTMENT

COLLEGE AVENUE

0 40' 80'



CITY OF ELKO
1751 COLLEGE AVE
ELKO, NEVADA 89801
775-777-7210

SCALE

HORZ 1"=60'

VERT NONE

SITE PLAN FOR
ZONE CHANGE
APN: 001-200-002

DRAWN BY
BT
CHECKED BY
BT
DATE
12/12/17

Rez 1-18 City of Elko

YPNO	PANAME
001202005*	ANDREOZZI, ROBERTA
001252010*	BEACH, JACKIE LEE & LORRAINE K
001202008	BYERS, DIANNA F
001203005*	CAVALIERE, RICHARD J & JANICE J
001202009	COSHWAY, JON & DOROTHY
001250001	ELKO LODGE NO 15 OF MASONS
001620014*	ELKO, CITY OF
001620018*	ELKO, CITY OF
001620017*	ELKO, CITY OF
001560001	ELKO, CITY OF (PARKS)
001200004	ELKO, COUNTY OF
001250003*	GIRL SCOUTS OF THE SIERRA NEVAD
001250002	GIRL SCOUTS OF THE SIERRA NEVAD
001200005	HCPI/UTAH LLC
001252001*	HONEA, RYAN C & LACHELLE M
001202007	HOUCHIN, KENNETH W
001202010*	JACKSON, HARRY B SR
001203007	JACKSON, REN
001203004*	KENNEDY, MARK E
001202006*	KNIGHT, BENJAMIN
001252011*	KOPATEGUI, JESUS & DENISE TR
001203006	MCBETH, TWYLA P ETAL
001252002	NAYLOR, ROR YET AL
001252009*	PAVI, KARENL
001252004*	PERKETT, KENNETH W
001252003	PUCINELLI, C & ROLAND ET AL
001203009*	RHODES, DEAN A & SHARON L TR
001202011*	SHINN, KAREN L
001200001	VETERANS OF FOREIGN WARS OF THE
001203014*	WEBB, WILLIAM Z
001203010*	WHITE, JUDITH A
001203015	WINTERMOTE, KELLY

PMADD1

C/O MAIN CITY PARK

C/O EASLEY, MCCAULEY & ASS INC

PMADD2

1360 CEDAR ST
572 13TH ST
1385 OAK ST
10566 RIDGECREST DR
1375 OAK ST
PO BOX 15
1755 COLLEGE AVE
1755 COLLEGE AVE
1755 COLLEGE AVE
1515 IDAHO ST
540 COURT ST
605 WASHINGTON ST
605 WASHINGTON ST
101 S 200 E STE 200
588 13TH ST
875 14TH ST
1365 OAK ST
1380 OAK ST
1340 OAK ST
1376 CEDAR ST
515 14TH ST
838 A ST
1376 COLLEGE AVE
550 13TH ST
537 14TH ST
13725 48TH PL W
PO BOX 8
1355 OAK ST
PO BOX 1266
1375 COLLEGE AVE
1351 COLLEGE AVE
1387 COLLEGE AVE

PMCTST

ELKO NV
ELKO NV
ELKO NV
JACKSON CA
ELKO NV
ELKO NV
ELKO NV
ELKO NV
ELKO NV
RENO NV
RENO NV
SALT LAKE CITY UT
ELKO NV
ELKO NV
ELKO NV
ELKO NV
ELKO NV
ELKO NV
EDMONOS WA
TUSCARORA NV
ELKO NV
ELKO NV
ELKO NV
ELKO NV

PZIP

89801-3418
89801-3407
89801-3433
95642-9348
89801-3433
89803-0015
89801
89801
89801
89801-4021
89801-3515
89503-4328
89503-4328
84111-3104
89801-3407
89801-3414
89801-3030
89801-3434
89801-3434
89801-3418
89801-3410
89801-2905
89801-3428
89801-3407
89801-3410
98026-3417
89834-0008
89801-3433
89803-1266
89801-3427
89801-3427
89801-3427

NO P.C.

1 pc.

27

Mailed 3/22/18

* = Properties outside of the original 300 ft radius to achieve 30 parcels

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, April 3, 2018 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

The specific items to be considered under public hearing format are:

Rezone No. 1-18, filed by The City of Elko for a change in zoning from R (Single Family and Multiple Family Residential) to PQP (Public, Quasi Public), approximately 1.314 acres of property, specifically APN 001-200-002, located generally on the northwest corner of the intersection of College Avenue and Golf Course Road, more particularly described as: A parcel within the southeast quarter of Section 10, and southwest quarter of Section 11, Township 34 North, Range 55 East, M.D.B.&M., which is further described as follows:

Beginning at a point at the intersection of the northwesterly right-of-way of College Avenue and the Southwesterly right-of-way of Golf Course Road, that bears North $1^{\circ}18'56''$ East, a distance of 804.85 feet from the centerline monument at the intersection of Court Street and 13th Street as shown on the map of Smith's Addition to the City of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927;

Thence, North $48^{\circ}11'00''$ West, along the right-of-way of Golf Course Road a distance of 264.70 feet;

Thence, South $14^{\circ}49'00''$ West, a distance of 202.00 feet;

Thence along a tangent circular curve to the left, with a radius of 14.70 feet, a central angle of $90^{\circ}00'00''$, and an arc length of 23.09 feet, to point along the northeasterly right-of-way of VFW Drive;

Thence, South $48^{\circ}11'00''$ East along said northeasterly right-of-way of VFW Drive, a distance of 235.30 feet;

Thence, along a tangent circular curve to the left, with a radius of 14.70 feet, a central angle of $90^{\circ}00'00''$, and an arc length of 23.09 feet, to a point along the northwesterly right-of-way of College Avenue;

Thence, North $41^{\circ}49'00''$ East along said northwesterly right-of-way of College Avenue, a distance of 202.00 feet more or less, to the point of beginning.

This parcel contains a total of ± 1.314 acres.

The basis of bearings for this description is the map of Smith's Addition to the city of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927.

The intent of the zone change is to allow for incorporation into the Elko City Parks.

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

RECEIVED

USE 1 2 2017

APPLICATION FOR ZONE CHANGE

Initial: _____

APPLICANT(s): City of Elko
MAILING ADDRESS: 1751 College Ave
PHONE NO (Home) _____ (Business) 775-777-7160
NAME OF PROPERTY OWNER (if different): City of Elko
(Property owner's consent in writing must be provided.)
MAILING ADDRESS: _____
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):
ASSESSOR'S PARCEL NO.: 001-200-002 Address 1401 College Ave
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 \$300.00 non-refundable filing fee.

Area Map: A map of the area proposed for this zone change must be provided.

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, distances between buildings, parking and loading areas, driveways and other pertinent information must be provided.

Legal Description: A complete legal description of the boundary of the proposed zone change must be provided as well as a map depicting the area to be changed stating the wording: area to be changed from "x" to "x"; (L1 to R, for example).

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 Rezone Application.

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 City of Elko
(Please print or type)

Mailing Address 1751 College Ave
Street Address or P.O. Box
Elko, NV 89801
City, State, Zip Code

Phone Number: _____

Email address: _____

SIGNATURE: Cathy Laugel

FOR OFFICE USE ONLY

File No.: 1-18 Date Filed: 12/12/17 Fee Paid: N/A



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

CITY OF ELKO PLANNING COMMISSION ACTION REPORT Special Meeting of January 4, 2018

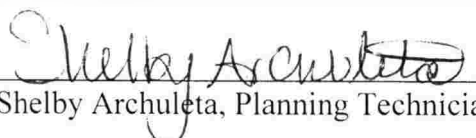
WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on January 4, 2018 per City Code Sections 3-2-21:

Initiate an amendment to the City of Elko district boundary, specifically APN 001-200-002, removing the R (Single-Family Multi-Family Residential) Zoning District and replacing it with the PQP (Public, Quasi-Public) Zoning District, and matters related thereto.

WHEREAS, the Planning Commission, upon review and consideration of the application and supporting data, public input and testimony, initiate an amendment to the City of Elko district boundaries, and direct staff to bring the item back as a public hearing.


Cathy Laughlin, City Planner

Attest:


Shelby Archuleta, Planning Technician

CC: Jeremy Draper, Development Manager (via email)
Shanell Owen, City Clerk

**Elko City Planning Commission
Agenda Action Sheet**

1. **Review, consideration and possible action on Variance No. 3-18, filed by Daniel Broockmann for a reduction of the required front yard setback from 15 feet to 11.6 feet, the required interior side yard setback from 7 feet to 4.8 feet, and the required exterior side yard setback from 12 feet to 10.7 feet, within an R – Single Family and Multiple Family Residential Zoning District, (APN 001-091-001) to allow for the conversion from single family to multiple family residential, and matters related thereto, FOR POSSIBLE ACTION**
2. **Meeting Date: April 3, 2018**
3. **Agenda Category: *PUBLIC HEARINGS*,**
4. **Time Required: 15 Minutes**
5. **Background Information: The applicant has requested a building permit for the conversion of the property into a duplex from a single family residence. This is considered a change in use and therefore any legal non-conforming entity of the property would be required to conform. Currently the property doesn't meet the front, exterior side yard and interior side yard setbacks as well as off street parking requirements.**
6. **Business Impact Statement: Not Required**
7. **Supplemental Agenda Information: Application, Memo from Development Director, Memo from City Planner**
8. **Recommended Motion: Conditionally approve Variance No. 3-18, with the following conditions: (stated in City Planner memo)**
9. **Findings:**
 - **The proposed variance is in conformance with the Land Use Component of the Master Plan is consistent with existing land uses in the immediate vicinity.**
 - **The proposed variance is consistent with the Transportation Component of the Master Plan.**
 - **The property is not located within the redevelopment area and consideration of the plan is not required.**
 - **The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.**

- The property does not conform to Section 3-2-4 of city code. Approval of the variance application is required to bring the property into conformance with code.
- The developed property meets the stipulated area and dimension requirements stipulated in Section 3-2-5(G) R- Single Family and Multiple Family Residential. The structure encroaches into all of the stipulated yard areas excepting the rear yard area. Approval of the variance application is required to bring the property into conformance with code.
- The property does not conform to Section 3-2-17 of city code. Development of the required parking areas will be required as a condition for variance approval.
- In accordance with Section 3-2-22, the applicant has demonstrated that the existing structure has been in place for over 24 years and it appears the structure predates the current setbacks stipulated in code and encroaches into the current stipulated setbacks.
- In accordance with Section 3-2-22, the applicant has demonstrated that this circumstance prevents the applicant from obtaining building permits to finish the basement level of the structure depriving the applicant of full use of the structure.
- In accordance with section 3-2-22, the applicant has demonstrated that the property has unique circumstances based on that fact the basement daylights and other developed properties in the immediate area do not offer that potential for usable floor space.
- Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on the fact the variance request is not for the actual conversion to a duplex use. In the event of that occurrence, the conversion of the structure to a duplex use will have to conform to all code requirements including off street parking. This finding is also based on the fact the structure was previously converted from a multifamily use to a single family use.
- Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. Single family or duplexes are listed as principal uses in the underlying zone. Neither use requires a larger lot size than specified for the district.
- Granting of the variance will not impair natural resources.
- The parcel is not located within a designated Special Flood Hazard Area.

Agenda Item # I.A.3

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution: **Daniel Broockmann**
189 West Ash Street
Elko, NV 89801

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 4/3

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

Title: Variance 3-18

Applicant(s): Daniel Broockmann

Site Location: 189 W. Ash St. - APN 001 -091 -001

Current Zoning: R Date Received: 3/9/18 Date Public Notice: 3/20/18

COMMENT: This is to request that the required Front yard
Setback be reduced from 15' to 11.6', interior Side yard Setback
reduced from 7' to 4.8', and the ext. Side yard reduced from 12' to 10.7'

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 3/15/18 Recommend as
presented by staff

SAW

Initial

City Manager: Date: 3/23/18
No comments/concerns.

CC

Initial



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

CITY OF ELKO STAFF REPORT

REPORT DATE:	March 13, 2018
PLANNING COMMISSION DATE:	April 3, 2018
AGENDA ITEM NUMBER:	I.A.3
APPLICATION NUMBER:	Variance 3-18
APPLICANT:	Daniel Broockmann and Jacqueline Lucero
PROJECT DESCRIPTION:	189 West Ash Street, Elko

A Variance request to reduce:

- 1. Interior side yard setback from 7' for a duplex to 4.8'**
- 2. Front yard setback from 15' to 11.6'**
- 3. Exterior side yard setback from 12' to 10.7'**



STAFF RECOMMENDATION:

RECOMMEND CONDITIONAL APPROVAL, subject to findings of fact, and conditions.

PROJECT INFORMATION

PARCEL NUMBER: 001-091-001

PARCEL SIZE: 7,652 sq. ft.

EXISTING ZONING: (R) Single Family and Multiple Family Residential.

MASTER PLAN DESIGNATION: (RES-MD) Residential medium density

EXISTING LAND USE: Residential

BACKGROUND:

1. The applicant is the property owner.
2. The property was developed in approximately 1953.
3. The lot area is approximately 7,652 square feet and meets the area requirements stipulated in code.
4. The property, as developed, is a legal non-conforming use with regard to current setback requirements stipulated in code and the lack of developed off-street parking.
5. The applicant has applied for a building permit to finish the basement area with the intent for a future conversion from a single family dwelling to a duplex. The proposed expansion of usable floor area requires a variance.
6. It appears that the structure was developed as a duplex or other multi-family dwelling unit based on city files showing a conversion to a single family dwelling unit. This is further supported by the multiple ingress/egress points to the structure.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:
North, South, West and East: (R) Single and Multiple Family / Developed

PROPERTY CHARACTERISTICS:

The property is currently developed with a single family use.
The property is generally flat.
The property is located on the corner of West Ash Street and A Street with ingress/egress from the alley.

APPLICABLE MASTER PLAN 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 Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-5 Residential Zoning Districts
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations

- City of Elko Zoning – Section 3-2-22 Variances
- City of Elko Zoning – Section 3-8 Flood Plain Management

MASTER PLAN - Land use:

1. The Master Plan Land Use Atlas shows the area as Residential Medium Density.
2. R- Single Family and Multiple Family Residential zoning district is listed as a corresponding zoning district for Residential Medium Density.
3. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.

The proposed variance is in conformance with the Land Use Component of the Master Plan.

MASTER PLAN - Transportation:

1. The area will be accessed from West Ash Street, A Street and the alley way.
2. Both West Ash and A Street are classified as a residential locals.

The proposed variance is in conformance with the Transportation Component of the Master Plan.

ELKO REDEVELOPMENT PLAN:

The property is not located within the redevelopment area and consideration of the plan is not required.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is located outside any capture zone for any City of Elko well.

The proposed use of the property does not present a hazard to City wells.

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.
 - No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
 - No building or other structure shall hereafter be erected or altered:
 - a. To exceed the heights required by the current City Airport Master Plan;
 - b. To accommodate or house a greater number of families than as permitted in this chapter;
 - c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.

- No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
- 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.

Alteration of the structure requires conformance with the stipulation of the applicable zone district. The structure, as located on the property does not conform to the front, exterior side yard and interior side yard setbacks.

The property does not conform to Section 3-2-4 of city code. Approval of the variance application is required to bring the property into conformance.

SECTION 3-2-5(G) RESIDENTIAL ZONING DISTRICTS:

1. Minimum area stipulated for the district is six thousand five hundred (6,500) square feet for a corner lot.
2. Minimum lot width stipulated for the district of sixty feet (60')
3. Minimum lot depth stipulated for the district of one hundred feet (100')
4. Minimum setbacks stipulated for the district are as follows:
Front Yard: A minimum setback of fifteen feet (15')
Rear Yard: A minimum setback of twenty feet (20')
Interior Side: For multiple family, a minimum setback of seven feet (7')
Exterior Side: For a residence in existence prior to November 25, 2003, twelve feet (12')

The developed property meets the stipulated area and dimension requirements. The structure encroaches into all of the stipulated yard areas excepting the rear yard area. Approval of the variance application is required to bring the property into conformance.

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

1. It appears that the current development does not meet requirement for off street parking however, the site plan provided shows the potential for the required off street parking to be added with access off the alley.

The property does not conform to Section 3-2-17 of city code. Development of the required parking areas will be required as a condition for variance approval.

SECTION 3-2-22 VARIANCES:

B. Procedure: Any person requesting a variance by the planning commission shall include:

Application Requirements

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
6. The granting of the variance will not substantially impair affected natural resources.

SECTION 3-8 FLOODPLAIN MANAGEMENT:

1. This parcel is not designated in a Special Flood Hazard Area (SFHA).

FINDINGS

1. The proposed variance is in conformance with the Land Use Component of the Master Plan is consistent with existing land uses in the immediate vicinity.
2. The proposed variance is consistent with the Transportation Component of the Master Plan.
3. The property is not located within the redevelopment area and consideration of the plan is not required.
4. The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.
5. The property does not conform to Section 3-2-4 of city code. Approval of the variance application is required to bring the property into conformance with code.
6. The developed property meets the stipulated area and dimension requirements stipulated in Section 3-2-5(G) R- Single Family and Multiple Family Residential. The structure encroaches into all of the stipulated yard areas excepting the rear yard area. Approval of the variance application is required to bring the property into conformance with code.
7. The property does not conform to Section 3-2-17 of city code. Development of the required parking areas will be required as a condition for variance approval.
8. In accordance with Section 3-2-22, the applicant has demonstrated that the existing structure has been in place for over 24 years and it appears the structure predates the current setbacks stipulated in code and encroaches into the current stipulated setbacks.

9. In accordance with Section 3-2-22, the applicant has demonstrated that this circumstance prevents the applicant from obtaining building permits to finish the basement level of the structure depriving the applicant of full use of the structure.
10. In accordance with section 3-2-22, the applicant has demonstrated that the property has unique circumstances based on that fact the basement daylight and other developed properties in the immediate area do not offer that potential for usable floor space.
11. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on the fact the variance request is not for the actual conversion to a duplex use. In the event of that occurrence, the conversion of the structure to a duplex use will have to conform to all code requirements including off street parking. This finding is also based on the fact the structure was previously converted from a multifamily use to a single family use.
12. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. Single family or duplexes are listed as principal uses in the underlying zone. Neither use requires a larger lot size than specified for the district.
13. Granting of the variance will not impair natural resources.
14. The parcel is not located within a designated Special Flood Hazard Area.

STAFF RECOMMENDATION:

Staff recommends this item be **conditionally approved** with the following conditions:

CONDITIONS:

Planning Department:

1. Compliance with all staff recommendations.
2. Commencement within one year and completion within eighteen (18) months. This includes development of off street parking and completion of the conversion of the basement area to a usable floor space and issuance of the required Certificate of Occupancy. Additional permits are required for certain components of the work.
3. Conformance to plans approved as a part of the variance.
4. Subject to review in two (2) years if determined necessary by the planning commission.

Development Department:

1. A variance is granted for the setbacks of the existing principle structure to be reduced for the following:
 - a. Interior side yard setback from 7' to 4.8'
 - b. Exterior side yard setback from 15' to 10.7'
 - c. Front setback from 15' to 11.6'
2. The required off-street parking is to be developed in accordance with Elko City Code 3-2-

17.

Building Department:

Please see Elko City building code amendments table R302.1 regarding Exterior walls

- Walls: < 5 feet require 1 hour fire rating
- Projections: 2 feet to <5 feet require 1 hour on underside. 0 to 2 feet not allowed
- Openings: 3 feet to 5 feet allowed at 25% maximum of wall area or less
- Penetrations : < 5 feet must comply with section R317.3

Public Works Department:

1. Applicant must provide required off street parking



CITY OF ELKO
DEVELOPMENT DEPARTMENT
1755 COLLEGE AVENUE
ELKO, NEVADA 89801
(775)777-7210
(775)777-7219 FAX

To: Elko City Planning Commission
From: Jeremy Draper, Development Manager
RE: Variance 3-18, Dan Broockmann, 189 W. Ash St
Date: March 12, 2018

The City of Elko Development Department is providing this correspondence to aid the Planning Commission's review of Variance Application 3-18.

