

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING AGENDA**  
**5:30 P.M., P.D.S.T., TUESDAY, JULY 6, 2021**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**  
**<https://global.gotomeeting.com/join/114164549>**

**NOTE: The order of the minutes reflects the order business was conducted.**

**CALL TO ORDER**

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

**ROLL CALL**

**Present:**     **Jeff Dalling**  
                  **Mercedes Mendive**  
                  **Tera Hooiman**  
                  **John Anderson**  
                  **Stefan Beck**  
                  **Gratton Miller**

**Excused:**     **Giovanni Puccinelli**

**City Staff Present:**   **Scott Wilkinson, Assistant City Manager**  
                              **Cathy Laughlin, City Planner**  
                              **Michele Rambo, Development Manager**  
                              **Bob Thibault, Civil Engineer**  
                              **Jamie Winrod, Fire Marshal**  
                              **Shelby Knopp, Planning Technician**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

**APPROVAL OF MINUTES**

June 1, 2021 – Regular Meeting **FOR POSSIBLE ACTION**

**\*\*\*Motion: Approve the June 1, 2021 minutes as presented.**

**Moved by Commissioner Tera Hooiman, Seconded by Commissioner Mercedes Mendive.**

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

## I. NEW BUSINESS

### A. PUBLIC HEARING

1. Review and consideration of Tentative Map 3-21, filed by Bailey and Associates, LLC for the development of a subdivision entitled Cedar Estates Phase 3 involving the proposed division of approximately 7.31 acres of property into 34 lots for residential development within the RMH (Residential Mobile Home) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

Subject property is located at the northern terminus of both Primrose Lane and Daisy Drive. (APN 001-926-111)

Sheldon Hetzel, Bailey & Associates, 780 W Silver Street, explained that this was the third phase of a project that they took over. They didn't do Phase 1, but they did Phase 2. It has taken awhile to get to the third and final phase, but they are here to present it. He thanked staff for their input and help. Housing has been a difficult issue with skyrocketing pricing, materials and labor costs. Bringing housing opportunities to the market has been a need. This would fill a segment of the market place that they hope will be helpful to the community. They will all be manufactured homes on permanent foundations, keeping with the surrounding neighborhood.

Dakota Hyde, 2202 Larkspur Street, said last time he came to this meeting he had a drawn together map. The way it was drawn showed a park behind his address. He wanted to see if that was still the case.

Michele Rambo, Development Manager, explained that there were no park spaces planned. That was part of an earlier plan with a different use type.

Mr. Hyde asked if he could get a copy of the map to answer any other questions he had. (Yes)

Michele Rambo, Development Manager, went over the City of Elko Staff Report dated June 7, 2021. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Cathy Laughlin, City Planner, had no other concerns or conditions besides what was included in the Staff Report.

Jamie Winrod, Fire Marshal, had no comments and recommended approval.

Scott Wilkinson, Assistant City Manager, recommended approval with a modification of standards for the referenced lots in the Staff Report. Additionally, he thought some riprap protection would be required for the storm drain outlet. There is quite a bit of erosion already and some additional flow will be added to the discharge point.

Mr. Hyde asked if there was a start date for the project.

Mr. Hetzel said it would depend on State approval, but he imagined it would be in the fall sometime.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Tentative Map No. 3-21 subject to the conditions found in the City of Elko Staff Report dated June 7, 2021, listed as follows:**

**Development Department:**

1. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.
2. Tentative Map approval constitutes authorization for the subdivider to proceed with preparation of the Final Map and associated construction plans.
3. The Tentative Map must be approved by the Nevada Department of Environmental Protection prior to submitting for Final Map approval by the City of Elko.
4. Construction plans must be approved by the Nevada Department of Environmental Protection prior to issuance of a grading permit.
5. Tentative Map approval does not constitute authorization to proceed with site improvements.
6. The applicant must submit an application for Final Map within a period of four (4) years in accordance with NRS.360(1)(a). Approval of the Tentative Map will automatically lapse at that time.
7. A soils report is required with Final Map submittal.
8. A hydrology report is required with Final Map submittal.
9. Final Map construction plans are to comply with Chapter 3-3 of City code.
10. The subdivision design and construction shall comply with Title 9, Chapter 8 of City code.
11. The Utility Department will issue an Intent to Serve letter upon approval of the Tentative Map by the City Council.
12. A modification from standards from 3-3-13(A) be approved by City Council for Lots 4, 5, 13, 14, 21, 22, 23, and 25 to allow for shorter-than-required front lots widths.
13. Any slopes greater than 3:1 shall be rip-rapped.

**Public Works Department:**

14. All public improvements to be installed at time of development per Elko city code. See memo from Community Development.

**Utilities Department:**

15. An isolation valve will need to be installed midway through the development per NAC 445A.6137 which requires that “other areas must be located in such a manner that portions of water mains can be isolated in lengths of 800 or less by the closure of valves”. The length of pipe around the loop is well over 1,000 feet. Please show this valve on the plans prior to City Council consideration

Commissioner Miller’s findings to support the recommendation were that the proposed subdivision and development is in conformance with both the Land Use and Transportation Components of the Master Plan as previously discussed in this report. The proposed subdivision and development does not conflict with the Airport Master Plan, the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012; the Wellhead Protection Program; or applicable sections of the Elko City Code. The proposed subdivision complies with Section 3-3-5(E)(2)(a)-(k) as discussed in this report and as required by Section 278.349(3) of the Nevada Revised Statutes. The proposed subdivision complies with all other relevant sections of City Code with the exception of: a. Lots 4, 5, 13, 14, 21, 22, 23 and 25 are located on curved portions of the streets and have short front lot widths. A modification of standards is required to make these lots conform. The property is not located within the Redevelopment Area. Therefore, there is no conflict with the Redevelopment Plan.

Moved by Commissioner Gratton Miller, Seconded by Commissioner Stefan Beck.

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

2. Review, consideration, and possible action on Conditional Use Permit No. 2-21, filed by Catherine Wines on behalf of Elko County and Great Basin Child Advocacy Center, which would allow for a new principal permitted use within the PQP, Public, Quasi Public zoning district, and matters related thereto. **FOR POSSIBLE ACTION**

Any new use within the PQP, Public-Quasi, Public zoning district requires a Conditional Use Permit.

Ms. Laughlin went over the City of Elko Staff Report dated June 9, 2021. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Ms. Rambo had no other comments or conditions.

Ms. Winrod had no comments.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: Conditionally approve Conditional Use Permit No. 2-21 subject to the conditions in the City of Elko Staff Report dated June 9, 2021, listed as follows:**

1. The permit is granted to the applicant Elko County/ Great Basin Child Advocacy

Center.

