

CITY OF ELKO
PLANNING COMMISSION
SPECIAL MEETING MINUTES
5:30 P.M., P.S.T., TUESDAY, JULY 18, 2017
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

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

ROLL CALL

Present: **David Freistroffer**
 Jeff Dalling
 John Anderson
 Kevin Hodur
 Stefan Beck
 Tera Hooiman

Excused: **Aaron Martinez.**

City Staff: **Scott Wilkinson, Assistant City Manager**
 Cathy Laughlin, City Planner
 Bob Thibault, City Engineer
 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

June 6, 2017 – Regular Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the June 6, 2017 regular meeting minutes as presented.**

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

I. UNFINISHED BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action on City Zoning Ordinance Amendment 2-17, Ordinance No. 819, specifically establishing a new zoning district along the 5th Street corridor which will be titled 3-2-6 Residential Business District, and matters related thereto. **FOR POSSIBLE ACTION**

Cathy Laughlin, City Planner, explained that this was the same ordinance that was brought to the Commission at the last meeting, on June 6th. It was requested, at that time, to take out a section regarding sign lighting in the district. That was removed from the ordinance.

Bob Thibault, City Engineer, recommended approval.

John Holmes, Fire Marshal, had no comments or concerns.

Scott Wilkinson, Assistant City Manager, had no comments or concerns.

*****Motion: Forward a recommendation to City Council to adopt an ordinance, which approves Zoning Ordinance Amendment No. 2-17.**

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 to initiate an amendment to the City of Elko Master Plan, specifically the Land Use component, the Transportation component, and the Atlas, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin recommended that the Commission table this item. This is just the initiation and it will take several months to process the master plan amendment. Ms. Laughlin explained the proposed changes within the Land Use and Transportation Components of the Master Plan. With the Commission's comments, concerns, and recommendations we can make additional changes. Next month we will bring you a comprehensive study that we have done on the Land Use Map in regards to low density.

Beebe Andre, lives on Statice Street, explained that they were gone all winter and someone told them that they were going to start building out there and that they were going to pave Statice Street.

Mr. Wilkinson explained that Statice Street is currently identified as a Collector Roadway in the Master Plan. A Collector is a more intense type road way. We are considering whether that classification should still apply to Statice Street.

Mr. Thibault and Mr. Holmes had no comments.

Mr. Wilkinson brought up a couple points. We will have a very detailed analysis on a comparison between medium and low density residential use as we go through a possible amendment to the Master Plan. We took in a lot of criteria when we evaluated that and currently the City of Elko Land Use Atlas does not show a low density designation. The question had come up, should we include low density anywhere in the City? We took a global view of that and we will have that information presented to the Planning Commission. Also as a part of that analysis The Rural Road Standard, which is being proposed for inclusion in the Master Plan, will have to be further discussed. There is some question to whether we should continue with that type of road classification. In the Code there are certain departments within the City of Elko that are not in favor of that type of road development.

Commissioner Freistroffer said in the Land Use document on Pg. 24, he had trouble connecting that it was about the coordination of road hierarchy and zoning amendments. Maybe we could take another look at that so it's clearer for the general public. He suggested an explanatory sentence be added.

Commissioner Kevin Hodur pointed out that he was confused by the diagram on Pg. 25.

*****Motion: Table this item until the August Planning Commission Meeting.**

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

II. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action of Rezone No. 5-17, filed by the City of Elko, for a change in zoning from RS (Residential Suburban) to R1 (Single-Family Residential), approximately 93.52 acres of property, specifically APN 001-562-009, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally north of East Jennings Way and South of Statice Street. (APN 001-562-009)

Ms. Laughlin explained that this agenda item is for action to maintain the existing zone as Single Family Residential, R1, and not complete the rezone of the area to the RS District. City Council took action on January 24, 2017 to conditionally approve the rezone of the property from R1 to RS. It was determined after City Council action was taken that the rezone of the property would frustrate the purpose and the intent of the Master Plan and, therefore, that The City should maintain the zoning that now exists, which is R1, irrespective of application Rezone 10-16 having been conditionally approved. It has not been finalized or signed by the Mayor. Elko City Code 3-3-5 states that zoning amendments must conform with the Master Plan, adopted by the Planning Commission and City Council, and it was determined that this was not in conformance with the Master Plan, as medium density for that parcel is called out on the Master Plan. RS, Residential Suburban, is not listed as a corresponding zoning district for medium density.