Project Information



- The property is located generally at the intersection of A Street and Ash Street
- The property is identified as APN 001-109-001.
- The parcel is currently developed.
- The parcel is currently zoned R-Single Family and Multiple Family Residential.
- The parcel is 0.177 acres.
- The property is bound by R-Single Family and Multiple Family Residential on all sides
- The property is not located within a FEMA Floodzone.
- The property is proposed to be converted to a duplex.

- The application is for a variance from ECC 3-2-5-G-1, specifically the:
 - Interior side yard setback from 7' to 4.8'
 - Exterior side yard setback from 15' to 10.7'
 - Front setback from 15' to 11.6'
- The applicant proposes to convert this property to a duplex.

Master Plan

Land Use:

- The Land Use component of the Master Plan identifies this area as Medium Density Residential.

Transportation

- The property fronts Ash Street and A Street, both local roadways.

Elko Wellhead Protection Plan

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

Section 3-2-5-F-Residential Office

- Conformance with this section is required

Section 3-2-17-Traffic, Access, Parking and Loading Regulations

- It appears based on the provided site plan that the property will be in conformance with this section upon development of the parking area.

Section 3-2-22-Variances

Procedure

- The applicant states the section of code from which the variance has been requested.
- A legal description of the parcel has been provided.
- A plot plan showing the proposed location of property lines related to the location of the existing accessory structure is provided but is not by a properly licensed surveyor
- Filing fees have been deposited with the Planning Department.

Application Requirements

- There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary

situations or conditions applying to the property under consideration.

The special circumstance(s) cited in the application has an existing primary structure that was constructed as a residential property and encroached into the interior side yard, exterior side yard and front yard setbacks. The structure was constructed prior to the existing codes being adopted and zoning being established.

- **The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.**

The applicant indicates a variance is required for the existing condition not meeting the required setbacks, of the R district.

- **Such special circumstances or conditions do not apply generally to other properties in the same zoning district.**

The applicant indicates that other properties do not have a similar large unfinished daylight basement, which could be converted to a duplex.

- **The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.**

It does appear that granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public.

- **The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.**

It does appear that granting of the variance will not substantially impair the intent or purpose of the Zoning Ordinance or effect a change in the land use.

- **The granting of the variance will not substantially impair affected natural resources.**

The Development Department has determined that granting of the variance will not impair natural resources.

Findings

1. The special circumstance(s) cited in the application has an existing primary structure that was constructed as a residential property and encroached into the interior side yard, exterior side yard and front yard setbacks. The structure was constructed prior to the existing codes being adopted and zoning being established.
2. The applicant indicates that other properties do not have a similar large unfinished daylight basement, which could be converted to a duplex, this appears to be unique to this neighborhood.
3. It does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity. Granting of the variance does not

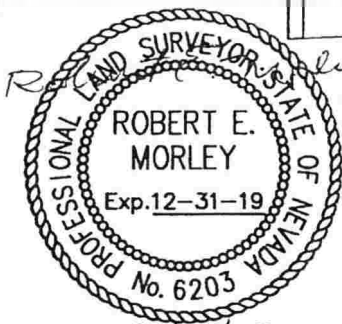
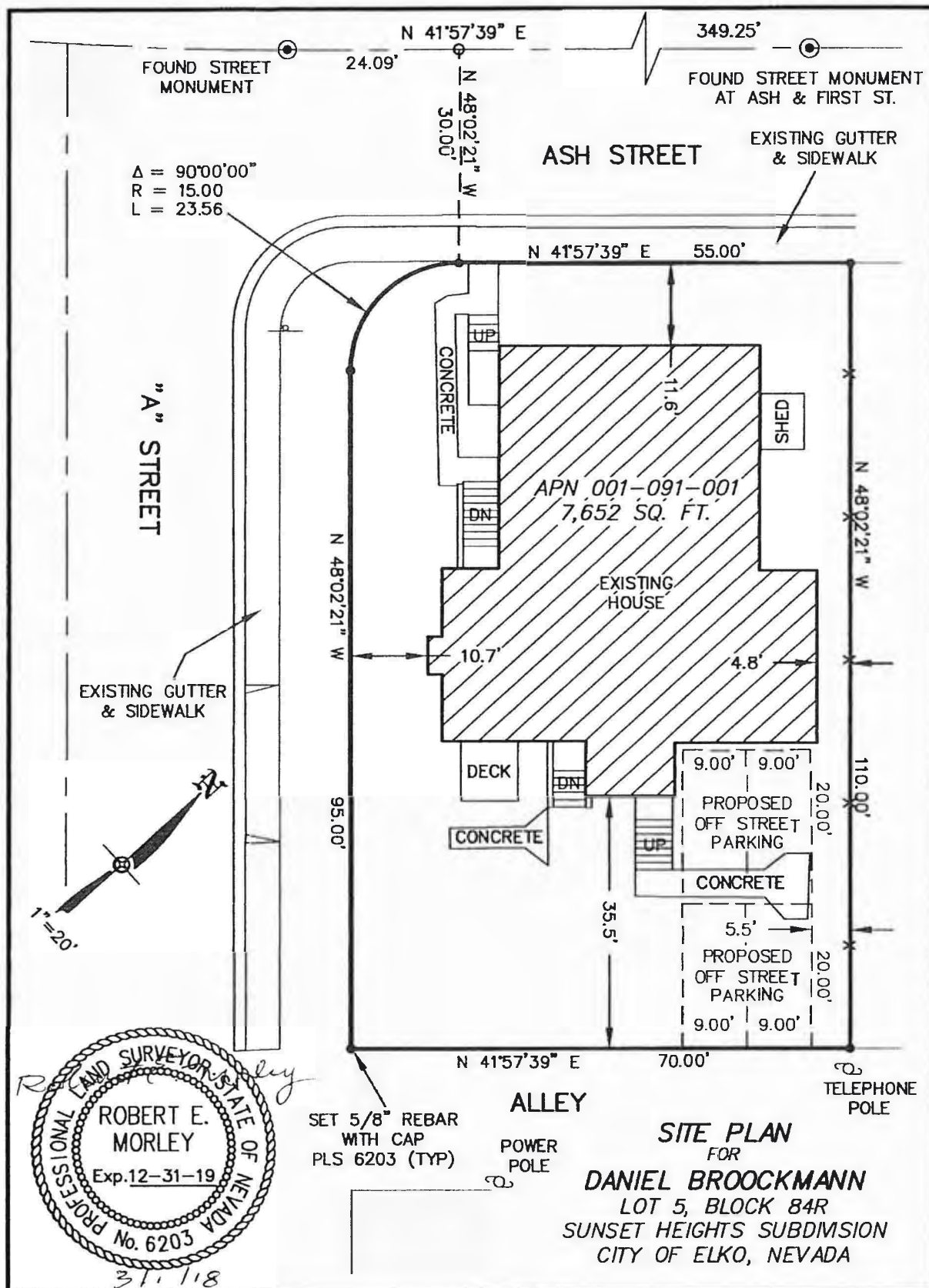
appear to be detrimental to the interest, health, safety and general welfare of the public.

4. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance.
5. Granting of the variance will not impair natural resources.

Recommendation

The City of Elko **Development Department** recommends that the variance be approved with the following conditions:

1. A variance is granted for the setbacks of the existing principle structure to be reduced for the following:
 - a. Interior side yard setback from 7' to 4.8'
 - b. Exterior side yard setback from 15' to 10.7'
 - c. Front setback from 15' to 11.6'
2. The required off-street parking is to be developed in accordance with Elko City Code 3-2-17.



RECEIVED

MAR 09 2018



Figure 1. Northwest Elevation of House (Existing Conditions Will Not Change)



Figure 2. Southwest Elevation of House (Existing Conditions Will Not Change)

RECEIVED

MAR 09 2018



Figure 3. Southeast Elevation of House (Existing Conditions Will Not Change)



Figure 4. Looking Toward Northeast Elevation of House, Obstructed View (Existing Conditions Will Not Change)

RECEIVED

MAR 09 2018

Variance 3-18 Brookmann

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001091007	ARANO, LUCIANO TR ET AL		122 W FIR ST	ELKO NV	89801-3026
001083007	BAIR, CHAD T & CHRISTA C		247 W FIR ST	ELKO NV	89801-2928
001043012	BECK, JANEL S		196 W ASH ST	ELKO NV	89801-2910
001043016	CARONE, BRADFORD V & ALBERTA S		256 W ASH ST	ELKO NV	89801-2912
001044001	CASTRO, NANCY		1190 1ST ST	ELKO NV	89801-2902
001091003	COLON, EDWIN JR		61221 HC 6	AGUADILLA PR	00603-9815
001082024	ELKO, CITY OF <i>NORC</i>		1755 COLLEGE AVE	ELKO NV	89801
001043009	ERNAUT, NANCY J		615 RIVERSIDE DR	RENO NV	89503-5601
001043013	ESPLIN, VAL M & RUTHE A		234 W ASH ST	ELKO NV	89801-2912
001094003	FLORY, MARIA Z		153 W FIR ST	ELKO NV	89801-3025
001044016	GARDNER, CHRIS & STACIE		101 ASH ST	ELKO NV	89801-3017
001094004	GILBERT, THOMAS J		PO BOX 2490	ELKO NV	89803-2490
001083008	GUYER, HUNTER CASSADY ET AL		229 W FIR ST	ELKO NV	89801-2928
001094005	HADLOCK, LEEANNE J		113 W FIR ST	ELKO NV	89801-3025
001091006	HERR, KIM CHRYSTINE		372 MOUNTAIN CITY HWY UNIT 11	ELKO NV	89801-9517
001044013	HESS, MIKE M & DEBORAH S TR		131 ASH ST	ELKO NV	89801-3017
001043010	HILES, MICHAEL J ET AL		102 W ASH ST	ELKO NV	89801-2910
001082007	HILL, VANCE W		237 W ASH ST	ELKO NV	89801-2911
001091010	HINES, NORMAN LEE & CAROLYN ROD		190 W FIR ST	ELKO NV	89801-3026
001091008	HYLTON, JAMES M		130 W FIR ST	ELKO NV	89801-3026
001082012	JACKSON, LEORA K		222 W FIR ST	ELKO NV	89801-2929
001043015	JONSON, JEFF M & NICOLE A		PO BOX 76	ELKO NV	89803-0076
001082008	LARA, FIDENCIO ET AL		225 W ASH ST	ELKO NV	89801-2911
001082013	LARRANETA, MARTIN J JR		238 W FIR ST	ELKO NV	89801-2929
001091004	LONG, JASON G TR ET AL		921 COUNTRY CLUB DR	ELKO NV	89801-2611
001044015	LOUGY, CLARA M		1140 1ST ST	ELKO NV	89801-2902
001094002	LYON, LARTERESTA L		235 KEPPLER DR	ELKO NV	89801-2527
001091009	MARIANI, ROSE M & TRACIE		166 W FIR ST	ELKO NV	89801-3026
001043005	MOSES, MICHAEL R		3547 DESERT PLAINS AVE	ELKO NV	89801-8421
001043008	MUNZING, KRYSTIN L		121 W MAPLE ST	ELKO NV	89801-2959
001082014	NEGRETE, JOSE R JR & SARAH C TR		1837 SEQUOIA DR	ELKO NV	89801-1608
001083009	OLCOTT, JAY		209 W FIR ST	ELKO NV	89801-2928
001094001	PHILLIPS, E DEE		193 W FIR ST	ELKO NV	89801-3025

Mailed 3/22/18

001091002 REYNOLDS, DEA ANN ET AL
001091005 RODRIGUEZ-CORREA, JOSE DE JESUS
001082010 ROMERO, ARNULFO & JESSICA
001043014 SLOAN, GORDON & JEAN M
001043006 SMITH, ROY F & HELEN M
001043011 TOURREUIL, ALEXIS & BARBARA
001043007 WALTHER, SHELDON P & KAREN E
001082009 ZAGA, ALFRED R & DENISE L
001082011 ZATARAY, JESUS R

169 W ASH ST
1075 1ST ST
1075 A ST
242 W ASH ST
147 W MAPLE ST
132 W ASH ST
137 W MAPLE ST
213 W ASH ST
1040 A ST

ELKO NV	89801-2909
ELKO NV	89801-3007
ELKO NV	89801-2974
ELKO NV	89801-2912
ELKO NV	89801-2959
ELKO NV	89801-2910
ELKO NV	89801-2959
ELKO NV	89801-2911
ELKO NV	89801-2908

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NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, April 3, 2018 beginning at 5:30 P.M. P.D.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:

Variance No. 3-18, filed by Daniel Broockmann for a reduction of the required front yard setback from 15' to 11.6', the required interior side yard setback from 7' to 4.8', and the required exterior side yard setback from 12' to 10.7' within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the southeast corner of the intersection of W. Ash Street and A Street. (189 W. Ash St. - APN 001-091-001)

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 * (775) 777-7219 fax

APPLICATION FOR VARIANCE

APPLICANT(s): Daniel Broockmann and Jacqueline Lucero

MAILING ADDRESS: 189 West Ash Street, Elko, NV 89801

PHONE NO (Home) (208)954-4571

(Business)

NAME OF PROPERTY OWNER (If different):

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

MAILING ADDRESS: 189 West Ash Street, Elko, NV 89801

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

ASSESSOR'S PARCEL NO.: 001-091-001 **Address** 189 West Ash Street, Elko, NV 89801

Lot(s), Block(s), & Subdivision Lot 5, Block 84R, Sunset Heights 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 \$500.00 non-refundable fee must be paid. If in conjunction with a Rezone Application a \$250.00 non-refundable fee must be paid.

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.

Elevation Plan: Elevation profile of all proposed buildings or alterations in sufficient detail to explain the nature of the request must be provided.

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

RECEIVED

The APPLICANT requests the following variance from the following section of the zoning ordinance:

Title 3, Chapter 2, Section 5G1

1. The existing zoning classification of the property (R) Single-Family And Multiple-Family

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

- a) Identify any special circumstances, features or conditions applying to the property under consideration. i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions

The property in question has an existing structure which has been in place

for longer than 24 years. This structure does not meet the minimum setback

requirements and is currently legally nonconforming.

- b) Identify how such circumstances, features or conditions result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

Because the property is legally nonconforming we are unable to get a

building permit to legally finish our basement and make that space usable.

Currently the basement is not a usable space.

- c) Indicate how the granting of the variance is necessary for the applicant or owner to make reasonable use of the property.

The change of use to a duplex is triggering the need for a variance.

- d) Identify how such circumstances, features or conditions do not apply generally to other properties in the same Land Use District.

Other properties in the same land use district do not have the same type of

large, unfinished, "daylight basement" spaces.

- e) Indicate how the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.

No alteration to the footprint of the existing structure will be carried out

during renovation. This is an opportunity to bring a nonconforming

structure into conformance, including off-street parking construction.

- f) Indicate how the variance will not be in conflict with the purpose or intent of the Code. The intent of the Code is to ensure that newly built structures do not

encroach on property lines, as no new structures will be built, there

is no conflict with the Code.

- g) Indicate how the granting of the variance will not result in a change of land use or zoning classification.

The property is already zoned for multiple-family residences. The

transformation of a single-family home to a multiple-family home

will have no effect on land use or zoning.

- h) Indicate how granting of the variance will not substantially impair affected natural resources.

As the footprint of the structure will not change, no natural resources

will be affected.

3. Describe your ability (i.e. sufficient funds or a loan pre-approval letter on hand) and intent to construct within one year as all variance approvals **must** commence construction within one year and complete construction within 18 months per City Code Section 3-2-22 F.1.: _____

We have sufficient funds available (greater than \$50,000), to complete the renovation of the
basement and ensure that the project is finished within 18 months.

(Use additional pages if necessary to address questions 2a through h)

This area intentionally left blank

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspecting 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 Daniel Broockmann
(Please print or type)

Mailing Address 189 West Ash Street
Street Address or P.O. Box
Elko, NV 89801
City, State, Zip Code
Phone Number: (208) 954-4571
Email address: broockmann@yahoo.com

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 3-8 Date Filed: 3/9/18 Fee Paid: \$500 α # 515

**Elko City Planning Commission
Agenda Action Sheet**

1. **Review, consideration and possible action on Variance No. 4-18, filed by Kenworth Sales Company for an increase in allowable sign area from 194 sq. ft. to 275 sq. ft., within an IBP – Industrial Business Park Zoning District, (APN 001-860-110), and matters related thereto, FOR POSSIBLE ACTION**
2. Meeting Date: **April 3, 2018**
3. Agenda Category: ***PUBLIC HEARINGS***,
4. Time Required: **15 Minutes**
5. Background Information: **The applicant has requested an increase in the allowable sign area for the proposed new sign to be installed for the new Kenworth Sales facility. The proposed sign will be located on the Ruby Vista drive frontage.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Conditionally approve Variance No. 4-18, with the following conditions: (stated in City Planner memo)**
9. Findings:
 - **The proposed use and under a variance is in conformance with the Land Use Component of the Master Plan is consistent with existing land uses in the immediate vicinity.**
 - **The property is not located within the redevelopment area and consideration of the plan is not required.**
 - **There are no signage regulations stipulated in Section 3-2-11 of the City code.**
 - **In accordance with section 3-2-22, the applicant has demonstrated that the property has unique circumstances based on that fact the building orientation has the shortest length parallel to Ruby Vista and the longest length along Statice Street, therefore, the sign area is calculated on the shortest length of the building. The size and orientation of the parcel would not accommodate a different orientation for the structure.**
 - **In accordance with Section 3-2-22, the applicant has demonstrated that the allowable sign area equates 196 square feet versus the 275 square feet that is the standard trademark sign for the company. This circumstance would require a custom made sign and associate design for the sign infrastructure.**

Additionally, visibility from the adjacent freeway is an important consideration for the business.

- **In accordance with section 3-2-22, the other two parcels in the vicinity, fronting Ruby Vista are already fully developed and the cited conditions therefore do not generally apply to other properties in the area.**
- **Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on the distance separation from the proposed sign to the adjacent properties and**
- **Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. The area as currently developed, in addition to the proposed signage will not result distractions and obstructions that may adversely affect or conflict with traffic control signs, signals and other traffic control devices. In addition, granting of the variance will not result in visual clutter along streets and roadways and will provide each sign user an opportunity for effective identification and advertising by addressing the quantity, height and area of freestanding signs on all sites.**
- **Granting of the variance will not impair natural resources.**

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution: **Kenworth Sales Company
2125 S. Constitution Blvd.
West Valley City, UT 84119**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 4/3

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

Title: Variance 4-18
Applicant(s): Kenworth Sales Company
Site Location: 4224 Ruby Vist Dr - APN 001-860-110
Current Zoning: IBP Date Received: 3/13/18 Date Public Notice: 3/20/18
COMMENT: This is to Increase the allowable Sign area
from 194' to 275'

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date 3/23/18 Recommend approval
as presented by staff

SIAN

Initial

City Manager: Date 3/23/18
No comments/concerns.

cc

Initial



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

CITY OF ELKO STAFF REPORT

REPORT DATE:	March 16, 2018
PLANNING COMMISSION DATE:	April 3, 2018
AGENDA ITEM NUMBER:	I.A.4
APPLICATION NUMBER:	Variance 4-18
APPLICANT:	Kenworth Sales Company
PROJECT DESCRIPTION:	4224 Ruby Vista Drive

A variance request to: From provisions under Section 3-9 Sign Regulations to increase allowable sign area from 194 square feet to 275 square feet.



STAFF RECOMMENDATION:

RECOMMEND CONDITIONAL APPROVAL, subject to findings of fact, and conditions.

PROJECT INFORMATION

PARCEL NUMBER: 001-860-110

PARCEL SIZE: 6.854 acres

EXISTING ZONING: (IBP) Industrial Business Park

MASTER PLAN DESIGNATION: (IND-BS PARK) Industrial Business Park

EXISTING LAND USE: Currently being developed as Light Industrial

BACKGROUND:

1. The property owner is the parent company to the applicant, Kenworth Sales Company.
2. The property is currently under development as the new facility for Kenworth Sales and Service
3. The lot area is approximately 6.854 acres and meets the area requirements of 5 acres as stipulated in Elko City Code 3-2-11.
4. The adjacent parcels do not have a freestanding sign on their property therefore there is not a distance between signs or a congestion of signage concern.
5. The business relies on I-80 traffic visibility for a portion of their business transactions.
6. Sign area allowance is determined by the lineal footage of the building parallel to the adjacent street frontage. The building orientation is such that the short side of the building is parallel with Ruby Vista Drive.
7. There is approximately 2 feet elevation difference between I-80 and the parcel. The parcel higher in elevation.
8. The parcels along Ruby Vista Drive are all large parcels which allows for substantial distance separation between signs.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

- North: (IC) Industrial Commercial / Undeveloped
- Southeast: I-80 right-of-way
- Southwest: (IBP) Industrial Business Park / Developed

PROPERTY CHARACTERISTICS:

- The property is currently under development as a Light Industrial land use.
- The property is generally flat.
- The property is located at the intersection of Ruby Vista Drive and Statice Street.