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. Approval of Vacation 1-21, vacating 7' of Golf Course Road right-of-way for the development of public improvements aligned with other improvements to the northwest.
4. CUP 2-21 to be recorded with the Elko County Recorder within 90 days after the commencement of the construction of the new building

Commissioner Beck's findings to support the recommendation were that the proposed development is in conformance with the Land Use Component of the Master Plan. The proposed conditional use permit meets Objectives 3 & 8 of the Land Use Component of the Master Plan. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan. The site is suitable for the proposed use. The proposed development is in conformance with the 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. 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 parcel is not located within a designated Special Flood Hazard Area. With the approval of Variance 2-21, the property is in conformance with Elko City Code 3-2-17. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-18, and 3-8 of the Elko City Code.

Moved by Commissioner Stefan Beck, Seconded by Commissioner Gratton Miller.

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

## **B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**

2. Review, consideration, and possible recommendation to City Council for Vacation No. 1-21, filed by The City of Elko on behalf of Elko County, for the vacation of the southwesterly portion of Golf Course Road, consisting of an area approximately 1,842 sq. ft., and matters related thereto. **FOR POSSIBLE ACTION**

In discussion with the proposed Great Basin Child Advocacy Center, staff requested that the new curb, gutter and sidewalk line up with existing infrastructure at the

intersection of Cedar St. and Golf Course Rd. This vacation will align the Right-of-Way from College Ave. to Cedar Street where it currently is not aligned. City Council accepted the petition for the vacation on June 22, 2021.

Ms. Laughlin went over the City of Elko Staff Report dated June 2021. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Ms. Rambo had no further comments or conditions.

Chairman Dalling asked if Mr. Thibault had anything on this item.

Ms. Laughlin stated that the only thing he had was the easement that was discussed in the Staff Report.

Ms. Winrod had no comments.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No. 1-21 subject to the conditions listed in the City of Elko Staff Report dated June 23, 2021, listed as follows:**

- 1. Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**
- 2. Record a public utility and drainage easement over the area being vacated.**

**Commissioner Miller's findings to support the recommendation were that the proposed vacation is in conformance with the City of Elko Master Plan Land Use Component. The proposed vacation is in conformance with the City of Elko Master Plan Transportation Component. The property proposed for vacation is not located within the Redevelopment Area. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation with the recommended conditions is in conformance with Elko City Code 8-7. The proposed vacation will not materially injure the public and is in the best interest of the City.**

**Moved by Commissioner Gratton Miller, Seconded by Commissioner Mercedes Mendive.**

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

1. Review, consideration and possible approval of Final Map No. 4-21, filed by Legion Construction and Development, LLC, for the development of a subdivision entitled Jarbidge Estates involving the proposed division of approximately 2.16 acres of property into 18 lots for townhouse development and 1 common lot within the R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

Subject property is located on the east side of N 5<sup>th</sup> Street approximately 450 feet north of Dakota Drive. (APN 001-610-093)

Mike Shanks, Shanks Enterprises, 982 Wolf Creek Drive, said that this was a nice project, and they thought it would be a good fit for the City. It is pretty straightforward. He looked through the recommendations and conditions for approval and he had no issues with those.

Ms. Rambo went over the City of Elko Staff Report dated June 10, 2021. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Ms. Laughlin had no other concerns or conditions. She also added that Engineering's comments and concerns were addressed in the Staff Report.

Ms. Winrod had no comments.

Mr. Wilkinson recommended approval as presented by staff.

Commissioner Mercedes Mendive asked what the motivation was behind having an association for the properties. She mentioned that she wasn't a fan of associations and thought they could be really complicated. She asked what the association would cover.

Mr. Shanks explained that the association was being created because there are some common areas. There is shared access, so the HOA will have to maintain and keep up with the streets, which are not being dedicated to the City. You need some avenue for everyone that owns common stuff to be able to take care of it.

**\*\*\*Motion: Forward a recommendation to the City Council to accept, on behalf of the public, the parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication; that the final map substantially complies with the tentative map; that the City Council approve the agreement to install improvements in accordance with the approved construction plans that satisfies the requirements of Title 2, Chapter 3, and conditionally approve Final Map 4-21 with conditions listed in the Staff Report dated June 10, 2021, listed as follows:**

**Development Department:**

- 1. The Developer shall execute a Performance and Maintenance Agreement in accordance with Section 3-3-21 of City code. The Performance Agreement shall be secured in accordance with Section 3-3-22 of City code. In conformance with Section 3-3-21 of City code, the public improvements shall be completed within a time of no later than two (2) years of the date of Final Map approval by the City Council unless extended as stipulated in City code.**
- 2. The Performance and Maintenance Agreement shall be approved by the City Council.**
- 3. The Developer shall enter into the Performance and Maintenance Agreement within 30 days of approval of the Final Map by the City Council.**

4. The Final Map for Jarbidge Estates is approved for 18 townhouse lots and 1 common lot.
5. The Utility Department will issue a Will Serve Letter for the subdivision upon approval of the Final Map by the City Council.
6. Site disturbance shall not commence prior to approval of the project's construction plans by the Nevada Department of Environmental Protection.
7. Site disturbance, including clearing and grubbing, shall not commence prior to the issuance of a grading permit by the City of Elko.
8. Construction shall not commence prior to Final Map approval by the City Council and issuance of a will-serve letter by the City of Elko.
9. Conformance with the conditions of approval of the Tentative Map is required.
10. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition of the Standard Specifications for Public Works. The Engineer of Record is to certify that the project was completed in conformance with the approved plans and specifications.
11. All slopes greater than 3:1 shall be permanently stabilized prior to acceptance of any public improvements by the City Council.

**Engineering Department:**

12. Remove the City of Elko from the utility company certificate prior to City Council consideration.
13. The area for Lot 19, the common lot, is different on the map from the closure calculations. Please revise prior to City Council consideration.
14. Label lot areas to the nearest whole square foot prior to City Council consideration.
15. A monument of some sort is required at all lot corners. Please label prior to City Council consideration.

