

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.D.S.T., TUESDAY, AUGUST 4, 2020
ELKO CONVENTION CENTER, TURQUOISE ROOM,
700 MOREN WAY, ELKO, NEVADA

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

Excused: **Giovanni Puccinelli.**

City Staff Present: **Scott Wilkinson, Assistant City Manager**
 Cathy Laughlin, City Planner
 Michele Rambo, Development Manager
 Jamie Winrod, Fire Department
 Kelly Wooldridge, City Clerk
 Paul Willis, IS Department
 Diann Byington, Minutes Clerk
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

July 7, 2020 – Regular Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the July 7, 2020 Minutes.**

Moved by Gratton Miller, Seconded by John Anderson.

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review and consideration of Tentative Map No. 5-20, filed by BDSA, LLC, for the development of a subdivision entitled Tower Hill, Unit 4, involving the proposed division of approximately 8.601 acres of property into 5 lots for residential development and 1 remainder lot within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Deerfield Way. (APNs 001-929-125)

Scott MacRitchie clarified that he was also with JTM, which developed the first three phases of this subdivision. They own this property under another entity.

Michele Rambo, Development Manager, went over the City of Elko Staff Report dated July 20, 2020. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Cathy Laughlin, City Planner, explained that the Planning Department recommendations and conditions were included in the Staff Report, and she recommended approval.

Ms. Rambo stated that the Engineering Department had no comments.

Jamie Winrod, Fire Department, had no comments.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff, provided that the grading supports the required water pressure as stipulated in NRS.

Mr. MacRitchie asked if any of the conditions had changed since the Staff Report was written.

Ms. Rambo stated that the Planning Commission would need to eliminate Condition No. 13 in regards to the Shared Use Path, because it was taken care of with Phase 3 of the subdivision.

Mr. MacRitchie explained that they didn't have Phase 4 in their original Tentative Map. How much of the Shared Use Path they needed to put in was determined on the lineal footage of their property on Lamoille Highway, and it was all put in Phases 1 through 3. He also asked if Ms. Rambo had received the Soils and Hydrology reports.

Ms. Rambo stated that she had received those the previous day.

Commissioner Evi Buell asked if the hydrology and soils reports took care of the City Manager's Office concerns. (Yes)

*****Motion: Forward a recommendation to City Council to conditionally approve Tentative Map No. 5-20 subject to the conditions found in the City of Elko Staff Report dated July 20, 2020, with modifications from the Planning Commission, 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 be approved by City Council for Lot 402, 403, 404, and 405 to allow for shorter-than-required front lots widths.

Public Works Department:

13. All public improvements at time of development per Elko City code.

Commissioner Buell's findings to support the motion were 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. 4. The property is not located within the Redevelopment Area. Therefore, there is no conflict with the Redevelopment Plan.

Moved by Evi Buell, Seconded by Tera Hooiman.

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

5. Review, consideration, and possible action of Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would

allow for a teaching of the creative arts/childcare center within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast side of Birch Street, approximately 125' west of the intersection of Birch Street and Dotta Drive. (675 W. Birch Street - APN 001-073-001)

Angela Heguy, Heguy Ranch, thanked the Commission for listening and hearing the item. She explained that they are applying for a Conditional Use Permit at 675 W. Birch Street. They are hoping to move their home school group to that location in order to maximize the benefits of the large square footage upstairs, as well as the wonderful fenced backyard. They hope to be a great member of the neighborhood and become an asset for the community.

Chairman Jeff Dalling called for public comment.

Liza Baumann, 975 Dotta Drive, explained that she lives two doors down from the subject property. She wanted to make sure that everyone knew that they all have children and a lot of the people that are here are teachers themselves. This is mainly about the neighborhood and the effect that it will have on the people in the area. Ms. Baumann then read **Exhibit 1** into the record.

Louri Lesbo, 1010 Dotta Drive, stated that she had several letters to read into the record from some of her neighbors that couldn't make it to the meeting. The first letter she read was from Ms. Carpenter on what her concerns were, which stated:

1. *If this is a K-12 school, there will be older kids driving. Where are they going to park? We all know kids speed. They are going to be flying down Dotta Drive and Sewell Drive. There is a high potential for someone to get hurt. Will law enforcement be on these drives before and after school?*
2. *If there are older kids attending this academy there is the potential for drug use. This will increase the drug selling at Angel Park and along Dotta Drive. You not only have elderly people living on Dotta and Birch, but also young kids. This becomes a safety issue.*
3. *There are no sidewalks in front of the Burn's home. Where will people walk?*
4. *If the Burn's home is listed as Commercial property, does this mean that all the homes along Dotta and Birch will be listed as commercial property as well. This will decrease the value of all of our homes.*
5. *If the person running this academy is not a teacher, where are the kids getting their assignments? Even if the person is a helper, shouldn't he or she have some teaching credentials?*
6. *Why were the homeowners on Dotta, Sewell, and Birch not notified of this transaction? There are financial and safety concerns for everyone that is effected by this change in a residential home.*

She then read the letter into the record from Steven and Jennifer Hayes at 1024 Dotta Drive, attached as **Exhibit 2**.

Ms. Lesbo read into the record **Exhibit 3**, from Earl and Mary Craig at 1030 Dotta Drive. She also read into the record a letter from Melissa and Jordan Duke at 1011 Dotta Drive, attached as **Exhibit 4**. Ms. Lesbo then read her own comments into the record, attached as **Exhibit 5**.

Chairman Dalling then read into the record an email submitted by Nann C. Hanley attached as **Exhibit 6**.

An additional letter was submitted from Rick and Begonia Hull, which previously resided at 1011 Dotta Drive, attached as **Exhibit 7**.

Robert Loranger, 1000 Dotta Drive, stated that he has lived there for 12 years with his wife. It has been a great place to live. Overtime, they have seen an increase in generalized non-residential traffic, so he has many concerns with a new venture that is going to be changing a residential single family home into some type of conditional use. He said he guessed it was a school, it is called an academy, but as far as he was concerned, it is more of a business. It contains people that are sending their children to a non-home location for training/education. He didn't understand a lot about the home school definition. It seemed like it was a very wide, catchall, for how people may want to try to educate their children in a growing changing environment. Angie Heguy came to him in March, before the COVID Lockdown, and it was a cordial meeting. He found it a bit disturbing that Ms. Heguy stated they "will" be using the Burn's home as an academy. He thought the term "will" was a little strong, with not knowing what the status was. One of the things that really bothered Mr. Loranger was the change of a Conditional Use Permit. Apparently, the permit can be transferred to a new owner at some point. It is fundamentally changing a single-family residence and zoning it to something different. We don't know what will happen in the future. Will this thing succeed? Clearly, they have looked at expanding this initial school to include middle school and high school as a stretch goal. That was very concerning to Mr. Loranger, because of what many of the other neighbors have said. What are we really looking at here in terms of expansion and overall traffic? He finds the Conditional Use Permit to be one major red flag. He explained that he didn't know a lot of history about the Conditional Use Permits. He knew that there had been, maybe four permits transferred to new owners. He asked for some clarification on that. He thought that put everyone in a situation of not knowing what the property is going to be in the future. You have changed the fabric and culture of a well-established and mature neighborhood; by someone bringing in, what is essentially a business. Mr. Loranger thought the Committee should consider denying this, because it really is an increased safety, health, and insurance risk for the people that live in the neighborhood due to additional pedestrian and traffic congestion during multiple times of the day on a residential street that is already seeing increased traffic from non-residents. Another one of Mr. Loranger's major concerns was the off-street parking. He thought it was quite enlightening that at some point he was going to be looking at a parking lot across the street from him. He didn't consider that a good use of the property. He understood that there was a lot of logistics involved with that. That parking lot would also increase multiple vehicle incident risk. He thought one thing that hadn't been looked at hard enough was some sort of risk assessment that included all stakeholders involved with the potential Conditional Use Permit. Ultimately, Mr. Loranger was recommending that the Commission deny the permit. There are a lot of other opportunities. Right now, there are 16 commercial properties listed in Elko. Not all of them will fit the applicant's criteria, or their goals, but they are out there. There are other options too. There is a potential for capital appreciation from a sale. He stated that he hoped that Acton of the Rubies succeeded, but somewhere else.