APPLICABLE MASTER PLAN AND CITY CODE SECTIONS:

- City of Elko Master Plan – Land Use Component
- City of Elko Redevelopment Plan
- City of Elko Zoning– Section 3-2-11 IBP, IC Industrial Districts
- City of Elko Zoning– Section 3-2-22 Variances

- City of Elko Zoning – Section 3-9 Sign Regulations

MASTER PLAN - Land Use:

1. The Master Plan Land Use Atlas shows the area as Industrial Business Park.
2. IBP- Industrial Business Park zoning district is listed as a corresponding zoning district for Industrial Business Park.
3. Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to promote economic sustainability and strengthen the community's image.
4. The new facility as well as the proposed sign meet Objective 7 of the Land Use document.

The proposed use under a variance is in conformance with the Land Use Component of the Master Plan.

ELKO REDEVELOPMENT PLAN:

The property is not located within the redevelopment area and consideration of the plan is not required.

SECTION 3-2-11 IBP, IC INDUSTRIAL DISTRICTS:

There are no signage regulations stipulated in Section 3-2-11 of the City code.

SECTION 3-2-22 VARIANCES:

B. Procedure: Any person requesting a variance by the planning commission shall include:

Application Requirements

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
6. The granting of the variance will not substantially impair affected natural resources.

SECTION 3-9 SIGN REGULATIONS:

1. It is the intent of this chapter to promote and protect the health, safety and welfare of the citizens of the city by establishing standards to ensure the placement of safe, effective signage throughout the city. Specific regulations and standards are intended to address the following:

A. To ensure that signs erected within the city are constructed of safe, durable materials and secured in a manner adequate to withstand physical stresses.

- B. To protect and enhance property values and create an attractive economic and business climate.
 - C. To protect and enhance the physical beauty and appearance of the community.
 - D. To reduce sign or advertising distractions and obstructions that may adversely affect or conflict with traffic control signs, signals and other traffic control devices.
 - E. To reduce visual clutter along streets and roadways thus providing each sign user an opportunity for effective identification and advertising by addressing the quantity, height and area of freestanding signs on all sites.
2. Each property, lot or parcel of record within any commercial or industrial zoning district of the city is permitted the following:
- One freestanding sign on each street frontage, except that a gasoline service station may have one additional trade name or pricing sign if the premises has only one street frontage and except that an automotive dealership may have one sign for each new car dealership. Frontage along a freeway or interstate highway is not considered street frontage.
 - Directional or instructional signs which do not advertise a business, other than the business logo but which identify restrooms, public telephones, walkways or signs providing direction, such as parking lot entrances and exit signs and those of a similar nature. Directional signs are limited to one sign per driveway approach and shall not exceed an area of six (6) square feet.
3. Sign Height:
- The maximum height of a freestanding sign shall be twenty five feet (25') if located on property abutting a street right of way having a twenty five (25) mile per hour or less speed limit.
 - The maximum height of a freestanding sign shall be thirty five feet (35') if located on property abutting a street right of way having a speed limit greater than twenty five (25) miles per hour.
 - The maximum height of a freestanding sign shall be forty five feet (45') if located on property within one hundred feet (100') of the Interstate Route 80 right of way.
4. Sign Area:
- The maximum area of a freestanding sign shall be two (2) square feet of sign area for every one linear foot of building frontage facing the adjacent street.
5. The applicant has stated that freeway visibility is crucial to their business. The property is within 100' of the I-80 right-of-way and therefore can be a maximum height of forty five feet (45').

The proposed sign exceeds the sign the allowable area stipulated in Section 3-9 of city code.

FINDINGS

1. The proposed use and under a variance is in conformance with the Land Use Component of the Master Plan is consistent with existing land uses in the immediate vicinity.

2. The property is not located within the redevelopment area and consideration of the plan is not required.
3. There are no signage regulations stipulated in Section 3-2-11 of the City code.
4. In accordance with section 3-2-22, the applicant has demonstrated that the property has unique circumstances based on that fact the building orientation has the shortest length parallel to Ruby Vista and the longest length along Statice Street, therefore, the sign area is calculated on the shortest length of the building. The size and orientation of the parcel would not accommodate a different orientation for the structure.
5. In accordance with Section 3-2-22, the applicant has demonstrated that the allowable sign area equates 196 square feet versus the 200 square feet that is the standard trademark sign for the company. This circumstance would require a custom made sign and associate design for the sign infrastructure. Additionally, visibility from the adjacent freeway is an important consideration for the business.
6. In accordance with section 3-2-22, the other two parcels in the vicinity, fronting Ruby Vista are already fully developed and the cited conditions therefore do not generally apply to other properties in the area.
7. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on the distance separation from the proposed sign to the adjacent properties and
8. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. The area as currently developed, in addition to the proposed signage will not result distractions and obstructions that may adversely affect or conflict with traffic control signs, signals and other traffic control devices. In addition, granting of the variance will not result in visual clutter along streets and roadways and will provide each sign user an opportunity for effective identification and advertising by addressing the quantity, height and area of freestanding signs on all sites.
9. Granting of the variance will not impair natural resources.

STAFF RECOMMENDATION:

Staff recommends this item be **conditionally approved** with the following conditions:

Planning Department:

1. Compliance with all staff recommendations.
2. Commencement within one year and completion within eighteen (18) months. A sign permit is required for the work.
3. Conformance to plans approved as a part of the variance.
4. Subject to review in two (2) years if determined necessary by the Planning Commission.



CITY OF ELKO
DEVELOPMENT DEPARTMENT
1755 COLLEGE AVENUE
ELKO, NEVADA 89801
(775)777-7210
(775)777-7219 FAX

To: Elko City Planning Commission
From: Jeremy Draper, Development Manager
RE: Variance 4-18, Kenworth Sales Company
Date: March 22, 2018

The City of Elko Development Department is providing this correspondence to aid the Planning Commission's review of Variance Application 4-18.

Project Information



- The property is located generally at the intersection of Statice Street and Ruby Vista Drive.
- The property is identified as APN 001-860-110.
- The parcel is currently developed.
- The parcel is currently zoned IBP-Industrial Business Park.

- The parcel is 6.85 acres.
- The property is bound by IBP to the southwest, and IBP and IC to the north.
- The property is not located within a FEMA Floodzone.
- The application is for a variance from ECC 3-9-7(C)(1), specifically the allowable square footage of the sign
- The applicant requests to have a sign that is a total of 200 square feet.
- ECC 3-9-7(C)(1) allows a sign to be 2 square feet for every 1 linear foot of building frontage facing the adjacent street.
- The allowable sign of a sign place on Ruby Vista Drive is 194 square feet.

Master Plan

Land Use:

- The Land Use component of the Master Plan identifies this area as Industrial Business Park

Transportation

- The property fronts Ruby Vista Dr, a Minor Arterial, and Statice St an Industrial Collector.

Elko Wellhead Protection Plan

- The property is located within the 2-year capture zone.

Section 3-2-11-A-IBP-Industrial Business Park

- Conformance with this section is required

Section 3-2-17-Traffic, Access, Parking and Loading Regulations

- Conformance with this section is required

Section 3-2-22-Variances

Procedure

- The applicant states the section of code from which the variance has been requested.
- A legal description of the parcel has been provided.
- Filing fees have been deposited with the Planning Department.

Application Requirements

- **There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.**
The special circumstance(s) cited in the application has a standard sign size used nationwide for their offices, the property is located adjacent to I-80, separated only by Ruby Vista Drive.
- **The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.**
The applicant indicates a variance is required to keep their sign standard and not require a custom sign for this property.
- **Such special circumstances or conditions do not apply generally to other properties in the same zoning district.**
The applicant indicates a variance is required to keep their sign standard and not require a custom sign for this property.
- **The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.**
It does appear that granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public. The sign code is designed to reduce the clutter from having multiple signs along a frontage, and to promote effective signage throughout the city. Due to the large frontage for this property and the proximity to I-80 the increased size of the sign appears appropriate.
- **The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.**
It does appear that granting of the variance will not substantially impair the intent or purpose of the Zoning Ordinance or effect a change in the land use.
- **The granting of the variance will not substantially impair affected natural resources.**
The Development Department has determined that granting of the variance will not impair natural resources.

Findings

1. The special circumstance cited in the application is the applicant has a standard sign size used nationwide for their offices, the property is located adjacent to I-80, separated only by Ruby Vista Drive.
2. The applicant indicates a variance is required to keep their sign standard and not require a custom sign for this property.

3. It does appear that granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public. The sign code is designed to reduce the clutter from having multiple signs along a frontage, and to promote effective signage throughout the city. Due to the large frontage for this property and the proximity to I-80 the increased size of the sign appears appropriate.
4. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance.
5. Granting of the variance will not impair natural resources.

Recommendation

The City of Elko **Development Department** recommends that the variance for the size of the sign to be increased to 200 square feet be approved.

RECEIVED

MAR 13 2018

PYLON INSTALLATION SITE PLAN

Scale: 1" = 60'-0" (11"x17" Page Size)

PARCEL NO. 1
6.854 AC.

97'-0"

200'-0"

RUBY VISTA DR.

SITE LEGEND

- UNIMOUNTED
- EXISTING
- NEW Pylon
- EXISTING
- NEW Pylon
- EXISTING
- NEW Pylon
- EXISTING
- NEW Pylon

FILE PATH: NEW JOBSD / KENWORTH TRUCKING / ELKO / DESIGN / KW E PS 003-18

IG GROUP SIGN & CONSTRUCTION IS A CONTRACTOR WITH THE STATE OF UTAH - CONTRACTOR LICENSE 7922686-5501 B100 AND S440 - WORKS COMPENSATION #2618676 - \$2,000,000 LIABILITY INSURANCE - DRAWING IS REPRESENTATIONAL ONLY: SCALE, SIZING AND COLOR MAY VARY REFER TO PROPOSAL FOR EXACT SPECS



880 North 100 East, Lehi, UT 84043
office 801.766.0464 fax 801.766.0466

INSTALL ADDRESS:

Kenworth
4224 Ruby Vista Drive
Elko, Nevada 89801

DESIGN #

KW E PS 003-18

DATE

03/12/18

DESIGNER

MAT

SALES PERSON

Al Latimer

801.558.6420

SALESPERSON SIGNATURE
REQUIRED FOR PRODUCTION

DATE

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PROUD MEMBER OF:



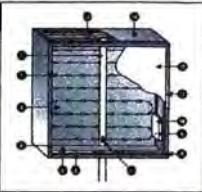
INTERNALLY ILLUMINATED D/S PYLON SIGN

Qty 1 Internally Illuminated D/S Pylon Sign
3m Translucent Printed Flex Faces
Gerber High Performance Translucent Red, Black & Yellow Vinyl
.063 Aluminum Retainers and Returns Painted Black
Square Tube Aluminum Accents Painted Black

* Customer Supply Kenworth Cabinet for IG Installation

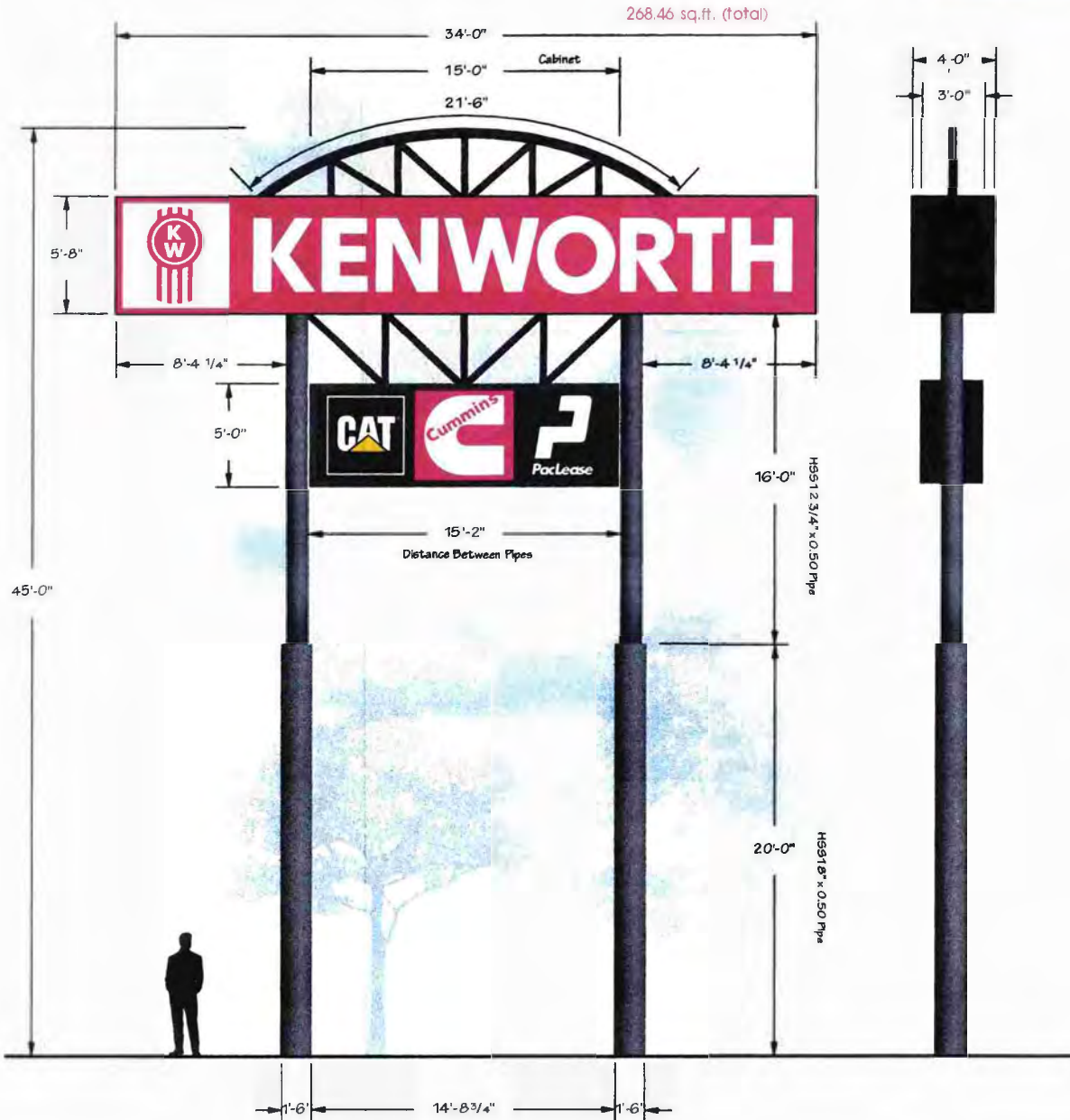


POLE/PYLON SIGN			
1. Steel Pole	8. Frame Steel Angle	11. Aluminum Retainers	
2. LED Lighting	9. Fuse	12. Signs	
3. Aluminum Panel	10. Balast	13. Aluminum Sides	
4. Wireway Cover		14. Frame Steel Angle	
5. Sockets			
6. Drain Holes			
7. Junction Box			



RECEIVED

MAR 13 2018



1 INTERNALLY ILLUMINATED D/S PYLON SIGN

Scale: 3/16" = 1'-0" (1" x 3" Page Size)

FILE PATH: NEW JOBSD / KENWORTH TRUCKING / ELKO / DESIGN / KW E PS 003-18

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INSTALL ADDRESS:
Kenworth
4224 Ruby Vista Drive
Elko, Nevada 89801

DESIGN:
KW E PS 003-18
DATE: 03/12/18
DESIGNER: MAT
SALES PERSON: Al Latimer 801.558.6420



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PROUD MEMBER OF:



Variance 4-18 Kenworth

YPNO PANAME
001860065 ELKO, CITY OF N.D.C.

PMADD1

PMADD2
1755 COLLEGE AVE

PMCTST
ELKO NV

PZIP
89801

001860111 REALTY INCOME PROPERTIES 6 LLC
00610C006 SUREBREC HOLDINGS LLC

C/O NEWMONT MINING
CO TAX DEPT

6363 S FIDDLERS GREEN CIR
PO BOX 8070

GREENWOOD VILLAGE CO
RENO NV

80111-5011
89507-8070

(2)

Mailed 3/22/18

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, April 3, 2018 beginning at 5:30 P.M. P.D.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:

Variance No. 4-18, filed by Al Latimer on behalf of Kenworth Sales Company, for an increase in the allowable sign area from 194 square feet to 275 square feet within an IBP (Industrial Business Park) Zoning District, and matters related thereto. The subject property is located generally on the corner of the intersection of Ruby Vista Drive and Statice Street. (4224 Ruby Vista Dr. - APN 001-860-110)

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 * (775) 777-7219 fax

RECEIVED

MAR 13 2018

APPLICATION FOR VARIANCE

APPLICANT(s): Kenworth Sales Company

MAILING ADDRESS: 2125 S. Constitution Blvd, WVC, UT 84119

PHONE NO (Home): (Business): 801-487-4161

NAME OF PROPERTY OWNER (If different):

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

MAILING ADDRESS:

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

ASSESSOR'S PARCEL NO.: 001-860-1110 Address: 4224 Ruby Vista Dr.

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

Or Parcel(s) & File No.: 5974

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 \$500.00 non-refundable fee must be paid. If in conjunction with a **Rezone Application** a \$250.00 non-refundable fee must be paid.

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.

Elevation Plan: Elevation profile of all proposed buildings or alterations in sufficient detail to explain the nature of the request must be provided.

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

The APPLICANT requests the following variance from the following section of the zoning ordinance:

3-9-7 C.1

1. The existing zoning classification of the property

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

- a) Identify any special circumstances, features or conditions applying to the property under consideration. i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions

Our trade mark Kenworth sign is 200 sq. ft. with and additional 3 signs at ~~6'x6'~~.

5x5

Per phone convo
w/Al Latimer
-SLA

- b) Identify how such circumstances, features or conditions result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

If we do not have a variance we will have to custom make a new sign

- c) Indicate how the granting of the variance is necessary for the applicant or owner to make reasonable use of the property.

Freeway visibility is crucial to our business.

- d) Identify how such circumstances, features or conditions do not apply generally to other properties in the same Land Use District.

Many businesses depend on local traffic while we depend on freeway visibility.

- e) Indicate how the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.

The sign will be constructed as not harm any other property.

- f) Indicate how the variance will not be in conflict with the purpose or intent of the Code.

The sign will be a pole/road sign visible from the freeway.

- g) Indicate how the granting of the variance will not result in a change of land use or zoning classification.

No changes as the sign is for identification only.

- h) Indicate how granting of the variance will not substantially impair affected natural resources.

The sign will be well constructed and elevated.

3. Describe your ability (i.e. sufficient funds or a loan pre-approval letter on hand) and intent to construct within one year as all variance approvals **must** commence construction within one year and complete construction within 18 months per City Code Section 3-2-22 F.1 :

Already under construction.

(Use additional pages if necessary to address questions 2a through h)

This area intentionally left blank

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspecting 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

A. Latimer
(Please print or type)

Mailing Address

880 N. 100E Lehi, UT 84043
Street Address or P.O. Box

City, State, Zip Code

Phone Number:

401-555-6420

Email address:

alank@me.com

SIGNATURE:

[Signature]

FOR OFFICE USE ONLY

File No.:

4-B

Date Filed:

3/13/18

Fee Paid:

\$500 OK # 7799



Kenworth Sales Company

RECEIVED

MAR 15 2018

March 15, 2018

Treadway Investment Company LLC consents to a sign variance for
Kenworth Sales Company located at 4224 Ruby Vista Drive, Elko, NV.