**Planning Department:**

16. Add parcel number to the existing easement label on the far right of the map prior to City Council consideration.

**Public Works Department:**

17. All public improvements to be constructed per City of Elko code at time of development.



**Commissioner Beck's findings to support the recommendation were that the Final Map for Jarbidge Estates has been presented before expiration of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City Code. The Final Map is in conformance with the Tentative Map. The proposed subdivision is in conformance with the Land Use and Transportation Components of the Master Plan. The proposed development conforms with Sections 3-3-9 through 3-3-16 (inclusive). The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-17 of City Code. The Subdivider has submitted construction plans in conformance with Section 3-3-18 of City Code. The Subdivider has submitted plans to the City and State agencies for review to receive all required permits in accordance with the requirements of Section 3-3-19 of City Code. The Subdivider has submitted construction plans which, having been found to be in conformance with Section 3-3-20 of City Code, have been approved by City Staff. The Subdivider will be required to enter into a Performance Agreement to conform to Section 3-3-21 of City Code. The Subdivider will be required to provide a Performance and Maintenance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-22 of City Code. The proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(E), 3-2-17, and 3-8 of City Code.**

**Moved by Stefan Beck, Seconded by Tera Hooiman.**

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

3. Review, consideration, and possible recommendation to City Council for Vacation No. 2-21, filed by The City of Elko on behalf of Nevada Health Centers, for the vacation of the southwesterly portion of Golf Course Road, consisting of an area approximately 210 sq. ft., and matters related thereto. **FOR POSSIBLE ACTION**

In discussion with the proposed Great Basin Child Advocacy Center, staff requested that the new curb, gutter and sidewalk line up with existing infrastructure at the intersection of Cedar St. and Golf Course Rd. This vacation will align the Right-of-Way from College Ave. to Cedar Street where it currently is not aligned. City Council accepted the petition for the vacation on June 22, 2021.

Ms. Laughlin went over the City of Elko Staff Report dated June 23, 2021. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Ms. Rambo had no further comments or conditions.

Ms. Laughlin mentioned that Mr. Thibault had already prepared the exhibits for the easement that was required in the conditions.

Ms. Winrod had no further comments.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No. 2-21 subject to the conditions listed in the City of Elko Staff Report dated June 23, 2021, listed as follows:**

1. **Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**
2. **Record a public utility and drainage easement over the area being vacated.**

**Commissioner Miller's findings to support the recommendation were the proposed vacation is in conformance with the City of Elko Master Plan Land Use Component. The proposed vacation is in conformance with the City of Elko Master Plan Transportation Component. The property proposed for vacation is not located within the Redevelopment Area. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation with the recommended conditions is in conformance with Elko City Code 8-7. The proposed vacation will not materially injure the public and is in the best interest of the City.**

**Moved by Gratton Miller, Seconded by Stefan Beck.**

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

4. Review, consideration, and possible recommendation to City Council for Vacation No. 3-21, filed by the City of Elko, for the vacation of a portion of 15<sup>th</sup> Street consisting of approximately 13,600 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

Staff has determined that keeping the small amount of right-of-way on 15<sup>th</sup> Street is not in the best interest of the City due to the cost of constructing and maintaining a road that goes nowhere. Half of the street right-of-way (6,800 square feet) will be given back to each of the adjacent property owners (Flyers Energy Inc. and The Igloo, LLC). This agenda item is related to the portion being returned to The Igloo, LLC. City Council accepted the petition for the vacation on June 22, 2021.

Ms. Rambo went over the City of Elko Staff Report dated June 17, 2021. Staff recommended conditional approval with the findings and condition listed in the Staff Report.

Ms. Laughlin mentioned the only additional condition that she would add would be that once the Vacation is completed, that the property owners grant an easement over existing public utilities within the area.

Ms. Rambo explained that the easement was ready to go to City Council. It will be granted as part of the process.

Ms. Winrod had no comments.

Mr. Wilkinson had no comments.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No. 3-21 subject to the conditions listed in the City of Elko Staff Report dated June 17, 2021, listed as follows:**

1. **Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**

**Commissioner Mendive's findings to support the recommendation were that the proposed vacation is in conformance with the City of Elko Master Plan Land Use Component. The proposed vacation is in conformance with the City of Elko Master Plan Transportation Component. The property proposed for vacation is located within the Redevelopment Area. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation with the recommended conditions is in conformance with Elko City Code 8-7. The proposed vacation will not materially injure the public and is in the best interest of the City.**

**Moved by Commissioner Mercedes Mendive, Seconded by Commissioner Tera Hooiman**

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

5. Review, consideration, and possible recommendation to City Council for Vacation No. 4-21, filed by the City of Elko, for the vacation of a portion of 15<sup>th</sup> Street consisting of approximately 13,600 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

Staff has determined that keeping the small amount of right-of-way on 15<sup>th</sup> Street is not in the best interest of the City due to the cost of constructing and maintaining a road that goes nowhere. Half of the street right-of-way (6,800 square feet) will be given back to each of the adjacent property owners (Flyers Energy Inc. and The Igloo, LLC). This agenda item is related to the portion being returned to Flyers Energy, Inc. City Council accepted the petition for the vacation on June 22, 2021.

Ms. Rambo went over the City of Elko Staff Report dated June 17, 2021. Staff Recommended conditional approval with the findings and conditions listed in the Staff Report.

Ms. Laughlin had no further conditions or comments.

Ms. Winrod had no further comments.

Mr. Wilkinson had no comments.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No. 4-21 subject to the conditions listed in the City of Elko Staff Report dated June 17, 2021, listed as follows:**

1. **Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**

**Commissioner Beck's findings to support the recommendation were that the proposed vacation is in conformance with the City of Elko Master Plan Land Use Component. The proposed vacation is in conformance with the City of Elko Master Plan Transportation Component. The property proposed for vacation is located within the Redevelopment Area. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation with the recommended conditions is in conformance with Elko City Code 8-7. The proposed vacation will not materially injure the public and is in the best interest of the City.**

**Moved by Commissioner Stefan Beck, Seconded by Commissioner Mercedes Mendive.**

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

#### **A. PUBLIC HEARING (Cont.)**

4. Review, consideration and possible action of Variance No 4-21, filed by Modern Land Development, LLC, for a reduction of the required lot width from 60' to 33.33' for proposed Parcels 2 and 3 and from 60' to 33.30' for proposed Parcel 1; a reduction in the required lot depth for proposed Parcel 1 from 100 feet to 99.96 feet; and a reduction of the required lot area for proposed Parcel 1 from 6,000 square feet to 3,339 square feet, proposed Parcel 2 from 6,000 square feet to 3,362 square feet, and proposed Parcel 3 from 6,000 square feet to 3,382 square feet in an R (Single-Family and Multiple-Family Residential) Zoning District and matters related thereto.  
**FOR POSSIBLE ACTION**

The applicant is requesting a variance for a proposed division of one lot into three lots which will not be in conformance with lot width, depth and lot area.