Chairman Dalling wanted to help with Mr. Loranger's question. He pointed out Staff Recommendation No. 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.”

Michele Walsh, 491 W. Ash Street, said she could attest to the traffic issues with having Angel Park and kids running wild. She didn't know if this school would add to that. She stated that she agreed with her neighbors. Her concerns were twofold. Her understanding was that this was an online school. She asked if they were accredited and if they had a board. If they are not, Ms. Walsh thought the Commission would be getting into some swampy, weedy areas that they may not want to get into. The second question Ms. Walsh had was whether the Commission was setting a precedent that they may not have to deal with years from now. Setting a precedent in a residential neighbor, by bring in commercial properties. The Commission may not have to deal with it, but those that live in neighborhood would. She asked the Commission to consider that while they were making their decision.

Ajeet Milliard, 755 Country Lane, explained that she chose to have her child attend Acton of Rubies. It is a home school supplement, where parents choose to take their children to have their home school supplemented with accredited online versions of programs. She chose to take her kid to Acton because it is small, and because it is run by somebody who really cares. No, Ms. Heguy is not an accredited teacher, but it is a home school supplement and it's the choice of the people who take their children there. There are only ten families that bring their children to the academy. It is called an academy by name, but it is a 401(c) 3. By definition, it is not a school. The families that choose to take their children there take them there because they want something different for children. They all live in neighborhoods; none of them wants additional traffic. All the children that attend Ruby are under 12 years old. At this point, there is not going to be a big community of teenagers. The kids that do attend Acton, and the Families that take their children to Acton, are all very responsible. They all want something better for their children, the future, and the community. There was a lot of mention of the community having a lot of kids, and that is what they are here to support, that is what Acton is there to support. Ms. Milliard wanted to be a voice in favor of Acton. It is positive and well established, and the families that take their children there are good people. They don't have teenagers that run around, and they are responsible. They want their children to have the best that they can. She also mentioned that with the number of people that take their children there, there would not be a huge increase in traffic. They are all willing to work with Angie the way that they have to, to help her be successful in the location that she has chosen. Ms. Milliard explained that Ms. Heguy chose this location because she is a nonprofit. She just wants to provide a service for home school families that choose something different for their children. No one wants to see the neighborhood ruined or degraded in any way.

Lisa Donalson, 998 Northside Drive, explained that her children, Jillian and Hugh, attend Acton Academy. Acton focuses on community, and on developing good community members and leaders in the community. When this topic came up, both her children expressed interest in speaking to the Commission.

Jillian Donalson said this was her speech about why Acton should get the permit. First of all, why she thought Acton should get the permit was because they need a new space. At their current space, they can't hang their artwork up on the walls, or leave their stuff out, because the Girl Scouts need that space for Girl Scouting. Miss Donalson thought that was very frustrating, because they have to get their work done that day, unless they have a computer. At Acton, they learn to be problem solvers, so if anyone has a problem they help them solve it, and they will continue to do that at their new location too.

Hugh Donalson said the first thing that comes to mind when he thinks about Acton, is the word learn, which learning is a little different for him because he learns reading differently. Acton opens up possibilities, because you can learn in whatever way you want. He thought that was really great, because he recently finished his first ever chapter book with no help. He thought that was amazing. Why he thought Acton should get the permit was because they are working in a shared space right now, which means they can't leave their stuff out. If they do, it could get messed up. Having a new space would make them able to leave out their work and display their accomplishments. Mr. Donaldson thought that would help the Eagles work harder.

Vance McCann, Harper Drive, thought Acton should get the permit because they tend to learn from their mistakes. It helps them learn. He really thought that they could use the space, so they could show everyone the things that they accomplish. When they accomplish them and put them on display and people see it, they'll be like "Yay! They did something and we really think it's great!"

Cathy McCann, 5348 Harper Drive, Osino, explained that she was Vance's mom. She said they were looking forward to being neighbors to the people in the area. The reason they want to be neighbors is so that they can teach their children responsibility in a community. Sometimes living far away from their neighbors makes it hard to serve their neighbors. They are looking forward to being able to rake leaves and shovel snow for people. Ms. McCann said she appreciated everyone's concerns, and she understood that it is scary. She hoped that they would get the chance to prove to everyone that they would be excellent neighbors.

Brinley Spencer, Osino, explained that she traveled to town all last year to be part of Acton. Acton is a place where they gain support to their home school education, as well as develop their leadership skills and find their passion for life. Please consider allowing Acton the Conditional Use Permit for the property on Birch Street.

Joe Heguy, Elko County, explained that he was married to Angie Heguy. She started an amazing program called Acton Academy. It is not technically a school. Their children are being homeschooled, as well as the other children that are involved. They get together three times a week so that they can do collaborative projects. It is an amazing and beautiful thing. However, that's not the point. The use of the property on Birch Street, as intended by the property owner, was to allow Angie to use it to get these kids together several days a week. He feared that the reason they were here was because they asked permission from all of the neighbors, instead of asking forgiveness. At the end of the day, the footprint that having Acton on West Birch was going to be minimal. We are talking about 5 or 6 cars a day, twice a day, three days a week. The benefits are far larger. To deny someone to use their own private property in the manner they see fit is Un-American. Mr. Heguy said he wished they could have gotten together with some of the

neighbors that had concerns, so that they could have avoided this situation. Mr. Heguy also read a letter from his daughter, Zoey Heguy.

Dear Planning Commission,

My name is Zoey Heguy. I want to ask you. If you ran a homeschool group guess how much money you would make? Angie Heguy makes \$0 and she puts all the money back into the group to purchase supplies and provide a meeting place. I love Acton because I get to see my friends, we get to play together and do projects. Please approve our permit. Thank you. From Zoey.

Eric Walsh, 491 W Ash Street, explained that the first he had heard about this was yesterday evening, so he hasn't had an opportunity to learn much about Conditional Use Permits or about the Acton Academy. He stated that his concern had nothing to do with the school. His concern was about having a commercial property come into a residential neighborhood and impact his home value and potentially the taxes down the road. He wished he had learned about this earlier. One of the reasons why he moved into that neighborhood, after living here for 15 years, was because of the residential nature of that neighborhood. He moved from Juniper Street, where there are a lot of dual use properties and commercial entities, to get away from the traffic and to get away from the issues that come with that type of property. He purposely moved to a residential area, after taking 5 years to find a place that checked all the boxes. Seeing this sort of change coming makes him scared and nervous. That is why he is against the Conditional Use Permit. He didn't know what it would do to his home value or taxes.