Jim Winer, 700 Idaho Street, stated he would read into the record the same statement he read in at the last meeting. About a year ago he engaged his engineers though data collection and analysis. It was determined that the highest and best use of the land was for larger RS development. They then approached City Staff, through a series of meetings, with that idea. This body by a public process, motion, and vote made a recommendation to the City Council to approve the property for RS, subject to the approval of a plat. The City Council then, by a public process, motion, and vote, approved the property for RS Zoning, subject to approval of a plat. With that approval Mr. Winer moved forward with the design and engineering of the plat, he was told was required. He relied upon the City's representations and actions. He did everything he was told, asked, and directed to do by the City at considerable time and incurring substantial costs and expense to the detriment of the developer. When the City said to complete an application or form he did, and submitted it with the fees required. By way of example, the City said before he could submit the plat to the City he had to apply to NDEP for approval of the septic systems, which required both soils studies, a hydrology study, more applications, and more fees. The City said he had to dedicate a road easement for Bizkaia Boulevard, so he hired the surveyor, filled out the forms, and submitted the fees. The City said he had to have a secondary access for fire suppression and it had to hold the weight of the City's largest fire truck, so he hired an engineer to do the study of the soil depths of the secondary access to confirm if it would or would not hold the fire equipment. It should be noted that the staff reports and comments, both to this body and the City Council, noted that the property did not conform to the Master Plan, and with that knowledge this body and the Council approved the zoning. In summary Mr. Winer did nothing wrong, he did everything he was asked to do, and relied on the City's actions, representations, and directions. He opposed the taking of the RS Zoning, which was granted by the City via action in January of 2017.

Mr. Thibault had no comments and recommended approval.

Ms. Laughlin said that the City of Elko Development Department recommended that the proposed zone change be approved.

Mr. Holmes had no comments.

Mr. Wilkinson recommended that the action be approved and forwarded to the City Council. The City Manager recommended approval, previous conditional approval of zone change was not in compliance with the approved City of Elko Master Plan. Mr. Wilkinson reminded the Commission that at the last meeting they heard from the Legal Counsel that this was a necessary action for the City of Elko to consider.

Commissioner Hodur didn't think that anyone in this body was thrilled with how this has played out for anyone involved. He thought it was clear what they had to do.

*****Motion: Forward a recommendation to City Council to adopt a resolution, in which approves Rezone No. 5-17.**

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

2. Review, consideration, and possible action of Rezone No. 6-17, filed by Dusty Shipp, on behalf of DDS Properties, LLC, for a change in zoning from AG (General Agriculture) to R1 (Single Family Residential), approximately 9.443 acres of property, to allow for the development of a 29 lot subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east side of Jennings Way, approximately 185 feet north of Cortney Drive. (APN 006-09J-029 and 006-09J-030)

Dusty Shipp, 959 Montrose Lane, stated that he was there to answer any questions.

Ms. Laughlin explained that both of the parcels have been merged with the approval of Elko County by the parcel map process, and that was recorded on June 30, 2017. There is an application for the vacation of the utility and access easements that are surrounding the property. City Council has accepted a petition for annexation. All territory that is annexed into the City comes in as Agricultural, therefor it is required to have a rezone. The rezone request is for R1, which is consistent with the Master Plan. The surrounding area is partially developed with residential. Ms. Laughlin recommend approval. There is one staff condition, which is that Annexation 1-17 is finalized after the second reading of the ordinance and all conditions have been met.

Mr. Thibault recommended approval.

Mr. Holmes had no comments or concerns.

Mr. Wilkinson recommended approval as presented by staff.

Commissioner Jeff Dalling explained that he lives on Callie Court and he was wondering if they were going to get rid of the alley or access.

Mr. Shipp stated that it hasn't been fully designed yet, but it's looking like an entrance with a circle route through the area. All the easements that are shown on the edges will be abandoned.

Mr. Wilkinson pointed out that they would have an opportunity to explore those issues if they receive a subdivision application.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Rezone No. 6-17 with the following condition:**

- **Annexation 1-17 is finalized after second reading of ordinance and all conditions have been met.**

Commissioner Hodur's findings were that the zone change is in conformance with the City of Elko Master Plan Land Use and Transportation Components. Development under the proposed rezone will not adversely impact natural systems or Public Federal Lands, such as water ways, wetlands, drainages, flood plains, etc., or pose a danger to human safety and

health. The proposed rezone is consistent with the City of Elko Wellhead Protection Plan, Elko City Code 3-2-4(B) and (C), 3-2-17, and 3-2-5(B).

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review and consideration of Annexation No. 1-17 filed by Dusty Shipp, on behalf of DDS Properties, LLC, consisting of approximately 10.149 acres of property located east of Jennings Way and approximately 185' north of Cortney Drive, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin explained that this area is identified as having annexation potential in the Development Report, which has been adopted. The parcels have been merged by the parcel map process and has been recorded. City utilities are available in Jennings. Jennings Way is a City street and it has already been fully annexed into the City, it was annexed it when the school annexed in. There is a section of right-of-way that will be included in the annexation. City Council has accepted the petition for annexation. Staff recommends approval of the annexation and it be forwarded to City Council with the following condition: That the property owner shall receive a rezone of their property to be consistent with the Land Use Designation in the City of Elko Master Plan

Mr. Thibault recommended approval.