Mike Shanks, Modern Land Development, 982 Wolf Creek Drive, explained that this was an interesting request. He mentioned he had read the Staff Report, that staff had recommend denial, and he understood why. Mr. Shanks wanted to give the Commission a history on the property and explain why this was in front of them. He said he had an associate that owned this property. It was a three-plex with a driveway on Lamoille Highway and two driveways on Southside Drive. It burnt down. After it burnt down it was owned in a Trust that had some interesting regulations that made it complicated for the owner to reconstruct the three-plex. The owner asked Mr. Shanks to help out, which is why Modern Land Development owns the property. They are trying to help him develop it, and then it will go back to Matt Anderson. Mr. Anderson was the owner when the building burnt down, and he will be the owner when they are done. That reflects back to what they consider the hardship. Mr. Shanks said he understood that financial was not supposed to be hardship, but he said it seemed that all hardships were related to financial someway or another. The reason that they took a swing at doing this was because Mr. Anderson wanted to see if they could get individual APNs on the lots to make it easier to reconstruct. This was an old three-plex and when a property like this burns down it is hard to replace that. There was a revenue generating three-plex that burns down, and now there is a piece of property to

clean up and try to do something with to generate the lost revenue. It was a lot simpler to try to get three APNs. It's too small to do townhomes. The only thing that they could think to do was to see if they could get a variance for the lot widths and try to do three individual lots. They thought that this could be a win/win for the City, for the community, and for the owner, which was why they were bringing in front of the Planning Commission. Six distinct things need to be proven to get the variance. Mr. Shanks said that he had read them. One of them is that the project conforms to the Master Plan. In meeting with Ms. Laughlin, she stated that it met the Master Plan and that a part of the Master Plan is to introduce a diversity of housing in different costs and abilities. Right now that seemed like something that is much needed in the community, some low-income housing. These would be smaller lots, and much cheaper than the average house on the market. Mr. Shanks thought this would be something that would benefit the community, something that is in high demand, and easier to finance and construct with the three APNs. He explained that the project wouldn't change the resources. There were three water connections and it would be about the same. Where they run into a challenge, and a hardship, is the uniqueness of the property. He mentioned that staff didn't qualify this as a hardship, which he understood. What they would like the Planning Commission to look at was one, this was a hardship, there was a fire, and to reconstruct the property they wouldn't be able to put the driveway back onto Lamoille Highway. They will lose that driveway, and they thought that was a hardship in itself. He said that they were trying to give the Commission an excuse to approve this variance, because they thought it would benefit everybody. It would benefit the City because it would generate higher taxes. It would benefit the neighborhood, because the neighborhood is predominately single-family dwelling with a duplex here and there, and then there is a commercial property close to it. There is no multi-family right there, so they would be better served by individual ownership than they would by a four-plex, or three-plex. Mr. Shanks said that the Planning Commission could look at this as a hardship due to the loss of the Lamoille Highway access, as well as having the structure burn down. The uniqueness that the Planning Commission could use to justify this was that the lot has double frontage, which also poses some difficulties. He hoped the Commission would look at this and see it as a win/win. Mr. Shanks also added that he didn't think this would set a precedence for people to come in and ignore the Code.

Chairman Dalling read into the record an email from Jim Moore that read as follows:

*Good Morning! I'm writing concerning variance no. 4-21, the proposal by Modern Construction for a reduction of the required lot size on parcels 1, 2, and 3 in APN 001-502-008 at 1342 Southside Dr., Elko. I think that the reduction in required square feet for single-family and multiple family residential zoning on this parcel is a bad plan. I don't believe that the smaller lots will have enough parking on the street for the vehicles, and current residents of the street already use that section of the street for parking. I also believe that the addition of 2-3 residences on this lot will result in too much traffic on this street for children to play and ride bikes and skateboards in the street, as they do now. This is a quiet street with single-family homes on the currently permitted lot size. The addition of reduced-sized lots does not fit with the neighborhood. I have lived across the street from the property being considered for 3 years and feel I know the conditions there well. Part of what drew me to the house I now own is the quality of the neighborhood and residences there. I believe that the reduction of the lot sizes on the property will negatively affect the homes and neighborhood. Thank you for consideration of my interest in the neighborhood as you review the proposal from Modern Construction.*  
**Jim Moore, 1349 Southside Dr., Elko. (Included as Exhibit A)**

Ms. Laughlin went over the City of Elko Staff Report dated June 23, 2021. Staff recommended denial with the findings listed in the Staff Report. Ms. Laughlin read into the record the findings that were listed in the Staff Report.

Ms. Rambo explained that she wrote a detailed memo separate from Ms. Laughlin's Staff Report, and it was included in the packet. She wanted to reiterate that a variance was not the appropriate tool, in this case, for creating smaller lots. There are court cases that have set precedent that have said it is actually illegal to use a variance to create a non-conforming lot. We need to be careful, in this instance, that we don't cross a line that we can't take back.

Ms. Laughlin mentioned that the Engineering Department didn't have any other conditions or concerns and he recommended denial.

Ms. Winrod had no further comments.

Mr. Wilkinson recommended denial of the application. There is no demonstrated hardship and granting of the variance will impair the intent of the City Code. There has been some discussion, and the City Planner went over it, about utilizing a variance process to justify a variance, as meeting the objectives of the Master Plan does not appear to be appropriate. There was also some discussion on a hardship of losing access to Lamoille Highway. Mr. Wilkinson didn't feel that was an issue. You can see by the plan that there is plenty of access to Southside Drive, so that doesn't factor into the hardship consideration. These lots are around 33'. To put that into perspective, the City allows lots that are 5,000 square feet in the older portions of the community, which is less than 6,000, which is typical for new development. There is a reason the City does that; it is because the way the lots were platted. Even with that, the City doesn't allow lots to be created below 5,000 square feet, which would have 50-foot frontages. This seems to be a stretch to ask the Planning Commission to consider this variance. Mr. Wilkinson recommended denial of the variance.

Commissioner Stefan Beck asked why the developer decided to do three separate small structures, instead of recreating the tri-plex.

Mr. Shanks explained that it was mostly a cost issue. It is hard to finance. One structure is harder to sell with a much tougher market. It is a much easier way to finance three individual lots. Matt Anderson hasn't been able to develop the property for five years. It has been a challenge to try to make this work. They thought this was a way to go. They met with City Staff and thought there was a chance that the Planning Commission might consider this. They are trying to do something that is going to put a structure back on that lot that they can market, sell, and get some revenue. They also looked at doing a three plex like a condominium, but to do that they would have to go through the subdivision process. This type of setup exists; they just couldn't make it work under the Code.