Larissa Taylor, 101 Pine Street, explained that she had no idea what she was going to say, or if she was going to say anything. She came as a parent whose child attends Acton. Listening to the comments and concerns, Ms. Taylor felt that she needed to voice her concerns with what has been said. She felt like so many of the things that have been mentioned are fear based and have nothing to do with Acton. There were several things that she felt had nothing to do with Acton, such as drug use, speeding, using the road as a short cut, and home values being decreased. The plan is that Acton is there as a support for the community, and to better the community. She said she would venture to say that you would be hard pressed to find a better group of kids, a more responsible group of kids, than what you would find in attendance at Acton. The kids clean up at the end of the day. They clean the toilets and sweep the floors. That value is taught. They are there to be a support for parents and their kids' learning. It is not to bring things down. She felt it was necessary to make it known that that stigma is being attached to Acton, and it has nothing to do with Acton. They are more than willing to learn and take the necessary steps in order to make those things happen. They don't want the kids to be in danger. They want them to be able to get out of the car and feel safe going into a space. She chose to take her kids to Acton as support to herself. One of the main concerns that you'll hear from non-homeschool families is "How is your kid going to socialize and be able to be a member of society without being weird?" This is a way for them to have their kids go out and socialize with other kids, and to be in a positive and safe environment that promotes growth, individuality, and leadership. Ms. Taylor urged the Commission not to take that away. She also mentioned that Angie was willing to work with the City on sidewalks and parking.

Mike Lesbo, 1010 Dotta Drive, explained that his family built that house in 1967, and finished it in 1969. He and his wife bought the house in 2004. He stated that he did not have any problem, what so ever, with this academy, what they do, and how the kids benefit. However, as property owners, they are talking about a neighborhood of \$300,000 and above homes. He stated that he

was angry that this even got this far. He was surprised that they were at a meeting discussing how someone who doesn't live in the neighborhood could do this. He asked the Commission to respect the property owners that live in the neighborhood when they are making their decision.

Jeanne Goss, 313 Fir Street, explained that she has lived in six houses within the tree streets. She truly felt that that was her community. She walks in the community daily and knows many of the people that have spoken both for and against this application. Ms. Goss said she could understand being a part of that community that there is an increase in traffic and there are different zoning things. She explained that her children started attending Acton after Covid-19 and they have flourished. It is a wonderful group of people. They truly support community and positive growth. Ms. Goss thought it would be beneficial to the neighborhood. They are asking permission. There is drug use in the neighborhood, and those people don't come and ask for permission. She explained that she would be walking to school every day. The way she understood it was the Commission had 1 year to give Acton a chance. She guaranteed that everyone in the community would be happy if they did.

Ms. Laughlin explained that with any application that is received within the City of Elko, staff evaluates all aspects of the City Code. She wanted to go through some of those and emphasize some key elements. She said she would do her best to address the questions for the City that were brought up in public comment. She then began to go through the City of Elko Staff Report dated July 20, 2020. She clarified that this was not a rezone and the property would remain zoned residential. Ms. Laughlin wanted to bring up the NRS. NRS 484(B).287, "*When pedestrian must yield right-of-way to vehicle; when crossing at crosswalk is required; crossing diagonally; additional penalty if violation occurs in pedestrian safety zone*", states that every pedestrian crossing a highway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the highway, and a pedestrian shall not cross an intersection diagonally unless authorized by official traffic-control devices. The NRS does not state that students, or parents, cannot cross this street at that intersection just because it does not have a crosswalk. There is pedestrian access through sidewalks throughout the neighborhood that can get the students to the proposed location. There is not sidewalk in front of the property, but one of the conditions is talking about the drop-off and pick-up zone. If this approved, and plans are submitted to the City, then staff would look at whether it is necessary to have sidewalk in front of the property. One of the public comment questions was regarding the setbacks of the property, and how the property is developed. The property, as the principal permitted structure, does meet all yard requirements for the principal permitted structure.

Chairman Dalling asked how many students were enrolled.

Ms. Heguy stated that she had 24 students.

Chairman Dalling thought they would need three stalls. He then asked how many employees Ms. Heguy had.

Ms. Heguy explained that it was just herself.

Chairman Dalling thought that figured out to be three parking spaces for the students, and one for the employee. He said it would be four. He asked if it would be four spaces, plus a handicap space.

Ms. Laughlin clarified that it would be four, plus the access isle for the handicap.

Chairman Dalling asked if they had that currently. He asked if there was a three-car garage.

Ms. Heguy explained that there was room for 3.4 spaces, and they would widen that to account for the accessibility.

Ms. Laughlin continued going through the Staff Report. She thought it might be a good time to answer some of the questions about transferring the CUP. Two years ago, there was a new owner for the Noah's Ark Daycare Center. With the new owner, the Planning Commission transferred their CUP. That is a facility in a residential zoning district, surrounded by other schools and neighborhoods. They do have a CUP, and they got it transferred. The Planning Commission had that hearing, and made the determination on whether it was transferable or not. It does states that there is one year to be actively engaged. Staff has considered "actively engaged" to be items such as getting a building permit or a business license. One other point, just because you are issued a Conditional Use Permit doesn't mean you have to continue that use at that property. She continued to go through Staff Report. Staff recommended conditional approval, with the eight findings and eleven conditions listed in the Staff Report. Several of the conditions address the concerns of the neighbors and City Staff. When Staff follows up on Conditional Use Permits it is usually when there is a complaint from adjacent neighbors. Staff wants to eliminate any of these conflicting issues before a permit is issued. Condition No. 3 states that the garage and the street cannot be used as part of the required off-street parking stalls, which is how all commercial and residential properties are treated. A Variance for parking in the front yard setback must be approved prior to issuing the Building Permit for the parking area. The reason for that condition is that in Section 3-2-17 it states that no required off-street parking can be in the front yard setback or the side yard setbacks in a Residential Zoning District. A Parcel map is required to be approved and recorded prior to the opening of the school. As many of the old tree street properties are, this parcel was created by Map No. 5, and it was created with 25' wide lots. There are several lots, but it is evaluated as one parcel. If you look at the legal description this parcel was created by lots 9, 10, 11, and a portion of vacated E Street. A Parcel map would combine all of that into one parcel. We don't allow buildings to cross lot lines, therefore the Parcel Map would clean that up. Another condition is that a designated drop-off and pick-up location shall be established. This area can only be in front of 675 W. Birch Street and should be properly marked. The permittee is required to prevent disruption to vehicular traffic, and ensure pedestrian safety by establishing staggered drop-off and pick-up times at sufficient intervals to ensure the street is not blocked and parking does not extend beyond the frontage of 675 W. Birch Street. The drop-off and pick-up times are restricted to 3 days a week. The ADA Ramps shall be installed in the front and rear yards, and any other areas where stairs prohibit the equitable use of the property. As this is a change in Occupancy, the structure shall be brought into compliance with current Building Code to conform to an education use. This shall include all accessibility requirements per ICC A117.1 2009 as referenced by 2018 IBC. All work will require permits through the City of Elko Building Department. Ms. Laughlin wanted to go through the questions for the City from Liza. Ms. Bauman asked what the minimum requirements were for the Zoning District. Ms. Laughlin explained that would be the yard setbacks, which would be 5 ½ feet on each interior

side yard, 15 feet to the house, 20 feet to the garage, and 15 feet in the rear, so it does meet those requirements. Traffic Access Parking and Loading Regulations. Ms. Bauman asked what the maximum capacity occupant load for the location, and if the City was requiring compliance for an elementary or middle school. Ms. Laughlin explained that it would be up to Ms. Heguy to provide the City the number of students based on the occupant load that is allowed within the property and have to comply with 3-2-17 providing parking for that amount of occupant load. Ms. Laughlin explained that the Conditional Use Permit isn't renewed every year. Once you have established your CUP and been approved, you have one year to be actively engaged in that use at that property. If you are not, you lose your permission for that CUP. The only way a CUP is going to be revoked is if there is a serious enough claim against the Conditional Use that Staff brings it back to Planning Commission and asked to have the CUP revoked. She also explained that the Planning Department and the Compliance Department within the City of Elko follow up on the CUP. Staff reviews CUPs as conditions come up. Planning and Compliance Departments staff are the ones that are responsible for continuing to make sure that they are in compliance. Ms. Laughlin wanted to clarify again that this is not a rezone, it is not putting a Commercial Zone on that property, and it will not change the valuation of a property based on the zoning of the property. It will still be a principle permitted use of a single-family dwelling in an R Zoning District, with a Conditional Use on that property.