Kyle Treadway - President

Kyle Treadway

Shelby Archuleta

From: Al Latimer <alanlatimer@aol.com>
Sent: Thursday, March 15, 2018 3:44 PM
To: Shelby Archuleta
Subject: Re: Variance Application

Hello Shelby

Information you have requested. One You are correct on the APN # please change to 001-860-110.

Two the signs below Kenworth sign are 5' x 5'.

Three Treadway Investment is the parent co. to Kenworth.

I will send you a letter from Treadway that i just received next. Then i will call you to make sure you received everything.

Thanks for all your help.

Al

Al Latimer
IG Sign
Sales Manager

C 801.558.6420
O 801.766.0464
F 801.766.0466

880 North 100 East
Lehi, Utah 84043

-----Original Message-----

From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
To: alanlatimer <alanlatimer@aol.com>
Sent: Thu, Mar 15, 2018 9:15 am
Subject: Variance Application

Good Morning,

I would like to verify a few things on the variance application for Kenworth.

- On the application the APN is 001-860-111, but the APN for 4224 Ruby Vista Dr is 001-860-110. Is it ok if I change that on the Application?
- In the application the lower signs are listed as 6x6, but on the visual they are 5x5. I need to know which one it is going to be to input the sq ft for the sign.
- You have listed Kenworth Sales Company as the property owner, but I am showing Treadway Investment Co, LLC as the property owner. I will need verification of the property owner, and if Treadway is a parent company of Kenworth I'll just need that in writing.

Please let me know if you need clarification on anything. If I do not receive response to these questions by the end of the day (3/15) I will have to move the Variance to the May 1st Planning Commission Meeting.

Thank you!

Shelby Archuleta

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review and consideration of Annexation No. 1-18, filed by Legend Engineering, on behalf of Ed and Sharon Netherton and JoyGlobal Surface Mining Inc., consisting of approximately 32.74 acres of property located southwest of the intersection of P and H Drive and West Idaho Street, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **April 3, 2018**
3. Agenda Category: ***NEW BUSINESS, MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **15 Minutes**
5. Background Information: **The subject properties are located at the intersection of West Idaho Street and P & H Drive (APN 006-09N-004, 007 & 009).**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Forward a recommendation to City Council to adopt an ordinance which conditionally approves Annexation No. 1-18 subject to the following conditions: (stated in City Planner memo)**
9. Findings:
 - **The petitioner is not requesting an amendment to the Land Use Component of the Master Plan. The existing land use of one of the properties is consistent with the Master Plan. The remaining properties are vacant. The annexation and subsequent zone classification of the properties must conform to the Master Plan.**
 - **The proposed annexation and existing land uses are compatible with the Transportation Component of the Master Plan. Master Plan.**
 - **The proposed annexation is consistent with the goals, objectives and supports long range planning as outlined in the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.**
 - **The proposed annexation is in conformance with the City's Airport Master Plan.**
 - **In conformance with NRS 268.636(1) the property owners have submitted a map showing a boundary contiguous to the city of approximately 35%.**

- **In conformance with NRS 268.646(2), inclusive, it has been determined that the proposed annexation satisfies considerations and/or concerns identified as minimum factors for consideration under.**
- **In conformance with NRS 268.646(3), it has been determined that the proposed annexation will not have any long-term adverse impacts on adjacent areas nor will the proposed annexation and development of the property have an adverse influence the local government structure of the County or the City.**
- **In conformance with NRS 268.646(4), it has been that the proposed annexation will not place a burden of the availability of water, the requirement for water or have a negative impact other natural resources in the area.**
- **In conformance with NRS 268.646(5) it has been determined that the area proposed for annexation does not fall under the jurisdiction of the Bureau of Land Management.**
- **In conformance with NRS 268.646(6) it has been determined that The City of Elko is not required nor does it have an annexation program adopted and certified pursuant to NRS 268.625. The proposed annexation is consistent with the Land Use component of the Master Plan and the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.**
- **In conformance with NRS 268.663(3), although not required, it has been determined that all portions of County roads that provide primary access to the area have been or will be annexed into the City and will become City streets.**
- **The annexation application identifies the zoning classification upon annexation as a Light Industrial District. At this time, a zone application has not been filed in conjunction with the annexation petition. Future zone designation must conform with section 3-2-4 of city code.**
- **The proposed annexation is in conformance with the City's Wellhead Protection Plan.**
- **Annexation of the property provides an immediate accrual to the tax base for the City.**
- **Annexation of the property provides an opportunity for expanded Light Industrial uses.**
- **The area proposed for annexation is not localized or isolated.**
- **Other, required, utilities will be installed at developer expense to facilitate development of the properties.**

Agenda Item# I.B.1

- The topography of the area is well suited for the proposed light industrial land uses.
- Expanded uses on the properties will result in a positive economic impact to the community.

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution: **Ed and Sharon Netherton**
1072 Kahaapo Loop
Kihei, HI 96753
Email: ednetherton@gmail.com

Legend Engineering
Lonny Reed
52 West 100 North
Heber City, UT 84032
lonny@legendengineering.com

JoyGlobal Surface Mining Inc.
4450 P&H Drive
Elko, NV 89801
Robert.richens@mining.komatsu

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 4/3

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

Title: Ann 1-18
Applicant(s): Joy Global + Ed + Sharon Netherton
Site Location: SW of the Intersection of W. Idaho St + DTH Drive
Current Zoning: County Date Received: 3/7/18 Date Public Notice: N/A
COMMENT: This is to increase the city boundary by 32.74 acres.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 5/27/18 Recommend approval
as presented by staff

SAW

Initial

City Manager: Date: 3/27/18
No comments/concerns.

cc

Initial



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

CITY OF ELKO STAFF REPORT

DATE: March 19, 2018
PLANNING COMMISSION DATE: April 3, 2018
AGENDA ITEM NUMBER: I.B.1
APPLICATION NUMBER: Annexation 1-18
APPLICANT: Legend Engineering on behalf of JoyGlobal Surface Mining Inc. & Ed and Sharon Netherton
PROJECT DESCRIPTION: ±32.74 Acres

An annexation of approximately 32.74 acres. The property is located in Elko County adjacent to the City's incorporated boundary as shown below.



STAFF RECOMMENDATION:

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

PROJECT INFORMATION

PARCEL NUMBER: 006-09N-004, 006-09N-007 & 006-09N-009

PARCEL SIZE: 32.74 Acres

EXISTING ZONING: Light Industrial (Elko County Zoning)

MASTER PLAN DESIGNATION: Industrial Business Park (IND-BS-PARK)

EXISTING LAND USE: Light Industrial – Joy Global Surface Mining parcel and no existing land use for vacant parcels owned by Ed and Sharon Netherton.

NEIGHBORHOOD CHARACTERISTICS:

- The property is surrounded by:
 - North: Light Industrial (LI) / Developed
 - West: General Agriculture (AG) / Undeveloped
 - South: General Agriculture (AG) / Undeveloped
 - East: General Agriculture (AG) / Undeveloped

PROPERTY CHARACTERISTICS:

- The area is currently undeveloped on parcels 006-09N -007 & 006-09N-009 and developed on parcel 006-09N-004 with a light industrial land use.
- The area is generally flat.
- The area is accessed from West Idaho Street and P & H Drive.

MASTER PLAN AND CITY CODE SECTIONS:

Applicable Master Plan Sections, NRS Sections and City Code Sections and other coordinating plans are:

- City of Elko Master Plan– Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012
- Nevada Revised Statutes - 268.610 to 268.670, inclusive
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Wellhead Protection Program

BACKGROUND INFORMATION:

1. The petition has been filed by Legend Engineering on behalf of the property owners.
2. There are two separate property owners petitioning for annexation.

3. The properties are owned by Harnischfeger, the parent company to Joy Global Surface Mining, (APN 006-09N-004) and Ed and Sharon Netherton.
4. The petition includes all of APN 006-09N-004 (JoyGlobal), 007 & 009 (Netherton). The properties are located west of the 298 interchange on I-80 at the intersection of P & H Drive and West Idaho Street.
5. The City Council accepted the petition for the subject annexation on March 27, 2018, and directed Staff to continue with the annexation process by referring the matter to the Planning Commission.
6. The area fronts West Idaho Street and P & H Drive.
7. The area is identified as having annexation potential in the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.
8. City utilities have not been extended to the properties.
9. The developed property is served by a water well intended to serve several properties in the immediate vicinity. Currently Joy Global and Coach USA facilities are utilizing the well for water service. The City of Elko provided water rights for development of the well under an agreement that requires relinquishment of the water rights to the City upon annexation of the properties. The agreement is between Joy Global and the City.
10. In 2016, The City of Elko extended the water line down Cattle Drive to a location near the properties.
11. Sewer has not been extended to the area. Existing facilities in the area utilize septic for sanitary sewer.
12. Other non-city utilities are located in the immediate area.
13. Annexation of the properties promotes development and utilizes the Exit 298 interchange for the full benefit of the City.
14. Elko County was notified of the proposed annexation on March 9, 2018. The County has expressing that they have no concerns.
15. The applicant has not applied for a rezone application at this time.
16. There is an assignment and assumption of water rights agreement, dated November 1, 2018, between the City and Joy Global Surface Mining in which the City approved the assignment of a water rights agreement between the City and Calvin Dean Stitzel and Marilyn E. Lund for use of 58 acre feet of water to develop certain properties identified in the agreement. The agreement contains a provision requiring the transfer of the water rights back to the City in the event the area is annexed into the City and the City is required to furnish water from its system.

MASTER PLAN:

Land Use:

1. Land Use is shown as Industrial Business Park.
2. The annexation application identifies the zoning classification upon annexation as a Light Industrial District. At this time, a zone application has not been filed in conjunction with the annexation petition.
3. Supporting zone districts for Industrial Business Park are Industrial Business Park, Light Industrial and Industrial Commercial.

4. The petitioner is not proposing any amendments to the Land Use Component of the Master Plan as a result of the annexation petition as provided for under Section 3-2-4(D) of City code.
5. The existing land use of one of the properties is consistent with the designated land use and the remaining properties are vacant.
6. Future zone classification of the properties are required to conform with the Master Plan. Objective 5: Encourage development that strengthens the core of the City, and new annexations that are logical and orderly and do not promote sprawl.
7. Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to promote economic sustainability and strengthen the community's image.
8. 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 petitioner is not requesting an amendment to the Land Use Component of the Master Plan. The existing land use of one of the properties is consistent with the Master Plan. The remaining properties are vacant. The annexation and subsequent zone classification of the properties must conform to the Master Plan.

Transportation:

1. The area will be accessed from West Idaho Street.
2. West Idaho Street is classified as a Minor Collector.
3. The area is near the Exit 298 and I-80 interchange.

The proposed annexation and existing land uses are compatible with the Transportation Component of the Master Plan. Master Plan.

**DEVELOPMENT FEASIBILITY, LAND USE, WATER INFRASTRUCTURE,
SANITARY SEWER INFRASTRUCTURE, TRANSPORTATION INFRASTRUCTURE
AND ANNEXATION POTENTIAL REPORT – NOVEMBER 2012**

1. The area is identified as having annexation potential in the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012. That plan, for the most part, identified areas as having annexation based on established of transportation and utility corridors potential in the plan.
2. The property is adjacent to developed land within the City of Elko.
3. The area can be served from the existing 5400 water zone. A water main was constructed along Cattle Drive in 2016.
4. Developable area is estimated to be approximately 32.74 acres. The property owned by Joy Global Surface Mining is partially developed. The property owned by Ed and Sharon Netherton is not developed.
5. Sewer is currently not available in this location. The city has completed preliminary design work for the establishment of sanitary sewer in the area.
6. Annexation of the area is a logical and orderly expansion of the City's incorporated boundary.
7. As stipulated in the assignment and assumption of water rights agreement, dated November 1, 2018, between the City and Joy Global Surface Mining, the City will receive a benefit of 58 acre feet of water transferred back to the City upon annexation of the properties.

The proposed annexation is consistent with the goals, objectives and supports long range planning as outlined in the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.

AIRPORT MASTER PLAN

1. The area is partially located within the defined runway approach airspace area delineated in the airport master plan.
2. Development within the area will be restricted in accordance with 14 CFR Part 77.9.
3. The restrictions stipulated in the federal code are not expected to have a significant, if any, impact on property development under the allowable land use stipulated in city which are in conformance with the City Master Plan.

The proposed annexation is in conformance with the City's Airport Master Plan.

NEVADA REVISED STATUTE:

NRS 268.636(1) states whenever the majority of property owners of any territory lying **contiguous** to a city desire to annex such territory to the city, they may cause an accurate map of plat of the territory to be made under the supervision of a competent surveyor. The map is to be filed with the city.

The property owner's representative has submitted the required map. The applicant owns the entire area proposed for annexation. The property boundary is approximately 7,269.5 feet with 2,597.2 feet contiguous to City of Elko boundary on the north, south and easterly lot lines. This equates to approximately 35% of the property boundary as contiguous to the City's incorporated boundary.

NRS 268.646 requires minimum factors to be considered in the review of a proposed annexation.

NRS 268.646(1) requires the evaluation of factors such as population, population density, land area and land uses, per capita assessed valuation, topography, proximity to other populated areas and the likelihood of significant growth within the next 10 years in the area and adjacent areas.

The total area proposed for annexation is approximately 32.74 acres. The Elko County Assessor's Office indicates initial development of the property occurring in 2001 under the current use.

The location and proposed land uses of the area are supported by existing and proposed roadways.

There is a high probability of property development based on recent and current property development in the immediate vicinity. Joy Global Surface Mining is planning the development of a new regional facility. This is due to the water line extension to I-80 Exit 298.

NRS 268.646 (2) requires the evaluation for the need for organized community services, the present cost of and adequacy of governmental services and controls in the area, probable future needs for such services and controls, and the probable effect of the proposed formation and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent area.

General

Annexation of the property does provide the opportunity to provide continued light industrial land use along West Idaho Street. West Idaho Street is classified as a major arterial and falls under NDOT jurisdiction. The location provides excellent access to either I-80 or the community.

Land Division and Potential Zoning

APN 006-09N-004 is partially developed with a light industrial land use. APN 006-09N-007 & 009 are undeveloped.

The application identifies the zoning classification that is being requested upon annexation of the property as Light Industrial. At this time a zone application has not been filed with the City. The purpose of the (LI) Light Industrial zoning district is to provide and preserve areas reserved primarily for less intensive industrial use and activity normally associated with previously prepared materials and with minimal levels of noise, dust, odor, vibration or smoke, and to preclude encroachment of land uses such as residential uses that could be in conflict with the industrial and manufacturing environment.

The proposed zoning would be complimentary to the land use shown in the Master Plan.

Sewer

Sanitary sewer does not exist in the immediate area. A dry gravity sewer will be installed along the frontage of the property until a time that the city can complete the installation of a lift station and force main to the WRF. The developed portion of the property is currently developed with the use of septic system.

Water

City of Elko water infrastructure is located in the immediate area at the north corner of the adjacent property owned by Coach USA. The area can be served off the existing 5400 water zone.

The City of Elko will receive the benefit of 58 acre feet transferred back to the City upon annexation of the properties.

Access

Primary access is off P & H Drive. West Idaho Street, a major arterial, provides connectivity between P & H Drive, I-80 and the City.

Other Services

The size, location and use of the property will not place any significant burden on other City services.

NRS 268.646(3) requires the evaluation of the proposed annexation and of alternative actions on adjacent areas, on mutual social and economic interests and on local governmental structure of the county.

Annexation of the property will not have any long-term adverse impacts on adjacent areas. The property is partially developed.

Annexation and development of the property will not adversely influence the local government structure of the County nor the City.

NRS 268.646(4) requires the evaluation of the proposed annexation and of alternative actions upon the availability of water and requirement of water and other natural resources throughout the affected area.

The City currently has approximately 18,000-acre feet of water rights available and is utilizing approximately 50% of that supply. Based on the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012, there was projected deficit of 700 – 800 (3.8% – 4.4% of the total) acre feet of water to serve annexed areas in addition to areas identified as having annexation potential. Upon adoption of the report, the Council determined that through optimization of the plan and optimization of water usage, the projected shortfall did not present a significant concern. Areas identified in the report as having annexation potential provide orderly and logical growth of the City and are generally aligned with future transportation and utility corridors.

The Council has taken action, subsequent to the adoption of the report, to approve a realignment of Errecart Blvd. reducing area required for annexation along the Errecart Blvd alignment. This decision has resulted in a net reduction of projected water consumption by over 500 acre feet, nearly offsetting the projected deficit referenced.

Proper storm water controls would mitigate any potential impacts from storm water runoff.

Annexation of the property will not negatively impact other natural resources in the area.

NRS 268.646(5) requires a determination by the Bureau of Land Management that the territory proposed to be annexed is suitable for residential, commercial, or industrial development, or will be opened to private acquisition.

The area proposed for annexation does not fall under the jurisdiction of the Bureau of Land Management.

NRS 268.646(6) requires a determination that the annexation is consistent with any applicable comprehensive regional plan, area plan or master plan and any program of annexation adopted and certified pursuant to NRS 268.625.

The City of Elko is not required nor does it have a program adopted and certified pursuant to NRS 268.625.

The City of Elko Master Plans specifically addresses the annexation of property under Objective 5 as outlined in Best Practice 5.1 and Best Practice 5.3. City Staff has identified areas having potential for annexation that promote logical and orderly growth of the community. Those areas are identified in the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012. This area is identified as having annexation potential in the report. The proposed annexation is consistent with the goals, objectives and supports long range planning as outlined in the report.

The proposed annexation is consistent with the Land Use component of the Master Plan and the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.

NRS 268.663(3) requires the evaluation and possible annexation of County roadways under certain circumstances to possibly become city streets.

The area proposed for annexation is not a subdivision and therefore the City is not required to annex entire roadways that provide primary access to the area.

West Idaho Street appears to currently be located within the City of Elko. P & H Drive is included in the annexation application with the exception of the ½ street frontage of Coach USA that was previously annexed into the city with Annexation 1-16.

All of the roadways providing access to the area will be annexed into the City upon approval of the annexation.

City Code Section 3-2-4

The annexation application identifies the zoning classification upon annexation as a Light Industrial District. At this time, a zone application has not been filed in conjunction with the annexation petition.

The following section of code provides the Planning Commission and City Council the discretion to designate an appropriate zone district after holding the appropriate public hearing:

Section 3-2-4 D. Classification Of Annexed Areas: All territory which is annexed to the city after the effective date hereof shall be zoned upon annexation AG general agriculture, unless the planning commission shall recommend and/or the city council shall otherwise designate the zoning district after holding duly advertised public hearings in accordance with section 3-2-21 of this chapter. As part of considering any petition for annexation of territory to the city, a review of conformance with the city master plan, including land use designation, shall be performed by the planning commission, with recommendations forwarded to the city council. If said annexation necessitates substantial amendment to the master plan, the planning commission may adopt such amendment only after holding duly advertised public hearings in accordance with Nevada Revised Statutes section 278.210.

CITY OF ELKO WELLHEAD PROTECTION PROGRAM

A proposed well (test hole/monitoring well currently exists) approximately 240 feet from the property is expected to be installed as development occurs in the area. At that time, it could be expected that this property will be located within the 2 year capture zones. The City of Elko may complete the installation of a sewer main and lift station prior to the installation of the proposed well to eliminate a number of septic systems and leach fields in the area.

FINDINGS

1. The petitioner is not requesting an amendment to the Land Use Component of the Master Plan. The existing land use of one of the properties is consistent with the Master Plan. The remaining properties are vacant. The annexation and subsequent zone classification of the properties must conform to the Master Plan.