Chairman Dalling said he agreed with Mr. Wilkinson on the hardship of losing access to Lamoille Highway. It's the only lot between Southside Drive and 9<sup>th</sup> Street that has access to Lamoille Highway.

Mr. Shanks said he saw that it was a stretch to call that a hardship. He explained that what he was throwing out to the Planning Commission was that it was a unique situation. He understood staff's concerns with setting a precedence. He didn't know anything about the illegality of it. He was throwing out something that was unique with the lot, so that you can say this is why they were able to do this. There are not too many lots in town with double frontages that get them taken away after a fire.

Commissioner Miller asked if Mr. Shanks had investigated in doing just two lots.

Mr. Shanks said he didn't, but Mr. Anderson might have.

Commissioner Miller said with what Mr. Wilkinson said, there are properties that are 5,000 square feet. That would more logical than 33'.

Mr. Wilkinson clarified that those lots were restricted to some of the earlier platted areas of the community. He wasn't sure if that would meet the standard to grant a variance.

Mr. Shanks said he appreciated the Planning Commission's time and he hope he hadn't wasted it. He could see that the Commissioner's wanted to try to help. He said whether the application was approved or not he appreciated all the efforts.

Mr. Thibault added that the Engineering Department recommended denial of this application. He said he felt for the applicant and understood the experience of loss from the fire. The insurance payout should have already compensated for the financial loss. The driveway on Lamoille Highway should have never been allowed in the first place, and was a safety hazard. There are many ways in which this parcel could be developed within the City Code, probably even including a tri-plex if more thought was put toward the design. The applicant mentioned that a tri-plex was hard to finance, which may be the case, but financial concerns can't be considered here. Where we're at today is there was an empty lot, a structure was built, a fire burned it down, hopefully an insurance payout made it whole, and we are right back to an empty lot. We should just consider this as an empty lot, and the owner wants to develop it. What we are being asked to approve is development of an empty lot. He recommended denial.

**\*\*\*Motion: Deny Variance No. 4-21.**

**Commissioner Hooiman's findings to support the motion were that the proposed variance is in conformance with the Land Use Component of the Master Plan. 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 the City of Elko Wellhead Protection Plan. The property, as proposed with the parcel map division into three parcels, does not conform to Section 3-2-4 of City Code. The property, as proposed with the parcel map division for three principal permitted uses of a single family residence, is not in conformance with Elko City Code 3-2-5(G) without the approval of a variance from the reduction of lot width, depth and lot area. In accordance with Section 3-2-22, the applicant has not demonstrated any special circumstances or features regarding the parcel. In accordance with Section 3-2-22, the applicant has not demonstrated that there is a hardship. Granting of the variance may or may not result in material damage or prejudice**

**to other properties in the vicinity. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance. Single Family is listed as a principal use in the underlying zone, but the zoning ordinance lists minimum lot size and area. Granting of the variance will not impair natural resources. The parcel is not located within a designated Special Flood Hazard Area.**

**Moved by Commissioner Tera Hooiman, Seconded by Commissioner Gratton Miller.**

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

3. Review, consideration and possible action of Variance No 3-21, filed by DAG LLC on behalf of Sonora LLC, for an increase in the number of allowed freestanding signs per street frontage and increase maximum area of a freestanding sign, and matters related thereto. **FOR POSSIBLE ACTION**

The applicant is requesting a variance for more than one freestanding sign per street frontage and for an increase in the area of the allowed signage.

Gorge Robles, PO Box 505, Elko, Nevada and Adrian Gonzalez, at the same address, together presented a PowerPoint, included as **Exhibit B**.

Kathy Algerio, 2075 Griswold Drive #1-C, said she has been a resident of this town since 1976. She has seen growth and everything that has happened. She also owned a business across the street from this lot. The unique idea the applicants brought to her, she thought it was stupendous. There is no way to put a building on the lot, because it is very small. The existing wall is being replaced. The present owner of the lot, Jan Pescio, who is selling the lot to the applicants, has made a deal and there will no longer be an encroachment. The applicants will be constructing a new wall in a safe manner. Ms. Algerio further thought the applicants' ideas about putting up "America First" were wonderful. This is a very patriotic community. She thought a new advertising venue would be a great replacement for an unseemly lot that is existing today on one of the busiest intersections in town.

Lina Blohm, 495 Idaho Street, said she was very thankful to be here at the request of the applicants, whom she was so proud that they had the confidence to finally see the potential of downtown, and particularly this small lot. She has been looking at a chain link fence for years. She asked what the chain link fence told those who were new to the community, or just driving through. Certainly not that this is a loving, caring, open, and friendly community that is a good place to settle. She said she was coming from an emotional standpoint, even though she owns the business right across the street. She could see the potential of owning a business in the downtown. She was asking the Commission to consider having activity in the heart of downtown, and working out the details later. She thought it would be a positive, bright, colorful, and inviting environment for everyone, and not a chain link fence.

Catherine Wines, 421 Railroad Street, said she appreciated that something was going to happen on the lot. She stated that she was also on the Redevelopment Advisory Board and the Arts and Culture Advisory Board. There is a mural on the wall of Lipparelli's building that was just put up 2 years ago. Certainly, they knew when they put it there that something could be built on this lot, but it hasn't been there for long. She asked if there was any way to work around the mural. When



she first saw the idea, she didn't realize that they would be building a new wall. She thought they would be going on to the existing wall.

Ms. Laughlin went over the City of Elko Staff Report dated June 24, 2021. Staff recommended denial with the findings listed in the Staff Report.

Ms. Rambo explained that she wrote separate memo that went into a detailed analysis of the variance with the findings. Six findings have to be met. If even one of those cannot be met, the variance cannot be approved. Ms. Laughlin covered most of what Ms. Rambo had in her memo. She did want to point out a couple things. She looked at the surrounding lot sizes for that block, and this lot is larger on average than most of the other lots on that block. It is developable in some fashion, and it is possible to put a building there. Ms. Rambo pointed out that she found an article that says, "Driver inattention and distraction are the biggest risks to traffic safety worldwide. In addition there is an emerging trend in the literature suggesting that roadside advertising can increase crash risk, particularly for those signs that have a capacity to frequently change." Based on the findings there are no hardships. Ms. Rambo also recommended denial. Chairman Dalling asked Ms. Rambo if all six of the requirements have to be met for a variance, and if only one of six were being met with this application.

Ms. Rambo said based on her analysis only one was being met.

Chairman Dalling asked for the code all six had to be met. (Yes)

Mr. Thibault recommended denial.

Ms. Winrod had no comments.

Ms. Laughlin said she had a few more comments. Let's say that the applicants came to the City and just proposed the restaurant, one freestanding sign for Idaho Street and 5<sup>th</sup> Street advertising the restaurant, and one wall sign that was an off-premise sign. The only approval that they would have to get would be NDOT approval for the off-premise sign. The freestanding signs, as long as they are advertising the business that is on the property and they meet the area requirements, could be approved today with a Building Permit and would be not required a variance. As stated in the email from NDOT, because this intersection is a part of the highway systems, an off premise sign would need approval by NDOT.

Commissioner Tera Hooiman asked if they could do one sign on one wall and keep the mural, and have one additional sign for advertising of the business on the property.

Ms. Laughlin clarified that they could have one off premise sign, as long as NDOT approved it, and it be a wall sign. They would also be allowed one freestanding sign for advertising of the business that is on the property.

Mr. Wilkinson recommended denial as presented by staff. He wanted to emphasize that variances were not the tool to be utilized to try to achieve objective in the Master Plan. He thought there had been some discussion about businesses located on that lot over a period of 60 years. He thought that indicated there were no special circumstances associated with the lot that said that it couldn't support some type of development or business at that location.

Commissioner Hooiman stated that she had a question for the applicants. She asked if they had approached other businesses in the downtown area as to selling advertising space in their kiosks. She asked what their reactions were.

Mr. Robles said they had not, because they can't go to them without telling them the price. The price is dependent upon how many spaces they have. They don't have the numbers yet.

Commissioner Hooiman assumed they wanted to sell advertising to offset the costs of the eatery and the development of the lot. She saw that they had downtown support, because they had downtown business people present. She said it would be important to her to have support in the development from business that they would be approaching for the advertising dollars.

Mr. Robles said they were going to reach out to local businesses. They would reach out to everyone in town. He thought it would be a great benefit for everyone to be involved in this. It's going to put a lot of pressure because they don't pass code. Staff has mentioned that they have to meet all the criteria. He asked when the last time the code was written. The technology has changed. Putting a business there would be beneficial for the downtown corridor, but at the end of the day the town is growing on the east and west side, but nothing is going on in the downtown area. That was why he felt like they had a niche at this location.

Commissioner Gratton Miller asked if they had approached NDOT yet.

Mr. Robles said no, because they were under the impression that this was under complete City jurisdiction. They would be more than happy to reach out to NDOT. This was their first step.

Chairman Dalling asked how long it would take NDOT to review the project.

Commissioner Miller said NDOT permits things monthly.

Chairman Dalling thought the applicants had a great idea that was innovative. He said they wanted to advertise for the East End Mall and everyone else. Ms. Laughlin had mentioned that they wouldn't really be advertising for the downtown, but Chairman Dalling understood that they had to get their advertising dollars where they could get them.

Mr. Robles said that the downtown had so many businesses and that they want to focus on the downtown. They want to focus on the wine walks, the bar association, and everyone that is in the downtown corridor. That is why they are not making a brick and mortar building. They are making an open-air design so that as people wait for their food they can visit the surrounding businesses. As soon as people start talking about the lot, because everyone passes through there, word is going to get around and people are going to ask them about advertising space.

Chairman Dalling asked what they would be selling in the restaurant.

Mr. Gonzalez said they wanted to focus on the night crowd, so it would be street food.

Chairman Dalling said he liked that idea. He thought it would be well used, especially late at night.

Commissioner Mercedes Mendive thought it was a brilliant idea. One of the things they wanted to focus on was the night crowd, and she thought that was great. The only thing she would be concerned about, not for the development, but there are people that don't even respect the boots. One of her biggest concerns for their advertisements would be people causing some type of vandalism to the signs. Commissioner Mendive thought that would be something to think about going forward. She added that there never seemed to be enough places to sit and eat food. She suggested that they consider having a place for the patrons of the restaurant to sit down and be social. She said that was something there wasn't enough of in Elko.

Commissioner Miller said he would have to disagree. He didn't think the advertising would do well there, especially if they would be going for every business in town. He also thought they would be in direct competition with the Chamber Commerce by doing that.

Mr. Robles said that they could advertise with them.

Commissioner Miller said he understood that. He added that the Chamber of Commerce, by definition, is to advertise for the businesses in Elko. That would put the applicants in direct competition with the Chamber.

Mr. Robles said if they were advertising the Maverik or Stockmen's, and they are also with the Chamber of Commerce, they would just be providing the signage. The only direct competition they would have is the three billboard companies. They have exorbitant prices, because they have the markets cornered. Mr. Robles explained that they would be taking business from the big billboard companies and keeping the money in town. He said that the downtown businesses would be their priority, but there was no reason why they couldn't work with the Chamber and be a Co-op.

Commissioner Stefan Beck thought it was a great idea. He explained that they previously denied a single housing in favor of having a tri-plex because he appreciated the City having rules and regulations. He mentioned that Mr. Wilkinson said that a variance wasn't a tool to change the Master Plan. Commissioner Beck said that he agreed with rules and regulations, but this was a great idea. He said his question was if this wasn't the right path if there was a different approach that would work better. As far as distractions, Commissioner Beck said his biggest concern would be people driving down Idaho Street and not looking at the signs because they were too busy looking at their cell phones. There are so many distractions in the world; he didn't think that would be a good reason. He mentioned that there was all sorts of advertising in Downtown Reno and Las Vegas about what is going on in town. He thought there was a lack of focused advertising.

Commissioner John Anderson asked who owned the murals.

Chairman Dalling explained that Matt Lipparelli owned the mural that was on the side of his building.

Commissioner Anderson asked if the applicant bought that lot if they could destroy the mural.

Ms. Laughlin explained that they would have their property rights if they bought the lot. They can construct what they want on the lot. The mural belongs to Matt Lipparelli.

Commissioner Anderson said he was curious on how this would fit when they brought in more artists to do more murals, if they see that one had already been destroyed. He said it was a big step forward, having the artists here.

Chairman Dalling said if the applicants built a new wall in front of Mr. Lipparelli's wall and it would cover up the mural. He added that Ty Trouten, Police Chief, wrote the letter that was included in the packet about the distraction. It says this is the 2<sup>nd</sup> highest traffic intersection in Elko. On 12<sup>th</sup> Street, they built that little bank on a lot that is a similar size. Chairman Dalling said that the fact that it was a high traffic intersection and there were a lot of advertisements to look at was a concern, especially if the Police Chief wrote a letter. Mr. Wilkinson brought up a good point, in which Chairman Dalling agreed, that getting a variance wasn't the proper way to skirt the code on this. He thought that they had a great idea, but he felt like it wasn't developed enough. He felt there was more work they could have put in to meet more than one of the six requirements to be granted a variance.

Commissioner Beck asked the applicants if they were denied if they would come back and try another approach.

Mr. Robles said they would go through City Council, meet with staff again and tell them that the lot is an unusual size and that there would be a hardship for them if they try to develop anything. He thought if they built a brick and mortar building from property line to property line that they would fail. What they were proposing was a small walk up restaurant and digital billboards. No, they don't meet code, but maybe the Code should be updated in regards to what there is now. There are walk up digital signs in Las Vegas that the Code allows for. They have built codes to what is available. Every bus stop has a digital sign in it. They have built these Codes to allow for the changing of advertising over time. There is digital advertising throughout the country, and not just in airports. The one place that makes sense to do it is at the 2<sup>nd</sup> busiest intersection in town. The pedestrian signage is meant for the people that are walking around the downtown corridor.

Chairman Dalling mentioned that they also had the three billboards, which were directed at the vehicles.

Mr. Robles said yes, the three billboards would be geared toward the vehicles.

Chairman Dalling asked if the billboards had to be 600 feet apart by code. (Yes)

Ms. Rambo wanted to remind the Commission that financial viability, whether a business is going to make it or not, was not a legal finding for a variance. If the Commission did want to lean toward approving this, they would need to make some very specific findings. She suggested that they work with the City Attorney to come up with some specific legal findings that would stand in court. She said if the Commission were leaning toward approving the application, she would suggest tabling it to work with the City Attorney, and staff would like to throw in some conditions of approval.

Mr. Robles said it had been an empty lot for over 3 years. There hasn't been a business there since the mid-2000s. There are smarter people out there, but nobody has bought the land and developed it. The price has been going down on the lot. They came up with this interesting idea, they don't meet code, and they are try to bring the Code up to par, but at the end of the day it's not going to fit there. The lot will work and the business plan will work.

Mr. Wilkinson explained that if there was a motion to consider an approval, he thought that the motion maker would need to have findings, and he thought that would need to be done tonight. He didn't know that it would be the City Attorney's role to try to make those findings and bring them back to the Planning Commission. Staff responds to an application, and if the Planning Commission disagrees with staff's recommendation then the Planning Commission should have its own findings as it moves forward. He recommended taking the time, if there was a motion, to go through each and every one of the variance requirements and have the motion maker state findings that justify the motion. Then they could consider that motion.

Ms. Wines wanted to address the mural. She explained that the contract with the artists was that the mural would stay intact for 3 years. In 2022, all of the artists can expect that maybe their murals would go away, but we hope they don't. However, you can't tie up a business owner by telling them that they couldn't do anything to the wall for 10 years. The other thing she wanted to address was that there were two comments by staff that a building could easily be built on this lot and that is absolutely not true. Ms. Wines stated that she was an architect and that she had looked at this lot twice with two different clients. It is really not possible. The difference between the Bank on 12<sup>th</sup> and Idaho and this lot was there was an alley. This lot doesn't have access to an alley. It doesn't have a back, where the back of the building would be. When it was built, a long time ago, they didn't concern themselves with the back of the building, because they didn't have huge traffic flows and deliveries were maybe once a month. There is no place to make deliveries; there is no place to have a grease trap, and no place to take the trash out. It is not desirable, at all, to build on this lot.

Commissioner Miller said the eatery couldn't sustain itself. He thought it was a moot point.

Ms. Wines said the eatery was like a food truck.

Commissioner Miller suggested they make a plan with food trucks instead, something that would be feasible. He thought the advertisement would be destroyed, through either cars or people. He pointed out that Ms. Wines stated that an eatery would not work here, unless they did all the things she mentioned, which was a part of this.

Ms. Wines clarified that she was stating that building a brick and mortar building to cover the lot, which would have to be covered for it to pencil out, and it would need to go up 7 or 8 stories.

Ms. Algerio said these young men came to her and she immediately called Ms. Laughlin, who she calls from time to time. Ms. Laughlin suggested a variance. That is why the applicants went this way. In doing so, they weren't aware of the questions, they were very ignorant about them. They came to Ms. Algerio after they got the letter of denial from staff. Ms. Algerio explained to them that Ms. Laughlin had said they couldn't add onto the application once it was submitted. Therefore, that is why the Planning Commission got what they got. The applicants asked Ms.

Algerio if they could do this within three to four months. The timing was just about right with the Planning Commission dates, but they didn't have time to submit another application.

Ms. Laughlin explained that the applicants set up a meeting with her. She met with them prior to speaking with Ms. Algerio. She told them in the meeting that she had to go by what is in Code, and Code states a 600-foot separation of off premise signs, one per street frontage, and the area requirements. Ms. Laughlin told them that they had the right to apply, but she would be recommending denial, and that it would be up to the applicant to provide the testimony, hardship, and exception circumstances in their application to support their application.

Ms. Blohm wanted clarify something, because she was the victim of most of those accidents that occur at 5<sup>th</sup> & Idaho Street. She asked if anyone knew why there were accidents there, because of speeding and drunkenness. Two of the cars went into her building. She was always aware. It is speeding. She has had conversations with the Police Chief. The cars are going too fast. There was an incident with a fire truck and another car. Those things are understandable. It is a busy intersection; we like it busy. She thought it was presumptuous to tell someone what kind of business they need to place. As long as it is safe, and it meets health and safety requirements.

Chairman Dalling said they were having safety questions.

Ms. Blohm said the safety question she was hearing was regarding the distraction of billboards to traffic driving by. The safety issue that she saw on a daily basis was speeding and drunkenness. What would Las Vegas have done if their business people had to go before a Board and they said they couldn't have neon lighting because it's a distraction?

Mr. Thibault thought that the applicant could work with staff and have something very similar to the current proposal that was Code compliant.

Commissioner Beck asked if the application was denied if it was a black mark. If they table it, would it give the applicants another change to take a different approach?

Ms. Laughlin explained that if the Commission tabled the application, it would come back as the exact same application. There would not be any changes or additions. If the Commission denied the application, the applicant would have the right to appeal it. There is an appeal process, in which the application would go to City Council.

Commissioner Beck asked if that would open up other avenues. (Yes)

Mr. Wilkinson added that during the appeal process they introduce additional evidence that was not considered at this hearing. In actuality, the appeal needed to be based on additional evidence that was not considered at this hearing.

Commissioner Beck asked if it was denied and they had 10 days, if all that doesn't work, then would they have another opportunity to try another approach and work with the City. (Yes)

Ms. Laughlin said if the applicant came to staff with the walk-up restaurant, the plaza area, one free-standing sign on each street frontage advertising the walkup business, and one off premise sign, the only thing they would have to get approval on would be the off premise sign.

**\*\*\*Motion: Deny Variance No. 3-21.**

**Commissioner Beck's findings to support the motion were the proposed use is in conformance with the Land Use Component of the Master Plan as well as the Transportation Component of the Master Plan. The property is located within the redevelopment area and is not in conformance with the Redevelopment Plan. The proposed use is in conformance with the development standards of Elko City Code 3-2-10. In accordance with Section 3-2-22, the applicant has not demonstrated any special circumstances or features regarding the parcel. In accordance with Section 3-2-22, the applicant has not demonstrated that there is practical difficulties or exceptional undue hardships, which constitutes an abridgement of property right and deprives the property owner of reasonable use of property. Granting of the variance will result in material damage or prejudice to other properties in the vicinity. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. The proposed signs are not in conformance with Elko City Code 3-9.**

**Moved by Commissioner Stefan Beck, Seconded by Commissioner Mercedes Mendive.**

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

Chairman Dalling informed the applicants of the appeal process.

#### **B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS (Cont.)**

6. Review, consideration, and possible action to initiate an amendment to the City Zoning Ordinance, specifically Section 3-2-17 (Traffic, Access, Parking, and Loading Regulations), and matters related thereto. **FOR POSSIBLE ACTION**

A long-standing policy of City staff was to require driveways for single-family residences be designed with a slope of 14 percent or less. However, this requirement was never added to the City Code. With more and more housing development moving up into the hills, it has become necessary to codify this 14 percent requirement. During the process of adding this, staff took the opportunity to update and/or modify other portions of this Section.

Ms. Rambo went through the proposed changes to Section 3-2-17 of the Elko City Code as presented in the Agenda Packet.

Sheldon Hetzel, 780 W Silver Street, said that he had not looked at this at all prior to tonight. He said he loved anything that had to do with cleaning up the Code and making more legible and more functional. It gets hard to maneuver through and find a lot of those sections. The only thing that he questioned was codifying the 14% slope. There is topography that they run into that makes that really difficult. He was concerned that the Commission might be setting themselves up for having to do a lot of modification of standards.

Chairman Dalling asked if there were a lot of hills left in Elko.

Mr. Hetzel stated that a lot of the buildable area left in town, because of the water rights, and they are running out of property to put more lots on, so they are pushing out into more hilly areas. They run into some issues, because there are a lot of little slopes and valleys. When they start trying to lay the lots out to get the highest and best use, they either end up with undevelopable ground, or they end up coming back later to try to pick up those parcels and turn them into something that works.

Chairman Dalling asked if Mr. Hetzel had a number in mind.

Mr. Hetzel said he would say 20% would be more in line what they might run into in one of those weird spots. He also added that the buyer of the property was going to decide if that was something that they wanted to deal with or not.

Ms. Rambo added that this was not a number that staff just picked off the top of their heads. They did some research and 14% is the maximum that Reno, Sparks, and Carson City have as well. Also, keep in mind; this is after the lots have been graded. It is not a pre-existing hill; it is a graded lot that has been flattened.

Chairman Dalling thought that was good context.

Mr. Wilkinson stated that he had a couple comments. He explained when the driveways are over steepened the grade break coming off the street onto the driveway presents problems for people that have cars that are closer to the ground. In addition, the grade break coming into the garage creates problems as well. The problem we run into is some of the homebuyers are looking at a plot plan that might specify a maximum slope, but they don't understand how it's going to work for them. They can't visualize it, because the plot plan isn't 3-D. We also have some submittals on plot plans that are reasonable grades, but they decide to change the finish floor elevation to save money on grading the lots. Mr. Wilkinson thought they needed to consider homebuyers and how they could utilize a property. He added that if Mr. Hetzel had additional information he could bring it to the Commission and they could consider it at the next hearing.

Mr. Hetzel added that in a short distance, he had seen a lot of problems with that grade. When it comes to them trying to provide something that works for a homeowner, whether they are trying to get in with trailers or small cars. He also thought it was a safety issue with children and ice. He thought over a short distance it was different. What he was thinking of were the hilly areas, where they would have to make a long approach up a strange embankment. There might be a compromise somewhere.

Mr. Wilkinson agreed with Mr. Hetzel's comment. He told Mr. Hetzel if he had any information to provide to staff on something steeper over a certain distance; it might be workable.

Ms. Laughlin said that all four staff members worked at great length on going through this section of Code. A Zoning Amendment was done to Section 3-2-17 in 2016, but things have changed. Staff had a list of things to address. A good example would be that staff was telling people to go to the Traffic Engineers Manual to calculate for a casino. They would have been required twice as many parking stalls as if they were using the Reno Code. It was time for an update and to address a lot of staff's concerns. They also brought the Code into conformance



with the Master Plan access requirements. This is just the initiation. Staff will listen to all the comments and concerns, and bring this back as a resolution.

Mr. Thibault recommended approval as presented.

Ms. Winrod had no comments.

Mr. Wilkinson recommended approval as presented.

Commissioner Miller asked if they wanted to add Mr. Hetzel's suggestion.

Chairman Dalling thought if Mr. Hetzel had some information he could put it together and submit it to staff. If staff agrees then they can include it in the changes.

Ms. Rambo said when this item comes back she would present the Commission with the changes.

Mr. Wilkinson added that if they received comment from public, it would certainly be presented to the Planning Commission.

**\*\*\*Motion: Initiate an amendment to the City Zoning Ordinance, specifically Section 3-2-17 (Traffic, Access, Parking, and Loading Regulations) and direct staff to bring the item back as a public hearing.**

**Moved by Commissioner Mercedes Mendive, Seconded by Commissioner Gratton Miller.**

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

## **II. REPORTS**

- A. Summary of City Council Actions.
- B. Summary of Redevelopment Agency Actions.

*Ms. Laughlin reported that the Redevelopment Advisory Council was going to start meeting again in July. There will also be an RDA meeting on the 27<sup>th</sup> of July.*

- C. Professional articles, publications, etc.

- 1. Zoning Bulletin

- D. Miscellaneous Elko County

- E. Training

## **COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

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

**ADJOURNMENT**

There being no further business, the meeting was adjourned.

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Jeff Dalling, Chairman

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Tera Hooiman, Secretary