Ms. Rambo stated that all her comments and conditions were incorporated into the Staff Report. She wanted to touch on one of the public comments. Someone mentioned that the City didn't have a Compliance Department. Ms. Rambo stated that she is the Compliance Department. If staff get complaints, or sees an obvious violation, then they do follow up. There are several steps they have to go through in order check compliance and get people back into compliance.

Ms. Winrod explained that Chief Griego and she was working with Angie. Through their discussions, they have found no issues with the 2018 Fire Code.

Ms. Laughlin stated that the City Manager's Office recommended approval as presented by staff, and any comments from the Engineering Department were incorporated into the Staff Report.

Commissioner Stefan Beck stated, as an educator, he recognized the importance of education. His main concern was whenever a good portion of the neighborhood shows up, the Planning Commission needed to take it seriously. That's what our Country is supposed to be about. Initially, he thought that it was going to be chaos with traffic, which was the portrait that was initially painted. The applicant would be there Tuesday, Wednesday, and Thursday, and they would have a pick-up twice a day. He thought the main concern was traffic patterns, kids getting hurt, and disruption of a quiet neighborhood. That alone would be enough to cause serious concern, but he wasn't sure if that would actually happen. He said this was a tough one and he just didn't know. He thought it would be a minimal impact, not a major one. He said it was just tough when that many neighbors show up and object. Commissioner Beck said that he would want some assurance, but he didn't know if that could be done. He asked if there was a way they could assure the neighbors that it would be minimal impact.

Ms. Heguy stated that she had some stuff prepared for the Commission in regards to the questions. She thought overall, and in general, everyone agreed. This is a neighborhood in a wonderful community. It is their intention to keep it that way. She said that her grandparents built the house 60 years ago and lived in it. They decided, instead of selling the home, that they

would like to see Ms. Heguy host the kids there three times a week. There will be minimal traffic. There is a small number of families. Just because they are talking about 24 kids, it is not 24 cars. There are multiple kids per family, which includes her family. Many of the children live in, or around, the neighborhood. They would be willing to walk and/or bike, as applicable. The other families have worked out the best way to carpool and minimize traffic. They will also be respectful of the neighbors and the other kids in the neighborhood. She has created some staggered drop-off and pick-up times in order to minimize the traffic and to utilize off-street parking. They will be operating Tuesday, Wednesday, and Thursday only. They will be very respectful of loading and unloading in the designated area. Ms. Heguy also wanted to make a quick comment. She explained that she was speaking with some of the families yesterday, in regards to the context of the meeting, and what the purpose was of them being here tonight. She asked the question, what does it mean to be a good neighbor. The children, for the most part, came up with responses. Some of the response were: keeping the yard clean; being nice, kind, and quiet; saying hello to the neighbors; lending a helping hand when you see something that needs to be done, or someone that needs help; being in the neighborhood allows the children that live outside of the City the opportunity to be good neighbor; to serve the community and serve the neighborhood better, etc.

Commissioner Beck said this was a tough call. He asked if it was an economic advantage because they already own the house. He also asked if they had looked at a commercial property, or if they had explored other options.

Ms. Heguy said yes, and that she had looked at multiple different things. As far as being economically advantaged, they are a 501(c)3 with limited funds. She explained that she was not getting any financial gain, especially personally.

Chairman Dalling asked if they thought about selling the house and moving to a commercial location.

Mr. Heguy said yes. Their intent with the house, because what Ms. Heguy is doing is expanding so quickly, was to use it for a small amount of time in between what they are planning on doing. They don't want to change anything about the house. The traffic will be minimal, so any changes that occur to the house will be for ADA compliance. Mr. Heguy said they were planning to do something else soon, and they don't want to change it from a residential property. In the meantime, it would be a great place to use for the kids. He didn't think it would detract from the neighborhood at all, or affect the neighbors.

Commissioner Gratton Miller asked what time the school started and ended. He also asked exactly what times the staggering drop-offs and pick-ups would be occurring.

Ms. Heguy explained that the school would begin at 8 a.m. In the afternoon, the younger children leave at 1 p.m., and the older children leave at 3 p.m. Afternoon pick-up will be even less of an impact.

Commissioner Tera Hooiman asked with the Covid-19 situation if Ms. Heguy thought there was going to be an influx of students. She asked if that was something that they planned for and what that looked like.

Ms. Heguy stated that she has had a lot of people contact her because of the Covid-19 situation. She explained that she was at capacity right now. Every child that is coming next year was there last year. Ms. Heguy felt it was important to serve those families first. They could possibly grow into another location at some point, but not at W. Birch.

Commissioner Hooiman asked how many years Ms. Heguy has been doing this.

Ms. Heguy stated that it would be her 3rd year going into the fall.

Mr. Wilkinson said the limitation on parking would limit the occupancy.

Ms. Heguy said it was also the intention of really keeping the integrity there and maintaining the neighborhood.

Chairman Dalling asked what the sidewalk story was. He felt like they hammered everyone on sidewalk. He wondered if they could get a better clarification.

Ms. Laughlin said as the subdivision was developed many years ago the south side of W. Birch does not have sidewalk, all the way from Dotta down the corner to Highland. Across the street and the adjacent streets north of this property, do have sidewalk. Why this street wasn't required sidewalk at the time of development was beyond her. Keep in mind, if we require sidewalk just in front of 675 W. Birch Street, you still don't have connectivity to the east and west.

Ms. Heguy said based on parking, the parking that they were going to have would negate the need for the sidewalk, as far as dropping and picking the kids up. The drop-off and pick-up will be in the driveway and parking area.

Chairman Dalling asked for final comments from the applicants.

Ms. Heguy thanked the Commission for listening and thanked the neighbors for raising their concerns. She said that she appreciated knowing so that they could be held to a higher standard. She added that they really hoped to be able to be good neighbors.

Commissioner Dalling called for final public comment.

Robert Loranger, 1000 Dotta Drive, said his comment was to everyone and to the applicants. Mr. Heguy made a comment about how they got to this point without having any feedback. Mr. Loranger wanted to say that one of the things with doing something like this in a residential neighborhood is that the person and the people that have the passionate drive need to be passionately, and actively seeking buy in from the surrounding property owners, and people who may be impacted. You've got to sell it and going forward you need to be interactive with the neighborhood. That's how things progress and how you get full backing from a community.

Ms. Heguy agreed with Mr. Loranger about being proactive and including the neighbors. That was something they commented on and one of the things that the kids would like to do. In respect to that, Ms. Heguy stated that she submitted several letters to the neighbors and tried to give them some information. She said that she would do a better job at that, and that she

appreciated the encouragement there. She would be happy to share their goals and to help in any way possible as a neighbor.

Scott Conley, 3724 Wright Way, wanted point out something he noticed about the number of children per parking spot. He said Ms. Heguy might want to consider kids moving from the elementary stage upwards. You might have to upgrade your driveway and it might be something to think about.