2. The proposed annexation and existing land uses are compatible with the Transportation Component of the Master Plan. Master Plan.
3. The proposed annexation is consistent with the goals, objectives and supports long range planning as outlined in the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.
4. The proposed annexation is in conformance with the City's Airport Master Plan.
5. In conformance with NRS 268.636(1) the property owners have submitted a map showing a boundary contiguous to the city of approximately 35%.
6. In conformance with NRS 268.646(2), inclusive, it has been determined that the proposed annexation satisfies considerations and/or concerns identified as minimum factors for consideration under.
7. In conformance with NRS 268.646(3), it has been determined that the proposed annexation will not have any long-term adverse impacts on adjacent areas nor will the proposed annexation and development of the property have an adverse influence the local government structure of the County or the City.
8. In conformance with NRS 268.646(4), it has been that the proposed annexation will not place a burden of the availability of water, the requirement for water or have a negative impact other natural resources in the area. In addition, the City will receive 58 acre feet of water rights upon annexation of the properties.
9. In conformance with NRS 268.646(5) it has been determined that the area proposed for annexation does not fall under the jurisdiction of the Bureau of Land Management.
10. In conformance with NRS 268.646(6) it has been determined that The City of Elko is not required nor does it have an annexation program adopted and certified pursuant to NRS 268.625. The proposed annexation is consistent with the Land Use component of the Master Plan and the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.
11. In conformance with NRS 268.663(3), although not required, it has been determined that all portions of County roads that provide primary access to the area have been or will be annexed into the City and will become City streets.
12. The annexation application identifies the zoning classification upon annexation as a Light Industrial District. At this time, a zone application has not been filed in conjunction with the annexation petition. Future zone designation must conform with section 3-2-4 of city code.
13. The proposed annexation is in conformance with the City's Wellhead Protection Plan.
14. Annexation of the property provides an immediate accrual to the tax base for the City.
15. Annexation of the property provides an opportunity for expanded Light Industrial uses.

16. The area proposed for annexation is not localized or isolated.
17. Other, required, utilities will be installed at developer expense to facilitate development of the properties.
18. The topography of the area is well suited for the proposed light industrial land uses.
19. Expanded uses on the properties will result in a positive economic impact to the community.

STAFF RECOMMENDATION:

Staff recommends approval of Annexation 1-18 to be forwarded to the City Council based on the conditions outlined below. If approved by the City Council, the conditions will be included in the annexation ordinance.

Development Department:

1. The property owners shall receive approval for a zone designation for the property to be consistent with the Land Use designation in the City of Elko Master Plan.

Utility Department:

1. Joy Global Surface Mining shall extend the water main on P&H Drive the full frontage of the APN 006-09N-004 (Joy), 007 & 009 (Netherton), and make a point of connection in West Idaho Street. Water service (potable and fire protection) shall be extended within 180 days of annexation of the properties and the existing facility shall be connected to the City water system at that time; or, the water main shall be extended in conjunction with development of a new facility provided that Joy Global Surface Mining has applied for and received a Building Permit from the City and is actively engaged in constructing the new facility within the stipulated 180 days. Extension of water service and connection to the City water system may be extended by the length of time required for development of a new facility and will be required to obtain a Certificate of Occupancy for a new facility.
2. Joy Global Surface Mining shall file applications with Nevada Division of Water Resources to transfer all City water rights back to the City as stipulated in its agreement with the City dated November 1, 2013. The total water rights stipulated in the agreement is 58 acre feet. The same point of diversion shall be listed on the application. The application to transfer the water rights shall be filed no later than 60 days after extension of the water main in P & H drive and connection to either the existing facility or a newly developed facility.
3. The existing well shall be dedicated to the City of Elko no later than 90 days after the water rights have been transferred to the City. An easement shall be granted to the City of Elko to include access to the well, the wellsite including a 20' perimeter outside of the well house, and also a 20' wide utility easement westerly to the westerly property boundary at the time of well dedication.
4. Joy Global Surface Mining shall extend dry sewer mains at the time of new facility development or expansion of the existing use.

5. The City shall not be responsible for operation of the existing water supply system pending the extension of water service by Joy Global Surface Mining as stipulated in Item 1.
6. Cross connections between the existing water system and the City's water system will not be allowed. All points of cross connection are to be properly abandoned under City approval.



CITY OF ELKO
DEVELOPMENT DEPARTMENT
1755 COLLEGE AVENUE
ELKO, NEVADA 89801
(775)777-7210
(775)777-7219 FAX

To: Planning Commission
From: Jeremy Draper, Development Department
Date: March 28, 2018
Re: Annexation Petition 1-18, Joy Global/Komatsu

The City of Elko Development Department has reviewed the annexation application offers the following comments for consideration to aid the Planning Commission's review of the above referenced application: Applicable Master Plan Sections, NRS Sections and City Code Sections and other coordinating plans are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Streets and Highways Component
- City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012
- Nevada Revised Statutes - 268.610 to 268.670, inclusive
- City of Elko Zoning – Section 3-2-4 Zoning Districts
- City of Elko Wellhead Protection Program

BACKGROUND INFORMATION:



1. The application is submitted by Legend Engineering on behalf of Harnischferger a parent company to Joy Global Surface Mining Inc. and Ed and Sharon Netherton.
2. The petition includes that portion of APN 006-09N-004, -007, and -009 lying approximately 1,200' northwest of Idaho Street and Interstate 80 containing more or less 32.74 acres of land including 1.88 acres of right-of-way in P&H Drive as shown on parcel map 452341.
3. The area is identified as having annexation potential as shown in the adopted Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012.
4. The area fronts W. Idaho Street and P&H Drive.
5. City water has been extended to the edge of the property and the property lies within the 5400 water service zone. City sewer does not exist in this area, however preliminary design has been completed by the City of Elko Engineering Department.
6. Other non-city utilities are located in the immediate area.
7. Annexation of the property is at the request of the City of Elko based on the an agreement for the assignment and assumption of water rights dated November 1, 2013 between the City of Elko and Joy Global Surface Mining, Inc. This agreement provided water rights to these users as the City of Elko could not provide water during the original period of development of these properties.
8. The area was included in the land use component of the master plan showing a proposed Industrial Business Park.
9. The City Council accepted the application for annexation at their March 27, 2018 meeting.
10. The proposed annexation is logical and orderly.

MASTER PLAN:

Land Use:

1. Land Use is shown as Business Park Industrial.
2. The petitioner has not submitted an application for rezone at this time.
3. Corresponding zoning districts for Business Park Industrial Land Use are
 - Industrial Business Park, IBP
 - Light Industrial, LI
 - Industrial Commercial, IC
4. Section 3-2-4-D of City Code states that a review of conformance with the city master plan, including land use designation, shall be performed by the planning commission.
5. Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to ensure economic sustainability as well as strengthen the community's image.
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.

Transportation:

1. The area fronts W. Idaho St., a Major Arterial.

**DEVELOPMENT FEASIBILITY, LAND USE, WATER INFRASTRUCTURE,
SANITARY SEWER INFRASTRUCTURE, TRANSPORTATION INFRASTRUCTURE
AND ANNEXATION POTENTIAL REPORT – NOVEMBER 2012**

- The area is identified as having annexation potential.
- This area is adjacent to developed property currently located within the incorporated boundary of the City.
- The area can be served of the existing 5400 water zone.
- Developable area is estimated to be approximately 32.74 acres
- Under an Industrial Development we estimated that this would result in approximately in the development of 2.4 industrial units, and a commitment of 2.73 acre-feet of water per year.
- Parcel 006-09N-004 is currently developed as Joy Global Surface Mining Inc.
- Parcels 006-09N-007 and -009 are currently undeveloped.
- Sewer is currently unavailable in this location. The developer will be required to install a dry sewer and utilize a septic system until such time that a force main is installed to the Water Reclamation Facility.
- Annexation of the area does appear to be logical and orderly and continues the development of land near exit 298 of I-80.

NEVADA REVISED STATUTE:

NRS 268.636(1) states whenever the majority of property owners of any territory lying **contiguous** to a city desire to annex such territory to the city, they may cause an accurate map of plat of the territory to be made under the supervision of a competent surveyor. The map is to be filed with the city.

The property owner's representative has submitted the required map.

NRS 268.646 requires minimum factors to be considered in the review of a proposed annexation.

NRS 268.646(1) requires the evaluation of factors such as population, population density, land area and land uses, per capita assessed valuation, topography, proximity to other populated areas and the likelihood of significant growth within the next 10 years in the area and adjacent areas.

The total annexed area consists of approximately 32.74 acres.

The property is currently developed.

NRS 268.646 (2) requires the evaluation for the need for organized community services, the present cost of and adequacy of governmental services and controls in the area, probable future needs for such services and controls, and the probable effect of the proposed formation and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent area.

The area being considered for annexation is currently within our mutual aid area for fire services, annexation to the City will not increase the need for governmental services and controls in the area.

General

Annexation of the property does provide the opportunity to provide continued light industrial land use along Idaho Street, a Major Arterial. The annexation of this property will also result in the fulfillment of a agreement between the City of Elko and Joy Global to provide water rights for the development of the property. Once within the City, Joy Global will be able to abandon the non-compliant water system and relinquish the water rights back to the City of Elko.

Land Division and Potential Zoning

The property is partially developed and is slated for redevelopment with the construction of a new facility. Two parcels are currently vacant and are ready for development. Some parceling of all parcels may take place in the future.

The application has not submitted a rezone application at this time.

Sewer

Sanitary sewer does not exist in the immediate area. A dry sewer and septic system will be required to be installed and utilized until a force main can be installed providing service to the Water Reclamation Facility.

Water

City of Elko water service exists in the immediate area. The property can be served off the existing 5400 water zone with the extension of a waterline from Idaho Street.

Access

Primary access is from P&H Drive and Idaho Street.

Other Services

The size and location of the property is not expected to place any significant burden on other City services.

NRS 268.646(3) requires the evaluation of the proposed annexation and of alternative actions on adjacent areas, on mutual social and economic interests and on local governmental structure of the county.

Annexation of the property is **not** expected to have any long-term adverse impacts on adjacent areas.

NRS 268.646(4) requires the evaluation of the proposed annexation and of alternative actions upon the availability of water and requirement of water and other natural resources throughout the affected area.

The City currently has approximately 18,000 acre feet of water rights available and is utilizing approximately 50% of that supply. Based on the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012, the City could face a potential **shortfall** of 700 – 800 acre feet of water to serve annexed areas in addition to areas identified as having annexation potential. Areas identified as having annexation potential provide orderly and logical growth of the City and are generally aligned with future transportation corridors.

The applicant is part of a user group that was granted water rights by the City of Elko for the development of a private water system. As part of the agreement, revised in 2013 with Joy Global, the water rights would be returned to the City of Elko when the City completes the installation of a waterline to this area and annexation to the City has been completed.

Proper storm water controls would mitigate any potential impacts from storm water runoff.

Annexation of the property will not negatively impact other natural resources in the area.

The completion of this annexation will result in no additional water rights being required for future development due to the existing agreement between the City and Joy Global.

NRS 268.646(5) requires a determination by the Bureau of Land Management that the territory proposed to be annexed is suitable for residential, commercial, or industrial development, or will be opened to private acquisition.

The area proposed for annexation does not fall under the jurisdiction of the Bureau of Land Management.

NRS 268.646(6) requires a determination that the annexation is consistent with any applicable comprehensive regional plan, area plan or master plan and any program of annexation adopted and certified pursuant to NRS 268.625.

The City of Elko Master Plans specifically addresses the annexation of property under Objective 5 as outlined in Best Practice 5.1 and Best Practice 5.3. City Staff has identified areas having potential for annexation that promote logical and orderly growth of the community. The proposed annexation is not in an area that was identified as having annexation potential; however, it should not be excluded from consideration for annexation.

The Land Use component of the Master Plan contains an exhibit showing the area as industrial business park.

NRS 268.663(3) requires the portions of the county roads which provide the primary access to the subdivision are also annexed and become city streets.

Idaho Street is currently under City jurisdiction, P&H Drive will fall under City jurisdiction with this annexation.

City Code Section 3-2-4

A companion rezone application has not been filed with the City at this time.

The following section of code provides the PC and CC the discretion to designate an appropriate zone district after holding the appropriate public hearing:

Section 3-2-4 D. Classification Of Annexed Areas: All territory which is annexed to the city after the effective date hereof shall be zoned upon annexation AG general agriculture, unless the planning commission shall recommend and/or the city council shall otherwise designate the zoning district after holding duly advertised public hearings in accordance with section 3-2-21 of this chapter. As part of considering any petition for annexation of territory to the city, a review of conformance with the city master plan, including land use designation, shall be performed by the planning commission, with recommendations forwarded to the city council. If said annexation necessitates substantial amendment to the master plan, the planning commission may adopt such amendment only after holding duly advertised public hearings in accordance with Nevada Revised Statutes section 278.210.

CITY OF ELKO WELLHEAD PROTECTION PROGRAM

The property is not located within the wellhead protection area. However it should be noted that the City has plans for a future well within 600 feet of the proposed annexation, this would most likely result in the annexation falling within the 2-year capture zone for this well. Compliance with this plan will be required once developed.

SUMMARY

Factors for consideration

1. The area is identified as having annexation potential in the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012. The annexation of this property appears to promote the logical and orderly growth of the City.
2. The area is identified in the Master Plan as suitable for Business Park Industrial land use.
3. The City resources committed in support for development of the property under a Business Park Industrial land use are minimal.
4. Maintenance obligations are not a concern with the annexation of the property. City obligations for infrastructure maintenance will occur as the property develops.
5. The property is currently developed and the property owners have indicated they wish to redevelop the property, two parcels remain undeveloped at this time.

FINDINGS

1. The annexation is consistent with the City' Land Use Component of the Master Plan. Appropriate zoning of the property is required as the property develops to ensure conformance with the land use designation shown in the Master Plan.

2. The annexation is consistent with the City' Transportation Component of the Master Plan.
3. The Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012, does identify the area as having potential for annexation.
4. The area proposed for annexation is not localized, isolated and does promote future transportation and utility corridors promoting future growth opportunities within the City.
5. Annexation of the area is not expected to have any immediate or negative impact on City resources. The area can be served from the existing 5400 water zone. Additional utility and roadway infrastructure will be installed at developer expense to facilitate development of the property.

RECOMMENDATION

The City of Elko **Development Department** recommends approval of Annexation 1-18 be forwarded to the City Council based on the following conditions:

1. The property owners shall receive a rezone of their property to be consistent with the Land Use designation in the City of Elko Master Plan.

**CONSENT TO ASSIGNMENT AND ASSUMPTION
OF WATER RIGHTS AGREEMENT**

THIS CONSENT TO ASSIGNMENT AND ASSUMPTION OF WATER RIGHTS AGREEMENT (hereinafter the "Consent") is made and entered into this 1st day of November, 2013, by and between **THE CITY OF ELKO, NEVADA**, a municipal corporation and political subdivision of the State of Nevada (hereinafter the "City"), **CALVIN DEAN STITZEL and MARILYN E. LUND** (hereinafter "Stitzel/Lund") and **P&H MINING EQUIPMENT INC. also known as JOY GLOBAL SURFACE MINING INC.**, a Delaware Corporation (hereinafter "P&H").

RECITALS

WHEREAS, on the 28th day of February, 1994, the City and Stitzel/Lund entered into the Water Rights Agreement attached hereto at **Exhibit "1;"**

WHEREAS, the Water Rights Agreement provides that Stitzel/Lund may not assign the water rights obtained by them on the real property without the prior written consent of the City;

WHEREAS, Stitzel/Lund desire to obtain the consent of the City to assign the Water Rights Agreement to P&H;

WHEREAS, P&H desires to assume the rights and obligations of Stitzel/Lund, subject to the terms and conditions of this Consent, upon the purchase from Stitzel/Lund of the real property described at **Exhibit "2"** hereto (hereinafter the "Real Property");

NOW, THEREFORE, in consideration of the above recitals, the parties do hereby agree as follows:

1. **CONSENT.** The City hereby consents to the assignment of the Water Rights

Agreement attached hereto at **Exhibit "1"** from Stitzel/Lund to P&H, and the assumption thereof by P&H, subject to the terms and conditions herein contained.

2. **PURCHASE OF REAL PROPERTY:** This Consent and the amendments to the Water Rights Agreement described herein shall become effective upon the purchase of the Real Property from Stitzel/Lund by P&H within six (6) months of the date this Consent is approved by the Elko City Council. In the event P&H does not purchase the Real Property within six (6) months of the date this Consent is approved by the Elko City Council, this Consent shall automatically become null and void and shall be of no further effect.

3. **ADDITIONAL TERMS:** The following terms are hereby made part of this Consent and, moreover, upon the purchase of the Real Property by P&H within six (6) months of the date this Consent is approved by the Elko City Council, the following terms shall be automatically deemed added to and made part of the Water Rights Agreement:

A. **ENTIRE AGREEMENT.** This Consent and the Water Rights Agreement, as amended, together constitute the entire agreement between the parties with regard to the subject matter described therein, and those documents supersede all prior agreements, offers and negotiations in relation thereto, and may not be amended except by an Agreement in writing signed by the parties.

B. **APPLICABLE LAW.** This Consent and the Water Rights Agreement, as amended, shall be construed, given effect and governed by the laws of the State of Nevada, and in the event of a breach of this Consent or the Water Rights Agreement, as amended, by any of the parties, the other party shall have all remedies at law or equity provided by the laws of the State of Nevada.

C. VENUE. Irrespective of any statutory provisions to the contrary, venue for any action arising under this Consent or the Water Rights Agreement, as amended, shall be in the Fourth Judicial District Court of the State of Nevada, in and for the County of Elko.

D. ATTORNEY'S FEES. Should either party be required to seek legal action to enforce or interpret the terms and conditions of this Consent or the Water Rights Agreement, as amended, the prevailing party shall be entitled to reasonable attorney fees and costs.

CITY OF ELKO

By: [Signature]

Its: Mayor

Attest: [Signature]
SHANELL OWEN, CITY
CLERK

STITZEL/LUND

[Signature]
CALVIN DEAN STITZEL

[Signature]
MARILYN E. LUND

P&H MINING EQUIPMENT, INC.

By: [Signature]

Its: General Manager

NOTARY

This instrument was acknowledged before me on this 31st day of October, 2013.

2013, by:

1. Calvin Dean Stitzel
2. Marilyn E. Lund

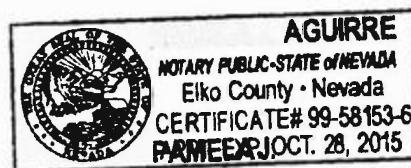
3. _____

4. _____

5. _____



NOTARY PUBLIC
STATE OF NEVADA



WATER RIGHTS AGREEMENT

THIS WATER RIGHTS AGREEMENT made and entered into this 28th day of February, 1994 by and between **THE CITY OF ELKO** ("Elko") and **CALVIN DEAN STITZEL and MARILYN E. LUND** ("Stitzel/Lund").

RECITALS:

Elko has filed an Application for Permit to Appropriate the Public Waters of the State of Nevada, Application Number 56590 which was filed with the Nevada Division of Water Resources on July 26, 1991, a copy of which is attached as Exhibit "A".

Stitzel/Lund have filed an Application for Permit to Appropriate the Public Waters of the State of Nevada, Application Number 58379, which Second Amended application was filed with the Nevada Division of Water Resources on January 6, 1993, a copy of which is attached as Exhibit "B".

AGREEMENT:

Elko agrees not to utilize a portion of their water rights under Permit Number 56590 so that **Stitzel/Lund** can develop this property pursuant to the following terms and conditions:

1. **Elko** agrees not to use 58 acre-feet of water authorized for their use under Permit 56590 in order to allow **Stitzel/Lund** to obtain a permit pursuant to their application for a permit under Application Number 58379. The actual portion transferred shall not exceed the amount **Stitzel/Lund** place to beneficial use as specified on the Certificate of Appropriation issued by the Division of Water Resources.
2. **Stitzel/Lund** shall use the water solely for the development of real property located in the N/W 1/4 of the N/W 1/4, Section 30, T. 34 N., R. 55 E., MDB&M.
3. **Stitzel/Lund** agree that at any time the real property is annexed into the City of Elko, the water rights developed by **Stitzel/Lund** on the real property shall be transferred to the City of Elko at the request of the City. Upon such request, **Elko** shall furnish water from the municipal water system to the **Stitzel/Lund** properties as they are developed at that time.
4. **Stitzel/Lund** shall not assign or transfer the water rights obtained by them on the real property without the prior written consent of **Elko**, which consent shall not be unreasonably withheld.