Mr. Holmes had no comments or concerns.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to adopt an Ordinance, which conditionally approves Annexation No. 1-17 subject to the following condition:**

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.**

Commissioner Hodur's findings were that the annexation is consistent with the City's 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. The annexation is consistent with the City's Transportation Component of the Master Plan. The Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012, identifies the area as having potential for annexation. The area proposed for annexation is not localized, isolated and does promote future transportation and utility corridors promoting future growth opportunities within the City. 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.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

A. PUBLIC HEARING

3. Review, consideration, and possible action on Variance No. 4-17, filed by Lostra Engineering, LLC, on behalf of Matt & Kay Davis for a reduction of the required front yard setback from 20 feet to 13.83 feet, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on Mahogany Lane, approximately 220 feet west of Highland Drive (556 Mahogany Lane).

Tom Hawkins, 930 College Avenue, said he was the engineer of record for this project. There is an existing 600 square foot carport, which is attached to the dwelling. They are not doing anything to the structure other than enclosing it. The carport already sits in the setback. It was permitted through the City and the permits are on file. In order to get the permit approved for enclosing the carport they had to apply for the variance.

Ms. Laughlin explained that the area proposed for variance fronts Mahogany Lane and is at the end of a cul-de-sac. There is a minimal amount of traffic in the area. The existing carport was permitted by the City of Elko in 1971. At that time we didn't keep residential plans. We have looked through all of the records to see if it was originally permitted for a 15 foot setback, or if it was permitted for a different distance. We cannot locate the original plans, therefore the City of Elko permitting, approving, and inspecting it during construction as it is currently located. The carport is attached to the existing residence. Ms. Laughlin pointed out that Section 3-2-5(G)1 states that garages shall setback 20 feet from the front lot line provided that any garage constructed prior to March 26, 2013 the front yard setback shall be 15 feet. When this carport was constructed the setback was 15 feet. The City Code requires that we provide off street parking. They are not removing any of the required off-street parking, they are continuing to provide for the off-street parking in the garage. The Development Department recommended approval with the following condition: that the approval is for the enclosure of the existing carport and the encroachment into the front yard setback, not the expansion of the footprint of the building. The Building Department also had a condition that they must be in compliance with Garage/Dwelling separation requirements as per 2009 IRC 302.5-302.6

Mr. Thibault had no additional comments and recommended approval.

Mr. Holmes had no comments or concerns.

Mr. Wilkinson expanded on what Ms. Laughlin presented saying that we don't have the drawings. Its suspicion that there is just over a foot of encroachment into the setback. If Mr. Wilkinson had to guess he would say that the City permitted the structure with a 15 foot setback and ended up with an encroachment. Based on the assumption that we permitted the structure with the encroachment, because we can't prove differently, he recommended approval as presented by staff. Based on that assumption it presents the hardship threshold that needs to be met.

Commissioner Freistroffer understanding was that the City may have permitted the structure for 15 feet or permitted it for 13 feet, it's not really known. That has essentially created a permitted building and that is this buildings special conditional that doesn't apply to other buildings in this zone, which is an important part of the variance. Mr. Freistroffer then asked to bring up the Variance Code and went through requirements for variances and the different ways this application meets that code.

Commissioner Tera Hooiman added that by allowing a single variance they wouldn't be setting a precedence for all surrounding properties.

Commissioner Freistroffer added that this is not something that generally applies to other dwellings in the district.

Commissioner Hodur said out of the six items he didn't see any that weren't being fulfilled.

*****Motion: Recommend approval of Variance No. 4-17 with the conditions listed in the City of Elko Staff report dated July 7, 2017, listed as follows:**

Development Department:

1. The approval is for the enclosure of the existing carport and the encroachment into the front yard setback, not the expansion of the footprint of the building.

Building Department:

1. Compliance with Garage/Dwelling separation requirements as per 2009 IRC 302.5-302.6

Planning Department:

1. Compliance with all staff recommendations.

Commissioner Hodur's findings were that proposed variance is consistent with the Land Use and Transportation Component of the Master Plan. 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. 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 surrounding land uses. The proposed variance is in conformance with 3-2-4, 3-2-21, 3-2-22, and 3-8 of the Elko City Code.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

4. Review, consideration, and possible action of Rezone No. 7-17, filed by Dave Mitton of Signature Developers, on behalf of Riverside Villas II, LLC, for a change in zoning from CT (Commercial Transitional) and C (General Commercial) to C (General Commercial), approximately 3.077 acres of property, to allow for the

development of a storage unit facility, and matters related thereto. **FOR POSSIBLE ACTION**