Commissioner Buell said as she was doing her homework she wanted to dig into the zoning issues related to this application. That began with the semantics of dancing around the term "school." That struck her as odd, because when the question came up she looked up the accreditation for this organization. It is accredited by the International Association of Learner Driven Schools, an organization that shares employees with Acton Academy. The issue Commissioner Buell had there wasn't so much any potential conflict of interest, it is more that the accrediting body refers to these as schools. She looked at medium density residential neighborhoods, and common best practices related to this. What you wind up with is schools, private or otherwise, within residences tend to be allowed with up to 10 students. This has 24 students. That is a notably higher number than standard. With that in mind and trying to avoid the term school, Commissioner Buell stated that she could not vote for this Conditional Use Permit.

Chairman Dalling asked Ms. Heguy if 24 students was her maximum and that she wasn't going to be taking any more. (Correct) He asked what happens if the kids keep coming and reach high school and driving age.

Ms. Heguy said that would be up to their parents. At this point, they are serving elementary, and are focusing on that age group. Their home schooling journey is up to their parents.

Chairman Dalling said the problem is sometimes things are easy and we just stay where we are. It could be an issue in the future when the kids start driving.

Mr. Wilkinson thought it would be appropriate if the Planning Commission looked at this application and with all the public comment that they've heard, that they determined that this Conditional Use Permit would be limited to a certain age of children. If the applicant was in agreement with that, it is probably a logical discussion to have.

Chairman Dalling said maybe Kindergarten through 8th Grade. He asked how everyone felt about that.

Ms. Heguy said that sounded good.

Chairman Dalling said he wondered, although it's not legal and he shouldn't advocate for it, if they just had the kids show up three days a week non-permitted. He said he shouldn't say that, but it would have saved them a little bit. Chairman Dalling said he liked the K though 8 condition. He didn't think anyone wanted extras in their neighborhood, so it's hard to not listen to the people. It's always a bad thing when the whole neighborhood shows up and voices their opinion. He thought the Commission appreciated the opinions in the end, both pro and con.

Commissioner Hooiman felt like the public concern that was voiced tonight could have been met with some clear communication on the applicant's part, and it wouldn't have been so hard met. There were a lot of people here that were frustrated with the process. She stated that she saw their concerns, and she saw where the applicant was coming from. Commissioner Hooiman said her struggle was that the community that the applicant was going into doesn't support the application.

*****Motion: Deny Conditional Use Permit 3-20.**

Moved by Evi Buell, None seconded.

***With no second the motion died.**

Commissioner Beck wanted to echo Commissioner Hooiman's statement. The problem he was having was when you get that many people that show up. It's tough when most of the neighbors show up and they're against the project. Commissioner Beck said his main concern was that they had a lot of people that were against it.

Mr. Heguy thought the connotation of having a school in the neighborhood was terrifying. He said it's not that, it is a Conditional Use Permit to have a few kids meet three times a week. He felt the footprint would be minimal and it fits within the City Codes, and they were willing to make the appropriate upgrades. Mr. Heguy didn't think it was going to be a detriment to the neighborhood.

Chairman Dalling said he was in the same spot, he could see both sides. It is a small learning hub, a school, and it's in someone's neighborhood.

Commissioner Miller asked if there was an option for the Commission to table the item and see if the applicant can convince their neighbors to go along with this. He asked if there was a precedent for that.

Chairman Dalling said they could do that. The problem is that it wouldn't be fair to the public who came out. They would have to come back again. He asked if there was a way they could make the decision at the end of the night.

Mr. Wilkinson suggested that Chairman Dalling entertain other motions before they move on.

Chairman Dalling asked for any other motions.

*****Motion: Table this and see if the applicant can convince their neighbors to get on board.**

Moved by Gratton Miller, None seconded.

***With no second the motion died.**

Mr. Wilkinson wanted to remind the applicant, public, and Planning Commission of the appeal process. Any party could take this to the City Council on an appeal. Whatever is decided tonight, the public and/or the applicant would have recourse before the City Council.

*****Motion: Deny Conditional Use Permit No. 3-20.**

Moved by Evi Buell, Seconded by Stefan Beck.

**Motion passed (4-2, Commissioners Dalling and Hooiman voted no).*

6. Review, consideration, and possible action on Variance No. 3-20, filed by Real Estate Pro, LLC, to allow required off street parking to be located within the interior side yard setback for each dwelling unit proposed to occupy a series of contiguous lots in a R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Fir Street, between 2nd Street and 3rd Street. (APNs 001-096-010 through 001-096-015)

Jaime Alvarado, 225 Fir Street, explained that he and his wife have lived in their home since July 2001. All those years they have enjoyed the tranquility and peace of mind of the streets. They have serious concerns now of losing that. They were made aware that they are planning to build six little tiny homes. Mr. Alvarado said they would not be in opposition to two or three homes, but are opposed to six dwellings. There are parking issues along with other concerns. If the dwellings will be rentals, Mr. Alvarado had the following questions: Will there be someone to submit the roll of a rental property management? If so, will there be a background search conducted on the potential renters? They know their neighbors, and there is not one convicted criminal living across the street. He saw it appropriate that the said requirements remain as it is, and that the Department uphold their own requirements. They are requesting that the petition for Variance No. 3-20 be denied. The Real Estate Pro, LLC should be required to follow the City requirements.

Jeanne Goss, 313 Fir Street, said she was curious about the variance with the adding the parking, and worried about defensible space. If they are going to be adding parking to the alleyway, that is the main drainage through the area, so will they be upgrading the current alleyway. Right now, the water kind of flows through there, but not always. If that is going to become an actual street, then there will need to be improvements made to that. With additional homes, does that mean the City will put up stop signs in that area? Will the traffic patterns be changing? She was also wondering if they gave parking that close to a home, if they would need a curb, so they wouldn't run into their house. She was wondering what the exact plans were.

Chairman Dalling said he knew this was a terrible alley for standing water. He asked Mr. Wilkinson if the developer would be required to do a new complete alley. Chairman Dalling felt like that should be required.

Ms. Laughlin explained that she would address some of that in her presentation. With the Building Department Permit Application, there will be a site permit and a Building Permit for each of the residences, and Staff will be looking at a grading permit to show how the lots will

drain. There are Code requirements that will have to be followed. If that requires that they have to do some work in alley, staff can require that.

Chairman Dalling felt like it would be required, since there are six lots.

Ms. Laughlin explained that this variance was addressing a key element regarding the parking; it is not addressed to how the property is developed. Staff has not seen the Building Permit set, so we don't have information on how they plan to grade the lots.

Mr. Wilkinson explained that the properties drain somewhere today. When the developers get in there and do their Site Plan, they are going to have to show where those properties will drain to after development. Let's assume that they do not drain to the alley and they give the City a site plan that shows that they want to put their drainage to alley. Staff could determine at that time whether they will have an impact beyond their frontage. Typically, we are looking at just frontage improvements with these type of developments.

Chairman Dalling thought it was more complicated because they are actually that alley is going to be part of their driveway.

Mr. Wilkinson said typically, when you park in the back the City likes to see the drainage go to the right-of-way, and alleys are right-of-ways in these areas. If there are drainage problems in that alley, we can always require that the drainage report out to the street area. Mr. Wilkinson thought it was an issue that is easily addressed at the time that a site plan is submitted.

Ms. Goss asked about updating the sewer. She said that the sewer system in the tree streets is bad. If there will be extra strain on that, it is another thing that needs to be considered.

Mr. Wilkinson explained that there are lots of record that have an implied right to hook onto the City's utility systems. If there are some deficiencies in the City water or sewer in that area, that may be something that would be addressed as a result of this. Mr. Wilkinson said he wasn't sure what issues may be present in the area. It is something that the Utility Department would be aware of. They are involved in the plan review and approval process.

Ms. Laughlin went through City of Elko Staff Report dated July 20, 2020. Staff recommended approval with the findings and conditions listed in the staff report.

Ms. Rambo had no comments or concerns.