EXHIBIT "1"

5. This Water Rights Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first hereinabove written.

ATTEST:

Giuliana Murphy
GIULIANA MURPHY, City Clerk

THE CITY OF ELKO

BY: Lorry Liparelli
LORRY LIPIARELLI, City Manager

Calvin Dean Stitzel
CALVIN DEAN STITZEL

Marilyn E. Lund
MARILYN E. LUND

Serial No.

56590

NKL #41

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

THIS SPACE FOR OFFICE USE ONLY

Date of filing in State Engineer's Office.....

Returned to applicant for correction.....

Corrected application filed.....Map filed.....

The applicant City of Elko
1751 College Avenue of Elko
Nevada 89801 Street and No. or P.O. Box No. City and Town
State and Zip Code No., hereby make S application for permission to appropriate
 the public waters of the State of Nevada, as hereinafter stated. (If applicant is a corporation, give date and place of
 incorporation; if a copartnership or association give names of members.) N/ A

Is applicant a U.S. citizen? Yes ☐ No ☐Is applicant 21 years of age or older? Yes ☐ No ☐

NRS 533.325 requires that applicant be a citizen of the United States or have legally declared their intention to become a
 citizen, and that they be 21 years of age or older.

1. The source of the proposed appropriation is underground Well No. 41
Name of stream, lake, spring, underground or other source.

2. The amount of water applied for is 6.0 cfs One second foot equals 448.83 gallons per minute second feet.

(a) If stored in reservoir give number of acre-feet.....

3. The water to be used for Municipal and Domestic
Irrigation, power, mining, commercial, domestic or other use. Must limit to one major use.

4. If use is for:

(a) Irrigation, state number of acres to be irrigated.....

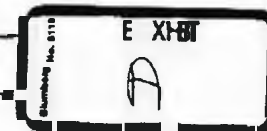
(b) Stockwater, state number and kind of animals.....

(c) Other use (describe fully under "No. 12. Remarks").....

(d) Power:

(1) Horsepower developed.....

(2) Point of return of water to stream.....



5. The water is to be diverted from its source at the following point: On being within a 40-acre subdivision of public
The SE 1/4 of the NE 1/4 of Section 10 T34N R55E, M.D. R&M, or at a point from
survey, and by course and distance to a section corner. If on unsurveyed land, it should be so stated.
which the NE corner of Section 10 bears N 19° 30' 00"E., a distance of 2250.00'

6. Place of use All of Sections 25, 30, 31, 36 T35N R56E; Section 6 T34N R56E; Sections
Describe by legal subdivision. If on unsurveyed land, it should be so stated.
1 through 5, 8 through 17, 20 through 24 T34N R55E M.D.R.&M.

7. Use will begin about January 1 and end about December 31 of each year.
Month and Day Month and Day

8. Description of proposed works (Under the provisions of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) a drilled and cased well equipped with motor,
State manner in which water is to be diverted, i.e. diversion structure,
pump and pipeline to place of use.
ditches and flumes, drilled well with pump and motor, etc.

9. Estimated cost of works \$200,000

10. Estimated time required to construct works 5 years
If not completed, describe works.

11. Estimated time required to complete the application of water to beneficial use 10 years

12. Remarks: For use other than irrigation or stock watering, state number and type of units to be served or annual consumptive use.

The total combined duty of this application and the existing water right shall
not exceed 18,000 acre feet per year. The estimated consumptive use under this
application is 4,343 acre feet per year.

TELEPHONE NUMBER

(702) 747-8550

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

By Michael D. Buschelman
Signature, applicant or agent
Michael D. Buschelman, Agent
5405 Mae Anne Avenue
Street and No., or P.O. Box No.
Reno, Nevada 89523
City, State, Zip Code No.

\$200 FILING FEE MUST ACCOMPANY APPLICATION

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

THIS SPACE FOR OFFICE USE ONLY

Date of filing in State Engineer's Office _____

Returned to applicant for correction _____

Corrected application filed _____ Map filed _____

The applicant Calvin Dean Stitzel & Marilyn E. Lund
P.O. Box 1182 of Elko
Street and No. or P.O. Box No. City and Town
Nevada 89801, hereby make^s application for permission to appropriate
State and Zip Code No.
 the public waters of the State of Nevada, as hereinafter stated. (If applicant is a corporation, give date and place of
 incorporation; if a copartnership or association give names of members.) _____

Is applicant a U.S. citizen? Yes ☒ No ☐Is applicant 21 years of age or older? Yes ☒ No ☐

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One second foot equals 448.83 gallons per minute.

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3. The water to be used for Commercial
Irrigation, power, mining, commercial, domestic or other use. Must limit to one major use.

4. If use is for:

(a) Irrigation, state number of acres to be irrigated _____

(b) Stockwater, state number and kind of animals _____

(c) Other use (describe fully under "No. 12. Remarks") _____

(d) Power:

(1) Horsepower developed _____

(2) Point of return of water to stream _____

EXHIBIT

B

5. The water is to be diverted from NW 1/4 NW 1/4 (Lot 1) of
Section 30, T 34 N, R 55 E, MDB & M., at a point from which the NW
corner of said Section 30, bears N 44° 29' 49" W, 210.20 feet.

6. Place of use NW 1/4 NW 1/4 (Lot 1) of Section 30, T 34 N, R 55 E, MDB &
M.

7. Use will begin about January 1 and end about December 31 of each year.
Month and Day Month and Day

8. Description of proposed works (Under the provisions of NRS 535.010 you may be required to submit plans and
Well, Pipelines and Storage Tank
specifications of your diversion or storage works.)
State manner in which water is to be diverted, ie diversion structure,

ditches and flumes, drilled well with pump and motor, etc.

\$20,000

9. Estimated cost of works

three years

10. Estimated time required to construct works

If well completed, describe works.

11. Estimated time required to complete the application of water to beneficial use five years

12. Remarks: For use other than irrigation or stock watering, state number and type of units to be served or annual
consumptive use.

Waters applied for under this application are to serve a Truck
Repair Shop, Tire Shop, 2-Bay Truck Wash, Cafe and 500 Motel Units.

HIGH DESERT Engineering, Agent

TELEPHONE NUMBER

702 738 - 4053

By Robert E. Morley
640 Idaho Street

Street and No. or P.O. Box No.
Elko, Nevada 89801

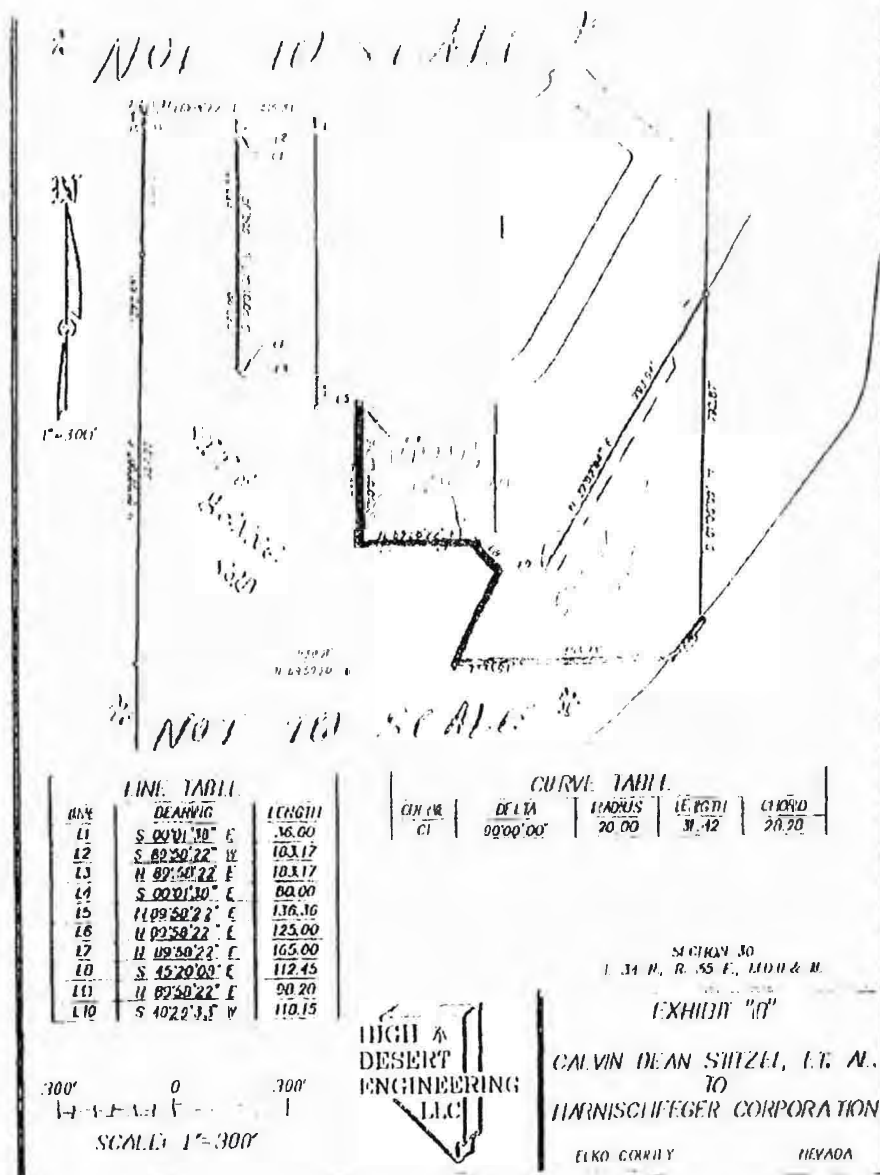
City, State, Zip Code No.

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

\$200 FILING FEE MUST ACCOMPANY APPLICATION

(D-4577 (Rev. 7-69) 

Exhibit II



WATER RIGHTS AGREEMENT

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Elko has filed an Application for Permit to Appropriate the Public Waters of the State of Nevada, Application Number 56590 which was filed with the Nevada Division of Water Resources on July 26, 1991, a copy of which is attached as Exhibit "A".

Stitzel/Lund have filed an Application for Permit to Appropriate the Public Waters of the State of Nevada, Application Number 58379, which Second Amended application was filed with the Nevada Division of Water Resources on January 6, 1993, a copy of which is attached as Exhibit "B".

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IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first hereinabove written.

ATTEST:

Giuliana Murphy
GIULIANA MURPHY, City Clerk

THE CITY OF ELKO

BY: Lorry Lipparelli
LORRY LIPPARELLI, City Manager

Calvin Dean Stitzel
CALVIN DEAN STITZEL

Marilyn E. Lund
MARILYN E. LUND

Serial No.

56590

WELL #41

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

THIS SPACE FOR OFFICE USE ONLY

Date of filing in State Engineer's Office.....

Returned to applicant for correction.....

Corrected application filed.....Map filed.....

The applicant.....City of Elko.....
1751 College Avenue.....of.....Elko.....
Street and No. or P.O. Box No......City and Town
Nevada 89801.....
State and Zip Code No......, hereby make.....^S application for permission to appropriate
 the public waters of the State of Nevada, as hereinafter stated. (If applicant is a corporation, give date and place of
 incorporation; if a copartnership or association give names of members.).....N/ A.....

Is applicant a U.S. citizen? Yes ☐ No ☐Is applicant 21 years of age or older? Yes ☐ No ☐

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1. The source of the proposed appropriation is.....underground Well No. 41.....
Name of stream, lake, spring, underground or other source.

2. The amount of water applied for is.....6.0 cfs.....second feet.
One second foot equals 448.83 gallons per minute.

(a) If stored in reservoir give number of acre-feet.....

3. The water to be used for.....Municipal and Domestic.....
Irrigation, power, mining, commercial, domestic or other use. Must limit to one major use.

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(a) Irrigation, state number of acres to be irrigated.....

(b) Stockwater, state number and kind of animals.....

(c) Other use (describe fully under "No. 12. Remarks").....

(d) Power:

(1) Horsepower developed.....

(2) Point of return of water to stream.....

Shimberg No. 8119

EXHIBIT

A

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6. Place of use All of Sections 25, 30, 31, 36 T35N R56E; Section 6 T34N R56E; Sections 1 through 5, 8 through 17, 20 through 24 T34N R55E M.D.R.&M.
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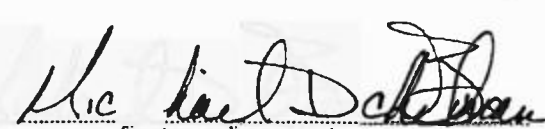
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TELEPHONE NUMBER

(702) 747-8550

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

By


Signature, applicant or agent
Michael D. Buschelman, Agent
5405 Mae Anne Avenue
Street and No., or P.O. Box No.
Reno, Nevada 89523
City, State, Zip Code No.

\$200 FILING FEE MUST ACCOMPANY APPLICATION

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

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Date of filing in State Engineer's Office _____

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Street and No. or P.O. Box No. City and Town
Nevada 89801
State and Zip Code No., hereby make^s application for permission to appropriate

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NRS 533.325 requires that applicant be a citizen of the United States or have legally declared their intention to become a citizen, and that they be 21 years of age or older.

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Waters applied for under this application are to serve a Truck
Repair Shop, Tire Shop, 2-Bay Truck Wash, Cafe and 500 Motel Units.

HIGH DESERT Engineering, Agent

TELEPHONE NUMBER

702 738 - 4053

BY Robert E.

640 Idaho Street

Elko, Nevada 89801

City, State, Zip Code No.

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

\$200 FILING FEE MUST ACCOMPANY APPLICATION

Exhibit A

RECEIVED

MAR 07 2018

ELKO ANNEXATION DESCRIPTION

BEGINNING AT THE FOUND NORTHWEST 1/4 CORNER OF SECTION 30, TOWNSHIP 34 NORTH, RANGE 55 EAST, MOUNT DIABLO BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE CURRENT ELKO CITY BOUNDARY THE FOLLOWING NINE (9) BEARINGS AND DISTANCES, (1) NORTH 89°58'16" EAST 446.33 FEET; (2) THENCE SOUTH 00°01'36" EAST 255.00 FEET; (3) THENCE NORTH 89°58'22" EAST 482.63 FEET; (4) THENCE SOUTH 00°01'38" EAST 53.00 FEET; (5) THENCE NORTH 89°58'22" EAST 219.40 FEET; (6) THENCE SOUTH 57°57'49" EAST 40.00 FEET; (7) THENCE NORTH 32°02'04" EAST 234.84 FEET; (8) THENCE ALONG THE ARC OF A 1160.00 FOOT RADIUS CURVE ON THE LEFT 171.94 FEET (CHORD BEARS SOUTH 62°13'10" EAST 171.78 FEET); (9) THENCE SOUTH 01°19'23" WEST 230.20 FEET; THENCE LEAVING SAID ELKO CITY BOUNDARY SOUTH 32°02'04" WEST 796.12 FEET; THENCE SOUTH 89°58'22" WEST 98.20 FEET; THENCE SOUTH 20°44'31" WEST 223.89 FEET TO THE CURRENT ELKO CITY BOUNDARY; THENCE NORTH 89°59'20" WEST 877.75 FEET ALONG THE CURRENT ELKO CITY BOUNDARY; THENCE NORTH 01°02'00" EAST 1323.99 FEET TO THE POINT OF BEGINNING.

AREA = 32.74 ACRES

MAR 07 2018

SURVEYOR'S CERTIFICATE

I, CHAD ALLEN ANDERSON, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD LICENSE NO. 22781, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF NEVADA. I HEREBY CERTIFY THAT I HAVE MADE A SURVEY OF THE HEREON DESCRIBED PARCEL AND THAT THIS ANNEXATION PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID PROPERTY AS IT RELATES TO THE CURRENT CITY BOUNDARY.

Chad A. Anderson
CHAD A. ANDERSON
DATE 03/05/18



ANNEXATION DETAILS

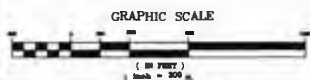
PROPOSED ACREAGE TO BE ANNEXED : 32.74 ACRES

LENGTH OF COMMON BOUNDARY WITH THE CORPORATE LIMITS OF THE CITY : 3,011 FEET

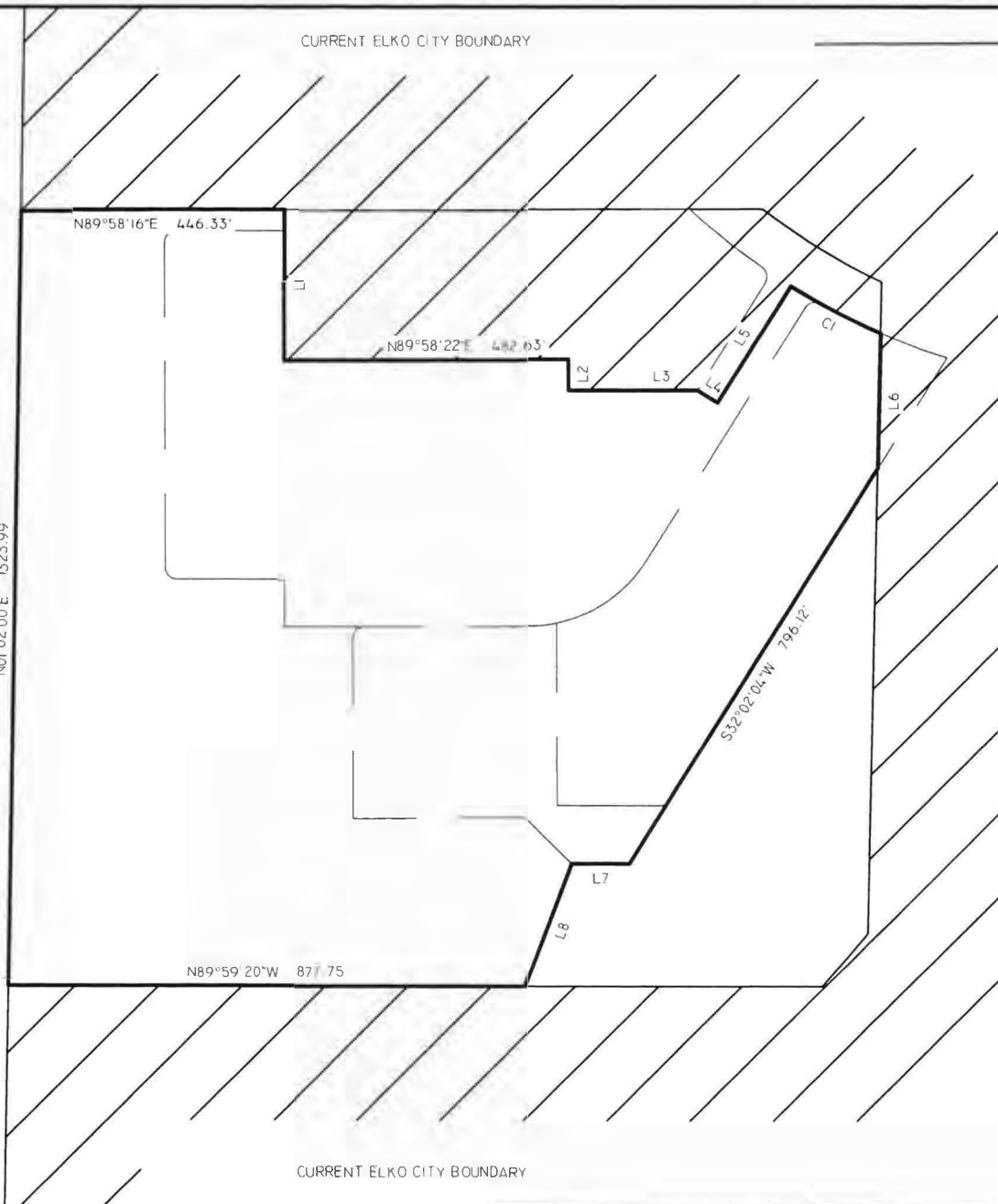
PERCENTAGE OF COMMON BOUNDARY WITH THE CORPORATE LIMITS OF THE CITY : 55%

LINE TABLE		
LINE	LENGTH	DIRECTION
L1	255.00'	S00°01'36"E
L2	53.00'	S00°01'38"E
L3	219.40'	N89°58'22"E
L4	40.00'	S57°57'49"E
L5	234.84'	N32°02'04"E
L6	230.20'	S01°19'23"W
L7	98.20'	S89°58'22"W
L8	223.89'	S20°44'31"W

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	171.94'	1160.00'	8°29'33"	171.78'	S62°31'0"E	861.3'



N01°02'00"E 1323.99'



ELEMENT
LAND SURVEYING
WWW.ELEMENTSURVEYING.COM 2206 SOUTH 710 EAST HERRIN CITY UT 84009
801-582-5915 & 801-537-2418

ANNEXATION PLAT

ELKO COUNTY
LOCALITY: N 1/4 NW 1/4 SECTION 36
T4N 36S R10E

17-12-274

1 OF 1



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

March 9, 2018

Elko County Planning and Zoning
Attn: John Kingwell
540 Court Street, Suite 104
Elko, NV 89801

Re: Annexation No. 1-18

In accordance with the Communication Policy between the City of Elko and Elko County and pursuant to Section 268.670 (1) of Nevada Revised Statutes, 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 annexation of contiguous territory as petitioned by JoyGlobal Surface Mining Inc. and Ed & Sharon Netherton. Please find enclosed a double-sided copy of the application for annexation and map of the area for your review and comment.