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

Dave Mitton, 45 Teton Drive. Lindon, UT 84042, stated that they have a tremendous investment at Opal Drive and have been working on that property for about 10 years. They also own 156 apartments across the street, so they care about what's going to go there, how it looks and feels, and about mitigating dust during construction. They have done a tremendous amount of research and two market studies to try to determine what to put on this property. What they are trying to do is serve a segment of the storage unit market, which is highly under served in the Elko community, and that would be two areas. One being temperature controlled and dust free storage and the other one is secure RV storage with secure lot surveillance and 24 hour security. They are proposing to build a storage unit facility, not necessarily like anything currently in Elko. They won't compete with the self-storage facilities, they are bringing a new type of product. It will have a fortress configuration with an 8 foot perimeter wall that completely surrounds the property. It will be a masonry wall or made from preformed concrete casts. There will also be security cameras on all corners of the property and within the actual storage unit facility. He then explained the planned location for the proposed buildings and what they will be for. There will also be an onsite apartment building for the onsite property manager. They will be bringing in a compactable road base instead of gravel to keep the dust down.

Commissioner Stefan Beck asked if Mr. Mitton was going out of his way for pavement.

Mr. Mitton explained that they are not required to pave the entire area, but they are going to, which will significantly reduce the dust.

Ms. Laughlin reminded the Commission that they are discussing the rezone. The property currently has a dual zoning on it. It has Commercial towards 12th Street and Commercial Transitional in the rear of the property. The GIS shows a small sliver of PUD, but that is not accurate. The application is asking for the CT and C Zoning to be rezoned to all C. The reason is that storage units would be required to be a Conditional Use Permit allowed under Commercial Zoning. The applicants have also applied for a Conditional Use Permit for the future development. Staff also feels that it is important to remind the Commission that the adjacent residential subdivision is protected no matter what this property is zoned, because it is adjacent to residential, therefore requires a Conditional Use Permit. Ms. Laughlin recommended approval of the rezone.

Mr. Thibault recommended approval and stated that he would be happy to see this property with multiple zones on it cleaned up.

Mr. Holmes had no comments or concerns at this point in the project.

Mr. Wilkinson said that the positive side is ending up with one zone on one parcel. Typically it would be cause for hesitation to get rid of a transitional zone abutting a residential area, but since a Conditional Use Permit is required under either zone, regardless of the development, the Planning Commission has the opportunity to evaluate that and to determine whether there are

appropriate conditions to mitigate any issues. Mr. Wilkinson recommended approval based on that.

Commissioner Dalling thought it made sense to clean it up.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which would approve Rezone No. 7-17.**

Commissioner Hodur's findings were that the zone change is in conformance with the City of Elko Master Plan Land Use Component. Development under the proposed rezone will not adversely impact natural systems or Public Federal Lands, such as water ways, wetlands, drainages, flood plains, etc., or pose a danger to human safety and health. The proposed rezone is consistent with the existing transportation infrastructure, surrounding land uses, and City of Elko Wellhead Protection Plan. The proposed rezone is in conformance with Elko City Code 3-2-4(B) and (C), 3-2-17, and 3-2-10(B).

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

5. Review, consideration, and possible action on Conditional Use Permit No. 3-17, filed by Dave Mitton, Signature Developers, on behalf of Riverside Villas II, LLC, which would allow for the development of a storage unit facility within a C (General Commercial) Zoning District and abutting a (R) Residential Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

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

Ms. Laughlin explained that the Commissioners had, in front of them, a City of Elko Staff Report, which is a little different than the one in the packet. She asked the Commissioner's to reflect on the Staff Report that was handed out, instead of the one that was included in the packet. The Conditional Use Permit for this new development of storage units is required by City Code for three different areas. First a storage unit in a Commercial Zoned property, the second one being adjacent to residential properties, and the third one for having the mixed use, as they are proposing to have a residential unit on site. In discussion, we look at all of the conditions of the property and the development that they have proposed. The screen wall has been addressed, as well as landscaping. Staff is satisfied with those conditions. We have discussed dust control and gate access. Ms. Laughlin recommended approval of the Conditional Use Permit, but there are 11 conditions listed in the Staff Report. She then went over the proposed conditions. In the plans they are showing the buildings to be of block, and they are proposing that that could possibly be a different material but it will be a similar color to the surrounding area.

Mr. Thibault recommended approval.

Mr. Holmes had no comments or concerns.

Mr. Wilkinson thought on the first condition that the Commission should add “including a mixed use residential apartment for on site management”.

Commissioner Freistroffer asked if the Planning or Development Departments had any comments on how to proceed with dust mitigation, in this case or future cases, when there is Commercial development abutting residential areas. Currently we have a screen wall requirement, but screen walls do not keep out dust. He wondered if there was anything in code about dust.

Ms. Laughlin explained that the Elko City Code doesn't require paved surfaces for storage units. They are not considered parking lots, so therefore they are not required to be paved. There are several other storage units throughout town that do not have paving between their buildings or the surrounding area. Ms. Laughlin thought they were addressing the issue in their design. It would be hard to require a hard surface when it's not in the code.