Ms. Winrod had no comments.

Ms. Laughlin stated that the Engineering Department and the City Manager's Office recommended approval as presented by staff.

Mr. Alvarado asked which map zoning was being used from 1976.

Chairman Dalling explained that these were old lots that have been around since before the 20's.

Mr. Alvarado said when he first bought his house it was explained to him that there were only two parcels there. He didn't know how there is now six parcels.

Chairman Dalling said there always had been six. They were never legally put together.

Mr. Alvarado asked if the homes that are going to be built would take value away from the surrounding homes, or if they would improve the values.

Chairman Dalling didn't think anyone had a crystal ball to tell for sure. He said they might do ok with property values, because there isn't a lot of new construction on the tree streets.

Commissioner Buell thought the big concern was the condition of alley, accessibility, and whose responsibility it is to make the improvements. She was concerned about the status of existing infrastructure.

Chairman Dalling wished they had drawings.

*****Motion: Conditionally Approve Variance No. 3-20 subject to the conditions in the City of Elko Staff Report dated July 20, 2020, listed as follows:**

- 1. Variance 3-20 from Elko City Code section 3-2-17(D)(2)(a) is for approval of required off street parking in interior side yard setback with access from the alley.**
- 2. Commencement within one year and completion within eighteen (18) months.**
- 3. Conformance to plans approved as a part of the variance.**
- 4. Subject to review in two (2) years if determined necessary by the planning commission.**

Commissioner Buell's findings to support the motion were the proposed variance is in conformance with the Land Use Component of the Master Plan is consistent with existing land uses in the immediate vicinity. The proposed variance is consistent with the Transportation Component of the Master Plan. The property is not located within the Redevelopment Area and consideration of the plan is not required. The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed development as a single family residence conforms to Section 3-2-4 of City Code. A single lot or parcel of land of record in the office of the county recorder as of the effective date of the city subdivision ordinance (December 9, 1975), and which does not meet a buildable lot for one single-family dwelling. Therefore, the minimum lot width of 60' and lot area of 5,000 sq. ft. is not required based on this exception. The proposed development is in conformance with Elko City Code 3-2-5(G) for the principal permitted use of a single family residence. The proposed development does not conform to Section 3-2-17 of City Code. A Variance for the parking in the interior side yard setback would be required to be approved for the proposed development to be in conformance. In accordance with Section 3-2-22, the applicant has demonstrated that the hardship is the narrow lots created by File #5 and the required width of 18' for the 2 off street parking. In accordance with Section 3-2-22, the applicant has demonstrated that the property has unique circumstances based on the fact that the lots are narrow and the width of 25' minus the 18' parking required is less than the required interior side yard setbacks. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on other

similar properties within City of Elko, which were built within the last 15 years. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. Single Family is listed as a principal use in the underlying zone. Granting of the variance will not impair natural resources. The parcel is not located within a designated Special Flood Hazard Area.

Moved by Evi Buell, Seconded by Stefan Beck.

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

2. Review, consideration and possible recommendation to City Council for Rezone No. 2-20, filed by the City of Elko, for a change in zoning from AG (General Agriculture) to PQP (Public, Quasi-Public) Zoning District, approximately 38.09 acres of property, to allow for the proposed development of a veterans cemetery and other future public uses, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is generally located north and south of Rocky Road, approximately 520' west of N. 5th Street. (APN 001-01A-012)

Ms. Laughlin went through the City of Elko Staff Report dated July 20, 2020. Staff recommended approval with the findings in the Staff Report. She added that the City Manager's office recommended approval as presented by staff.

Ms. Rambo and Ms. Winrod had no comments.

Scott Conley, 3724 Wright Way, said his property was right across from the area. He fully supported making a veterans cemetery. There was one thing he was confused on. He stated that "other future public uses" was very vague. He knew there was talk about putting a school up there, which he also supported. He hoped that with whatever the future public use is that we consider the roads, especially if it is a school. It is a nightmare on Jennings at 3:30 p.m. His children attend Mountain View, and he parks several blocks away and walks to the school because it is a nightmare for driving. He encouraged the City and the Elko Planning Commission to at least take public parking into account whatever is done.

Ms. Laughlin explained that there was a parcel map that was approved with some roadway dedication. The School District is off the table as far as the purchase of the property, because they would have needed all 38 acres to provide for their school and the VA is going through the process to purchase 15 acres in the center. The remaining Parcel A, the City of Elko is entertaining maintaining that for our own cemetery use. There are two more parcels, one above Rocky Road and one below. It would be limited to what could go on those two parcels.

*****Motion: Forward a recommendation to City Council to adopt a resolution which approves Rezone No. 2-20.**

Commissioner Miller's findings to support the motion were the proposed zone district is not in conformance with the Land Use Component of the Master Plan. Master Plan Amendment 2-20 has been initiated and with approval, it will bring the zone amendment into conformance with the Master Plan Land Use Component. The proposed zone district

is compatible with the Transportation Component of the Master Plan and is consistent with the future transportation infrastructure. The property is not located within the Redevelopment Area. The proposed zone district and resultant land use is in conformance with City Wellhead Protection Plan. The proposed zone district is in conformance with Elko City Code Section 3-2-4(B). The proposed zone district is in conformance with Elko City Code 3-2-8. The application is in conformance with Elko City Code 3-2-21. The proposed zone district is not located in a designated Special Flood Hazard Area (SFHA). Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, flood plains etc., or pose a danger to human health and safety.

Moved by Gratton Miller, Seconded by Tera Hooiman.

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

***Chairman Dalling called for a five-minute break.**

3. Review, consideration and possible recommendation to City Council for Rezone No. 3-20, filed by Elko Institute for Academic Achievement, for a change in zoning from CT (Commercial Transitional) to PQP (Public, Quasi-Public) Zoning District, approximately 11.38 acres of property, to allow for the development of a school, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is generally located on the northeast corner of the intersection of College Avenue and Ruby Vista Drive. (APN 001-620-058)

*****Motion: Table Item No. I.A.3.**

Moved by Gratton Miller, Seconded by Evi Buell.

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

4. Review, consideration, and possible adoption of Resolution 2-20, containing amendments to the City of Elko Master Plan, specifically amending: 1) the Proposed Future Land Use Plan Atlas Map 8 on six parcels of land located on S. 5th Street generally between Carlin Court and S. 9th Street; 2) the Land Use Section to add RO (Residential Office) as a corresponding zoning under the Downtown Mixed-Use land use designation; and 3) the Proposed Future Land Use Plan Atlas Map 8 on one parcel located at the western terminus of Rocky Road, and matters related thereto. **FOR POSSIBLE ACTION**

Planning Commission reviewed and initiated the amendment to the City of Elko Master Plan at its July 7, 2020 meeting.

Ms. Rambo explained at the Planning Commission's last meeting on July 7th they initiated this amendment to make two make changes to Atlas Map 8 and one change to the text of the Master Plan to clean up some areas that needed to be changed based on current projects, or cleaning up

stuff from the past. Nothing has changed since the initiation. The Planning Commission has the resolution that needs to be forwarded on to City Council in order to get this process underway.

*****Motion: Adopt Resolution 2-20, containing amendments to the City of Elko Master Plan; directing that an attested copy of the foregoing parts, amendments, extensions of and/or additions to the Elko City Master Plan be certified to the City Council; further directing that an attested copy of this Commission's report on the proposed changes and additions shall have be filed with the City Council; and recommending to City Council to adopt said amendments by resolution.**

Moved by Evi Buell, Seconded by Gratton Miller.