The subject property consists of approximately 32.74 acres and is located generally on the north and south of P&H Drive, approximately 1,000 feet northwest of I-80 Exit 298.

The subject property satisfies minimum State criteria for annexation.

Review by the Elko City Planning Commission is scheduled for April 3, 2018.

Please submit written comments to the City of Elko Planning Department as soon as possible. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

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

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures

RECEIVED

FEB 22 2018

CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

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

APPLICATION FOR ANNEXATION

The applicant (100% of all property owners) hereby petitions the Elko City Council to annex to the City of Elko certain real property by ordinance to be adopted pursuant to NRS 268.670. Said property petitioned for annexation is legally described as follows: (Attach if necessary)
Attached to the end of this document.

ASSESSOR PARCEL NUMBER S 00609N004, 00609N009, 00609N007

(This is not the legal description)

PROPERTY OWNERS (Attach additional pages if necessary)

Ed & Sharon Netherton

(406) 295-5556

(Print Name)

Signature

Telephone Number

34 Camp Creek Rd. Troy, MT 59935-9694

1072 Kahaapo Loop, Kihei, HI 96753

775-934-8317

JoyGlobal Surface Mining Inc.

(775) 748-4650

(Print Name)

Signature

Telephone Number

4450 P&H Drive Elko, NV 89801

Mailing Address

(Print Name)

Signature

Telephone Number

Mailing Address

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, and will take a minimum of 8 weeks.

Fee: 10 acres or less \$500.00, greater than 10 acres through 50 acres \$750.00, greater than 50 acres \$1,250.00. The filing fee shall be paid in full prior to consideration of the annexation request by the Planning Commission.

Annexation Map: An annexation map or record of survey of the area proposed for annexation provided by a properly licensed surveyor. Such map shall include the proposed acreage to be annexed, and the length and percentage of common boundary (at least 15%) with the corporate limits of the City. If the property abuts a road not already in the City limits, at least one half of the road must be included in the map and legal description (see N.R.S. 268.663).

Legal Description: A complete legal description of all property proposed for annexation.

Plot Plan: If the property is improved, a surveyed plot plan showing property lines, existing buildings, building setbacks, parking and loading areas and any other pertinent information.

Note: One .pdf (email is okay) 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 Annexation request

1. Identify the existing zoning classification of the property: Light Industrial (LI)

2. Identify the zoning classification being requested upon annexation: Light Industrial (LI)
(A separate zone change application must be submitted for the requested classification.)

3. Explain in detail the type and nature of the use anticipated for the property.

Approximately 180,000 S.F. heavy equipment rental, repair and parts facility.

4. Identify any unique physical features or characteristics associated with the property.

The property is currently occupied by a 40,000 S.F. repair facility.

5. Identify the type and extent of City infrastructure anticipated for service to the property such as streets, sewer, and water service.

P&H drive will be improved and culinary water extended as well as dry sewer for future connection.

6. Identify any water rights which will support the annexed property: _____

Existing well will be capped and water rights transferred to city.

(Use additional pages if necessary to address questions 3 through 6)

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspection 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 Lonny Reed
(Please print or type)

Mailing Address 52 West 100 North
Street Address or P.O. Box

Heber City, UT 84032
City, State, Zip Code

Phone Number: (435) 654-4828

Email address: lonny@legendengineering.com

SIGNATURE:



FOR OFFICE USE ONLY

File No.: 1-18 Date Filed: 2/22/18 Fee Paid: \$1,000 CR# 7424

Shelby Archuleta

From: Cathy Laughlin
Sent: Thursday, March 8, 2018 2:28 PM
To: Shelby Archuleta
Subject: FW: Permission to act as agent

Cathy Laughlin
City Planner

(775)777-7160 ph
(775)777-7219 fax
claughlin@elkocitynv.gov

City of Elko
1751 College Avenue
Elko, NV 89801

From: RobertRichens[mailto:robert.richens@mining.komatsu]
Sent: Thursday, March 08, 2018 2:24 PM
To: Cathy Laughlin <claughlin@elkocitynv.gov>
Cc: Lonny Reed <lonny@legendengineering.com>
Subject: Re: Permission to act as agent

Yes, Harnischfeger is a parent company organization to JoyGlobal.

Originally the Elko facility was P&H MinePro and so the name of the road in Elko Nevada in which the property sits. It is derived from Pawling and Harnischfeger, The original founders.

Thanks
Robert

On Mar 8, 2018, at 3:17 PM, Cathy Laughlin <claughlin@elkocitynv.gov> wrote:

Lonny,
We show the property owner as Harnischfeger Corporation. Is this a parent corporation to the JoyGlobal Surface Mining Inc.? If you could please clarify this for our application.
Thanks,

Cathy Laughlin
City Planner

(775)777-7160 ph
(775)777-7219 fax
claughlin@elkocitynv.gov

City of Elko
1751 College Avenue
Elko, NV 89801

Shelby Archuleta

From: Cathy Laughlin
Sent: Wednesday, March 7, 2018 3:43 PM
To: Shelby Archuleta
Subject: FW: Permission to act as agent

Cathy Laughlin
City Planner

(775)777-7160 ph
(775)777-7219 fax
claughlin@elkocitynv.gov

City of Elko
1751 College Avenue
Elko, NV 89801

From: Lonny Reed [mailto:lonny@legendengineering.com]
Sent: Wednesday, March 07, 2018 3:34 PM
To: Cathy Laughlin <claughlin@elkocitynv.gov>
Subject: Fwd: Permission to act as agent

Hi Cathy,
I understand that you got an email from the Nethertons giving us permission to act as agent?
Let me know if that's not the case please.
See below for Robert Richens' approval.
Thank you,
Lonny

Lonny Reed, P.E.
Legend Engineering
lonny@legendengineering.com
www.legendengineering.com
Tel 435 654-4828
Mobile 801 633-0444
52 West 100 North
Heber City, UT 84032



Begin forwarded message:

From: Robert Richens <robert.richens@mining.komatsu>
Subject: RE: Permission to act as agent
Date: March 2, 2018 at 2:14:47 PM MST
To: Lonny Reed <lonny@legendengineering.com>, Ed Netherton <ednetherton@gmail.com>
Cc: John Pfisterer <johnp@komatsueq.com>, Andrew Bollschweiler <andrew@aeurbia.com>, David Kuhn <davidk@kuhnpm.com>

Lonny,

Please use this email as authorization to act as our Agent for the annexation.

Thanks
Robert

Robert Richens

Executive Vice President – KEC Operations
JoyGlobal Surface Mining, Inc.
Office: +1 801 952 4739
Mobile: +1 435 650 0774

KOMATSU

From: Lonny Reed [<mailto:lonny@legendengineering.com>]
Sent: Friday, March 02, 2018 1:07 PM
To: Ed Netherton <ednetherton@gmail.com>; Robert Richens <robert.richens@mining.komatsu>
Cc: John Pfisterer <johnp@komatsueg.com>; Andrew Bollschweiler <andrew@aeurbia.com>; David Kuhn <davidk@kuhnpm.com>
Subject: Fwd: Permission to act as agent

Hi Ed and Robert,

Cathy from the City of Elko is asking for an email from each of you that assigns Legend Engineering to act as agent for the annexation. Please respond to this email as soon as you can and I will forward to Cathy.

Thank you,
Lonny

Lonny Reed, P.E.

Legend Engineering
lonny@legendengineering.com
www.legendengineering.com
Tel 435 654-4828
Mobile 801 633-0444
52 West 100 North
Heber City, UT 84032



Begin forwarded message:

From: Cathy Laughlin <claughlin@elkocitynv.gov>
Subject: Permission to act as agent
Date: March 2, 2018 at 1:00:14 PM MST
To: Lonny Reed <lonny@legendengineering.com>
Cc: Shelby Archuleta <sarchuleta@elkocitynv.gov>, Jeremy Draper <jdraper@elkocitynv.gov>

Lonny,

Could you get an email or written permission from both JoyGlobal and Nethertons to assign you as their agent for this annexation as we are showing Legend as the applicant on behalf of the property owners.

Thanks,

Cathy Laughlin
City Planner

(775)777-7160 ph
(775)777-7219 fax
claughlin@elkocitynv.gov

City of Elko
1751 College Avenue
Elko, NV 89801

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Cathy Laughlin

From: Sharon Netherton <ssnetherton@yahoo.com>
Sent: Monday, March 05, 2018 4:16 PM
To: Cathy Laughlin
Cc: Ed Netherton
Subject: Netherton Annexation

Dear Cathy,

I give my permission to Lonnie Reed from Legend Engineering to sign as my agent for the annexation of the property at mile marker 298.

Sincerely

Sharon Netherton

Zoning Bulletin

in this issue:

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Preemption/Aviation—Town says use of private heliport is prohibited under town zoning laws

Heliport owner contends state aeronautics code preempts zoning laws

Citation: *Roma, III, Ltd. v. Board of Appeals of Rockport*, 478 Mass. 580, 88 N.E.3d 269 (2018)

MASSACHUSETTS (01/08/17)—This case addressed the issue of “whether cities and towns may exercise their zoning authority to determine

Contributors

Corey E. Burnham-Howard

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whether land in their communities may be used as a noncommercial private restricted landing area, here a heliport, or whether they may do so only with the approval of the [Division of Aeronautics of the Massachusetts Department of Transportation] because the exercise of such zoning authority is preempted by the [Massachusetts's] aeronautics statutes, G. L. c. 90, §§ 35-52 (aeronautics code).”

The Background/Facts: Ron Roma (“Ron”) was a licensed helicopter pilot who regularly used his helicopter to travel to his “various family homes, business engagements, and other activities,” but did not use the helicopter for any commercial purposes. One of those family homes, owned by Roma, III, Ltd. (“Roma”), was located on 1.62 acres of property (the “Property”) in a residential zoning district in the Town of Rockport (the “Town”). Roma requested and received from the Federal Aviation Administration, a “determination of airspace suitability,” recognizing the Property as a licensed private use heliport. Following an airspace review, Roma also received approval from the Division of Aeronautics of the Massachusetts Department of Transportation (the “Division”).

In November 2014, Ron flew his helicopter to the Property. Soon thereafter, the Town’s building inspector issued an enforcement order to Roma. That order stated that a heliport was “not allowed, either as a principal use of the property or an accessory use, in any zoning district in the [t]own,” and that the use of Roma’s Property for the landing of a helicopter was in violation of the Town’s bylaw. The Town building inspector ordered “that the landing of helicopters on the property be stopped immediately” and that the “[f]ailure to comply with this order may result in fines of up to \$300 per day.”

Roma appealed the enforcement order to the Town’s Board of Appeals (“Board”). The Board ultimately denied the appeal. The Board explained that, under the Town’s zoning bylaw, uses that were “not expressly permitted” were “deemed prohibited.” Since the bylaws did not expressly authorize the use of land for a heliport, the Board concluded that Roma’s use of the Property for a heliport was not permitted. The Board also concluded that the use of a heliport was not allowed as a “‘customarily incidental’ accessory use” or as an “accessory use normally associated with a one-family detached dwelling that is not detrimental to a residential neighborhood.” Consequently, the Board determined that a heliport would need “some form of approval, variance and/or special permit.”

Roma appealed the Board’s decision to the Land Court. The Land Court judge determined that he was “constrained to apply” prior caselaw (*Hanlon v. Town of Sheffield*, 89 Mass. App. Ct. 392, 50 N.E.3d 443 (2016) (abrogated by, *Roma, III, Ltd. v. Board of Appeals of Rockport*, 478 Mass. 580, 88 N.E.3d 269 (2018))), which interpreted the Massachusetts aeronautics code—G. L. c. 90, § 39B—“to indicate that a town may not enforce a zoning bylaw that would prohibit a private landowner from creating a noncommercial private restricted landing area on his or her property, unless the relevant bylaw had been approved by the [D]ivision.” Here, the Town zoning bylaw had not been approved by the Division. Accordingly, finding there were no material issues of fact in dispute and deciding the matter on the law alone, the judge granted summary judgment to Roma.

The Board applied to the Supreme Judicial Court of Massachusetts for direct appellate review, which was granted.

DECISION: Judgment of Land Court vacated and matter remanded.

Abrogating (i.e., repealing) *Hanlon v. Town of Sheffield*, 89 Mass. App. Ct. 392, 50 N.E.3d 443 (2016) (abrogated by, *Roma, III, Ltd. v. Board of Appeals of Rockport*, 478 Mass. 580, 88 N.E.3d 269 (2018)), the Supreme Judicial Court of Massachusetts held that cities and towns in Massachusetts may exercise their zoning authority to determine whether land in their communities may be used as a noncommercial private restricted landing area. In other words, the court held that the state aeronautics code—G. L. c. 90, § 39B—did not preempt local zoning regarding noncommercial private restricted landing areas.

In reaching that conclusion, the court analyzed the statute. The court found that the first three paragraphs of § 39B required municipalities to apply to the Division for a certificate of approval before acquiring any property for “an airport or restricted landing area.” Paragraph four provided that § 39B did “not apply to restricted landing areas for non-commercial private use,” among other exceptions. The court found that to mean that “a private landowner who wishes to establish a noncommercial private restricted landing area does not need prior [D]ivision approval; the landowner simply needs to inform the [D]ivision in writing of its establishment, and ensure that it is not built or maintained in a manner that would endanger the public safety.” The court found that paragraph five allowed municipalities to enact rules and regulations governing “the use and operation of an aircraft at an airport or restricted landing area,” but such rules and regulations were only effective if approved by the Division.

Here, the Board had argued that since the fourth paragraph declared that § 39B did not apply to restricted landing areas designed for noncommercial private use, the fifth paragraph requiring Division approval of municipal rules and regulations on restricted areas did not apply to noncommercial private restricted landing areas.

The Supreme Judicial Court agreed with the Board. In agreeing, the court acknowledged that the “use and operation of aircraft” was governed by § 39B, but emphasized that the use of land, on the other hand, was traditionally regulated by municipalities under their zoning authority. Accordingly, concluded the court, “regardless of whether § 39B is the sole source of a city or town’s authority to regulate the ‘use and operation of aircraft,’ it plainly is not the source of a city or town’s authority to regulate the use of land.”

Roma had contended that, nevertheless, unless approved in advance by the Division, the Town’s zoning bylaw that prohibited the use of land to establish a noncommercial private restricted landing area was preempted by the state aeronautics code. Roma argued that a clear intent to preempt such local zoning enactments should be inferred “to prevent frustration of the legislative purpose of the aeronautics code.”

The court disagreed with Roma. The court explained both federal and state preemption analysis. Focusing on state law preemption, the court said that “a local regulation will not be invalidated unless the court finds a ‘sharp conflict’

between the local and State provisions.” Here, the court found that the legislative purpose of the aeronautics code of “foster[ing] . . . private flying” did not suggest a legislative intent to encourage the development of private heliports and landing areas on private property. Contrary, found the court, since land use regulation has long been recognized by the Legislature to be a prerogative of local government, the court concluded that it would “not infer that the enactment of the aeronautics code reflects a clear legislative intent to preempt all local zoning bylaws that might affect noncommercial private restricted landing areas based on the risk of frustrating the legislative purpose of fostering private flying.” Nor was the court “persuaded that the Legislature, by granting the [D]ivision ‘general supervision and control over aeronautics,’ [under] G. L. c. 90, § 39, intended to preempt all local land use regulation that might affect the use of land for private heliports.”

Accordingly, the court concluded that “there [was] no clear legislative intent to preempt local zoning enactments with respect to noncommercial private restricted landing areas, and that a city or town does not need the prior approval of the [D]ivision to enforce a zoning bylaw that requires some form of approval, variance, or special permit for land to be used as a private heliport.”

Thus, the enforcement order against Roma was upheld.

See also: *Town of Harvard v. Maxant*, 360 Mass. 432, 440, 275 N.E.2d 347 (1971).

See also: *Town of Wendell v. Attorney General*, 394 Mass. 518, 476 N.E.2d 585 (1985).

Historic District—Property owners raze and reconstruct house located in historic district but not individually listed on state or national historic registers

Abutting neighbors sue, arguing new house violates state historic-district regulations, and seeking injunction for modifications to new house

Citation: *McDowell v. Sapienza*, 2018 SD 1, 2018 WL 285839 (S.D. 2018)

SOUTH DAKOTA (01/03/18)—This case addressed the issue of whether historic-district regulations applied to a property owner’s new home constructed in an historic district, despite the fact that the home was not listed on state or national historic registers.

The Background/Facts: The McKennan Park Historic District of Sioux Falls (“McKennan Park”) is a historic property listed on the national register of historic places. In 2014, Joseph and Dr. Sarah Sapienza (the “Sapienzas”)

purchased a house in McKennan Park. The house they purchased was designated an “intrusion” and “noncontributing property,” and it was not listed on the state or national registers of historic places. The Sapienzas originally planned to renovate the house, but ultimately decided to raze it and construct a new home on the property.

In furtherance of their plans, the Sapienzas submitted architectural renderings to the Board of Historic Preservation (the “Board”) of the City of Sioux Falls (the “City”). The Sapienzas disclosed to the Board that some changes may be made to the plans submitted. The Sapienzas also notified the Board that their home would be larger than the previous structure. Based on the information provided, the Board approved the Sapienzas’ proposal, and the City issued a building permit for the proposed construction.

In October 2014, the Sapienzas began constructing their new home. Construction of the home was complete in January 2016.

In the interim, in May 2015, owners of the property adjacent to the Sapienzas’ property—Pierce and Barbara McDowell (the “McDowells”)—sued the Sapienzas. The McDowells’ suit against the Sapienzas was based on theories of negligence and nuisance. Among other things, the McDowells alleged that construction of the Sapienzas’ home violated a state regulations governing new construction in historic districts—ARSD 24:52:07:04. ARSD 24:52:07:04 establishes standards for “[n]ew construction or additions within a historic district.” It covers numerous standards including, among others, the design, height, width, and proportion of such new construction.

The circuit court agreed that the Sapienzas home violated state historic-district regulations. The court entered judgment in favor of the McDowells. The court issued a mandatory injunction requiring the Sapienzas to modify their home to comply with the state regulation for historic districts.

The Sapienzas appealed. On appeal, the Sapienzas argued that ARSD 24:52:07:04 did not apply to their property because their home was not listed on the state or national registers. They relied on ARSD 24:52:07:01, which provides that the regulations in ARSD chapter 24:52:07 “apply to historic properties listed on the state register or the national register, or both.” They interpreted ARSD 24:52:07:01 to limit ARSD 24:52:07:04’s application to new construction on individual properties already listed on the state or national registers. They also argued that the court abused its discretion in granting an injunction requiring modification of their home (as opposed to requiring them to pay monetary damages).

DECISION: Judgment of circuit court affirmed in relevant part.

The Supreme Court of South Dakota held that the State historic-district regulations applied to the Sapienzas’ new home constructed in the McKennan Park Historic District.