Commissioner Freistroffer thought it was interesting that a lot where you drive recreational vehicles in and out wasn't considered a parking lot.

Ms. Laughlin explained that they are not high traffic areas.

Mr. Wilkinson said they deal with air, water, and soil. One of the things they are faced with, which comes from the EPA, is that peak flow increases and runoff are now considered a pollutant. One thing that happens if the asphaltic surfaces are draining to a more porous area, you get some benefit. Another consideration is that there are several months out of the year where you don't have to worry about dust concerns. The traffic volume is also so low in these type of facilities, it wouldn't be an area that generates a lot of dust on any given day.

Commissioner Freistroffer thought it was interesting that they are concerned about landscaping and screen walls in the Code when a C abuts an R, but not anything traveling through the air. We are being consistent with other projects that have been done.

Mr. Wilkinson pointed out that they could always revisit the Code if they feel that's a problem. More recently we passed park n ride development and allowed for the majority of the travel surface to not require paving. We did put restrictions on size requirements and restricted them to certain districts.

Commissioner Dalling didn't see a problem with the air pollution. He thought it was a great project. Elko does need storage.

Commissioner Freistroffer liked the project and the quality. It's something different than what we have in Elko. We've worked with this developer before and their work is high quality.

*****Motion: Conditionally approve Conditional Use Permit No. 3-17 with conditions in the City of Elko Staff Report dated July 10, 2017, listed as follows:**

1. **The conditional use permit is granted to the property owner allowing for the development of commercial storage units with an onsite apartment.**
2. **The permit shall be personal to the property owner and applicable only to the**

specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.

3. The conditional use permit shall automatically lapse and be of no effect one year from the date of its issue unless the permit holder is actively engaged in developing the specific property in use for which the permit was issued.
4. Provide sight triangle analysis for intersections.
5. Landscaping shall be such that it does not impact sight triangle.
6. Landscaping is required in conformance with City Code. Landscaping of the 12th Street and Opal Drive right-of-ways is required and may be factored in determining conformance with the code. All landscaping shall be maintained in a manner acceptable to the City of Elko at all times.
7. Lighting shall be cutoff and shielded from the residential properties
8. The Conditional Use Permit is to be recorded as a condition of the Certificate of Occupancy.
9. Conformance with 9-8 of Elko City Code is required to cutoff peak flow increases in storm water discharges.
10. Screen wall as shown on plans to be constructed.
11. Access to the property shall be limited to Opal Drive as shown on the plans.

Commissioner Hodur's findings to support the recommendation was the conditional use permit is in compliance with the City of Elko Master Plan Land Use, the existing transportation infrastructure, and the Transportation Component of the Master Plan. The site is suitable for the proposed use. The proposed development is in conformance with the City Wellhead Protection Program. The proposed use is consistent with surrounding land uses. The proposed use is in conformance with City of Elko Code Sections 3-2-3, 3-2-4, 3-2-10(B), 3-2-17, 3-8, and 3-2-18. 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.

Moved by Kevin Hodur, Seconded by Jeff Dalling.

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

The Planning Commission took a break from 7:14 p.m. to 7:20 p.m.

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

2. Review, consideration and possible action on Temporary Use Permit No. 1-17, filed by the Elko County School District, on behalf of Adobe Middle School, to allow the continued use of two modular classroom facilities, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west side of Jennings Way approximately 135 feet north of Cortney Drive (3375 Jennings Way).\

Deanne Glenn, 3375 Jennings Way, explained that they utilize the modulars as classrooms. The detention room is out there. They also have counseling in half a trailer and use the other half for teleconferences. They do use them. They get used for storage occasionally. The 5th Grade class coming up is going to be a lot bigger and they are out of classrooms, so they would like to continue keeping them on the property.

Ms. Laughlin explained that Adobe Middle School was first issued Temporary Use Permit 3-07 on July 11, 2007, a second TUP 3-12 was issued on July 3, 2012. Each TUP was issued for 5 years. TUP 3-12 just expired on July 3, 2017. We approached Adobe Middle School prior to the expiration date and let them know it was going to be expiring soon. We had a discussion with the Building Maintenance Director and he clearly stated why they would like to maintain modular throughout the School District as temporary and not permanentize them. As the population changes they can move the modulars around to different schools. Staff highly recommends approval of this Temporary Use Permit for an additional 5 years. The existing modulars are well maintained and screened from the public view. They also meet the ADA Code. Staff is looking at modifying the City Code, under Temporary Use Permit, to allow School Districts and Government Agencies to be exempt for applying for these all the time. Staff recommends approval with one condition that the duration of the Temporary Use is no longer than 5 years or less, if determined appropriate by the Planning Commission.

Mr. Thibault had no additional comments and recommended approval.

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval and suggested the Commission consider a 10 year time frame, but Ms. Laughlin indicated they discussed trying to modify The Code, which would allow for exemptions. Mr. Wilkinson wasn't sure if they would have issues with that process or not.

Commissioner Dalling liked the idea of approving it for 10 years. He pointed out that this was a normal part of schools now.

Commissioner Hodur said he was good with the 10 year time frame.

*****Motion: Conditionally approve Temporary Use Permit No. 1-17 with the following condition: That the duration of the Temporary Use is no longer than 10 years or less, unless determined appropriate by the Planning Commission.**

Commissioner Hodur's findings were that the temporary use permit is applicable to the City of Elko Master Plan Land Use and Transportation Components, and Elko City Code Sections 3-2-3(C)5, 3-2-17 and 3-8.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

3. Review, consideration, and possible action on Temporary Use Permit No. 2-17, filed by Andrew Knudsen, on behalf of Sundance Mini Storage LP, to allow for a storage unit to be used as the renting office, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northeast corner of Sundance Drive and Mountain City Highway (3701 Sundance Drive, Building A).

Andrew Knudsen, 3701 Sundance Drive, emphasized that this would be temporary, because in the summer in a steel building without insulation it gets very hot, and in the winter it is very cold. They want an office sooner than later. He has been working with City Staff to ensure the temporary office is ADA compliant.

Ms. Laughlin wanted to give a little background on this project. Each building has been permitted separately, so that each building could get a Certificate of Occupancy to be occupied and rented as the other buildings are getting completed. The very first Certificate of Occupancy on Building A was issued on December 2, 2016. Soon after that Mr. Knudsen began to run an office out of the end unit. There is a Conditional Use Permit on this property and it does show that the office is to be located on premises. He just needed an on-site location to do paperwork, meet people, and be out of the weather. We let him know that he needed to get a Temporary Use Permit for the office, so he could continue using it as a sales office. There are provisions in the Code that allow for sales offices to be a Temporary Use. We know that he will eventually build the office, as it was a part of the Conditional Use Permit and a part of the approved plans. Staff recommends approval of the TUP subject to conditions listed in the Staff Report dated July 18, 2017. Staff has spoken with Mr. Knudsen about compliance with the Accessible entrance and route. Ms. Laughlin wasn't sure how Mr. Knudsen was going to address the accessible restroom condition, or if it was possible to meet that condition.

Mr. Holmes explained that a Knox box should be installed for the property and a fire extinguisher for inside the office.

Mr. Thibault had no additional comments and recommended approval.

Mr. Wilkinson recommended approval as presented by staff.

Commissioner Freistroffer asked if there were any solutions to the ADA Accessible Restroom condition, besides deleting the condition.

Ms. Laughlin mentioned that there are ADA accessible Blue Rooms, which could be put on site in an inconspicuous location. It is an active construction site, therefore there are probably already Blue Rooms located onsite.

Commissioner Freistroffer suggested Mr. Knudsen just switch one out for an ADA accessible one.

Ms. Laughlin also mentioned that Mr. Knudsen could construct a restroom close to the office.

Mr. Wilkinson asked how much longer it was going to take to finish the project.

Mr. Knudsen explained that they were working to finish the project, but they are also working to stay ahead of their ramp up. They are ahead of their ramp up and that's all they want to make sure they do. There are two other buildings that need to be constructed. The buildings will go up as soon as they have the demand.

Mr. Wilkinson asked if he might have a blue room onsite for construction workers for the entire period of the temporary use.

Mr. Knudsen said yes, and that he would have one anyways, even if construction was complete, until the office is finished.

Mr. Wilkinson explained that having a blue house while you're under construction is ok, continuing with a blue house when construction is completed is not ok. Mr. Wilkinson thought Mr. Knudsen was going to be fine, because he had to be under construction with the office in a years' time. It sounded like all the buildings won't be constructed in a years' time. A blue house providing dual function would be ok for 1 year and maybe a little bit of time beyond that to finish the office.

Commissioner Freistroffer thought this was a good project, we need more storage in the area. It would have been nice if the office had been sequenced to meet with the first office activities. He is in support of this, but is a bit hesitant because it would have been advantageous if this was built ahead of time, or earlier on in the sequence of buildings.

Commissioner Dalling commented that the sequencing could have been better, and suggested that they consider that on the next Conditional Use Permit.

Mr. Wilkinson thought that was something they should consider. They have spent 5 years getting Rabbit Brush to build their Community Center.

Commissioner Freistroffer asked staff to look for conditions that have more appropriate sequencing.

*****Motion: Conditionally approve Temporary Use Permit No. 2-17 with the following conditions:**

Development Department:

1. The duration of the temporary use is no longer than 1 year and may be extended provided the applicant is actively constructing the office as approved in CUP 8-15.

Building Department:

1. B Occupancies require the following:
 - Accessible restroom as per 2009 IBC 2902.1 / chapter 6 ICC A117.1-2009
 - Accessible entrance as per 2009 IBC 1105
 - Accessible parking as per 2009 IBC 1106

Fire Department:

1. Knox box must be installed for the office
2. Fire extinguisher installed for office use

Commissioner Hodur's findings were that the temporary use permit is applicable to the City of Elko Master Plan Land Use and Transportation Components, and Elko City Code Sections 3-2-3(C)5, 3-2-17, and 3-8.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

4. Review, consideration, and possible action on Temporary Use Permit No. 3-17, filed by Braemar Construction, on behalf of Tuscany Holdings LLC, for the temporary use of a townhome to be used as a model home sales office, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Khoury Lane approximately 430 feet west of East Jennings Way (2416 Khoury Lane).

Lana Carter, Carter Engineering, explained that Mr. Shipp asked her if she would be present for this item. She is familiar with the location.

Ms. Laughlin explained that the townhome complex has 14 off-street parking stalls, of which none are ADA accessible at this time. It appears that the existing parking lot would exceed the slope requirement for an ADA parking stall, but that would have to be determined by the applicant. Braemar Construction was issued TUP 1-16 in May of 2016 for a 1 year Temporary Use Permit for a model home office located off of Puccinelli Parkway. They have occupied the Khoury Lane townhome, as their model home, since February of 2017. Staff has requested from them several times to be in conformance with the City Code in utilizing this townhome as their model home office. A final inspection for the townhome has not been requested, so it does not have a Certificate of Occupancy. Staff's recommendation for this Temporary Use Permit is denial, subject to the following findings:

1. The home in which the temporary sales office can be sold at any time prior to the expiration of the TUP.
2. The existing residence has not had a final inspection and therefore doesn't have a certificate of occupancy and should not be occupied.
3. The developer has conducted business in locations not permitted and only when prompted by city staff have they applied for the required permits.
4. It doesn't appear that the unit can easily comply with the necessary requirements for ADA accessibility.
5. The proposed property provides off street parking for the use of the residents of the townhomes and is not designed to accommodate commercial traffic of up to 20 vehicles a day.

Ms. Laughlin wasn't sure if the property could be brought up to ADA compliance, as the conditions would be listed if the Planning Commission does approve the Temporary Use Permit. Staff does have several conditions, listed as follows:

Building Department:

1. B occupancy requires the following:
Accessible Restroom as per 2009 IBC 2902.1
Accessible Entrance as per 2009 IBC 1105
Accessible Parking as per 2009 IBC 1106
2. Unit must have Certificate of Occupancy to occupy.

Planning Department:

1. Permit is issued for the time period of one (1) year.
2. All items/materials stored must be inert.
3. The model home is used as a sales office and not as a construction job site office.
4. Planning Department must be notified if the townhome sells or if the office is being relocated

Mr. Thibault and Mr. Holmes had no comments.

Mr. Wilkinson pointed out an issue that Mr. Draper brought up in his memo. It's a fact that there is residential parking for these homes and you're trying to introduce up to 20 vehicle trips per day into that environment. This isn't a one off occasion with this developer. We have a large developer that's been present for years in the City of Elko, which continues to do this type of operation, typically without seeking approval from the City. We have other large residential developers in the community that have office space. This is very complicated and without staff being persistent we wouldn't even be considering this application. Mr. Wilkinson recommended denial, concurring with staff.

Commissioner Freistroffer clarified that staff had asked the applicant repeatedly to be in compliance for this specific property. There is also no Certificate of Occupancy and they haven't attempted to obtain one before occupying the space.

Commissioner Hooiman asked if they obtained a Certificate of Occupancy at their previous location.

Ms. Laughlin said it was issued a Certificate of Occupancy and a TUP one year ago.

Commissioner Hooiman asked if the City was notified when they moved from the location on Puccinelli to the location on Khoury Lane.

Ms. Laughlin said no, we were not notified.

Ms. Carter stated that Mr. Shipp asked her to ask if the item could be tabled if it looked like it was not going to be passed.

Ms. Laughlin commented that she and Mr. Shipp had discussed not only changing out the doorway for the garage, but also having an ADA accessible Blue Room on the property. It's very possible that he could meet two of the three Building Department Conditions.

Commissioner Freistroffer asked if the office would be ADA accessible.

Ms. Laughlin explained that Mr. Shipp would have to determine that the parking could be accessible. At this time there is no ADA Accessible parking.

Mr. Wilkinson pointed out that the parking out front was established for visitors to the subdivision. We are starting to convolute that issue by converting some of the parking for this use. We have an application but a track record speaks volumes in this case.

Commissioner Freistroffer asked what Mr. Shipp's options were. ADA Accessibility from the parking lot to the office may not be solvable, but he can address the ADA Restroom with an ADA Accessible Blue Room.

Ms. Laughlin added that the garage door would also have to be swapped out for a standard swinging door that would meet the ADA requirements.

Commissioner Freistroffer added that another option would be having an office in town.

Mr. Wilkinson commented that the applicant could rent a space for an office.

Commissioner Hodur thought the biggest flag was not having a Certificate of Occupancy, in addition to the cavalier approach that staff has noted. He mentioned that he was not opposed to tabling the item, but getting a commercial space seems to be the standard practice.

Commissioner Hooiman thought setting the precedence of allowing people to do something and then ask for permission later was not okay.

Commissioner Dalling agreed with Commissioner Hooiman. He also didn't know what good it would do to table the item.

Mr. Holmes agreed that it was a life safety issue, since they hadn't gotten any final inspections. When is enough, enough? We need to stop what we're allowing, or not allowing, and get some concrete plans.

Commissioner Hooiman said if they didn't say anything, how would we have known.

Ms. Laughlin stated that she had a friend, who owns one of the townhomes, she received a letter in the mail stating that their HOA dues were to be sent directly to Mr. Shipp's residence, because they were moving the model home office to one of the townhomes. A few weeks later staff was in the vicinity doing an inspection, on another property. Mr. Shipp's super intendent had been in Ms. Laughlin's office the day before and she asked him if was the property was being used as an office. He stated that it was just a model home and they were storing a few things inside. We drove by to do an inspection, they had a sign out front for a model home, and we went into the model home and they were conducting business. They had a full blown office set up. At that time we asked for the super intendent to come to the model home to visit with us. This happened before their TUP expired for the other model home office. We then told him that he needed to get it cleared up.

Commissioner Hooiman said it sounded like there was some shady stuff happening.

Commissioner Freistroffer agreed and he thought denial of the application, until Mr. Shipp can find a way to be in compliance at the currently location or if he can determine something else, was the only way to go. His reasoning behind that decision was that a red flag really goes up when a builder is occupying a building without a Certificate of Occupancy. It has life and safety issues.

Ms. Laughlin stated that a denial doesn't mean that the applicants couldn't prove to the City that they could comply with the conditions listed at a later date, and come back with a new application.

Commissioner Freistroffer agreed with Ms. Laughlin. Denying until they could possibly come in to compliance is what he would be in favor of.

Commissioner Hooiman asked if the Commission tabled the item if it would come back to the next meeting, but if they denied it the applicant would have time to go through the proper channels and do it the correct way.

Ms. Laughlin explained if the application was denied the applicant would need stop the use of the property as an office location.

*****Motion: Deny Temporary Use Permit No. 3-17 based on the following findings:**

The home in which the temporary sales office can be sold at any time prior to the expiration of the TUP. The existing residence has not had a final inspection and therefore doesn't have a certificate of occupancy and should not be occupied. The developer has conducted business in locations not permitted and only when prompted by city staff have they applied for the required permits. It doesn't appear that the unit can easily comply with the necessary requirements for ADA accessibility. The proposed property provides off street parking for the use of the residents of the townhomes and is not designed to accommodate commercial traffic of up to 20 vehicles a day.

Moved by Kevin Hodur, Seconded by Stefan Beck.

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

III. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin reported that City Council approved the Revocable Permit for GFL Properties, for the parking on Court and 4th. They also approved the license agreement with Anita Anacabe for the area that we are doing an RDA project on the alley of the 400 Block. The rezone that we were the applicant on was approved for the Residential Estate, which was being rezoned to R. City Council also approved the rezone for Top Gun Auto body from Commercial to IC, and they approved the vacation of the easement at Top Gun. David Freistroffer was reappointed for another four year term.

B. Summary of Redevelopment Agency Actions.

Ms. Laughlin reported that the RDA has authorized us to go out to bid for the Tower Project, Centennial Park Expansion, and the 400 Block Alley Project. The Storefront program is under way with the four grant recipients. All four have either completed their projects or are in active construction. The Hesson Hardware Building is very active in construction. The Western Folklife Center that has replaced their windows and they are complete and should be submitting for reimbursement. The Capriola's Building has just signed a contract with a contractor for the project. Gerber Law Office has submitted for their building permit and received their building permit and are now waiting on their contractor to complete the work.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

Ms. Laughlin reported that there would be three agenda items for the next Planning Commission Meeting.

E. Elko County Agendas and Minutes.

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

Commissioner Freistroffer liked Mr. Dalling's comments on the CUP process and how staff should come up with some sort of sequencing to take care of the problems they've been running into.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC

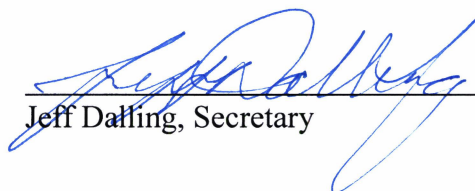
There were no public comments made at this time.

ADJOURNMENT

There being no further business, the meeting was adjourned.



David Freistroffer, Vice-Chairman



Jeff Dalling, Secretary