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

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible recommendation to City Council for Vacation No. 2-20, filed by Real Estate Pro, LLC, for the vacation of the southeasterly portion of Fir Street abutting APNs 001-096-010 through 001-096-015, consisting of an area approximately 1,500 sq. ft., and matters related thereto. **FOR POSSIBLE ACTION**

The property owner is proposing to develop the six lots with single family homes and would like to vacate any excess right-of-way. City Council accepted the petition for the vacation on July 14, 2020.

Ms. Laughlin went through the City of Elko Staff Report dated July 20, 2020. Staff recommended approval with the findings and conditions listed in the Staff Report.

There were no other comments or concerns from any members of Staff.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No., 2-20, subject to the conditions listed in the City of Elko Staff Report dated July 20, 2020, listed as follows:**

1. **Approved conditions are to be included in the Resolution.**
2. **The applicant is responsible for all costs associated with the recordation of the vacation.**
3. **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.**
4. **Required public improvements be completed within one (1) year from date of approval by the City Council of vacation 2-20.**
5. **The vacation will not be recorded until public improvements have been completed and accepted by City of Elko staff.**

Commissioner Buell's findings to support the motion 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 proposed vacation is in conformance with NRS 278.479 to 480, inclusive. The proposed vacation is in conformance with City Code 3-2-5(E) and 8-7.

Moved by Evi Buell, Seconded by Tera Hooiman.

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

II. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin said she didn't have much to report. There hasn't been a Redevelopment Advisory Committee Meeting or a Redevelopment Agency Meeting for some time. We are hoping to have one sometime in the first part of September. It does look like the Planning Commission Meeting for September will be back to a GoToMeeting.

B. Summary of Redevelopment Agency Actions.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Miscellaneous Elko County

E. Training

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

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

ADJOURNMENT

There being no further business, the meeting was adjourned.


Jeff Dalling, Chairman


Tera Hooiman, Secretary

8/4/2020

To Whom it May Concern,

As you know, we as neighbors that will be impacted by the presence of a **501(c)(3) Organization Youth Organization** in our neighborhood, have several questions and concerns. Please understand that given our significant investment in this neighborhood, it is not unreasonable for us to feel this way.

The applicant has made it clear that this is NOT a school, but regardless of the tax status of this organization, all of the CUP requirements are for compliance of a school/child care facility.

Questions for the City:

Transportation

3.the south side of West Birch Street does not have pedestrian access. Sidewalks are a necessary safety feature, particularly in residential neighborhoods where children walk to and from school.

This section states the lack of and importance of sidewalks. Will the applicant be required to install sidewalks?

If NO Why? Applicant has stated in her letter that students will be encouraged to walk or bike to the school to keep traffic to a minimum, how will they safely cross West Birch Street with out a cross walk? They will not be able to access the property safely from South side of West Birch without sidewalks.

If YES, will it be a requirement only in front of their residence? Or the whole South side of West Birch Street? If whole South side of West Birch, how will that affect my property located at 975 Dotta Dr?



Section 3-2-4 Establishment of Zoning Districts

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

What are the minimum requirements?

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

1. Section 3-2-17(F) Requires 1 parking stall per 6 students for Elementary Schools and for middle schools, 1 per 10 students and 1 per employee. The building size will determine the occupant load allowed and off-street parking will be required to be in conformance with 3-2-17(f)

What is the max capacity occupancy load for the location? Is the city requiring compliance for an elementary school or a middle school?

2. Section 3-2-17(D)(2)(a) ...no off street parking space shall be located in a required front yard or interior side yard.....for conditional use permit, the garage will not be allowed to be counted toward required off street parking and therefore a variance will be required to be approved to allow parking in the front yard set back

Are they looking to convert the side yard to the right of the existing driveway and/or an area in the front yard? What are the requirements for obtaining this variance?

Where are Lots 9,10 and 11 and the vacated portion of former E Street right of way? Is this referring to the area to the right of the existing garage slab?

Section 3-2-18 Conditional Use Permits

2. Every conditional use permit issued,...shall automatically lapse and be of no effect (1) year from the date of it's issue unless the permit holder is actively engaged in developing the specific property for the use for which the permit was issued

What are a few examples of further development to this property at each 1 year anniversary in order for the CUP to be renewed?

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

Who is responsible to review the CUP? How often are they reviewed? Is this the same person that would monitor whether the Organization is in compliance as far as enrolled students?

Note: The city currently does little to no snow plowing or removal in this area, If the intended CUP is approved, is the city committed to dedicating more resources to snow plowing and removal in our neighborhood?

Questions for the Applicant:

How many children are currently enrolled for the fall semester? Of those enrolled, how many separate families? (for traffic volume purposes)

If the max occupancy load for the residence allows for additional enrollments, do you plan to enroll as many students as is allowed?

Will additional business be conducted at the property on days other than your stated days of operation?

What is the contact information for your compliance department? Name and phone number.

What is your reason for no longer using the Girl Scout House?

What business license are you currently doing business under?

Is your non-profit set up as a trust, corporation or association?

May we have a copy of your tax-exempt application? (Form 1023) **Required to be public record**

May we have a copy of your last 3 years of tax reporting (Form 990) **Required to be public record**

May we have a copy of your articles (**corporate** articles of incorporation, **LLC** articles of organization, articles of association or constitution of an unincorporated association, or **trust agreement or declaration of trust**)

May we have a copy of your Bylaws?

How many staff members are there? Are they independent contractors or employees?

We do not support the approval of this CUP for the following reasons:

When we purchased our home 8 years ago, part of the appeal was that it sits in a quiet neighborhood. If at that time there had been a school so close (non-profit or not) it would have weighed into our decision. As such, it is reasonable to assume that it would be a consideration of other people looking to buy a home. This in itself could affect the value of our homes.

The approval of this CUP will drastically change our neighborhood due to the amount of people that will now be in and out of it.

Traffic flow is already congested due to Dotta Drive and W Birch not being complete through streets. If the pick-up/Drop off zone is on the south side of W. Birch in front of the residence, every vehicle will travel on Dotta Dr to access the school in order to be on that side of the street.



Sidewalks are an issue. Children will not be able to safely walk to the property without extensive civil work that may affect every property owner on the South Side of W. Birch Street.

Steven + Jennifer Hayes
1024 Dotta Drive
Elko, NV 89801

August 3rd, 2020

To whom it may concern:

We are writing this in response to the notice of public hearing regarding the Conditional use permit No. 3-20 filed by Gladys Burns located at 675 W. Birch St.

We are located down the street at 1024 Dotta Drive (Steven + Jennifer Hayes).

Right now we have a quiet street with minimal traffic, mostly residents. We do not agree with a neighbor using a residence for business purposes, we don't think it's a good idea. That's what commercial space is designed for, not our neighborhood.

Sincerely,

Jennifer Hayes

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10/11/11

August 4, 2020

To the City of Elko Planning Commission

RE: Conditional Use Permit 3-20

Our home is located at 1030 Dotta Drive, and we are OPPOSED to the approval of CUP 3-20 for the following reasons.

We enjoy our residential neighborhood and feel that the approval of a conditional use permit sets a precedent for future CUPs.

Dotta Drive already has quite a lot of traffic, and the intersection where Dotta Drive meets West Birch is a hazardous tight curve especially with vehicles parked on the corner. Also, where Sewell Drive meets Birch Drive, the road widens so that people driving east on Birch often "cut the corner" turning onto Sewell.

The neighborhood is blessed with quite a few children now who sometimes play in the street.

There are quite a few commercial buildings for sale in the city of Elko.

For these reasons, we hope you will reconsider your recommendation for Approval of CUP 3-20.

Sincerely,

Earl and Mary Craig

Earl M. Craig
Mary S. Craig

Shelby Archuleta

From: MELISSA DUKE <mduke13@gmail.com>
Sent: Tuesday, August 4, 2020 5:27 PM
To: Shelby Archuleta
Subject: Not in favor of the Ruby Mtn Acton Academy

Our family moved to 1011 Dotta Drive July 17, 2020.

We chose this neighborhood for the quiet streets, well groomed yards and the elder residents.

We have 4 active children from ages 14-9. They have spent a lot of their time riding along the sidewalk and streets of our new neighborhood.

We are concerned that extra traffic in our neighborhood will be a nuisance. We fear for our children's safety while they ride their bikes and scooters. There is not a sidewalk after our house so they ride in the road sometimes along a blind corner very near to the proposed business.

We moved into this home with the expectation that residential zoning protects neighborhoods, businesses, and industrial areas from uses incompatible with the zoning and ownership interest of the area.

If this school is approved, the neighborhood will be flooded with extra traffic. The staggered start and stop times will leave us wondering when it will be safe to ride throughout the day.

As we have been getting to know neighbors in our new neighborhood, they have expressed their disapproval of the new school/childcare facility potentially coming to the neighborhood.

The construction of a parking lot invites a construction project in a well established neighborhood where expectation of that big a project could never have been projected. In addition, the residential neighborhood could not accommodate celebrations, such as open houses and parties, that are typical at schools, without displacing first residents and their guests.

While the CUP may have stipulations we are aware that enforcement would be improbable, considering there is no compliance department within the city.

We are speaking our concerns as well as being a voice for our new neighbors who are very disappointed in this prospect.

This is not a neighborhood for a school/childcare facility.

Please, City of Elko, maintain this long-established, quiet and quaint neighborhood. We ask that you deny the CUP request.

Incidentally, I inquired with the city 3 years ago to establish an appointment only cosmetology business within my separate garage on a huge corner lot with ample parking. I was told I would have to attempt to get a zoning change as it would likely disrupt traffic patterns in a residential neighborhood. I was also told that even attempting it would be prohibitively expensive. I respected the cities guidance, because I understood the residential interests would supersede a business.

In many counts this proposed business will be disruptive to residential life . I question how the prospect of a school is in any way less obtrusive than a little cosmetology business, where I would have taken individual appointments only, and would have not needed any disruptive construction.

Thank you for your consideration

Jordan and Melissa Duke

1011 Dotta Drive

Elko, NV 89801

Hello! My name is Louri Lesbo. Our family has lived at 1010 Dotta Drive for 51 years. It has come to our attention that Ruby Mountain Acton Academy is to be located at 675 Birch Street.

Our neighbors have many concerns. Mine are as follows:

1. We have a blind corner at this location. Ten children live in surrounding homes. With the increase in traffic, what will be done to assure the safety of the neighborhood children.
2. Parking- How is the city going to address the increase need of parking in this area, and how is the city going to address the congestion from the increase flow of traffic on this tiny two-lane street?
3. We have a problem with teenagers congregating and racing by Angel Park. With the teenagers within the population of the school, there is a possibility that this problem may extend even farther down the side streets. Will there be extra law enforcement to keep this from happening?

Many of the families in this neighborhood have lived in their homes for over fifty years. The noise and confusion generated from these children may be detrimental or disorienting to our older residences.

I am concerned with how many children will be attending this program. This program's current building is large, with lots of parking. What has been done at the Birch Street property to address growth needs? I.E., how do we address overflow of students?

Who is going to oversee this program to see that what is being said is actually what is being done?

Thank you for your time and consideration,
Louri Lesbo

Cathy Laughlin

From: Nann C. Hanley <nannhanley@gmail.com>
Sent: Tuesday, August 04, 2020 3:41 PM
To: Shelley Petersen
Cc: Cathy Laughlin
Subject: Re: Cathy Laughlin - email address

Sent from my iPhone

On Aug 4, 2020, at 2:35 PM, Shelley Petersen <s.petersen@elkocitynv.gov> wrote:

To: Cathy Laughlin
Please respond.
From: Nann C. Hanley
City of Elko
Administrative Assistant
1755 College Avenue
Elko, NV 89801
775.777.7210
To: Cathy Laughlin
From: Nann C. Hanley
Re: CUP 3-20

I chose not to attend the public hearing because of the COVID 19 pandemic. I am in the most vulnerable older population & have not gone anywhere in a group since Feb. I am continuing to isolate at home. I live at 685 W. Birch Street, next door to the parcel under consideration for CUP. My initial concern was that a sidewalk would be required for all of West Birch. This would have been detrimental to my property. Now I understand that the only sidewalk concern might be at the 675 W. Birch property. However, there are three other issues I must address.

1. I didn't realize that you the CUP could go with the property & last forever. This type of change in the neighborhood will lower property values.
2. When I first heard of this idea, I thought of a small, private school trying to give a better education to a FEW lucky students. However, 20 to 30 children in a quiet, residential neighborhood is just too much...too many.
3. This is a more individual, personal issue. I rescued a neurologically disabled dog from the shelter. For him I created a kennel, run, & inside/outside doggie door. I go to Twin Falls regularly for cancer treatments & checkups. I'm very concerned that all the extra noise & activity (when the children have recess or exercise in the school's back yard) will cause my dog to get overly excited & bark too much & endanger his health. When I'm home, no problem. But when I have to leave, I worry about my dog & the consequences in the neighborhood.

If/when my concerns are addressed in a positive way, I would be satisfied with the CUP...otherwise... NO.
For further inquiries call: 775-738-4949

PS. I thought they were talking about 5-10 children at the maximum.

To Whom it May Concern

Re: 075 W. Birch Street

This letter is regarding the Conditional Use Permit application in the name of Acton of the Rubies for the above stated address. We are not a resident of the neighborhood; however, we recently sold my husband's family home of 58 years at 1011 Dotta Drive, which is across from the applicants address of interest. There are several things we would like to see addressed before permission is granted in this case.

1. The traffic around the corner of Dotta Drive and West birch is dangerous. It is a blind corner that exceeds the normal 45-degree turn. Not only will the increase in traffic be affected by this corner, the speed at which we have seen this corner being taken will be a danger for children.
2. The CUP requires a certain amount of off street parking and at the normal requirements for a parking spot being 9' x 18', we are having a difficult time figuring out where you would put the minimum of 6 parking spaces in addition to a student drop/pickup space and a van handicapped space. In addition to that, a 5' wide sidewalk.
3. The people who have built and purchased a home in this neighborhood during the last 60 years or so have had the privilege to live in a quiet, bucolic area. It has the advantage of having two street convene in an area that is not a direct path to anything making it a wonderful neighborhood.
4. We sold my mother in laws home to a couple who deserve to live in the same type neighborhood as the applicant's father enjoyed growing up in at 075 W. Birch Street. Having 20+ cars dropping off and picking up students twice a day for three days a week, and the increase in traffic will be a detriment to the entire neighborhood and will most definitely affect the value of the homes in this neighborhood.
5. As for the students, there is obviously going to be outdoor activities and recess. The immediate neighbors will be affected by the noise created by such activities. There are animals that will respond do the added noise issue.
6. Lastly, our main concern regarding this application is where will it stop. If you allow this type of a Conditional Use Permit in this neighborhood, what will happen when the same type situation is wanted in another neighborhood, maybe YOUR neighborhood. When it comes to something like this, those watching the process may say, "I don't have a problem with it, but I certainly don't want in in MY neighborhood". There are plenty of commercial properties available in Elko with the proper permitting and zoning. We believe that the applicant should go in that direction.

Thank you for taking our opinion into consideration for this Conditional Use Permit
Rick and Begona Hull