In so holding, the court disagreed with the Sapienzas’ interpretation of the historic-district regulations. The court explained that “although ARSD 24:52:07:01 indicates that the rules in ARSD chapter 24:52:07 apply to historic properties listed on the state or national registers, the McKennan Park Historic District itself is a ‘historic property’ that is ‘listed’ on the state and national registers.” The court said this was because the enabling statutes for ARSD

24:52:07:01 and ARSD 24:52:07:04 included historic districts within the statutory definition of “historic property.” (See SDCL 1-19A-2(3).) Therefore, explained the court, “ARSD 24:52:07:01’s reference to listed ‘historic properties’ cannot be read as language limiting the applicability of the chapter’s substantive regulations to individually owned historic properties.” Since McKennan Park itself was a listed historic property, and the Sapienzas’ individually owned property was within McKennan Park, the court concluded that even through the Sapienzas’ home was not individually listed on state or national registers, the State historic-district regulations still applied to the Sapienzas’ property. In other words, because the McKennan Park historic district was itself a “historic property” that was listed on state and national registers, the requirements of the State historic-district regulations (i.e., ARSD 24:52:07:04) applied to any new construction or additions within McKennan Park, including the Sapienzas’ new home construction.

The court also concluded that the issuance of the injunction requiring the Sapienzas to modify their newly-constructed home to comply with the historic-district regulations was warranted. In so concluding, the court explained that in determining whether an injunction requiring modification of the Sapienzas’ home was warranted, it had to look at: (1) whether an injunction was statutorily authorized under state law (SDCL 21-8-14); and, if so, (2) whether the circuit court’s decision to grant the injunction was an abuse of discretion.

The court found that an injunction was statutorily authorized in this case. The court noted that under SDCL 21-8-14(1), an injunction could be granted to prevent the breach of an obligation (i.e., here, the historic-district regulations), where “pecuniary compensation would not afford adequate relief.” Here, the court determined that pecuniary compensation would not provide adequate relief as the failure of the Sapienzas to construct their home in accordance with historic standards: (1) impaired the historical integrity of the McKennan Park historic district; (2) decreased the market value of the McDowells’ home; and (3) interfered with the McDowell’s use and enjoyment of their home. These “intangible harms” said the court, “are often not rectified by pecuniary compensation.”

Next, the court concluded that the circuit court had not abused its discretion in issuing the injunction. The court said this was because: (1) the Sapienzas caused the harm, which (2) was irreparable without the injunction because the undermining of the historic district could not be remedied by a payment of money to the McDowells; and (3) the Sapienzas’ acts “were not innocent mistakes,” as they chose to use a construction company unfamiliar with standards for historic districts, and submitted to the Board renderings that did not accurately reflect what they later built; and (4) the hardship to be suffered by the Sapienzas in modifying their newly-constructed home was not “disproportionate” to the benefit to be gained by the McDowells, whose privacy and use and enjoyment of their home was impacted by the Sapienzas’ home.

See also: *Vieux Carre Property Owners & Associates, Inc. v. City of New Orleans*, 246 La. 788, 167 So. 2d 367 (1964).

See also: *Faulkner v. Town of Chestertown*, 290 Md. 214, 428 A.2d 879 (1981).

See also: *A-S-P Associates v. City of Raleigh*, 298 N.C. 207, 258 S.E.2d 444 (1979).

See also: *Hoffman v. Bob Law, Inc.*, 2016 SD 94, 888 N.W.2d 569 (S.D. 2016).

Case Note:

The McDowells had also alleged that construction of the Sapienzas' home violated the City's chimney ordinance. The proximity of the Sapienzas' new home had caused the McDowells' home to fall out of compliance with the chimney ordinance's chimney height requirements (based on distance and height of adjacent structures), leaving the McDowells unable to use their fireplace. The circuit court agreed with the McDowells and ordered the Sapienzas to modify their home so that McDowells could use their fireplace. On appeal, however, the Supreme Court of South Dakota concluded that the chimney ordinance was a setback requirement, which regulated the height of chimneys on a structure and not the siting of structures on other properties. Although the Sapienzas' new home caused the McDowells' home to fall out of compliance with the chimney ordinance, the Sapienzas' home was not sited in violation of the chimney ordinance, found the court. As such, the court reversed the circuit court's contrary legal conclusion.

Case Note:

The Sapienzas had asserted defenses of laches and assumption of risk. However, both the circuit court and the appellate court rejected those defenses.

Case Note:

The McDowells had also sued the City for negligence. They had alleged that the City was negligent in issuing the building permit and permitting the Sapienzas to build a home that violated building regulations. The circuit court had agreed, concluding that the City owed a duty to the McDowells to properly enforce the historic-district regulation. But, the Supreme Court of North Dakota disagreed. It concluded that the duty to ensure compliance with permits—which allegedly was breached here—rested with the “individuals responsible for construction,” and not the local government. Moreover, the court found that the McDowells failed to establish the requirements for establishing a special duty owed by the City to the McDowells (i.e., that the City had actual knowledge that the Sapienzas' home would violate ARSD 24:52:07:04; that the McDowells relied on representations of the City to protect them; or that ARSD 24:52:07:04 set forth mandatory acts that the City undertook to protect the individual property owners in the historic district.) Thus, the court concluded that the circuit court erred in holding that the City owed a duty to the McDowells to ensure compliance with applicable building codes and regulations.

Jurisdiction/School District—Town says school district's electronic sign violates town zoning ordinances

School district contends that it is immune from town's zoning ordinances

Citation: *Ravena-Coeymans-Selkirk Central School District v. Town of Bethlehem*, 156 A.D.3d 179, 66 N.Y.S.3d 534 (3d Dep't 2017)

NEW YORK (11/30/17)—This case addressed the issue of whether a school district was immune from a town's zoning ordinances.

The Background/Facts: In January 2015, the Ravena-Coeymans-Selkirk Central School District (the "School District") asked the Town of Bethlehem (the "Town") whether any local law would prohibit the School District from replacing an existing traditional sign at one of its elementary school located in the Town with an electronic message board sign. The Town informed the School District that the Town's zoning laws expressly prohibited electronic signs in the Town. The School District then applied to the Town for a variance in order to install the electronic sign (which had already been donated to the school). The Town denied the School District's variance application. However, the School District, nevertheless, installed the electronic sign. Consequently, the Town informed the School District that it was in violation of various provisions of the Town's zoning laws, and ordered the School District to remove the sign. The School District responded that, as a public school, it was not subject to local zoning requirements. Still, "[a]s a precaution," the School District appealed the Town's variance denial to the Town's Zoning Board of Appeals (the "ZBA"). The ZBA also denied the variance request, citing, among other things, traffic safety concerns.

Following the ZBA's denial of its requested variance, the School District filed an action for declaratory judgment with the county Supreme Court. The School District asked the court to declare that, as a public school, the School District was immune and exempt from compliance with the Town's zoning laws as they apply to the use of real property for school purposes.

The Town and the ZBA counterclaimed. They asked the court for an order directing the School District to remove the sign.

The Supreme Court rejected the School District's immunity argument, dismissed the School District's action, and directed that the School District to remove the electronic sign.

The School District appealed.

DECISION: Judgment of Supreme Court affirmed as modified.

The Supreme Court, Appellate Division, Third Department, New York, held that the School District was not immune from the Town's zoning ordinances.

In so holding, the court acknowledged that schools do enjoy some immunity from zoning regulations. The court said this was the case where New York's Education Law explicitly requires Education Department oversight of local school boards, such as with: the selection of building sites and erection or demolition of buildings on those sites (see Education Law §§ 401, 407, 408); the sale or acquisition of property (see Education Law §§ 402-405); health or safety conditions within the school (see Education Law §§ 409-409-l); or any use of a school building (see Education Law § 414). However, the court explained that the immunity School Districts have from local zoning regulations is "not so broad and absolute as [the School District] contend[ed]." Where local zoning regulations do not encroach on a state agency's authority, they are authorized and applicable to School Districts, held the court.

Here, the court found that the Education Department did not require review of sign placement, and the School District had not requested any Education Department review of its electronic sign placement. Hence, the court concluded that there was "no duplication of review—nor the possibility of conflicting determinations—by state and local entities," and there was no "encroachment by the Town or the ZBA on a state agency's authority."

Having concluded that the School District was not immune from the Town's zoning ordinances, the court next looked at whether the ZBA had properly denied the School District's request for a variance. The court concluded that the ZBA had properly denied the variance given that: the Town and the ZBA had not refused the School District the opportunity to install any sign, but just an electronic message center sign, which was prohibited in the Town and which also failed to comply with at least three additional size and location requirements of the signage provisions of the Town's zoning ordinance; and the ZBA had "provided rational reasons for its determination, including a concern for traffic safety due to the sign's brightness and potential to be more distracting and hazardous to passing motorists than an ordinary sign."

See also: *Cornell University v. Bagnardi*, 68 N.Y.2d 583, 510 N.Y.S.2d 861, 503 N.E.2d 509, 37 Ed. Law Rep. 292 (1986).

Case Note:

The School District had argued that, alternatively, it was entitled to immunity from local zoning laws in light of the "'balancing of public interests' test." The court rejected that argument, stating that the balancing of public interests tests was generally applied in the case of competing localities and was "not necessary in relation to schools." Rather, with regard to schools, the court said that "the controlling consideration must always be the over-all impact on the public's welfare."

Case Note:

Because the county Supreme Court had not made a declaration, the appellate court modified the judgment by declaring that the School District had not shown itself to be immune and exempt from the Town's zoning law in these circumstances.

Case Note:

*In its decision, the appellate court pointed to a state Court of Appeals case, which had held that schools are not fully exempt from zoning rules, particularly where the educational use “may actually detract from the public’s health, safety, welfare or morals” (See *Cornell University v. Bagnardi*, 68 N.Y.2d 583, 510 N.Y.S.2d 861, 503 N.E.2d 509, 37 Ed. Law Rep. 292 (1986).) The School District had argued that the Court of Appeals’ holding applied to only private schools. But, the appellate court disagreed.*

Zoning News from Around the Nation

CALIFORNIA

A gun rights group has reportedly filed a petition with the United States Supreme Court, asking the court to consider a Ninth Circuit Court of Appeals decision, which upheld an Alameda County zoning ordinance that prohibited gun stores from being located within 500 feet of certain areas, including residential zoning districts. In the appeal, the gun rights group maintains that the county zoning law is a violation of Second Amendment rights. The Ninth Circuit had rejected that argument, noting that there were locations in the county where guns could be purchased, and finding there is no constitutional right to sell guns.

Source: *Fox News*; www.foxnews.com

PENNSYLVANIA

Millcreek Township has reportedly “agreed to pay a resident \$23,396 to settle a federal lawsuit challenging township political sign regulations.” The Township also had earlier settled a separate, similar case for \$15,000. The residents had challenged an ordinance that capped the number of temporary signs allowed on property, including political signs. Under the terms of the recent settlement, the township zoning ordinance will be amended to eliminate the cap on temporary signs.

Source: *GoErie.com*; www.goerie.com

MAINE

In June, Town of Kennebunk residents will vote on a proposed ban on all retail marijuana sales and operations in Town. The proposed zoning ordinance was approved by the Town’s Planning Board and Board of Selectmen. Last year, recreational marijuana became legal in Maine, and the state legislature is currently considering a proposal to extend a statewide ban on retail sales of marijuana until May 1 to give the state more time to craft regulations related to recreational marijuana. Previously, Governor Paul LePage vetoed a bill created by a bipartisan task force that would have addressed such regulation of recreational marijuana.

Source: *Bangor Daily News*; <https://bangordailynews.com>



Elko County Planning Commission

540 Court Street, Suite 104, Elko, Nevada 89801

Phone (775) 738-6816 Fax (775) 738-4581

www.elkocountynv.net

COMMISSIONERS

David Galyen

Dena M. Hartley

David Hough

Mike Judd

Jack Larason

Richard Genseal

Mark Wetmore

PLANNING SUPERVISOR

John Kingwell

GIS/CADD OPERATOR

Peggy Pierce-Fitzgerald

PUBLIC MEETING NOTICE

The Elko County Planning Commission, County of Elko, State of Nevada, will meet on Thursday, March 15, 2018, in the Nannini Administration Building, Suite 102, 540 Court Street, Elko, Nevada 89801 at 5:15 PM. Pacific Time Zone

Attached with this Notice is the Agenda for said meeting of the Board.

This Notice is posted pursuant to NRS 241 as amended by the 2017 Legislature and is to be posted at the following places no later than three full working days before the meeting:

ELKO COUNTY MANAGER'S OFFICE

ELKOCOUNTYCOURTHOUSE

ELKO COUNTYLIBRARY

ELKO CITY HALL

ELKO COUNTY WEBSITE: www.elkocountynv.net

ROBERT K. STOKES

Elko County Manager

WELCOME TO AN ELKO COUNTY BOARD OR COMMISSION MEETING!

We are pleased you are interested in a meeting of one of Elko County's Boards or Commissions. Below is some basic information about our meetings and procedures for you to participate in your government.

AGENDAS

The agenda is available on the Elko County website at www.elkocountynv.net. Hard copies are made available at the meeting, upon request at the County Manager's Office or posted as per NRS 241. Meetings are broadcast live from our website, under the Meetings tab on the home page of the website and then under Agendas, Videos, etc. You can also click the Watch Our Meetings tab on the right side of the home page. Videos of the meeting are available within 24 hours of the end of the meeting. Minutes, when finalized and approved by the Board/Commission, are also posted to that page.

PUBLIC COMMENT

The public's participation in our meetings is valued and appreciated. The Board/Commission can only take action on items that are listed on an agenda properly posted prior to the meeting. During Comments by the General Public, speakers may address matters not listed on the agenda. The Open Meeting Law does not expressly prohibit responses to public comment by the Commissioners, but no deliberation on a matter can be considered without notice to the public. Public comment will be called for on all agenda items marked For Possible Action.

If you are planning to speak during the meeting, please sign the sign-in-sheet at the back of the meeting room. This helps our recording clerk get the correct spelling of your name. When comments are called for, please approach the podium and state your name and who you represent.

If submitting comments or information on an agenda item, please submit to the County Manager's Office as soon as possible in order to provide opportunity for Board/Commission members to review and to avoid possible delays in a decision if not all information is presented previous to the start of a meeting. If information is presented at the meeting, you need to provide at least 10 copies, making sure to submit a copy to the recording secretary for the official public record. All information submitted becomes part of the public record and is added to the backup information for that agenda item on our website with 24 hours of the adjournment of the meeting.

Another avenue for making comments on agenda items, especially if you can't make a meeting, is called e-Comment. If you open the agenda under the process described above, you will find a link by the agenda called e-Comment. Click on the link and follow the directions to register to comment and you are set to comment on specific agenda items. Please note that the e-comment period for a specific agenda closes 24 hours before the start of the meeting to allow those comments to be transmitted to our Board/Commission members and recording staff. Those reports are also uploaded to our agenda on the website.

CONSENT AGENDA

Items listed under the Consent Agenda are considered to be routine in nature and are normally approved by one motion without extensive discussion. If a Board/Commission member wishes to comment or discuss a particular item, that item can be removed from the consent agenda and considered as a separate action during the meeting.



**ELKO COUNTY PLANNING COMMISSION
COUNTY OF ELKO, STATE OF NEVADA MEETING
THE NANNINI ADMINISTRATION BUILDING, SUITE 102,
540 COURT STREET, ELKO, NEVADA 89801.**

5:15 PM Pacific Time Zone

Thursday, March 15, 2018

IN ACCORDANCE WITH NRS 241, THE COMMISSION MAY: (I) CHANGE THE ORDER OF THE AGENDA, (II) COMBINE TWO OR MORE AGENDA ITEMS FOR CONSIDERATION, (III) REMOVE AN ITEM FROM THE AGENDA OR DELAY DISCUSSION RELATING TO AN ITEM ON THE AGENDA AT ANY TIME, (IV) AND IF THE AGENDA IS NOT COMPLETED, RECESS THE MEETING AND CONTINUE ON ANOTHER SPECIFIED DATE AND TIME. THE PUBLIC CAN COMMENT ON ANY AGENDA ITEM BY BEING ACKNOWLEDGED BY THE CHAIR WHILE THE COMMISSION CONSIDERS THAT AGENDA ITEM.

POSTING

This agenda is posted pursuant to NRS 241 as amended by the 2017 Legislature and was posted at the following locations no later than 9:00 a.m. (Pacific Time Zone), on March 12, 2018: ELKO COUNTY COMMUNITY DEVELOPMENT, ELKO COUNTY MANAGER'S OFFICE, ELKO COUNTY COURTHOUSE, ELKO COUNTY LIBRARY, ELKO CITY HALL, LAMOILLE POST OFFICE, ELKO COUNTY WEBSITE (www.elkocountynv.net), STATE OF NEVADA's PUBLIC NOTICE WEBSITE (<https://notice.nv.gov>).

REQUEST FOR AGENDA INFORMATION

The public may acquire this agenda and supporting materials, pursuant to NRS 241 by contacting John Kingwell at (775) 748-0214 or via email to jkingwell@elkocountynv.net or, Peggy Pierce Fitzgerald at (775) 748-0215 or via email to pfitzgerald@elkocountynv.net. Materials are available from the Elko County Planning and Zoning Office, Nannini Administration Building, located at 540 Court Street, Suite 104, Elko, Nevada 89801 or on the Elko County website at www.elkocountynv.net.

NOTICE OF THE APPEAL PROCESS

Anyone aggrieved by an action of this Planning Commission may appeal such decision to the Elko County Board of County Commissioners within 10 calendar days of said action. An appeal form may be obtained from the Division of Planning and Zoning located at 540 Court Street, Suite 104, in Elko. When completed, return the appeal form with the required \$250.00 filing fee to the Division of Planning and Zoning within the 10 calendar day period.

PROCEDURES

The public will be given the opportunity to comment on any agenda item by being acknowledged by the chair prior to action being taken by the Planning Commission.

Breaks and recess actions shall be called for at the pleasure of the Commission rather than by agenda schedule. Please place your cell phones on manner mode.

"FOR POSSIBLE ACTION" identifies an action item subject to a vote of the Commission.

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 Elko County Planning Commission in writing at 540 Court Street, Suite 104, Elko, Nevada 89801, email pfitzgerald@elkocountynv.net or jkingwell@elkocountynv.net or by calling (775) 738-6816.

A. CALL TO ORDER AT 5:15 P.M.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF MINUTES

C.1. Minutes of February 15, 2018

FOR POSSIBLE ACTION

[ECPC February 15.2018 Minutes Draft.pdf](#)

D. COMMENTS BY THE GENERAL PUBLIC

Pursuant to NRS 241 this time is devoted to comments by the general 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 to be an action item.
NON-ACTION

E. PRELIMINARY HEARINGS

E.1. Application No. 18-2000-0003, Koinonia Construction, INC.

A change of zoning request submitted by Koinonia Construction, INC. for a change in zoning from Open Space (OS) to Special Lands (SL) for the creation of four (4) 10-acre+/- parcels for residential use.

Location: A 40.571-acre parcel of land described as Adjusted Lot 9, Boundary Line Adjustment, File No. 592568 Locate in a Portion of Section 29, Township 34 North, Range 56 East, M.D.B.&M.

Owner: Koinonia Construction, INC.

FOR POSSIBLE ACTION

E.2. 18-2000-0004, Carl O. Peavey Family Trusts, Eva L. Peavey Trustee

A change of zoning request from Open Space (OS) to Agricultural Residential (AR) submitted by the Carl O. Peavey Family Trusts, Eva L. Peavey Trustee for the creation of a 2.0 acre parcel to be transferred to a family member for their residence.

Location: A Parcel of land located in Section 29, T.39 N., R.62 E., M.D.B.&M., Elko County, Nevada, being a portion of the SE1/4 SE1/4 of said Section 29.

Applicant / Owner: Carl O. Peavey Family Trusts, Eva L. Peavey Trustee
FOR POSSIBLE ACTION

F. OTHER BUSINESS

NON-ACTION

G. STAFF UPDATE AND COMMISSIONERS COMMENTS

This time is devoted to comments by Elko County Planning Commissioners and/or County Staff for general information or update purposes. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on a successive agenda and identified to be an action item.

NON-ACTION

H. COMMENTS BY THE GENERAL PUBLIC

Pursuant to NRS 241 this time is devoted to comments by the general 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 to be an action item.

NON-ACTION

I. ADJOURNMENT

E-COMMENT

POSTING CERTIFICATE

ELKO COUNTY IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER.