



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

PUBLIC MEETING NOTICE

The City of Elko Planning Commission will meet in a regular session on Tuesday, August 6, 2019 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.D.S.T.

Attached with this notice is the agenda for said meeting of the Commission. In accordance with NRS 241.020, the public notice and agenda were posted on the City of Elko Website at <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website at <https://notice.nv.gov>, and in the following locations:

ELKO COUNTY COURTHOUSE – 571 Idaho Street, Street, Elko, NV 89801

Date/Time Posted: July 31, 2019 2:10 p.m.

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

Date/Time Posted: July 31, 2019 2:05 p.m.

ELKO POLICE DEPARTMENT – 1448 Silver Street, Elko NV 89801

Date/Time Posted: July 31, 2019 2:15 p.m.

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

Date/Time Posted: July 31, 2019 2:00 p.m.

Posted by: Shelby Archuleta, Planning Technician
Name Title

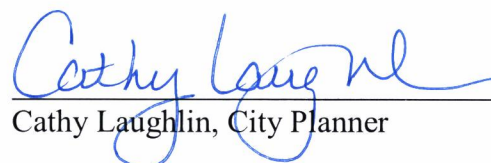

Signature

The public may contact Shelby Archuleta by phone at (775) 777-7160 or by email at sarchuleta@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is also available at Elko City Hall, 1751 College Avenue, Elko, NV.

Dated this 31st day of July, 2019.

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the City of Elko Planning Department, 1751 College Avenue, Elko, Nevada, 89801 or by calling (775) 777-7160.


Cathy Laughlin, City Planner

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING AGENDA
5:30 P.M., P.D.S.T., TUESDAY, AUGUST 6, 2019
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The Agenda for this meeting of the Elko City Planning Commission has been properly posted for this date and time in accordance with NRS requirements.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES

July 2, 2019 – Regular Meeting **FOR POSSIBLE ACTION**

I. UNFINISHED BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action on Conditional Use Permit No. 5-19, filed by Bailey & Associates, LLC, to designate APN 001-926-111 as a RMH-1 district for occupancy of mobile homes on rented or leased sites in mobile home parks, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally at the northerly terminus of Primrose Lane and Daisy Dr. (APN 001-926-111).

II. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration and possible recommendation to City Council for Rezone No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a change in zoning from R (Single-Family and Multi-Family Residential) to RO

(Residential Office) Zoning District, approximately 0.14 acres of property, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is generally located on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

2. Review, consideration, and possible action on Variance No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a reduction of the required interior side yard setback from 10' to 0' for a professional office in an RO (Residential Office) Zoning District, in conjunction with a Zone Change Application, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

3. Review, consideration, and possible action of Conditional Use Permit No. 6-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

4. Review, consideration, and possible action of Conditional Use Permit No. 7-19, filed by Petersen Holdings LLC, which would allow for the development of a facility that provides maintenance and repairs to automobiles within a C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south corner of the intersection of 12th Street and Railroad Street. (285 12th Street & 1120 Railroad Street - APN 001-363-003 & 001-363-006)

5. Review, consideration, and possible action on an amendment to Conditional Use Permit No. 4-19, filed by Elko County School District, which would allow for the expansion of the current Elko High School campus with the addition of a new building, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally north of the intersection of 11th Street and College Avenue. (1297 College Avenue - APN 001-191-001 & 001-191-004).

III. REPORTS

- A. Summary of City Council Actions.
- 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

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

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

ADJOURNMENT

Respectfully submitted,



Cathy Laughlin
City Planner

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.D.S.T., TUESDAY, JULY 2, 2019
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

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

ROLL CALL

Present: Evi Buell
 Jeff Dalling
 John Anderson
 Stefan Beck

Absent: Gratton Miller
 Ian Montgomery
 Tera Hooiman.

City Staff Present: Scott Wilkinson, Assistant City Manager
 Bob Thibault, Civil Engineer
 Michele Rambo, Development Manager
 John Holmes, Fire Marshal
 Diann Byington, Recording Secretary

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

June 4, 2019 – Regular Meeting **FOR POSSIBLE ACTION**

***No action was taken on this item**

I. NEW BUSINESS

A. PUBLIC HEARING

3. Review, consideration, and possible action on Conditional Use Permit No. 5-19, filed by Bailey & Associates, LLC, to designate APN 001-926-111 as a RMH-1

district for occupancy of mobile homes on rented or leased sites in mobile home parks, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally at the northerly terminus of Primrose Lane and Daisy Dr. (APN 001-926-111).

Michele Rambo, Development Manager, explained that the applicant asked that this item be postponed to the next meeting, so he could prepare some additional exhibits. There were people present in the audience for comment and they were told how they could give comments.

Chairman Jeff Dalling said the best way to comment is to email their comments to Michele or the City Planner, and Michele's email address was provided.

Scott Wilkinson, Assistant City Manager asked if the continuation was at the request of the applicant. (Yes)

Chairman Dalling called for public comment without a response.

*****Motion: Table Conditional Use Permit No. 5-19 to the August 6th Planning Commission meeting.**

Moved by Evi Buell, Seconded by Stefan Beck.

**Motion passed unanimously. (4-0)*

1. Review, consideration and possible recommendation to City Council for Rezone No. 2-19, filed by Bailey & Associates LLC, for a change in zoning from PQP (Public, Quasi-Public) to R1 (Single Family Residential) zoning district, approximately 8.02 acres of property, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is generally located on the northeast corner of the intersection of Celtic Way and El Armuth Drive. (APN 001-660-041)

Nitin Bhakta, 1150 Lamoille Highway, said he was representing Bailey & Associates and he was available to answer any questions.

Ms. Rambo explained the project and gave a presentation. **(Exhibit A)**

Bob Thibault, Civil Engineer, recommended approval with no additional comments or concerns.

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

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 2-19 based on the facts and findings as presented in the Staff Report dated June 11, 2019.**

Commissioner Buell's findings to support the motion were the proposed zone district is in conformance with the Land Use Component of the Master Plan. The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure. The property is not located within the Redevelopment Area. The proposed zone district and resultant land use is in conformance with the 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 Section 3-2-5(B) and (G). The application is in conformance with Elko City Code 3-2-21. The proposed zone district is in conformance with Elko City Code Section 3-3-5(A). The proposed zone district is not located in a designated Special Flood Hazard Area (SFHA). The proposed zone district is consistent with surrounding land uses. Development under the proposed zone district 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 Evi Buell, Seconded by Stefan Beck.

**Motion passed unanimously. (4-0)*

2. Review and consideration of Tentative Map No. 7-19, filed by Bailey & Associates, LLC, for the development of a subdivision entitled Cambridge Estates involving the proposed division of approximately 8.02 acres of property into 35 lots for residential development within the R1 (Single-Family Residential) Zoning District, in conjunction with a zone change application, and matters related thereto.
FOR POSSIBLE ACTION

The subject property is located generally on the northeast corner of the intersection of Celtic Way and El Armuth Drive. (APN 001-660-041)

Mr. Bhakta said this was discussed with staff and he thought everything had been worked out.

Mindy Beckstead, 1513 Connolly Drive, said her daughter and son-in-law live on Clover Hills Dr. She was concerned with the traffic being brought in with the proposed additional 35 homes. She mentioned that there was already a lot of traffic, and that there are kids in that neighborhood. She wanted an explanation on how this was going to be safe for the public and families in the neighborhood.

Ms. Rambo explained the Tentative Map with a presentation. **(Exhibit B)**

Mr. Thibault brought up a copy of the Tentative Map that everyone could see and pointed out the lots that had shorter frontages, and the lots that didn't meet the minimum size requirements for corner lots. Mr. Thibault then went over his conditions, which were included in the City of Elko Staff Report dated June 18, 2019.

Mr. Holmes had no concerns.

Mr. Wilkinson had a couple of comments. Staff believes that the Modification of Standards is justified. Quite a large area is being lost to storm water controls in the upper right corner. Conformance with the Flood Control Ordinance requires a loss of property there. Staff believes that since they are large lots that there is more than enough buildable area on what is proposed. He also wanted to talk a little bit about traffic. Initially the property was proposed to be a school site. There would have been a tremendous amount of traffic, not only on Celtic, but on Jennings as well. There aren't a whole lot of lots that front Celtic, so you don't have a lot of pedestrians from the lots interfacing with Celtic. A couple things will happen with this property being rezoned to an R1. There won't be any multi-family development there, it will only be single-family homes. From a zoning perspective the zone change from PQP to R1 is the best outcome for development of this property. The number of lots conforms with the City Code. He thought a lot of the lots were actually larger in area than the minimum standard. The proposed lot layout results in less traffic than what could be designed. From a traffic perspective, with the vacant areas of the City being developed, there will be some additional traffic. There is also a vacant property across the street that will be developed into a residential subdivision. If there are issues with speeding, or other traffic infractions, those are issues to take up with the Police Department; those aren't issues that can be controlled through an approval of a subdivision. Mr. Wilkinson recommended a conditional approval as presented by staff.

Katie Lemmon, 1534 Celtic Way, complained that she has a lot of people coming down her street and has to wait to back out of her driveway. She said it would be nice to see another way in and out of the neighborhood.

Vant Stevens, 1707 Celtic Way, agreed that there is a lot of traffic on Celtic Way. There are a lot of kids playing out there. Her other concern was if there was enough water to support 35 more houses. Sometimes their water pressure is really low. A couple of years ago there was a rain storm and the storm drain filled up.

Mr. Thibault said the water pressure is fairly high at 80 psi. There is enough water to serve all of the undeveloped properties in the City. As far as the traffic, Celtic Way is designated as a minor collector, which is intended to carry a significant amount of traffic. It is unfortunate that the previous subdivisions were designed with driveways out to Celtic, which wouldn't be allowed in a newer subdivision design.

Lee Stevens, 1707 Celtic Way, explained when his house was built up there it was all dirt road. The City came in and put a cold cap on top of the dirt road. He asked if the asphalt could sustain the additional traffic. In the winter months the traffic coming up El Armuth tracks mud down Celtic Way. He has two or three inches of mud where people come around the corner. He wanted to know who would keep the street clean.

Mr. Wilkinson explained that during construction the developer is responsible for maintaining their track out onto Celtic Way. The existing street is the responsibility of the Street Department to maintain. There will be some street improvements to a limited degree on the frontage. If for some reason the street were to start degrading, it will go onto a list and the Street Department will have to repair it at some point in the future. The traffic out El Armuth is a County issue. Staff can talk to the County about their traffic and how they might control that.

Mr. Stevens said the county doesn't claim that road, neither does the City. The Fire Department considers it a fire break. He asked for a stop sign to slow people down. The sign is faded out. He wanted to see that improved. Traffic is going to increase. He doesn't want El Armuth to become a main fairway from the freeway to Mountain City Highway.

Mr. Wilkinson said explained that the way this section was mapped, El Armuth is an individual parcel that is owned by someone. The connectivity of El Armuth to Mountain City Highway won't occur, because there was a revision to the Master Plan to remove that connection. With the approval of this subdivision there is no condition that could be put on the approval that would address any traffic from the County.

Mr. Stevens was concerned that there was only one mailbox, and wondered where the new houses would be getting their mail.

Mr. Wilkinson explained that there would be a gang box within the new subdivision.

Commissioner Beck thanked everyone for the explanation. He hears the traffic concerns but he felt that would be minimal because of the newer design. He asked if traffic would become more of an issue if more properties were to develop.

Mr. Wilkinson pointed out that all the properties in the County surrounding the subject property had been developed already. There are only two vacant properties down on El Armuth, but Mr. Wilkinson thought they were bought by an individual who lives on Sundance. Whether or not those develop remains to be seen. If any County development were to occur with any type of density, there is a communication policy in affect with the County where they would have to notify the City.

*****Motion: Forward a recommendation to City Council to conditionally approve Tentative Map No. 7-19 based on facts, findings, and conditions in the City of Elko Staff Report dated June 18, 2019, listed as follows:**

- 1. Rezone 2-19 must be approved by the City Council and all conditions be met.**
- 2. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.**
- 3. Tentative Ma approval constitutes authorization for the subdivider to proceed with preparation of the Final Map and associated construction plans.**
- 4. Tentative Map approval does not constitute authorization to proceed with site improvements, with the exception of authorized grading, prior to approval of the construction plans by the City and the State.**
- 5. The applicant 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.**
- 6. A soils report is required with Final Map submittal.**
- 7. A hydrology report is required with Final Map submittal.**
- 8. Final Map construction plans are to comply with Chapter 3-3 of City Code.**
- 9. The subdivision design and construction shall comply with Title 9, Chapter 8 of City Code.**

10. The Utility Department will issue and Intent to Serve Letter upon approval of the Tentative Map by the City Council.
11. A Modification of Standards approved by City Council for Lots 7-10, 13 and 14 to have reduced frontage widths.
12. A Modification of Standards approved by City Council for Lots 29 and 35 to have reduced square-footages.
13. Prior to being scheduled for a City Council hearing, the Tentative Map shall be modified as follows:
 - a. Remove the word “easement” from the description of the dedicated land along the eastern side of the subdivision and instead show this area as a separate parcel to be dedicated to the City of Elko similar to the street, detention pond, and sewer dedications.
 - b. Remove the residential lot property lines within the dedicated are described above.
 - c. Adjust the building setback line to reflect the correct rear property line.
 - d. Recalculate the lot areas to eliminate the dedicated area.
 - e. Revise the buildable area of the lots to reflect the correct rear property line.

Commissioner Buell’s findings to support the motion were the proposed subdivision and development is in conformance with the Land Use Component of the Master Plan. The proposed subdivision and development is in conformance with the Transportation Component of the Master Plan. The proposed subdivision and development does not conflict with the Airport Master Plan. The proposed subdivision does not conflict with the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012. The property is not located within the Redevelopment Area. The proposed subdivision and development are in conformance with the Wellhead Protection Program. The sanitary sewer will be connected to a programmed sewer system and all street drainage will be directed to a storm sewer system. A zoning amendment is required and has been submitted to the Planning Department to change the property zoning from Public, Quasi-Public (PQP) to Single Family Residential (R1). In accordance with Section 3-3-5(E)(2), the proposed subdivision and development will not result in undue water or air pollution based on the following: a) There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable environmental and health laws and regulations. b) There is adequate capacity within the City’s water supply to accommodate the proposed subdivision. c) The proposed subdivision and development will not create an unreasonable burden on the existing water system. d) There is adequate capacity at the Water Reclamation Facility to support the proposed subdivision and development. e) The proposed subdivision and development will be connected to the City’s programmed sanitary sewer system. Therefore, the ability of soils to support waste disposal does not require evaluation prior to Tentative Map approval. f) Utilities are available in the immediate area and can be extended for the proposed development. g) Schools, fire and police, and recreational services are available throughout the community. h) With the approval of the associated Modification of Standards regarding lots 7-10, 13, and 14, the proposed subdivision and development is in conformance with applicable zoning ordinances and is in conformance with the Master Plan. i) The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets. j) The area is

not located within a designated flood zone. Concentrated storm water runoff has been addressed as shown on the grading plan. k) The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in the water-holding capacity of the land thereby creating a dangerous or unhealthy condition. The proposed subdivision submittal is in conformance with Section 3-3-6 of City Code. The proposed subdivision is in conformance with Section 3-3-9 of City Code. The proposed subdivision is in conformance with Section 3-3-10 of City Code. The proposed subdivision is in conformance with Section 3-3-11 of City Code. The proposed subdivision is in conformance with Section 3-3-12 of City Code. The proposed subdivision is in conformance with Section 3-3-13 of City Code with the approval of a Modification of Standards to front width requirements for 7-10, 13, 14, 29, and 35. The proposed subdivision is in conformance with Section 3-3-14 of City Code. The proposed subdivision is in conformance with Section 3-3-15 of City Code. The proposed subdivision and development is in conformance with Section 3-2-3 of City Code. The proposed subdivision and development is in conformance with Section 3-2-4 of City Code. The proposed subdivision and development is in conformance with Section 3-2-5(B)(2). Conformance with Section 3-2-5(B) is required as the subdivision develops. The proposed subdivision and development is in conformance with Section 3-2-5(G) of City Code with the approval of the Modification of Standards to the front width requirements for 7-10, 13, 14, 29, and 35. The proposed subdivision and development is in conformance with Section 3-2-17. Conformance with Section 3-2-17 is required as the subdivision develops. The proposed subdivision and development is not located in a designated flood hazard area and is in conformance with Section 3-8 of City Code. The proposed subdivision design shall conform to Title 9, Chapter 8 of City Code.

Moved by Evi Buell, Seconded by Stefan Beck.

**Motion passed unanimously. (4-0)*

Chairman Dalling explained that the public had the right to appeal if they weren't happy with the decision.

Mr. Wilkinson added that this item would also have a public hearing in front of the City Council.

4. Review, consideration, and possible action on Zoning Ordinance Amendment 1-19, Ordinance No. 842, an amendment to the City Zoning Ordinance, specifically Section 3-2-3 General Provisions, and matters related thereto. **FOR POSSIBLE ACTION**

At the May 7, 2019 meeting, Planning Commission took action to initiate an amendment to the City Zoning Ordinance Title 3, Chapter 2, Section 3; General Provisions.

Ms. Rambo explained the request and gave a presentation. **(Exhibit C)**

Mr. Thibault had nothing to add.

*****Motion: Forward a recommendation to City Council to adopt an Ordinance, which approves Zoning Ordinance Amendment No. 1-19 of the Elko City Code, specifically Section 3-2-3.**

Moved by Evi Buell, Seconded by Stefan Beck.

****Motion passed unanimously. (4-0)***

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible approval of Final Map No. 8-19, filed by Copper Trails, LLC, for the development of a subdivision entitled Copper Trails Phase 2 – Unit 1 involving the proposed division of approximately 19.194 acres of property into 9 lots and 1 remainder parcel for residential development within the R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located at the intersection of Copper Street and Mittry Avenue. (APN 001-610-114)

Ms. Rambo explained the final map and gave a presentation. **(Exhibit D)**

Mr. Thibault said Engineering had one condition that was already addressed and recommended approval.

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Recommended that the City Council accept, on behalf of the public, the parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication; that the final map substantially complies with the tentative map; that the City Council approve the agreement to install improvements in accordance with the approved construction plans that satisfies the requirements of this Chapter, and conditionally approve Final Map 8-19 with conditions listed in the Staff Report dated June 12, 2019, listed as follows:**

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

4. The Final Map for Copper Trails Phase 2, Unit 1 is approved for nine (9) single family residential lots.
5. The Utility Department will issue a Will Serve Letter for the subdivision.
6. Construction, with the exception of grading, shall not commence prior to Final Map approval by the City Council, issuance of a will-serve letter by the City of Elko, and approval of construction plans by the Nevada Department of Environmental Protection.
7. Conformance with the conditions of approval of the Tentative Map is required.
8. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition of the Standard Specifications for Public Works. All right-of-way and utility improvements are to be certified by the Engineer of Record for the project.

Commissioner Buell's findings to support the motion were the Final Map for Copper Trails Phase 2, Unit 1 has been presented before expirations of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City Code. The Final Map is in conformance with the Tentative Map. The proposed subdivision is in conformance with the Land Use Component of the Master Plan. The proposed subdivision is in conformance with the Transportation Component of the Master Plan. Based on Modification of Standards for lot dimensions granted under the Tentative Map application, the proposed development conforms with Sections 3-3-9 through 3-3-16 (inclusive). The subdivider shall be responsible for all required improvements in conformance with Section 3-3-17 of City Code. The subdivider has submitted plans to the City and State agencies for review to receive all required permits in accordance with the requirements of Section 3-3-19 of City Code. The subdivider has submitted construction plans, which having been found to be in conformance with Section 3-3-20 of City Code, have been approved by City Staff. The Subdivider will be required to enter into a Performance Agreement to conform to Section 3-3-21 of City Code. The Subdivider will be required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-22 of City Code. Based on the Modification of Standards for lot dimensions granted under the Tentative Map application, the proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(E), 3-2-5(G), and 3-2-17 of City Code. The proposed development is in conformance with Section 3-8 of City Code.

Moved by Evi Buell, Seconded by John Anderson.

**Motion passed unanimously. (4-0)*

2. Review, consideration, and possible recommendation to City Council for Vacation No. 3-19, filed by David and Julianne Ernst, for the vacation of the northeasterly

portion of 3rd Street, consisting of an area approximately 900 sq. ft., and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northeast side of 3rd Street, approximately 36' southeast of Pine Street. (604 3rd Street- APN 001-224-009)

Ms. Rambo explained the vacation with a presentation. **(Exhibit E)**

Mr. Thibault recommended approval. He explained that there are 80 foot rights-of-way in the tree streets, which is quite excessive for a neighborhood street. The City often vacates 10 feet from either side.

Mr. Holmes had no comments or concerns.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Vacation No. 3-19, based on the facts, findings, and conditions in the City of Elko Staff Report dated June 11, 2019, listed as follows:**

- 1. The applicant is responsible for all costs associated with the recordation of the vacation.**
- 2. Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**

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 property proposed for vacation is not located within the Redevelopment Area. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation with the recommended conditions is in conformance with Elko City Code 8-7. The proposed vacation will not materially injure the public and is in the best interest of the City.

Moved by Evi Buell, Seconded by Stefan Beck.

****Motion passed unanimously. (4-0)***

II. REPORTS

A. Summary of City Council Actions.

Ms. Rambo reported that the Great Basin Estates Phase 3 final map and performance agreement was finally approved. The 2018 International Building and Fire Codes were adopted.

B. Summary of Redevelopment Agency Actions.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Miscellaneous Elko County

E. Training

Ms. Rambo explained that a power point on ethics was included in their packet. Also the 2019 State American Planning Association Conference was going to be in Sparks in October.

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

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 5-19, filed by Bailey & Associates LLC., to designate APN 001-926-111 as a RMH-1 zoning district for occupancy of mobile homes on rented or leased sites in mobile home parks, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **Bailey & Associates is proposing a mobile home park development on the subject property which has previously had CUP approval for an RMH-2 designation as well as tentative map approval.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff report**
8. Recommended Motion: **Deny Conditional Use Permit 5-19 based on the facts and findings as presented in Staff Report dated June 18, 2019**

If Planning Commission recommends approval staff will provide a list of suggested conditions
9. Findings: **See Staff Report dated June 18, 2019 and additional memo dated July 26, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Bailey & Associates. LLC
780 West Silver Street #104
Elko, NV 89801
jbaileype@gmail.com**

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

****If additional space is needed please provide a separate memorandum****

City Manager: Date: _____

Initial



City of Elko
Planning Department
1751 College Avenue
Elko, NV 89801
(775) 777-7160

Memorandum

To: Elko Planning Commission
From: Cathy Laughlin – City Planner
Date: July 26, 2019
Meeting Date: Tuesday, August 6, 2016

RE: CUP 5-19 Bailey & Associates

Agenda Item:

1. Review, consideration, and possible action on Conditional Use Permit No. 5-19, filed by Bailey & Associates, LLC, to designate APN 001-926-111 as a RMH-1 district for occupancy of mobile homes on rented or leased sites in mobile home parks, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission tabled the agenda item at their meeting July 2, 2019. There were a list of deficiencies that needed to be included with the application in order to consider it a complete application. Since that meeting, Bailey & Associates has included answers to questions staff had regarding the application as well as the following new items:

-] Revised site plan showing the preliminary landscaping proposed for the project including the fence to screen the property, landscaping and pavilion in the proposed park, and trees included along the perimeter fence.
-] Design for the proposed signage for the park. The sign location is also noted on the site plan.
-] The site plan includes the plan view location of the solid view screening decorative fence. Also, a copy of the proposed decorative fencing (vinyl) and an elevation showing the fencing in conjunction with the proposed trees located along the perimeter of the fence as shown on the site plan.
-] There are no non-mobile home facilities/offices planned with this project.
-] A detail of the trash enclosure.
-] There are no other non-mobile home structures planned with this project.



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

CITY OF ELKO STAFF REPORT

MEMO DATE:	June 18, 2019
PLANNING COMMISSION DATE:	July 2, 2019
AGENDA ITEM NUMBER:	I.A.3
APPLICATION NUMBER:	Conditional Use Permit 5-19
APPLICANT:	Bailey & Associates LLC.
PROJECT DESCRIPTION:	Terminus of Daisy Drive and Primrose Ln.

The property owner is proposing a mobile home park on the RMH zoned property. The property doesn't have a specific designation of RMH-1 and therefore the CUP is required to designate the zoning RMH-1.



STAFF RECOMMENDATION:

RECOMMEND **DENIAL**, subject to findings of facts as stated in this report.

PROJECT INFORMATION

PARCEL NUMBER: 001-926-111

PROPERTY SIZE: 7.31 acres

EXISTING ZONING: RMH – Residential Mobile Home

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Undeveloped

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by developed land to the south with both RMH-1 and RMH-3, Residential Mobile Home 1 & 3, LI- Light Industrial undeveloped land to the west, GI- General Industrial developed land to the east and Elko County property to the north which is developed as residential.

PROPERTY CHARACTERISTICS:

The property is currently undeveloped.
The property has generally moderate slope.
The property will be accessed from Primrose Lane and Daisy Drive.
The property is not in the floodway and flood zone.

APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:

-) City of Elko Master Plan-Land Use Component
-) City of Elko Master Plan-Transportation Component
-) City of Elko Redevelopment Plan
-) City of Elko Wellhead Protection Plan
-) City of Elko Code 3-2-3 General Provisions
-) City of Elko Code 3-2-4 Establishment of Zoning Districts
-) City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
-) City of Elko Code 3-2-18 Conditional Use Permits
-) City of Elko Code 3-5 Mobile Home Parks, Mobile Home, Manufactured Home Subdivisions and Recreational Vehicle Parks
-) City of Elko Code 3-8 Flood Plain Management

Background Information

-) The application for the Conditional Use Permit (CUP) was filed as required under City Code 3-5-1.
-) The area is currently zoned RMH, Residential Mobile Home.
-) The area is located at the terminus of Daisy Drive and Primrose Lane

-) The proposed area was previously approved a CUP 4-96 for a designation of RMH-2 for a mobile home subdivision. This approval was in conjunction with the Tentative Map 4-96 for Phase 1.
-) A Tentative Map 4-96 was approved by City Council for Phase 1, on June 11, 1996. The conditions set by Planning Commission stated that all mobile/manufactured home dwelling units constructed within the subdivision shall be placed on permanent foundations. The CUP 4-96 qualified the approval as an RMH-2 subdivision. The subject parcel in the proposed CUP was not included in the Final Map approved in 1996. The only properties developed with that approval were those along Primrose Lane to Larkspur Ct.
-) A new Tentative Map 3-14 was approved by City Council for Phase 2 (Daisy Drive) and Phase 3 (subject parcel) on May 27, 2014.
-) A Final Map was approved by City Council for Phase 2 on June 10, 2014. Phase 2 was constructed and final acceptance by City Council on October 28, 2014. The Final Map for Phase 2 was recorded on 10/30/2014. The Final Map for Phase 3 was not recorded in accordance with the NRS and all proceedings and approvals for the subdivision have expired.
-) The property is not located in the Redevelopment Area.

MASTER PLAN

Land Use

1. Land Use is shown as Medium Density Residential.
2. Supporting zone districts for Medium Density Residential are Single Family/Multi Family (R), Single Family (R1), Two Family (R2), Planned Unit Development (PUD), Residential Office (RO), Residential Business (RB), Mobile Home Subdivision (RMH-2), and Manufactured Home Subdivision (RMH-3).
3. RMH – Mobile Home Residential is a supporting zone district for the Residential High Density which are densities of nine (9) units per acre or greater. The proposed development consists of 44 units which would be a density of 6.01 units per acre. The proposed density is consistent with the Residential Medium Density designation of 4-8 units per acre.
4. High Density Residential is the City's most intensive residential land use designation. This classification is intended for multiple-family homes and multistory dwellings in addition to single-family residences. This land use category serves as a transitional land use between medium-density residential, and commercial or industrial uses. High density residential is also appropriate along major transportation corridors, in the downtown core and near neighborhood centers.
5. Uses of land must comply with the Elko City Code, and must be compatible with, and not frustrate, this Master Plan's goals and policies.
6. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.
7. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.
8. Although the proposed development meets Objectives 1 and 8, the Master Plan doesn't address location of development in the objectives.

The proposed RMH-1 is not in conformance with the Master Plan. The proposed development is in conformance with the Land Use Component of the Master Plan based on meeting Objectives 1 & 8 and is consistent with the density requirements of Medium Density Residential. The proposed development is not in conformance with the Land Use Component as RMH is listed as a corresponding zoning district for High Density Residential. The proposed development does not meet the density requirements for High Density Residential. Additionally, we are placing a high density use between city medium density and very low density in the county which is in inconsistent with the Transportation component of the Master Plan.

Transportation

1. The area will be accessed from Primrose Lane and Daisy Drive.
2. Primrose Lane and Daisy Drive are not classified in the Transportation Component, but would function as a Residential Local Street.
3. With 100% occupancy, the proposed development is expected to generate approximately 421 Average Daily Trips based on 9.57 trips/townhome (Source ITE trip Generation, 8th Edition). Ingress/Egress to the subdivision will be split between Daisy Drive and Primrose Lane. The previously approved Tentative Map showed 30 dwelling units which would generate approximately 287 average daily trips. The proposed development results in an increase of 133 average daily trips. High density residential is appropriate along major transportation corridors.

The Transportation Component of the Master Plan states that concentrations of high density residential development should be provided along a minor arterial route. The proposed development is not in conformance with the Transportation component of the Master Plan.

ELKO WELLHEAD PROTECTION PLAN

-) A portion of the property is located within the 30-year capture zone for City of Elko well.
-) The proposed development would be connected to the City's programmed sanitary sewer system.

The proposed development under the conditional use permit and resultant land use is in conformance with wellhead protection plan.

SECTION 3-2-3 GENERAL PROVISIONS

-) Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.
 1. Principal Uses: Only those uses and groups of uses specifically designated as "principal uses permitted" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
 2. Conditional Uses: Certain specified uses designated as "conditional uses permitted" may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
 3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

-) Section 3-2-3(D) states that “No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed designation of RMH-1 is required to have an approval as a conditional use as required in ECC 3-5-1. Planning Commission is to determine that the proposed designation is in conformance with 3-2-3(D) and is a suitable use for the land.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed use is in conformance with Elko City Code 3-2-4.

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

-) Conformance with this section is required. Off street parking will be required to comply with 3-2-17 as the property develops.

The proposed use conforms to section 3-2-17 of Elko city code.

SECTION 3-2-18 CONDITIONAL USE PERMITS

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with

the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.

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

SECTION 3-5 MOBILE HOME PARKS, MOBILE HOME, MANUFACTURED HOME SUBDIVISIONS AND RECREATIONAL VEHICLE PARKS

3-5-1: Intent: Within selected geographical areas that are designated for mobile homes on the city general plan map, adopted by the city council on January 15, 1974, or zoned RMH on the zoning map, the city council, through conditional use permits, after review by the planning commission, may regulate by districting, the proposed mobile home residential use, manufactured home residential use, and recreational vehicle parks. When such districts are designated, the provisions of this chapter shall prevail over any requirements underlying by virtue of the zoning previously adopted.

3-5-2: Districts:

RMH-1: Areas suitable for development, placement and occupancy of mobile homes for residential purposes on rented or leased sites in mobile home parks.

3-5-3: Definitions:

MOBILE HOME PARK: A parcel or tract of land having as its principal use the rental, leasing or occupancy of space by mobile homes on a permanent or semipermanent basis, including accessory buildings or uses customarily incidental thereto.

3-5-4: Uses Permitted and Minimum Standards: A. Uses Permitted:

Accessory buildings

Community recreation buildings and facilities, laundry, car wash, boat or storage facilities serving the mobile home or RV park; provided, however, that the architectural design of all non-mobile home structures shall be subject to approval by the planning commission prior to issuance of any conditional use permit, and all applicable state and city requirements.

The developer is not proposing any community recreation buildings or facilities.

Management offices (RMH-1 and RMH-4 only). One or more single-family dwellings or mobile homes used exclusively for office and living quarters by the operator or manager of the mobile home or RV park. The architectural design of a non-mobile home office shall be subject to approval by the planning commission prior to the issuance of any conditional use permit.

The developer is not proposing any management office on site.

Mobile homes, manufactured homes, RVs. One mobile home, manufactured home or RV per space, including doublewide or expandable mobile home units.

Residential uses

B. Standards For Development; Requirement:

1. Minimum Overall Area:

- a. RMH-1: Two (2) acres;

The proposed parcel area is 7.31 acres and meets the requirement of two (2) acres.

3. Maximum Building Height: The height of any building shall in no manner be such as to create a nuisance or safety hazard for air traffic into and about the Elko Municipal Airport.

The development will be required to comply with the maximum building height.

3. Minimum Net Space Area: Minimum net space area for each mobile home, RV or manufactured home:

- a. RMH-1: Four thousand (4,000) square feet;

The proposed development meets the minimum net space area of 4,000 square feet.

4. Minimum Frontage Width: Minimum mobile home, RV or manufactured home space frontage width:

- a. RMH-1: Forty feet (40');

The proposed area is 7.31 acres and meets the requirement of two (2) acres.

5. Minimum Setback, Public Street: Minimum setback of any building, mobile home, RV or manufactured home from a bordering public street line is fifteen feet (15'), except that garages and carports shall be set back twenty feet (20') from the front lot line.

Setbacks are shown on the proposed plan and the developer will be required to comply with setbacks with the placement of each mobile home..

6. Minimum Setback, Internal Street: Minimum setback from internal street in mobile home parks is twelve feet (12'), except that garages and carports shall be set back twenty feet (20') from the front lot line.

Setbacks are shown on the proposed plan and the developer will be required to comply with setbacks with the placement of each mobile home..

7. Minimum Side, Rear Setbacks, Separations: Minimum side and rear setbacks or separation for each mobile home, RV or manufactured home lot, where such side and rear does not border on public or internal streets:

- a. RMH-1: Five feet (5') from space side line; seven and one-half feet (7 1/2') from space rear line.

Setbacks are shown on the proposed plan and the developer will be required to comply with setbacks with the placement of each mobile home..

1. Expandable Sections, Separation Requirements: Expandable sections of a mobile home, manufactured home or RV shall be considered a part of the mobile home, RV or manufactured home proper for setback or separation requirements.

The developer is proposing mobile homes and not RV's so this section of code does not apply.

9. Underground Utilities: All utilities shall be placed underground.

The developer will provide the necessary information in the site construction plans.

10. Other Statutes And Regulations Applicable: Where applicable, all site preparation, construction, mobile home, RV and manufactured home installation, utility connections and occupancy shall be in accordance with the requirements of the Nevada statutes and regulations of this code and ordinances.

The developer will provide the necessary information in the site construction plans.

C. Transportation Systems Requirements

1. Access; Alignment And Grading Of Streets: All mobile home, RV or manufactured home spaces shall be provided with safe and convenient vehicular access from public or private streets. Alignment and grading of streets shall be properly adapted to topography.

The developer is proposing a private street through the mobile home park with a public utility easement. The developer will provide the necessary information on the street construction and grading in the site construction plans.

2. Street Surfacing: All streets shall have a paved all weather surface approved by the city engineer and drained in a manner approved by the city engineer.

The developer will provide the necessary information in the site construction plans.

3. Paved Curb Section: All streets shall have a paved, back of curb to back of curb section not less than:
 - a. RMH-1: Forty two feet (42') in width;

The developer is proposing 42' in width back of curb to back of curb section.

4. Curb/Gutter Sections; Sidewalk: All streets shall require curb/gutter sections on both sides and have a five foot (5') paved sidewalk:
 - a. RMH-1: At least one side of street;

The developer is proposing required curb/gutter sections on both sides of the street and 5' sidewalks on both sides of the street.

5. Off Street Parking: A minimum of two (2) off street parking spaces per mobile home or manufactured home space shall be required.

The developer is proposing adequate off street parking spaces for each mobile home.

6. Emergency Vehicular Access: In all districts, adequate provisions for emergency vehicular access during inclement weather shall be provided on internal streets.

The developer is proposing adequate emergency vehicular access throughout the mobile home park.

2. Storm Drainage: Adequate storm drainage shall be provided and shall be reviewed by the city engineer for his approval.

The developer will provide the necessary information in the site construction plans.

3. Signs And Lighting: All streets shall be properly signed and lighted. Lighting systems to be approved by the city engineer.

The developer will provide the necessary information in the site construction plans.

D. General Requirements:

1. Paving: All vehicle parking spaces and driveways shall be paved with a hard surface material.

The developer will provide the necessary information in the site construction plans.

2. Recreation Or Open Space Area: The planning commission shall require mobile home and RV parks to have at least one recreation area or usable open space accessible from all spaces, the cumulative size of which recreation area shall not be less than:

The developer is proposing one recreational area within the mobile home park.

a. A minimum of two hundred (200) square feet of outdoor recreation area per mobile home space or fifty (50) square feet per RV site shall be provided, exclusive of required yards or setback area. The minimum size for any single outdoor recreation area shall be two thousand four hundred (2,400) square feet in mobile home parks and one thousand two hundred (1,200) square feet in RV parks, with a minimum width of twenty four feet (24').

The developer is proposing one 8,800 sq. ft. recreational area within the mobile home park. 44 spaces at 200 sq. ft. per mobile home would result in 8,800 sq. ft. required.

b. Parks catering to family use shall provide larger recreation areas and adequate playgrounds. A minimum of three hundred (300) square feet of outdoor recreation area per mobile home space or seventy five (75) square feet per RV site shall be provided, exclusive of required yards or setback areas. All recreation areas and landscaping plans shall be approved prior to issuance of a conditional use permit by the planning commission.

3. Pedestrianways: When included as additions to required sidewalks, pedestrianways shall have a minimum width of four feet (4') and shall be surfaced in concrete or hard surface material.

The developer is not proposing any pedestrianways and it doesn't appear one would be required.

4. Water Supply: An accessible, adequate, safe and potable supply of water for domestic purposes shall be provided to each mobile home or manufactured home space or lot and RV site, and proof of the same shall be provided to the planning commission before approval of any conditional use permit. Such supply of water shall be in conformance with any applicable Nevada statutes and regulations and city ordinances, and furnished through a pipe distribution system directly connected to the city water service.

The developer is proposing connections to the City of Elko water service and meters at each mobile home site.

5. Sewerage Facilities: An adequate and safe sewer system shall be provided to each mobile home, manufactured home or RV space, lot or site. Such sewer system shall be in

conformance with any applicable Nevada statutes and regulations and city ordinances, and directly connected through a pipe collection system to the city sewer facilities.

The developer is proposing connections to the City of Elko sewer service at each mobile home site.

6. Refuse And Garbage: Storage, collection and disposal of garbage and refuse shall be in conformance with any applicable Nevada statutes and regulations and city ordinances. In mobile home and RV parks, one metal dumpster with lid per twenty five (25) spaces located no more than one hundred fifty feet (150') from mobile home lots and RV sites shall be required.

The developer is proposing two locations of trash collection for the park.

7. Fuel Supply And Storage: Installation of liquid petroleum gas or fuel oil containers within a mobile home or manufactured home subdivision or mobile home or RV park shall be in conformance with any applicable Nevada statutes and city ordinances.
8. Fire Protection: In every mobile home or RV park, mobile home subdivision or manufactured home subdivision, fire hydrants shall be installed as may be required by the fire department.

The developer is proposing fire hydrants and will be reviewed by the Fire Marshal with the submittal of the site construction plans.

9. Tie Downs: Tie downs for all mobile homes shall be provided in accordance with state fire marshal regulations and applicable Nevada statutes and regulations. Tie downs shall not be required on RV sites.

10. Skirting:

- a. Skirting shall be of durable materials suitable for exterior exposures, and be installed in accordance with the manufacturer's installation instructions. It shall be secured, as necessary, to assure stability, to minimize vibrations, to minimize susceptibility to wind damage and to compensate for possible frost heave.
 - b. If combustion air for heat producing appliance is taken from within the under floor area, ventilation shall be adequate to assure proper operation of the appliances.
 - c. Use of combustible material (such as hay, straw, cardboard, etc.) shall be prohibited.
11. Fences: Mobile home and RV parks adjacent to residential zones shall be fenced with a solid view screening decorative fence not more than six feet (6') nor less than three feet (3') in height around the entire boundary of the park. However, no such fence over three feet (3') in height shall be allowed within thirty feet (30') of the intersection of any two (2) streets. The design and construction materials of said fence shall be subject to approval by the planning commission prior to the issuance of any conditional use permit. (RMH-1 and RMH-4 districts only.)

The developer is proposing to provide fencing along the property lines adjacent to the RMH-3 properties.

12. Floodplain: No mobile home or manufactured home subdivision, mobile home or RV park which is proposed to be constructed below the 100-year floodplain elevation of the Humboldt River and other drainage as defined by the U.S. army corps of engineers, shall be approved by the planning commission.

The proposed mobile home park is not within a designated flood hazard area.

13. Grading, Erosion Protections; Avoidance Of Visual Scars On Hillside; Protection Of Underground Utility Lines: Whenever it may be necessary for the developer of a mobile home, manufactured home subdivision, mobile home or RV park to cut and fill, or to alter the contours of the land in any way, he shall comply with the provisions of the city building code.

The developer will provide the necessary information in the site construction plans.

14. Management: The holder of a valid city business license for the operation of a mobile home or RV park shall be responsible for compliance with this chapter and other applicable ordinances (e.g., section 5-1-1 of this code) or Nevada statutes and regulations. He/she shall maintain the mobile home or RV park in a neat, orderly and sanitary condition at all times. (RMH-1 and RMH-4 districts only.)

The developer will be required to comply with this section of code as a condition of the conditional use permit.

15. Signs: All signs for the mobile home or RV park, including the height, size, location, appearance and illumination of such signs, shall be subject to approval of the planning commission prior to the issuance of any conditional use permit. No signs will be installed without approval of said sign by the planning commission. The applicant shall submit a plan showing the locations of such signs and architectural elevations showing the heights, shapes, size and manner of illumination of the signs. (RMH-1 and RMH-4 districts only.)

The developer has proposed a location for a sign but has not provided any information regarding the size or architectural elevations.

16. Landscaping: Exposed ground surfaces in the park shall be covered with stone, screening or other materials or protected with a vegetative growth in a well kept manner, either of which is capable of preventing soil erosion and eliminating objectionable dust. (RMH-1 and RMH-4 districts only.)

The developer will be required to comply with this section of code as a condition of the conditional use permit.

17. Plan: A copy of the final approved plan for the mobile home or RV park shall be conspicuously posted on the site near office, or as designated by the fire department and the license holder shall be responsible for maintenance of the park as per the final approved plan thereafter. (RMH-1 and RMH-4 districts only.)

The developer will be required to comply with this section of code as a condition of the conditional use permit.

18. Space Numbering: All spaces shall be numbered, and such number shall be posted in a place clearly visible and conspicuous from the internal street. (RMH-1 and RMH-4 districts only.)

The developer will be required to comply with this section of code as a condition of the conditional use permit.

19. Electrical: All mobile home parks shall comply with the national electrical code, article 550, part B. All recreational vehicle parks shall comply with the national electrical code, article 551, part B.

The developer will be required to comply with this section of code.

20. Public Telephone: At least one public telephone is required for a mobile home or RV park.

Staff feels that this requirement is dated and would not be required.

21. Dump Stations: Permitted dump stations in RV parks shall meet all applicable Nevada statutes and regulations and city requirements.

RV's will not be allowed in the mobile home park and therefore this section of code is not applicable.

22. Fuel Cylinders: No extra or empty fuel cylinders are allowed to be stored on RV sites. Fuel cylinders being used shall comply with the latest edition of NFPA 58 (standard for the storage and handling of liquified petroleum gases).

RV's will not be allowed in the mobile home park and therefore this section of code is not applicable.

23. Other Requirements: Where this code does not address a particular problem, the use of the latest edition of NFPA 501A (manufactured home installations, sites and communities), 501D (recreational vehicle parks and campgrounds) and 501C (fire safety criteria for recreational vehicles) will be used. Wherever 501A, 501D and 501C and this code differ, the requirements which are more stringent shall apply.

SECTION 3-8 FLOOD PLAIN MANAGEMENT

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

FINDINGS

1. The proposed development is not in conformance with the Land Use component of the Master Plan.
2. The Transportation Component of the Master Plan states that concentrations of high density residential development should be provided along a minor arterial route.
3. The proposed development is not in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan
4. The proposed development is in conformance with the City Wellhead Protection Program.
5. The proposed use is not consistent with surrounding land uses as a transitional use between low density in the County and medium density in the City.
6. The proposed use is in conformance with City Code 3-5 Residential Mobile Home with the approval of the Condition Use Permit

7. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-8 and 3-2-18 of the Elko City Code.
8. The prior approval of CUP 4-96 designated the parcel as RMH-2, mobile home subdivision.
9. The proposed parcel had prior approval of Tentative Map 3-14 for Cedar Estates Subdivision for an RMH-3 manufactured home subdivision.

STAFF RECOMMENDATION:

Development Department recommends **DENIAL** of CUP 4-19 based on the following facts:

1. Proposed designation of RMH1 does not conform to the Master Plan.
 - a. Per Land Use page 17, RMH1 is considered a high-density residential use. The site is designated as Medium-Density Residential. The Master Plan does not distinguish based on number of units so whether there are 2 units or 150 units, it is considered high-density.
 - b. Land Use page 24 states that high-density residential uses should be located on major arterials or collectors. Access to this site is via residential local streets. Other mobile home parks in town (Panorama and Bullion) all have direct access to collector streets and would comply with this section of the Master Plan.
 - c. Transportation page 26 discusses the need to protect and enhance existing neighborhoods by reducing regional traffic on residential local streets. This project, by its commercial nature, would most likely increase traffic beyond what would occur if the property were developed at an RMH3 level.
 - d. Transportation page 26 also mentions that residential local streets are designed to be pedestrian friendly. The movement of mobile homes down these streets would pose a danger to the health, safety, and welfare of the existing residents and potentially interfere with their right to enjoy their property.
2. The property was designated as RMH3 with the approval of a previous Planning Commission and Council action. RMH3 is considered a sub-classification of zoning and should be thought of the same way as any other Tentative Map with a Zone Change. The expiration of a Map does not revert the zoning back to the previous category.

Engineering Department recommends **DENIAL** of CUP 4-19 based on the following facts:

1. Recommend the previously approved district of RMH-3 is maintained.

Public Works Department recommends **DENIAL** of CUP 4-19 based on the following facts:

1. Concerns running traffic through residential neighborhoods to a mobile home park.

If Planning Commission recommends **APPROVAL** of CUP 4-19 it should be **TABLED** until a complete application is submitted:

The deficiencies in the application are:

1. Landscaping plan, details and information

2. All signs for the mobile home or RV park, including the height, size, location, appearance and illumination of such signs, shall be subject to approval of the planning commission prior to the issuance of any conditional use permit.
3. Mobile home and RV parks adjacent to residential zones shall be fenced with a solid view screening decorative fence not more than six feet (6') nor less than three feet (3') in height around the entire boundary of the park. However, no such fence over three feet (3') in height shall be allowed within thirty feet (30') of the intersection of any two (2) streets. The design and construction materials of said fence shall be subject to approval by the planning commission prior to the issuance of any conditional use permit.
4. The architectural design of a non-mobile home office shall be subject to approval by the planning commission prior to the issuance of any conditional use permit.
5. The architectural design of all non-mobile home structures shall be subject to approval by the planning commission prior to issuance of any conditional use permit.

CUP 5-19

RMH3 TO RMH1

Planning Commission

August 6, 2019



COMPATIBLE ZONING

- Residential – Medium Density
 - R (Single and Multiple Family)
 - R1 (Single Family)
 - R2 (Two Family)
 - PUD (Planned Unit Development)
 - RO (Residential Office)
 - RB (Residential Business)
 - RMH2 (Mobile Home Subdivision)
 - RMH3 (Manufactured Home Subdivision)
- Residential – High Density
 - R (Single and Multiple Family)
 - R3 (Multiple Family)
 - RMH1 (Mobile Home)
 - PUD (Planned Unit Development)
 - C (General Commercial)

LAND USE DISTRIBUTION

- Best Practice 1.3: Work toward equitable and even distribution of housing types throughout the community.
- “Encourage high density residential...uses that generate significant traffic volumes adjacent to major arterials or collector roadways...”

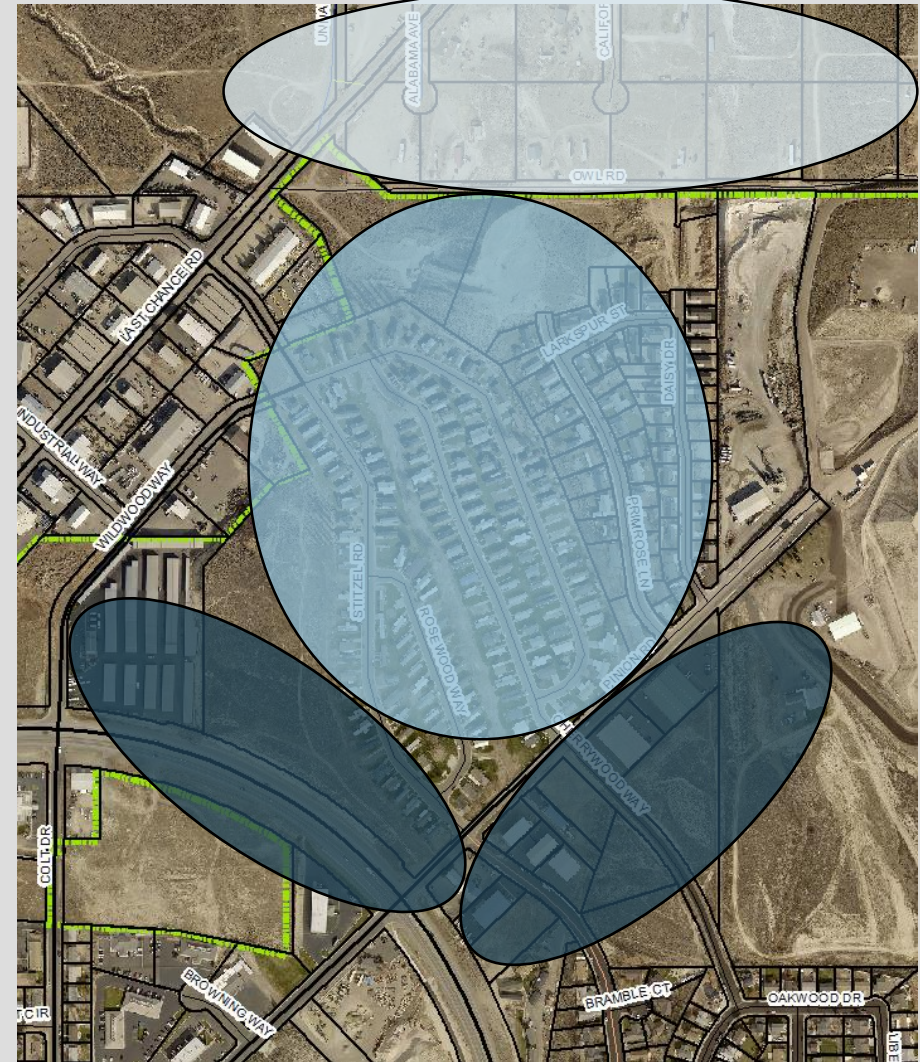
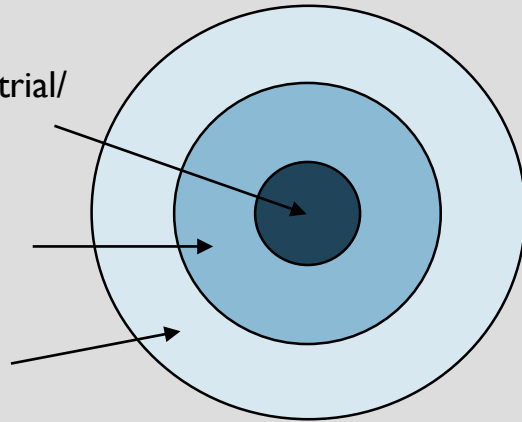
TRANSITIONAL ZONING

GOAL

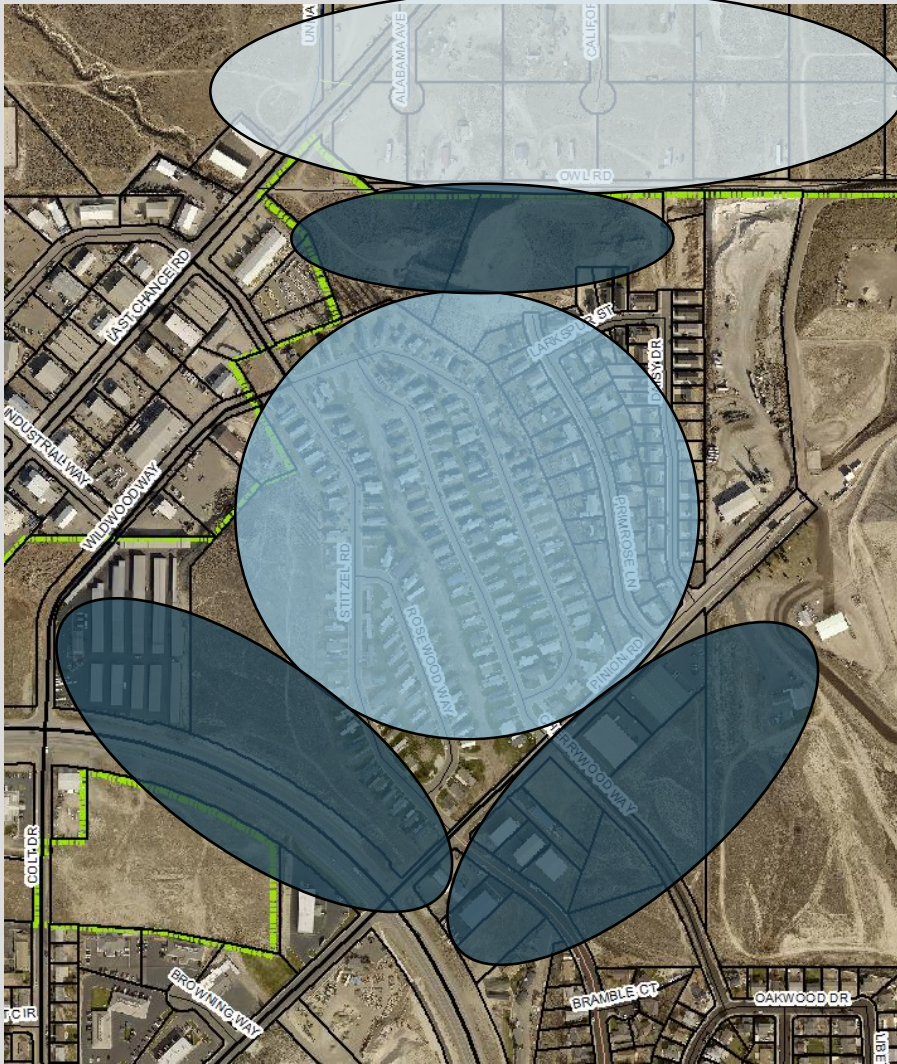
Commercial/Industrial/
High Density

Medium Density

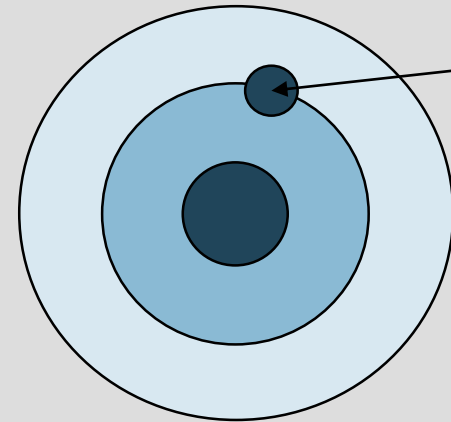
Low Density



TRANSITIONAL ZONING



PROPOSED



Pocket of High Density
between Medium Density
and Low Density

FINDINGS

- Does NOT conform with:
 - Land Use section of Master Plan
 - Transportation section of Master Plan
 - Transitional Zoning/Surrounding land uses



July 10, 2019

City of Elko
1751 College Avenue
Elko, NV 89801

RE: Parkview Mobile Home Park – CUP No. 5-19

Attn: Michelle Rambo, AICP Development Manager

Dear Michelle,

Thank you for your and the City staff's time and efforts in reviewing our application for the Conditional Use permit No. 519. I have written this letter and included the attachments to address the deficiencies noted in the application.

- 1) Please find attached the revised site plan showing the preliminary landscaping proposed for the project including the fence to screen the property, landscaping and pavilion in the proposed park, and trees included along the perimeter fence. Also, a typical lot landscaping is shown on the site plan.
- 2) Attached to this letter is the design for the proposed signage for the park. The sign location is also noted on the siteplan.
- 3) The site plan includes the plan view location of the solid view screening decorative fence. Also, attached to this letter is a copy of the proposed decorative fencing (vinyl) and an elevation showing the fencing in conjunction with the proposed trees located along the perimeter of the fence as shown in the site plan.
- 4) There are no non-mobile home facilities/offices planned with this project.
- 5) A detail of the trash enclosure is included as an attachment to this letter. There are no other non-mobile home structures planned with this project.

Thank you for your time and consideration.

Best regards,

Jon D. Bailey, P.E.
Bailey Homes

RECEIVED

JUL 30 2019

APN 001-926-111
Bailey Home & Associates LLC
Mobile Home Park

City of Elko planning commission,

I am writing in regards to Bailey Homes wanting to build a mobile home park on Primrose Lane. I have been a property owner on Primrose Ln since March 1999. Our home overlooks Southgate trailer park a park that used to be the nicest in Elko. We actually moved to our home from Southgate. We have watched this trailer park that use to have so many rules and regulations become a dump. Bailey Homes says that they will have a CCR that renters will have to follow I have seen a copy of these and they are much more lenient then what Southgate requires. The CCR might work for awhile but it wont last. Our home has to be on a permanent foundation and had to be a certain age when we built. If we wanted to live in a trailer park we would have. We however chose not to. I believe this will bring our property value down to see a trailer park. They also want to put a park in at the entrance of the trailer park I feel this will just be a place for kids to hang out all hours of the night and we will see a lot more drug activity in our area. I think it is a great idea they want to improve this land but they need to do it just like they have had too on Larkspur and Daisy Way by putting homes in on permanent foundations and selling the homes.

Thank You,

Nicole Hyde

Nicole Hyde
1358 Primrose Ln.

TO: City of Elko Planning Commission,

I attended the last planning commission meeting in regards to APN 001-926-111 conditional use permit No. 5-19 in regards to Bailey and Associates building a mobile home park at the end of Primrose Lane and Daisy Dr. This meeting was canceled to allow Bailey more time to prepare. I would like to see this permit denied. Below are some reasons I feel it should be denied.

I moved into my house on 1358 Primrose lane in 1999, when I did I signed a declaration of covenants, conditions and restrictions regarding Cedar Estates. I have attached this document and I would like to point out some of the restrictions.

- I. No lots shall be used except for residential purposes. (allowing Bailey to build a mobile home park with attached play areas will break this rule.)
- IV. All construction shall be with new materials. (Allowing a mobile home park in this area will mean that older homes will be allowed breaking this rule.)
- VI. No structure of a temporary character shall be used on any lot at any time as a residence, either temporarily or permanently. No incomplete buildings shall be permitted to remain incomplete for a period in excess of one year from the date the building was started unless approved in writing by the Declarant. (Allowing a mobile home park in this area will break this rule as all of the of the homes will be soft set and not on a permanent foundation.)
- VIII. Four parking spaces shall be provided off the street for each lot that is developed by the property owner. (looking at the mobile home park plan this will not be the case.)
- IX. All dwellings shall be placed on full, permanent foundations per minimum specifications for 30 year loans. (Mobile home parks are the exact opposite of this.)

There are more rules in the contract that I signed that will be broken if this mobile home park is allowed to be built but I felt the above were the most pertinent.

I would also like to bring up that I have lived above Southgate Mobile Home Park for 20 plus years in fact I have even lived in the park. When Southgate was new it was one of the nicest parks around with some of the strictest rules, over the years I feel the need to get renters has out weighted the need to enforce the rules. There is also an unbelievable amount of traffic that goes through the park. I feel that if the mobile home park that Bailey is proposing is allowed to be built the same result will occur. I have attached some pictures from the view from my back yard. I think some of the homes there could in fact be considered fire hazards.

I have convinced both of my sons to purchase houses in cedar estates mainly because of the rules that have been followed. My youngest son is in the process of buying his first home on Primrose Lane and I feel don't know if I would still recommend it if a mobile home park were allowed to be built here.

Thank you for your time

Clint Hyde
1358 Primrose Lane

RECEIVED

JUL 26 2019

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AFFECTING THE REAL PROPERTY KNOWN AS
CEDAR ESTATES, UNIT ONE, PHASE ONE

This declaration made this 15th day of September, 1997, by the owner, Cedar Estates, LLC (hereinafter referred to as the "Declarant") of the said real property, situated in the City of Elko, County of Elko, State of Nevada, as shown on the official map thereof, filed in the Office of the County Recorder, Elko County, Nevada, as shown on that certain parcel map for Cedar Estates filed in the Office of the County Recorder of Elko County, Nevada, State of Nevada on the 27th day of August, 1997, as File No. 412903.

WHEREAS the Declarant intends to sell or convey from time to time all the parcels, and it does hereby desire covenants, conditions, and restrictions, (hereinafter referred to as "Conditions") between it and the acquirers and/or users of the parcels.

THEREFORE, the Declarant hereby certifies and declares that it has established and does hereby establish this Declaration for the protection, development and improvement of said parcels and that:

This Declaration is designed for the mutual benefit of the parcels and Declarant has fixed and does hereby fix the protective conditions upon all parcels and all interests therein held, leased, or sold and/or conveyed by the owners or users thereof, each and all of which is and are for the mutual benefit of the lots, and each owner thereof and shall run with the land and shall inure to and pass with each such lot and parcel of land and shall bind the respective successors in interest thereof and further said protective conditions are and each thereof is imposed upon each and every parcel as a mutual equitable servitude in favor of each and every parcel and in favor of Declarant.

SAID CONDITIONS ARE AS FOLLOWS:

I.
RESIDENTIAL ONLY

No lots shall be used except for residential purposes.

II.
COMPLIANCE WITH LAW

All land use and buildings shall be in compliance with all zoning and land use ordinances and regulations of the City of Elko, State of Nevada.

III.
LANDSCAPING, GRADING, AND DRAINAGE

All landscaping, grading, and drainage of the land on each lot shall be completed so as to comply with all flood control requirements of the subdivision and the individual lots therein.

IV.
NEW CONSTRUCTION

All construction shall be with new materials.

V.
NUISANCES

No offensive or obnoxious activity shall be carried on on any lot in the subdivision, or shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood by unreasonably interfering with the use and enjoyment of other property owners within the subdivision.

VI.
TEMPORARY STRUCTURES

No structure of a temporary character shall be used on any lot at any time as a residence, either temporarily or permanently. No incomplete buildings shall be permitted to remain incomplete for a period in excess of one year from the date the building was started unless approved in writing by the Declarant.

VII.
YARDS

No fence, wall, hedge or other similar structure shall be erected in any yard to a height in excess of three (3) feet unless approved in writing by the Declarant.

VIII.
VEHICLES AND PARKING

Four parking spaces shall be provided off the street for each lot that is developed by the property owner. Two of these off street parking spaces may be filled by a two-car garage. No garage larger than a two-car garage shall be permitted unless approved in writing by Declarant.

IX.
FOUNDATIONS

All dwellings shall be placed on full, permanent foundations per minimum specifications for 30 year loans.

X.
ROOF PITCH

All dwellings must have a minimum of 4/12 roof pitch unless approved in writing by the Declarant.

XI.
DRIVEWAYS AND GARAGES

All driveways shall be constructed of concrete and be a minimum of sixteen (16) feet wide. All homes shall be placed so that a two car garage can be built on the property.

XII.
PLANS

The plans, units, and placements on the owner's lot must be approved in writing by the Declarant. Any addition to the lot after purchase must be constructed of like material and color and approved by Declarant.

XIII.
SATELLITE DISHES

All satellite receiving dishes must be installed behind the home.

XIV.
LANDSCAPING

Landscaping of each lot shall commence no more than forty five (45) days after completion or occupancy of a dwelling on that particular lot. In the event of weather delays, landscaping shall be completed within a reasonable time thereafter. Landscaping shall be kept in a nice, well-maintained condition at all times.

XV.
EASEMENTS

Easements for installation and maintenance of the utilities and drainage facilities are reserved as shown on the Recorder's plat. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels and easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility company is responsible.

XVI.
CHANGES

Any variance or change of these Declaration of Covenants, Conditions, and Restrictions must be approved in writing by the Declarant. Invalidation of any one or more of these covenants by judgment or court order shall not affect any of the other covenants which shall remain in full force and effect.

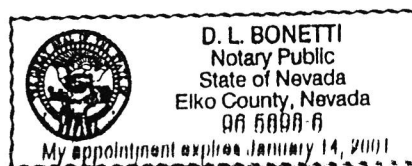
CEDAR ESTATES, LLC

BY Patricia G. Blair
PATRICIA G. BLAIR

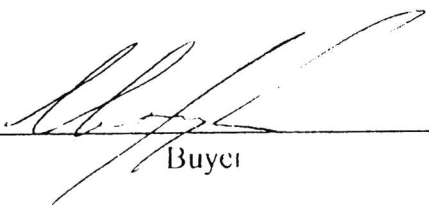
STATE OF NEVADA)
) ss.
COUNTY OF ELKO)

On September 29, 1997, personally appeared before me, a Notary Public, PATRICIA G. BLAIR, personally known to me or proven to me to be the person whose name is subscribed to the above instrument and who acknowledged that she executed said instrument.

D. L. Bonetti
NOTARY PUBLIC
My Commission Expires: 1/14/2001



BUYERS HAVE READ AND AGREE TO ABIDE BY THESE DECLARATIONS OF
COVENANTS, CONDITIONS AND RESTRICTIONS.



Buyer

3-1-99

Date

Buyer

Date

SOUTHGATE MOBILE HOME PARK

RULES AND REGULATIONS

RESIDENTS OF SOUTHGATE MOBILE HOME PARK MUST READ THESE RULES AND REGULATIONS.

WELCOME TO SOUTHGATE MOBILE HOME PARK, A PLACE OF WHICH TO BE PROUD. THE PRIMARY PURPOSE OF THESE RULES AND REGULATIONS IS TO PROVIDE THE LESSOR AND EACH INDIVIDUAL WITH A SET OF STANDARDS OF COMMON RESPONSIBILITIES, CONDUCT AND RESPECT FOR EACH OTHER, AND TO KEEP SOUTHGATE MOBILE HOME PARK (THE "PARK") , A HIGH QUALITY PLACE IN WHICH TO LIVE.

YOU ARE REMINDED THAT THESE RULES AND REGULATIONS ARE PART OF THE LEASE AGREEMENT WHICH INDIVIDUAL LOTS ARE LEASED AND ARE BINDING AS SUCH. MANAGEMENT RESERVES THE RIGHT TO AMEND THESE RULES AND REGULATIONS TO BECOME EFFECTIVE SIXTY (60) DAYS AFTER OF SUCH AMENDMENTS.

ANY REFERENCE TO THE "LESSEE" OR "RESIDENT" OR "TENANT" WITHIN THESE RULES MEANS YOU, THE RESIDENT.

ANY REFERENCE TO THE "LESSOR" OR "OWNER" WITHIN THESE RULES MEANS US, THE OWNER.

A. YOUR HOME AND ITS EQUIPMENT

1. Management reserves the right to refuse entry to the park of any Mobile Home which has been misrepresented as to size, age, appearance, or is not in compliance with local plumbing, electrical and heating regulations.
2. Mobile Homes may not be set up with more than three eight-inch blocks from frame to the ground; and skirting shall be placed around all Mobile Homes within Forty-five (45) days from the date the home is placed on leased lot. Access doors must be installed in skirting adjacent to the point where utility facilities for Mobile Home emerge from the ground and must be kept in good repair.
3. No fences, wooden structures of any kind, antenna of any kind to be constructed or installed by Lessee around or on any leased lot or Mobile Home without prior written approval of the Lessor.
4. Tongues and Hitches must be removed immediately and stored under the Mobile Home. Steps and porch deck must be skirted to match Home.
5. No Mobile Home in the Park should be less than 13'6" inches wide and nor shorter than 50' inches long without special par approval. All Mobile Homes shall be maintained in a clean and orderly manner and must be kept free from dirt, rust spots, streaks, and peeling paint, and shall

be repaired as necessary in the judgment of the park. No Home shall have tires or debris on the roof.

6. Decks must be installed sixty (60) after you have moved in. Minimum deck size is 8'x10'. Larger decks must be approved by Park. **Deck and carport awnings are required.** All awnings require city building permits. Minimum carport awning is 10'x14'. Larger or special carport awnings must be approved in writing by Park.
7. Window air conditioners which are visible from the street are not permitted. All central air conditioning must be set on a concrete pad to be furnished by Lessee at his own expense.
8. Oil furnaces or stoves of any type may not be used in any Mobile Home due to the excessive delivery truck traffic and accompanying unsightly barrels and tanks.
9. Tenants are responsible for connections of utilities to their units. All waterlines must be winterized and heat tapes plugged in by October 1st of each year. Water must never be left running to prevent freezing.
10. Nothing shall be stored at rear of home. Wood and/or metal storage sheds may be erected for extra storage and must be approved by the Park. Placement of storage sheds shall be reserved for the back 25% of lot. **No homemade cabanas will be permitted.**

B. AUTOMOBILES AND OTHER VEHICLES

1. No more than two Automobiles may be parked in connection with Tenants residence. **No on-street parking is allowed. Residents shall park only in carport areas.** Automobiles which are not operational or in regular use must not be parked at Lessee's residence. They may be parked in your Driveway only for loading, unloading and cleaning.
2. No motorcycles, scooters, motor bikes, and similar vehicles may be used in connection with Lessee's residents on the leased premises unless and until Lessor has given its written consent therefor. If consent is granted, these vehicles are only permitted to be run to and from Park and are at no time to be used to ride around inside the park area. Noisy bikes must be walked to and from the Park entrance. **At no time will non-street licensed vehicles be parked or kept on patios or yards.** All such vehicles are to be kept in Utility sheds or storage unless approved by Lessor. The posted speed limit within the Park must be obeyed at all times. Violations of the speed limit shall be grounds for eviction.
3. No repairs on motor vehicles may be made inside the Park, except for minor repairs such as spark plugs, fan belts and oil change. Any other minor repair must be approved by the Park management. Repairs must be completed within a twelve (12) hour period and area must be cleaned up to Park standards.

C. GARBAGE

Plastic garbage bags must be placed inside your garbage containers and placed in front of your home near the sidewalk prior to collection. The garbage containers must be at the rear of your home any other time. Absolutely no loose garbage of any kind may be put out for collection. You must dispose of your own bulky articles, hereinafter called trash. There is no trash disposal area in the park and it must be taken to public dumping grounds. If Lessor is required to pick up trash, a minimum charge of not less than Twenty-Five (\$25) Dollars or more than One Hundred (\$100) will be charged. Burning garbage in the Park is prohibited.

D. CHILDREN

1. Parents will be responsible for the conduct of their children. Children must be quiet and orderly and not be allowed to play in the Park streets, in vacant spaces, or on other resident's property without the permission of the resident whose property affected. Lessee is responsible for the actions and whereabouts of their children and other children residing and/or visiting them. Except as otherwise allowed by law, Lessor will not be liable for injury to such children or damage done by them, whether arising in connection with a violation of these rules and regulations otherwise.
2. Bicycles, toys and other similar items shall not be left in yards when not in use, but shall be placed out of sight within a storage building or other area. These items are not to be stored on patios or in yard within view of the street. Patio must be kept clean and neat.
3. Children are not allowed in or around construction areas no matter how minor the construction.
4. No families with more than four children will be allowed without special written approval of the Park Management.

E. PETS

1. Effective February 1992, the following dog breeds are prohibited in the Park
A. Pitt bull; B. Doberman Pincher; C. Rottweiler; D. Alaskan Malamute.
2. With the exception of Seeing Eye dogs, all other dog breeds shall be permitted or disallowed at the discretion of the Park, taking into consideration the size and breed of the dog.
3. The Park reserves the right to restrict both the number and types of pets allowed. All pets must be immediately registered with park and registration shall be kept current. All pets must be licensed and inoculated in accordance with applicable law.
4. House pets only are allowed. Pets are to be kept within the residence's house except when resident has pet on leash and is walking the pet. Subject to applicable law, cats may roam free for rodent control in the Park. Pets will not be allowed to cause any disturbance which

annoys neighbors. If pet causes any disturbance or annoyance, permission to keep pet may be revoked. Guests of resident may not bring pets into the Park. **Dog runs are prohibited.**

5. Subject to eviction for nuisance, if any violation of the pet rules is not observed or a complaint is made to and deemed valid by the park management, the pet owner will receive a written warning regarding violation observed or complaint made. A second violation constitutes grounds for eviction at the discretion of the Park.
6. Owners are responsible for their animal's waste and must dispose of the waste accordingly. Owners must prevent their pets from using any trees, shrubs or flowers within park for disposal of such waste.
7. The term "pets" includes dogs.
8. All residents having dogs prior to April 1992, may keep their dogs but may not acquire any additional dogs except in compliance with the rules and regulations, regardless of the breed or size.
9. A dog shall be considered a particular breed if it has fifty percent (50%) or more of a specific breed.
10. All owners of pets shall indemnify and hold the Park harmless from injuries or damage caused by pets to the Park or to third parties.

F. LANDSCAPING AND SNOWREMOVAL

1. Except as otherwise specifically set forth in the lease agreement, landscaping is the sole responsibility of the Park. Residents must keep lawn area free of items such as chairs, toys, barbecues and similar items at all times so the lawns can be maintained and groomed. Residents may plant flowers or plants only with the approval of the Park and such plants will become the property of the Park. Flower boxes and similar type containers may be used on the resident's decks in a neat and orderly fashion.
2. Residents shall be responsible for shoveling their own sidewalks and driveways after each snowfall. The park shall have no such obligation.

G. MATTER OF CONDUCT

No disturbing noises or conduct will be permitted at any time. Radios, televisions, musical instruments, and similar items shall be used in such a manner, at any time, day or night, as not to unreasonably disturb neighboring tenants. All guests are to leave the Park quietly and observe speed limits. Lessee shall not or do permit anything to be done on the leased premises which will unreasonably interfere with the rights, comfort, or convenience of neighboring tenants.

H. VACATING PREMISES

Lessee must give at least thirty days (30) notice of intent to vacate prior to the end of any calendar month in order to terminate the lease and relieve himself from the obligation to pay rent and to comply with all other terms and conditions. Rent is non-apportionable and non-refundable and a

pro rata portion of any monthly rental will not be refunded even though Lessee vacates the leased premises prior to the last day of the month, and rent will be charged to the end of the next succeeding month if notice is not given by Lessee at least thirty days prior to the end of the month in which Lessee has not vacated the leased premises by the last day of the month. No refunds of rent will be made.

I. IN GENERAL

1. No reflective material will be allowed on windows of Mobile Home.
2. No fuel, oil, poisons or other materials of toxic or explosive nature will be stored on Mobile Home space under any circumstances.
3. Resident shall promptly report any hazardous conditions which may develop in the Park.
4. The use of any furniture on the patio, porch or yard is prohibited, unless it is outdoor patio furniture approved by the park. No overstuffed furniture, ironing boards, brooms, mops, freezers, refrigerators, washing machines, or similar items are allowed outside the Mobile Home or shed. Charcoal grills must not be left in the yard when not in use.
5. No commercial business shall be conducted in the Mobile Home community; no auction; moving or garage sales will be permitted in the Park.
6. Lessor may control all paddling, selling, soliciting, commercial delivery of goods and services, and vehicular and pedestrian traffic within the Park and may post signs at all entrances throughout the park regulating such matters and may forbid the same, whether being conducted by the Park tenants or outsiders.
7. Spray painting in the park is strictly prohibited.
8. Mailboxes are private property and are not be tampered with.
9. No clothes will be dried outside or hung on porches or railings.
10. Rubber items, sanitary napkins, disposable diapers, garbage, cellophane, and other items likely to clog toilets shall not be flushed therein, and if utility service to Lessee's Mobile Home becomes clogged by such items and requires service, Lessee shall immediately pay to Lessor the minimum sum of \$ _____ for service and repairs or such additional sum as required for such service and repairs. Such charges to be in addition to and separate from rent charges, and to be due immediately payable at the time the service is rendered.
11. Bicycle riding is permitted; however, all residents and guests are required to obey vehicle traffic regulations.
12. Leased premises shall be utilized in such manner as not to be detrimental to or unreasonably interfere with the general health, safety or welfare of the park as a whole or any tenants of the park.
13. Should you decide to sell your Mobile Home and desire the tenancy to continue in the park, any prospective buyer must be approved by Management. Selling of Mobile Home does not reserve the space for the new owner. Residents may not place more than one "For Sale" sign upon his home and sign must not exceed 144 square inches in size.

I have read and understand and agree with Rules and Regulations

Date: _____

Signature of Resident















Conditional Use Permit 5-19 Bailey + Associates, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001926094	BAILEY, MICHELLE		1497 DAISY DR	ELKO NV	89801-5056
001926090	CASTANEDA-SALAS, ERNESTO		2208 LARKSPUR ST	ELKO NV	89801-8848
001926092	CASTRO, ALEJANDRO ET AL		2220 LARKSPUR ST	ELKO NV	89801-8848
001926097	CMH HOMES INC		5000 CLAYTON RD	MARYVILLE TN	37804-5550
001926099	COTA, JAKE A		665 BULLION RD SPC 5	ELKO NV	89801-4176
001926096	DAIGNEAULT, ERIC		1529 DAISY DR	ELKO NV	89801-5057
001920021	ELKO CITY OF		1755 COLLEGE AVE	ELKO NV	89801
001926110	ELKO CITY OF		1751 COLLEGE AVE	ELKO NV	89801-3401
001926068	ELTON, STEPHEN J		1362 PRIMROSE LN	ELKO NV	89801-8823
001926093	GONZALEZ, ABEL JR ET AL		2224 LARKSPUR ST	ELKO NV	89801
001926088	GREEN, NATASHA R		2219 LARKSPUR ST	ELKO NV	89801-8830
001926095	HAAS, BRANDON		1505 DAISY DR	ELKO NV	89801-5057
001926013	HACKWORTH, IAN		1298 PRIMROSE LN	ELKO NV	89801-4898
001926014	HECKETHORN, GUY G		1294 PRIMROSE LN	ELKO NV	89801-4898
001926087	HUBER, KYLE		2223 LARKSPUR ST	ELKO NV	89801-8830
001920020	HUMBOLDT-VEGA LLC		4100 IDAHO ST	ELKO NV	89801-4694
001926073	HYDE, CLINT A & NICOLE L TR		1358 PRIMROSE LN	ELKO NV	89801-8823
001926016	HYDE, DAKOTA		1358 PRIMROSE LN	ELKO NV	89801-8823
001926018	KIDD PROPERTIES LLC		12895 S GRASS VALLEY RD	WINNEMUCCA NV	89445-5724
001926017	MARTIN, GREGORY P		1349 PRIMROSE LN	ELKO NV	89801-8825
001926044	MORENO, MARILU		2205 LARKSPUR ST	ELKO NV	89801-8830
001926084	MOSS, LIBBY		1538 DAISY DR	ELKO NV	89801-5057
001920039	REMINGTON CONSTRUCTION CO LLC		PO BOX 1616	ELKO NV	89803-1616
032001039	RODRIGUEZ, CORY & IVETT		707 LAST CHANCE RD UNIT 15	ELKO NV	89801-2430
032001042	RODRIGUEZ, ISAMAEL N & YOLANDA		702 LAST CHANCE RD UNIT 1	ELKO NV	89801-8748
032001041	RODRIGUEZ, ISAMAEL N & YOLANDA		702 LAST CHANCE RD UNIT 1	ELKO NV	89801-8748
032001043	RODRIGUEZ, ISMAEL N & YOLANDA		702 LAST CHANCE RD UNIT 1	ELKO NV	89801-8748
032001040	RODRIGUEZ, MANUEL ETAL		702 LAST CHANCE RD UNIT 1	ELKO NV	89801-8748
001926091	ROLF, CHARLES S		2214 LARKSPUR ST	ELKO NV	89801-8848
001926064	SAENZ, MARTIN & WENDYC		1357 PRIMROSE LN	ELKO NV	89801-8825
001920002	SOUTHGATE MOBILE HOME PARK LLC	WESTATES	618 N EL CAMINO REAL	SAN MATEO CA	94401-3713
001926098	ULLMAN, KYLE & VIRGINIA		1537 DAISY DR	ELKO NV	89801-5057
001926089	WARWICK, PAUL C		2211 LARKSPUR ST	ELKO NV	89801-8830

} NOP.C.

} 1pc.

001926085	WOODWORTH, MICHELLE	1534 DAISY DR	ELKO NV	89801-5057
001926086	ZAZUETA-COTA, LUIS D	1530 DAISY DR	ELKO NV	89801-5057
001920002	CURRENT RESIDENT	2311 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2307 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1198 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	2310 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2308 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2300 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2382 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1396 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1296 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1292 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1288 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1284 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1280 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1276 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1272 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1268 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1264 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1258 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1399 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1395 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1391 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1389 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1385 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1381 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1377 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1373 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1369 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1361 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1355 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1347 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1343 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1339 STITZEL RD	ELKO NV	89801

001920002	CURRENT RESIDENT	1335 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1329 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1321 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1299 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1295 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1291 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1287 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1283 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1275 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1271 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1267 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1263 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1259 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1255 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	2280 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1378 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1374 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1368 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1362 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1356 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1344 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1326 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1341 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1345 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1349 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1353 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1357 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1361 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1365 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1369 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1386 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1336 STITZEL RD	ELKO NV	89801
001920002	CURRENT RESIDENT	1384 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1382 ROSEWOOD	ELKO NV	89801

001920002	CURRENT RESIDENT	1378 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1376 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1372 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1368 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1364 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1360 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1356 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1352 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1348 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1344 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1340 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1338 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1334 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1332 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1328 ROSEWOOD	ELKO NV	89801
001920002	CURRENT RESIDENT	1265 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1269 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1273 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1277 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1281 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1285 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1289 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1293 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1297 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1315 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1319 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1323 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1327 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1331 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1335 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1339 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1343 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1347 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1351 CHERRYWOOD WY	ELKO NV	89801

001920002	CURRENT RESIDENT	1355 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1359 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1363 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1367 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1260 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1264 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1268 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1270 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1274 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1282 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1286 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1290 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1298 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1320 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1316 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1326 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1330 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1336 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1338 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1340 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1344 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1350 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2317 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2319 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2321 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2325 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2329 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2331 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2335 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2339 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2343 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2347 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2349 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2351 WILDWOOD WY	ELKO NV	89801

001920002	CURRENT RESIDENT	2353 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2355 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2357 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2359 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2361 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2363 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2365 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2367 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2369 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2371 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2373 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2375 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2377 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2379 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2381 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2374 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2372 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2370 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2368 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2366 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2364 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2362 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2360 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2358 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2356 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2354 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2352 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2350 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2348 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2346 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2344 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	2342 WILDWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1278 CHERRYWOOD WY	ELKO NV	89801
001920002	CURRENT RESIDENT	1296 CHERRYWOOD WY	ELKO NV	89801

198

Postmarked 7/26/19

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

- **Conditional Use Permit No. 5-19, filed by Bailey & Associates, LLC, to designate APN 001-926-111 as a RMH-1 district for occupancy of mobile homes on rented or leased sites in mobile home parks, and matters related thereto. The subject property is located generally at the northerly terminus of Primrose Lane and Daisy Dr. (APN 001-926-111).**

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION

Shelby Archuleta

From: Jon Bailey <jbaileype@gmail.com>
Sent: Monday, July 1, 2019 10:04 PM
To: Shelby Archuleta; Scott A. Wilkinson; Michele L. Rambo; Cathy Laughlin
Subject: Re: Planning Commission Agenda

Hi Shelby,

After reviewing the staff report for item #3 (CUP #5-19) for the planning commission agenda on 7/2/2019 I am requesting that this item be continued until the next planning commission meeting. Is that possible at this point? I can also make the request at the meeting tomorrow. There was some additional information requested by staff to finalize the application. I would like to make sure that the commission has all the information before this item is heard. Thank you so much and I will follow up with a call tomorrow.

Best regards,
Jon

On Wed, Jun 26, 2019 at 12:31 PM Shelby Archuleta <sarchuleta@elkocitynv.gov> wrote:

Good Afternoon,

Attached is the agenda for the July 2nd Planning Commission Meeting.

Please let me know if you have any questions, or would like any additional information on any of the agenda items.

Thank you!

Shelby Archuleta

Planning Technician

City of Elko

Planning Department

Ph (775) 777-7160

FX (775) 777-7219

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 7/2

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

Title: Conditional Use Permit No. 5-19
Applicant(s): Bailey + Associates, LLC
Site Location: N terminus of Daisy + Primrose - APN 001-926-111
Current Zoning: RMH Date Received: _____ Date Public Notice: 6/18
COMMENT: This is to designate APN 001-926-111 as RMH-1 zoning district for occupancy of mobile homes on rented or leased sites in mobile home parks.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 6/24/19
Recommend denial of CUP 9-19 as presented by staff. If the P.C. considers possible approval the item should be labeled pending completion of application requirements as stipulated in code SAW

Initial

City Manager: Date: 6/24/19
Recommend denial. Need complete application.

✓
Initial



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7219 fax

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s): Bailey & Associates LLC

(Applicant must be the owner or lessee of the **proposed** structure or use.)

MAILING ADDRESS: 780 W Silver St, Elko, NV 89801

PHONE NO. (Home): 775-777-7773

(Business): 775-777-7773

NAME OF PROPERTY OWNER (If different): Bailey & Associates LLC

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

MAILING ADDRESS: Same

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

ASSESSOR'S PARCEL NO.: 001926111

Address: 0 DAISY DRIVE

Lot(s), Block(s), & Subdivision: LOT 13, BLOCK 34N, RANGE 55 E

Or Parcel(s) & File No.: UNIT 2 PARCEL MAP 691815

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month). ✓

Fee: A \$750.00 non-refundable fee. ✓

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code. ✓

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request. *NOT APPLICABLE LOTS ONLY*

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted. ✓

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

RECEIVED

1. Current zoning of the property:

ZRMH

2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:

SECTION 3-5-1 REQUIRES CUP TO SPECIFY DISTRICTING. APPLICANT REQUESTS
DISTRICTING FOR PARCEL APN 001926111 AS ZRMH RMH1

3. Explain in detail the type and nature of the use proposed on the property:

THE PROPERTY IS ZONED ZRMH WITH THE INTENT TO DEVELOP IT AS AN RMH1 DISTRICT TO
ALLOW FOR LEASE OF MANUFACTURED HOME LOTS. THE PROPOSED DEVELOPMENT
INCLUDES AN AREA FOR A COMMON PARK, PRIVATE ROADWAY IMPROVEMENTS, AND
COMMUNITY CCR's TO PROVIDE ENDURING QUALITY OF THE PROJECT INCLUDING
RESTRICTIONS AND MAINTENANCE STANDARDS FOR THE DEVELOPMENT. THE PROJECT
INCLUDES PAVED PRIVATE ROADWAYS WITH CONCRETE PAVED WALKWAYS ON EACH SIDE
OPEN SPACE AND INDIVIDUAL FENCED YARDS TO ENSURE THE PROJECT FEELS AND LOOKS
LIKE INDIVIDUALLY OWNED LOTS. FENCING AND OTHER SITE IMPROVEMENTS WILL BE
MAINTAINED BY THE PARK OWNER.

4. Explain how the use relates with other properties and uses in the immediate area:

THE SITE IS LOCATED IN THE VICINITY OF THE REGIONAL LANDFILL AND PRIOR DEVELOPMENT
OF RHM3 DISTRICT HAS PROVEN EXTREMELY SLOW ABSORPTION. RMH1 DISTRICT IS IN
KEEPING WITH OTHER DISTRICTING INCLUDING IMMEDIATELY TO THE WEST WITH THE
SOUTHGATE PARK. THE RMH1 DISTRICT PROVIDES THE BEST USE OF LAND FOR THE
PARCEL PROVIDED THE NEIGHBORING USES AND CHALLENGES OF THE AREA IN GENERAL.
A PRIVATELY HELD PARK WITH CCR's WILL ENSURE AESTHETICS AND PROPERTY VALUES
ARE MAINTAINED IN THE AREA. FENCING AND OTHER IMPROVEMENTS WILL BE IN KEEPING.

5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property:

THERE IS AN EXISTING RETENTION POND AT THE NORTHEAST CORNER OF THE PROJECT
THAT WILL BE DEDICATED TO THE CITY AS PART OF THIS PROJECT. THE SITE TOPOGRAPHY,
STORM DRAINAGE, AND OTHER PROPERTY FEATURES ARE CONDUCIVE WITH DEVELOPMENT

6. Describe the general suitability and adequacy of the property to accommodate the proposed use:

THE SITE HAS TWO ACCESS POINTS PROVIDING FOR GOOD TRAFFIC FLOW AND INGRESS
AND EGRESS FOR EMERGENCY VEHICLES. THE SURROUNDING PROPERTY USES ARE OF
SIMILAR HOUSING AS PROPOSED.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: ☐

THE PROPOSED SITE WILL INCLUDE GRADING TO MATCH IN WITH THE SURROUNDING STREET NETWORK AND EXISTING DEVELOPMENTS.

8. Describe the amounts and type of traffic likely to be generated by the proposed use: ☐

IT IS EXPECTED THAT THE SITE WILL GENERATE APPROXIMATELY 10 TRIPS PER UNIT PROPOSED OR A TOTAL OF 440 TOTAL DAILY TRIPS

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: ☐

THE PROPOSED PROJECT PROVIDES FOR TWO OFFSTREET PARKING STALLS PER UNIT IN ADDITION TO A FULLY IMPROVED 42' PAVED PRIVATE DRIVEWAY.

10. Describe the type, dimensions and characteristics of any sign(s) being proposed: ☐

THE PROPOSED SIGNAGE IS FOR TRAFFIC CONTROL ONLY, SPEED LIMIT, AND STOP SIGNAGE

11. Identify any outside storage of goods, materials or equipment on the property: ☐

THE CCR'S WILL RESTRICT STORAGE OF GOODS AND OR MATERIALS OR VEHICLES OTHER THAN AS APPROVED BY THE PARK MANAGEMENT.

12. Identify any accessory buildings or structures associated with the proposed use on the property: ☐

IN ADDITION TO THE OFFSTREET PARKING THE PROJECT MAY INCLUDE CARPORTS, ENCLOSED STORAGE SHEDS AND OR GARAGES FOR THE UNITS.

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

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☐ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☐ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☐ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent **BAILEY & ASSOCIATES LLC**
(Please print or type)

Mailing Address **780 W SILVER ST**
Street Address or P.O. Box

ELKO, NV, 89801
City, State, Zip Code

Phone Number: **775-385-3659**

Email address: **JBAILEYPE@GMAIL.COM**

SIGNATURE: 

FOR OFFICE USE ONLY

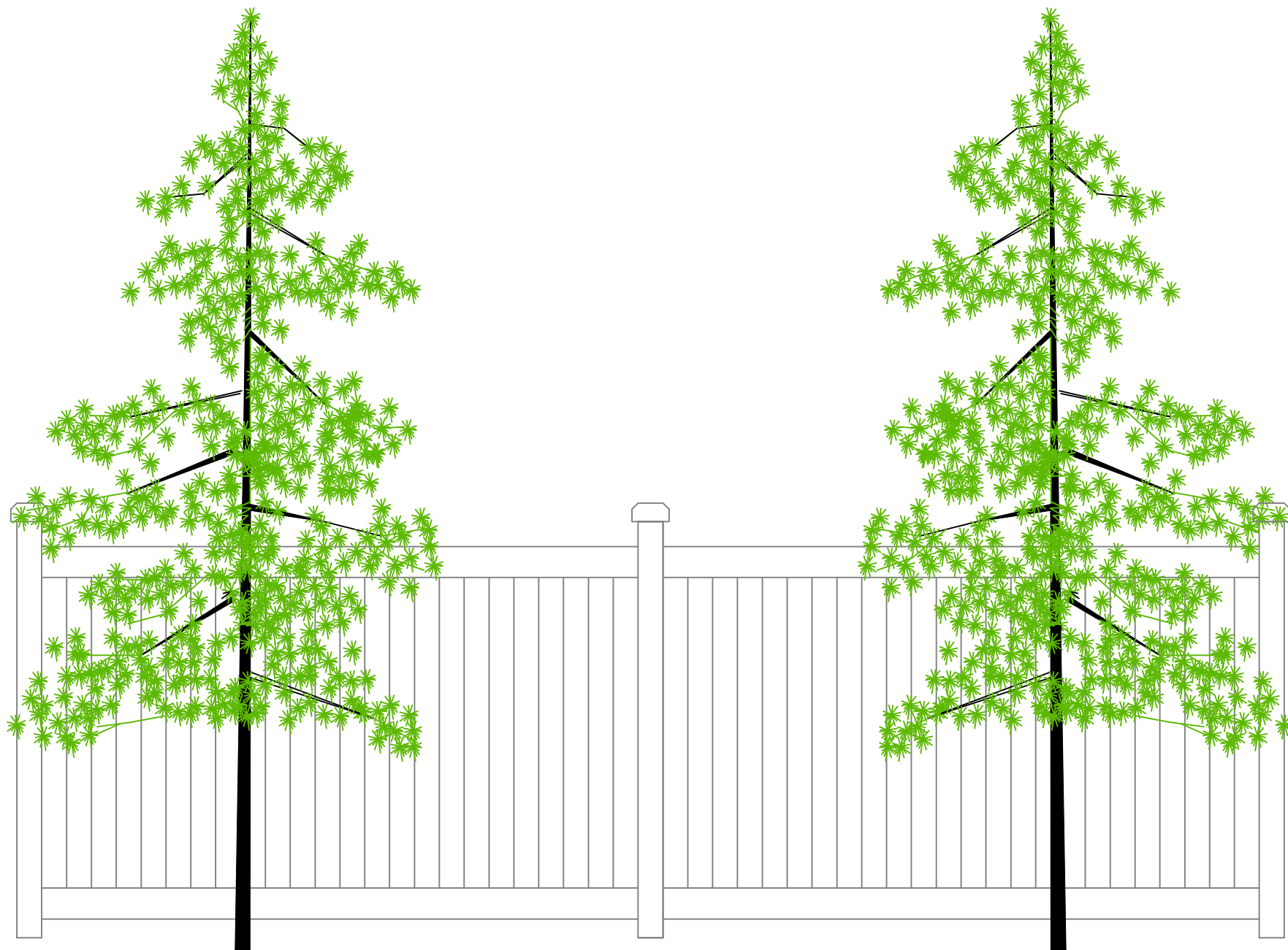
File No.: 5-19 **Date Filed:** 5/28/19 **Fee Paid:** \$ 750 **CK #** 31570

MAY 28 2019

Preliminary Draft Covenants, Conditions & Restrictions

1. No building (addition or accessory), mobile home, fence, wall or other structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration therein be made until the plans and specification showing the nature, kind, shape, height, floor plan, materials, location and approximate cost of such structure have been submitted to and approved in writing by the Company.
2. No signs or advertisement shall be displayed on leased lots, both inclusive, in said subdivision or private driveways except as designated by Company.
3. No boat, boat trailer, travel trailer or any similar property shall be stored in said mobile home park without the prior written approval of Company.
4. Company reserves the right to enter upon all leased lots, blocks or parcels to care for, cut grass, remove rubbish and keep all lots, blocks or parcels from creating an unsightly appearance and to charge the lessee of said lot, for the actual cost plus 10% for service performed in alleviating said unsightly appearance.
5. All mobile homes must have a minimum of 320 feet of floor area in the primary unit. They must have complete sanitary facilities, including, among others, a lavatory, wash basin, tub or shower, kitchen sink, and must be connected to sewerage outlets in conformity with state health requirements.
6. No television or radio antennae or satellite dishes may be erected in said subdivision except as designated by Company.
7. Household pets will be kept and cared for and not allowed to become a nuisance, and must be kept within the fencing of lessee's lot.
8. The failure by the Company to enforce any restrictions, conditions, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action against the Company.



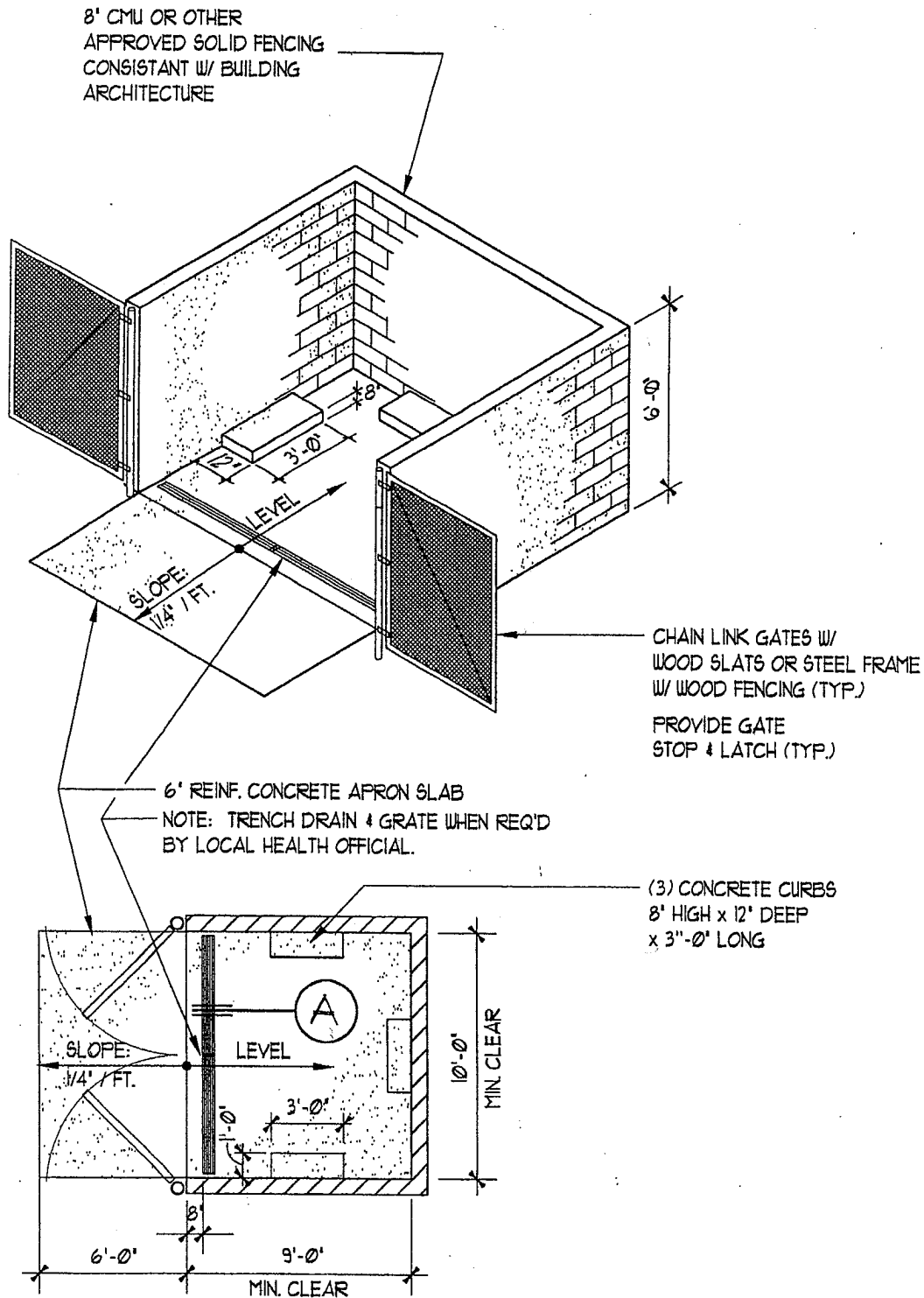


DISPOSAL SERVICES

100 VASSAR ST.

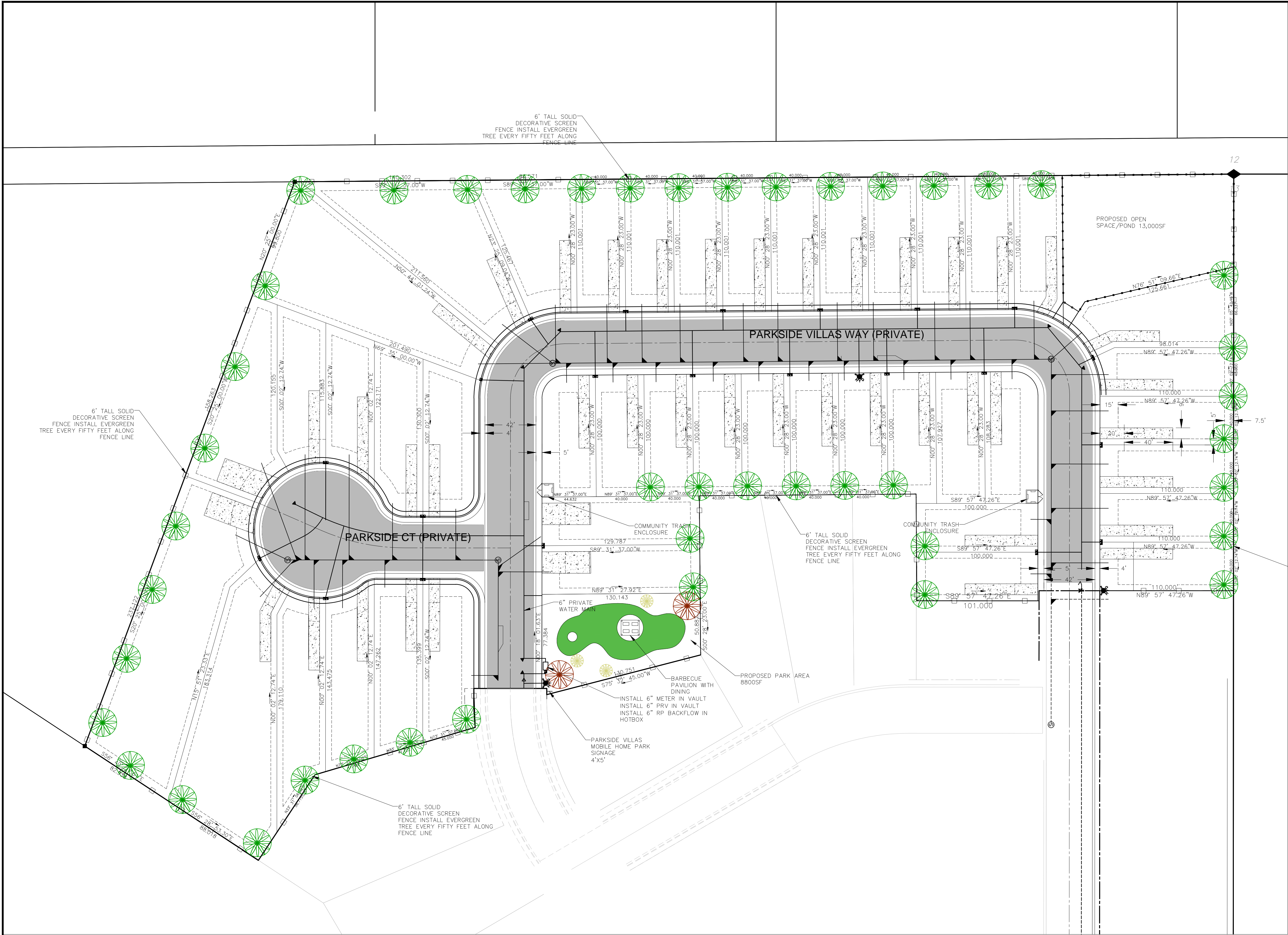
RENO, NEVADA 89520

TELEPHONE: (775) 329-8822



FRONT LOADER CONTAINER ENCLOSURE

REVISED 03.00



SITE REQUIREMENTS AND PROPOSED DEVELOPMENT STANDARDS:

EXISTING ZONING: RMH
DEVELOPMENT INTENT: RMH-1 MOBILE HOMES ON LEASED SITES
STANDARDS RMH-1
MINIMUM OVERALL AREA: 2 ACRES;
PROPOSED OVERALL AREA: 7.31 ACRES

MINIMUM NET SPACE AREA FOR EACH HOME: (4,000SF);
MINIMUM OVERALL NET SPACE AREA FOR EACH HOME: (4,000SF)

MINIMUM FRONTAGE WIDTH: (40');
PROPOSED FRONTAGE WIDTH: (40')

MINIMUM SETBACKS: SIDE SPACE (5'), REAR SPACE (7.5'), INTERNAL ST (12'), PUBLIC ST (15'), GARAGE/CARPORT (20');
PROPOSED SETBACKS: SIDE SPACE (5'), REAR SPACE (7.5'), INTERNAL ST (15'), PUBLIC ST (15'), GARAGE/CARPORT (20')

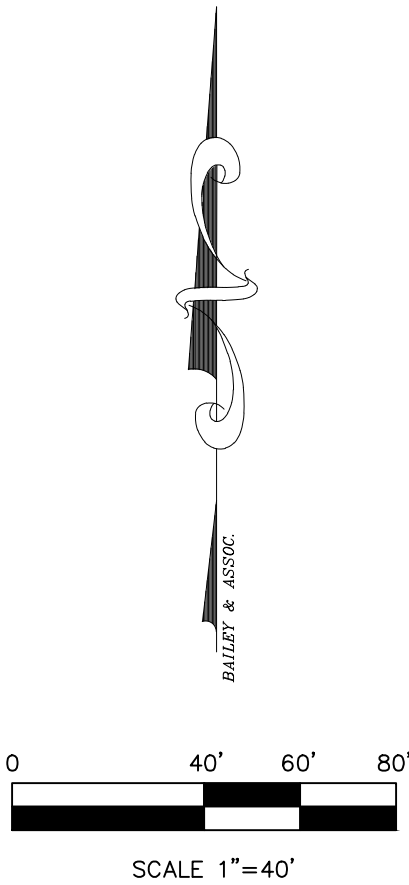
MINIMUM PAVED SECTION: (42');
PROPOSED PAVED SECTION (42')

MINIMUM CURB/GUTTER AND SIDEWALK: (5') PAVED SW ONE SIDE OF STREET, C&G BOTH SIDES OF STREET;
PROPOSED CURB/GUTTER AND SIDEWALK: (5') PAVED SW ONE SIDE OF STREET, (4') PAVED SW OTHER SIDE OF STREET, C&G BOTH SIDES OF STREET

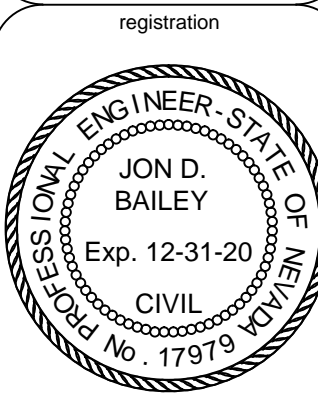
MINIMUM OFFSTREET PARKING: (2) SPACES PER HOME
PROPOSED OFFSTREET PARKING: (2) SPACES PER HOME

GENERAL REQUIREMENTS AND PROPOSED DEVELOPMENT STANDARDS:

1. ALL PARKING SPACES AND DRIVEWAYS TO BE PAVED; THE PROPOSED DEVELOPMENT INCLUDES PAVED PARKING AND DRIVEWAYS.
2. RECREATION OPEN SPACE AREA: (200SF/SPACE); THE PROPOSED DEVELOPMENT INCLUDES AN 8800SF PARK (44 SPACES * 200SF) AND 13,000SF OPEN SPACE DETENTION POND.
3. PEDESTRIANWAYS TO BE PAVED; THE PROPOSED DEVELOPMENT INCLUDES A 4' SIDEWALK IN ADDITION TO THE 5' SIDEWALK ON ONE SIDE OF STREET WHICH IS PAVED.
4. THE PROPOSED DEVELOPMENT INCLUDES (44) INDIVIDUAL METERS AND AN IRRIGATION METER WITH WATER SUPPLY BY THE CITY OF ELKO.
5. THE PROPOSED DEVELOPMENT INCLUDES (44) INDIVIDUAL SEWER SERVICE LINES ULTIMATELY CONNECTING TO THE CITY SEWER SYSTEM.
6. REFUSE AND GARBAGE WILL SERVE TO BE PROVIDED BY WASTE MANAGEMENT.
7. EACH INDIVIDUAL SITE WILL BE SERVED WITH NATURAL GAS BY SOUTHWEST GAS COMPANY. NO FUEL SUPPLY IS PROPOSED WITH THIS PROJECT.
8. FIRE PROTECTION AND HYDRANTS TO BE APPROVED BY THE CITY OF ELKO FIRE DEPARTMENT.
9. ALL OTHER REQUIREMENTS FOR MOBILE HOME PARKS AS SET FORTH IN SECTION 3-5-4 (D) WILL BE FOLLOWED.



PLLC
P.E. NV# 17979
780 W. Silver #104 Elko, NV
(775)385-3659



JON D. BAILEY

Revisions	
Number	Date & Description
1	
2	
3	
4	

**SITE AND UTILITY PLAN
PARKSIDE VILLAS MHP**

DESIGN BY: JDB	DRAWN BY: JDB	CHECKED BY: .	DATE: 5-13-19	JOB NO: .	SCALE: AS NOTED
----------------	---------------	---------------	---------------	-----------	-----------------

SHEET TITLE

SITE PLAN

SHEET

1

OF 1

**Elko City Planning Commission
Agenda Action Sheet**

1. **Review, consideration and possible recommendation to City Council for Rezone No. 3-19, filed by John and See Lambert Trustees of the Lambert Family Trust, for a change in zoning from R(Single-Family and Multi-Family Residential) to RO (Residential Office) zoning district, approximately .14 acres of property, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **PUBLIC HEARINGS,**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant has applied for a rezone, variance and conditional use permit for the property to bring the property into conformance with its current land use.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which approves Rezone No. 3-19 based on facts and findings as presented in Staff Report dated July 15, 2019.**
9. Findings: **See Staff Report dated July 15, 2019**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **John and See Lambert
10010 Fritz Lane
Reno, NV 89521**

**High Desert Engineering
Mr. Bob Morley
remorley@frontiernet.net**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 8/6

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

Title: Rezone 3-19

Applicant(s): John + See Lambert as Trustees of the Lambert Family Trust

Site Location: 603 Pine Street - APN 001-231-009

Current Zoning: R Date Received: 7/10/19 Date Public Notice: 7/23

COMMENT: This is to change the zoning at 603 Pine Street
from R to R0, to allow for a professional office, in
Conjunction with a Variance and Conditional Use Permit Application.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 7/31/19

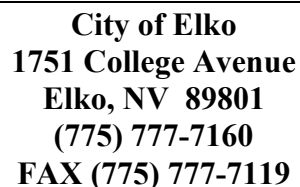
Recommend approval as presented by staff

SAW

Initial

City Manager: Date: _____

Initial



PROJECT INFORMATION

PARCEL NUMBER: 001-231-009

PARCEL SIZE: 6,120 sq. ft.

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

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Developed as a professional office

NEIGHBORHOOD CHARACTERISTICS:

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

PROPERTY CHARACTERISTICS:

- The property is developed.
- The property fronts Pine Street and 6th Street.
- Access to the property for parking is off the alley at the rear of the parcel.

MASTER PLAN AND CITY CODE SECTIONS:

Applicable Master Plans and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-5(F) RO – Residential Office District
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Section 3-2-21 Amendments
- City of Elko Zoning – Section 3-8 Flood Plain Management

BACKGROUND:

1. The parcel is identified as APN 001-231-009.
2. The applicant is the property owner.
3. The property is located north of the Pine Street and 6th Street intersection.
4. The area of the parcel is approximately 6,120 square feet.
5. The required off street parking for the existing business exists at the rear of the property. Two off-street parking for the principal use as a single family residence is also provided off the alley.
6. The applicant has applied for a variance (VAR 3-19) for a reduction of the interior side yard setback to be reviewed by the Planning Commission in conjunction with this application.
7. The applicant has applied for a Conditional Use Permit (CUP 6-19) for use of the property as a professional office. The application will be reviewed by the Planning Commission in conjunction with this application.
8. The property has a Conditional Use Permit approved on September 18, 1991. It doesn't appear that the CUP was issued in conformance with the code at the time as the property

was zoned R- Single Family Multi-Family Residential when the CUP was approved. The CUP is specific to the use as an attorney's office for up to two attorneys. The CUP was recorded with the Elko County Recorder in Book 764 page 437.

MASTER PLAN:

Land use:

1. The Master Plan Land Use Atlas shows the property as Residential Medium Density.
2. RO- Residential Office zoning district is listed as a corresponding zoning district for Residential Medium Density. The proposed RO district is consistent with current RO uses and/or residential uses in the immediate vicinity.
3. Objective 2: Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community
4. Objective 4: Consider a mixed-use pattern of development for the downtown area, and for major centers and corridors, to ensure the area's adaptability, longevity, and overall sustainability.

The proposed zone amendment is in conformance with the Master Plan Land Use component

Transportation:

1. The property fronts Pine Street and 6th Street as well as a public access alley in the rear.
2. Parking is established at the rear of the property off the alley.

The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.

ELKO REDEVELOPMENT PLAN:

1. The property is located within the redevelopment area. The proposed district supports several objectives in the redevelopment plan. The most important objective being the continuation of economic activity in the area.

The proposed zone district and continuation of the existing established business conforms to the redevelopment plan.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is not located within any capture zone for City wells.
2. Conformance with the Wellhead Protection Plan is required.

The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.

SECTION 3-2-4 Establishment of Zoning Districts:

1. The minimum lot area required is 5,000 square for areas of the community platted with 50 foot wide lots. The parcel meets the criteria stipulated for the lot area in Section 3-2-5 of city code.
2. The required lot dimensions for the proposed district in this area of the community would be 50 feet in width by 100 feet in depth as stipulated in Section 3-2-5 of city code.
3. The property is developed and the structure does not meet the interior side yard setback requirements stipulated in Section 3-2-5 of city code.

As a result of the above referenced non-conformance issues, the applicant has applied for variances on the interior side yard setback under Variance application 3-19.

SECTION 3-2-5 (RO) Residential Office:

1. As noted in the evaluation under Section 3-2-4 the property does not conform with interior side yard setback requirements stipulated for the district.
2. Variance 3-19 application has been submitted for consideration by the Planning Commission to address the conformance deficiency.

Approval of variance application 3-19 is a required condition of the zone application to address identified non-conforming issues.

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

1. There is off-street parking located in the rear of the parcel and it meets the 2 off street parking stalls code requirement for a principal permitted use as a single family residence. If the property is issued a conditional use permit to be developed as an office use, it will be required to provide off-street parking to be located at the rear of the property and accessed from the alley way in conformance with Elko City Code 3-2-17(F). The applicant will be required to provide ADA compliant parking as part of the off-street parking requirement.

The existing property appears to be in conformance with ECC 3-2-17.

SECTION 3-2-21 Amendments:

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

SECTION 3-8

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

FINDINGS

2. The proposed zone district is in conformance with the Land Use Component of the Master Plan. Residential Office is a corresponding district of Residential Medium Density. The proposed zone district meets Objectives 2 and 4 of the Land Use Component of the Master Plan.
3. The proposed rezone is consistent with the Transportation component of the Master Plan. The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.
4. The proposed zone district and continued commercial land use of the property conforms to the redevelopment plan.
5. The proposed rezone is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.
6. The property does not conform to Section 3-2-4 of city code. As a result of the above referenced non-conformance issues, the applicant has applied for variances on the interior

side yard setback under Variance application 3-19. Approval of the variance application is required as a condition of the zone application.

7. The proposed rezone is not in conformance with Section 3-2-5(R) Residential Office, a variance for interior side setback will be required prior to approval of the application.
8. The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. If the property is issued a conditional use permit to be developed as an office use, it will be required to provide off-street parking to be located at the rear of the property and accessed from the alley way. The applicant will be required to provide ADA compliant parking as part of the off-street parking requirement.
9. The parcel is not located within a designated Special Flood Hazard Area.
10. Development under the proposed rezone will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.
11. The proposed rezone is consistent with surrounding land uses.

STAFF RECOMMENDATION:

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

1. All conditions for the rezone are satisfied prior to the Mayor signing the resolution to rezone the property.
2. A variance be granted for the interior side yard setback for the principle structure.

Rezone 3-19, Var 3-19, CUP 6-19 - Lambert

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001183005	ANDERSON, JOHN R & THERESA A TR		673 JUNIPER ST	ELKO NV	89801-3537
001231010	ANDERSON, ROSE M		670 6TH ST	ELKO NV	89801-3522
001223004	BND PROPERTIES LLC		687 6TH ST STE 1	ELKO NV	89801-3580
001231011	BROWN, JAMES M & PATRICIA S		336 HULL ST	HENDERSON NV	89015-2720
001231003	CLEARWATER, KYLE & COURTNEY		661 7TH ST	ELKO NV	89801-3525
001234001	EDEN FAMILY PROPERTIES LLC		643 COURT ST	ELKO NV	89801-3531
001227001	ELKO COUNTY OF	C/O COURT HOUSE ANNEX	540 COURT ST	ELKO NV	89801-3515
001226010	ELKO COUNTY OF		571 IDAHO ST	ELKO NV	89801-3715
001226001	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3515
001234005	ERREA, LOUISE ET AL		570 6TH ST	ELKO NV	89801-3520
001223003	FARLEY, THEODORE E JR TR ET AL	C/O SALLY RASMUSSEN	8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223002	FARLEY, THEODORE E JR TR ET AL		8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223006	FINLEY, ROBERT C & ELIZABETH L		555 PINE ST	ELKO NV	89801-3541
001183004	FIRST BAPTIST CHURCH OF ELKO		685 JUNIPER ST	ELKO NV	89801-3537
001176011	FUGATE, CINDY ANN		535 JUNIPER ST	ELKO NV	89801-3535
001234004	GALLAGHER PROPERTIES LLC		2770 DEL MONTE LN	RENO NV	89511-7536
001231012	GILLIAM, JACQULYNE		651 BULLION RD SPC 74	ELKO NV	89801-4100
001183007	GLENNON, DEREK D		641 JUNIPER ST	ELKO NV	89801-3537
001226009	GLENNON, KAY K		PO BOX 8386	SPRING CREEK NV	89815-0007
001223008	GULDAGER, GERALD		509 PINE ST	ELKO NV	89801-3541
001183009	HEGUY, ROBERT A & ELIZABETH A		611 JUNIPER ST	ELKO NV	89801-3537
001234006	HOLTON, ALEX & CHERRIE		590 6TH ST	ELKO NV	89801-3520
001223010	HOOIMAN, ERIC & TERA		674 5TH ST	ELKO NV	89801-3551
001231008	HOPKINS, EVERETT A & LORETTA H		615 PINE ST	ELKO NV	89801-3543
001183006	KEMMISH, STEPHANIE A ET AL		649 JUNIPER ST	ELKO NV	89801-3537
001234002	MADDEN, KIRIN L		643 COURT ST	ELKO NV	89801-3531
001176008	NODINE, DEBORAH		585 JUNIPER ST	ELKO NV	89801-3535
001176010	O'BRIEN, COLLEEN MAVOURNEEN		494 GLEN HAVEN DR	SPRING CREEK NV	89815-6103
001231005	PETERSEN, DENNIS E & JANET	C/O SALLY RASMUSSEN	655 PINE ST	ELKO NV	89801-3543
001231006	PETERSEN, DENNIS E & JANET		655 PINE ST	ELKO NV	89801-3543
001183008	SIGMAN, KAYE		5900 HIGHWAY 45	NAMPA ID	83686-5884
001231004	SONORA LLC		PO BOX 1597	ELKO NV	89803-1597
001176009	SOVIE, JOSHUA S ET AL		565 JUNIPER ST	ELKO NV	89801-2666

001231001 STARKEY, BRIAN & DENA
001223001 STOKES, BRENT & ERIN
001231013 TREE STREET INVESTMENST GROUP G
001223005 TURNER, DANIEL L & DOROTHY M
001234003 VENTERS, BRIGIT & BRENT
001231007 WOODBURY FAMILY 2013 TRUST

698 6TH ST
756 ALPINE DR
725 2ND ST
631 6TH ST
627 COURT ST
1053 IDAHO ST

ELKO NV	89801-3522
SPRING CREEK NV	89815-7348
ELKO NV	89801-3009
ELKO NV	89801-3521
ELKO NV	89801-3531
ELKO NV	89801-3920

35

Post marked
7/26/19

NOTICE OF PUBLIC HEARING

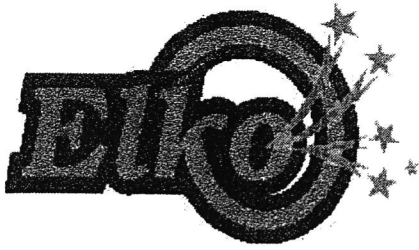
NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a change in zoning from R (Single-Family and Multi-Family Residential) to RO (Residential Office) Zoning District, approximately 0.14 acres of property, specifically APN 001-231-009, located generally on the north corner of the intersection of 6th Street and Pine Street, more particularly described as:
A parcel of land located in City of Elko, Nevada, being all of Lots 13 and 14 in Block 30, as shown on the Plat of the Town of Elko, filed in the Office of the Elko County Recorder, Elko, Nevada, on March 18, 1870 and portions of Pine Street and Sixth Street, more particularly described as follows:
Beginning at the most Northerly Corner of said Lot 14, Block 30, being Corner No. 1, The True Point of Beginning;
Thence S 48° 01'40" E, 140.00 feet along the Northeasterly Line of said Lot 14, Block 30 to Corner No. 2, a point being on the centerline of said Pine Street;
Thence S 41°58'20" W, 90.00 feet along the said centerline of Pine Street to Corner No. 3, a point being the centerline intersection of said Pine Street and said Sixth Street;
Thence N 48°01'40" W, 140.00 feet along the centerline of said Sixth Street to Corner No. 4;
Thence N 41°58'20" E, 90.00 feet along the Northwesterly Line of said Lots 13 and 14, Block 30 to Corner No. 1, The Point of Beginning, containing 12,600 Sq. Ft., more or less.
Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for the Lambert Family Trust attached hereto and made a part hereof.
The intent of the zone change is to allow for a professional office.
- Variance No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a reduction of the required interior side yard setback from 10' to 0' for a professional office in an RO (Residential Office) Zoning District, in conjunction with a Zone Change Application, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)
- Conditional Use Permit No. 6-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7219 fax

APPLICATION FOR ZONE CHANGE

APPLICANT(s):	John & See Lambert as Trustees of the Lambert Family Trust		
MAILING ADDRESS:	10010 Fritz Lane, Reno, NV 89521		
PHONE NO (Home):	(775) 340-0084	(Business):	(775) 385-8447
NAME OF PROPERTY OWNER (If different):	The Lambert Family Trust <i>(Property owner's consent in writing must be provided.)</i>		
MAILING ADDRESS:	10010 Fritz Lane, Reno, NV 89521		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-231-009	Address:	603 Pine St., Elko NV 89801
Lot(s), Block(s), & Subdivision	Lots 13 & 14 in Block 30, as shown on the plat of the Town		
Or Parcel(s) & File No.	of Elko, filed in the County Recorder's Office on March 18, 1870		
<i>Exhibit: see attached</i>			

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$500.00 non-refundable filing fee.

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

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information must be provided.

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

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this Rezone Application.

RECEIVED

JUL 10 2019

1. Identify the existing zoning classification of the property: R with CUP for Two Attorneys with staff

2. Identify the zoning Classification being proposed/requested: RO
Residential Office, pursuant to 3-2-5 (F) of the Elko City Code

3. Explain in detail the type and nature of the use anticipated on the property: Subject
 property is located at 603 Pine St., Elko, NV. It has been and continues to be a law office. It has a CUP allowing two lawyers and their staff to occupy the building. As the present owners, my wife and I would like to sell the property, but the present CUP is too restrictive. There is no meaningful market for "two attorneys and their staff." The building is a well-maintained and beautiful Victorian building, erected in the early part of the 20th Century. Although it is presently leased to an attorney, she has no interest in purchasing the property. We hope to sell it and worry it will end up sitting empty. As we no longer live in Elko, and I am in my 70s, we hope to re-zone the property to market this beautiful building to a working professional desiring a distinct building in the downtown area. (Please see additional statement attached.) *Ex. 2*

4. Explain how the proposed zoning classification relates with other zoning classifications in the area: Attached is list of similar businesses in the vicinity. The Wines Law Office is across the street. His is zoned residential as well. The area of 6th & Pine is similar in character to Court St., where Tangles, Ortho Pro, and the Raymond James office is located. Other similar properties include the Farmers Insurance offices. All of these properties are mixed use in with older residences similar in character to the area around 6th & Pine, There are a number of businesses in the area I did not list in the attachment, including dental offices and other lawyers. There is no discernable difference between the 6th & Pine area from the other areas. The fact is, the 603 Pine St. office building will never become a residence. It would be cost prohibitive. The highest and best use is an office.

See Exhibit 3

5. Identify any unique physical features or characteristics associated with the property:
 This is a beautiful building well known in the Elko area. We are waiting for bids from roofers and hope to get a new Class A rated fire retardent roof this year or next Spring. Inside, it is an office that feels like home, with stained glass windows, period wall paper, but still an office. I do not believe Elko would like to see this building empty. It was the home for the minister of the first church in Elko when the town was founded. It is an Elko treasure, and I have always treated it as such. I am grateful for having owned and practiced law in that building, but now I have two concerns: That I will not be able to sell it now that it I am retired, and that it will end up sitting empty like a few other buildings in the area that I see.

(Use additional pages if necessary to address questions 3 through 5)

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent	<div>John E. Lambert</div>
	(Please print or type)
Mailing Address	<div>10010 Fritz Lane</div>
	Street Address or P.O. Box
	<div></div>
	City, State, Zip Code
	<div>Reno, NV 89521</div>
Phone Number:	<div></div>
Email address:	<div>jemile1@me.com</div>

SIGNATURE: *John E. Lambert as Trustee of the Lambert Family Trust*

FOR OFFICE USE ONLY

File No.: 3-19 **Date Filed:** 7/10/19 **Fee Paid:** \$500 **CK#** 954

RECEIVED

JUL 10 2019

Application for Zone Change #3:

The zone change sought is appropriate. 3-2-5(F)(1) states in part:

"The purpose of the RO zoning district is to establish a residential zone that is transitional in character and location to more intense commercial districts and to promote a mixed pattern of compatible development consisting primarily of residential uses and a blend of professional offices and retail activities that are recognized as low traffic generators."

This describes the neighborhood that should be an RO district.

Exhibit 2

JUL 10 2019

ATTACHMENT

4. Explain the use relates with other properties in the immediate area.

John Lambert & See Lambert
603 Pine St.
Elko, NV 89801
ZR

Robert Wines, Law Office
687 6th St.
Elko, NV 89801
ZR

Raymond James, Financial Advisor
993 Court St.
Elko, NV 89801
ZRO

Farmers Insurance
501 Oak St.
Elko, NV. 89801
ZRB

Farmers Insurance
1010 Court St.
Elko NV. 89801
ZC

Lisa Mendez, Attorney
927 Idaho St.
Elko, NV 89801
ZC

Tangles Hair Salon
844 Court St.
Elko, NV 89801
ZC

Lockie & McFarlane, Attorneys
919 Idaho St.
Elko, NV 89801
ZC

John E. Lambert

10010 Fritz Lane
Reno, NV 89521
(775) 340-0084
jemile1@me.com

May 20, 2019

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

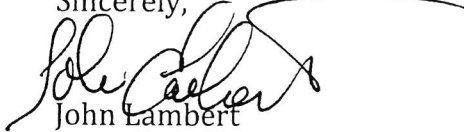
Dear City Planner Laughlin and Commissioners:

Accompanying this letter is an Application for Conditional Use Permit, Exhibits, and a check for \$750.00; Application for Zone Change and Exhibits, and a check for \$500.00; and an Application for Variance and Exhibits, with a check for \$250.00.

I will be out of the country the first three weeks of July, so please calendar this matter for the regularly scheduled meeting on August 6, 2019.

Thank you for your assistance, and please contact me if there are any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Lambert', with a long, sweeping horizontal line extending to the right.

John Lambert

EXHIBIT A
ZONING CHANGE FOR THE LAMBERT FAMILY TRUST
July 10, 2019

A parcel of land located in City of Elko, Nevada, being all of Lots 13 and 14 in Block 30, as shown on the Plat of the Town of Elko, filed in the Office of the Elko County Recorder, Elko, Nevada, on March 18, 1870 and portions of Pine Street and Sixth Street, more particularly described as follows:

Beginning at the most Northerly Corner of said Lot 14, Block 30, being Corner No. 1, The True Point of Beginning;

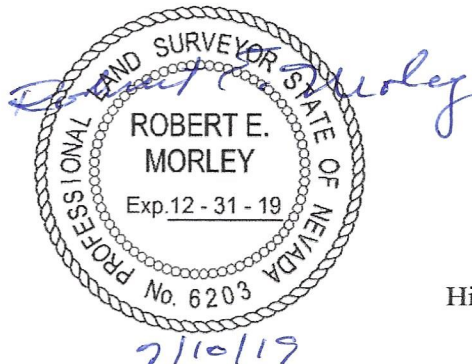
Thence S 48° 01' 40" E, 140.00 feet along the Northeasterly Line of said Lot 14, Block 30 to Corner No. 2, a point being on the centerline of said Pine Street;

Thence S 41° 58' 20" W, 90.00 feet along the said centerline of Pine Street to Corner No. 3, a point being the centerline intersection of said Pine Street and said Sixth Street;

Thence N 48° 01' 40" W, 140.00 feet along the centerline of said Sixth Street to Corner No. 4;

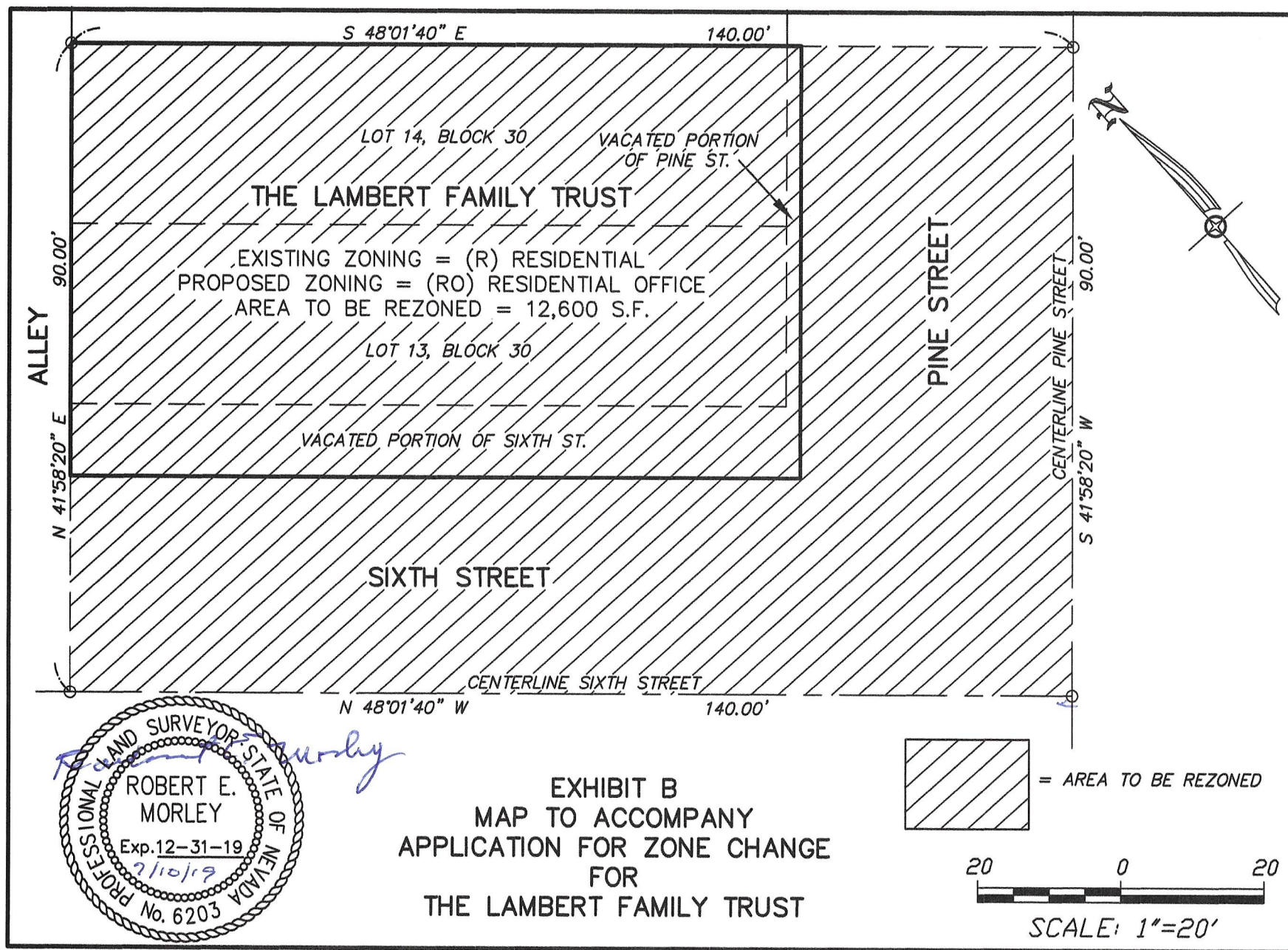
Thence N 41° 58' 20" E, 90.00 feet along the Northwesterly Line of said Lots 13 and 14, Block 30 to Corner No. 1, the point of beginning, containing 12,600 Sq. Ft., more or less.

Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for the Lambert Family Trust attached hereto and made a part hereof.



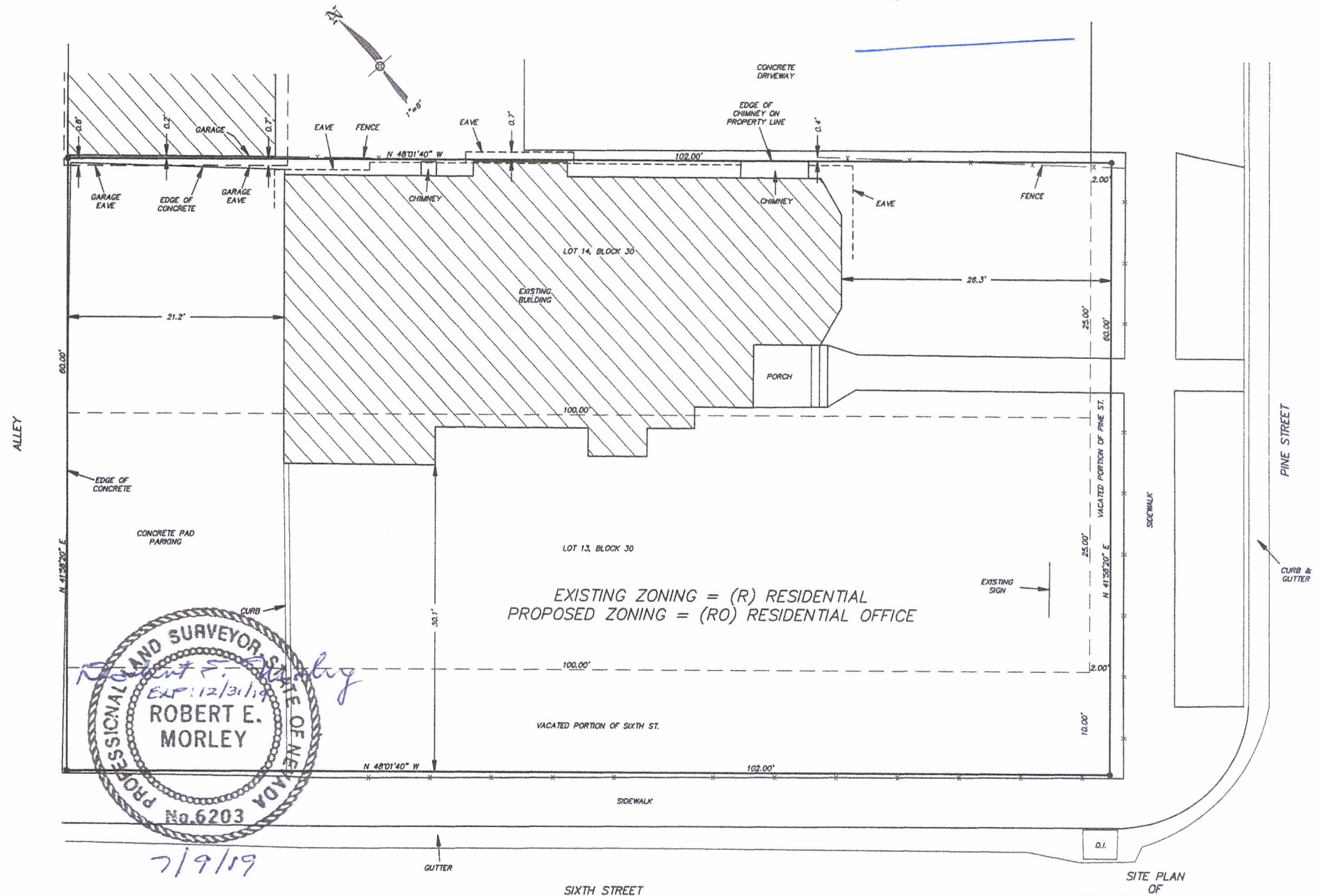
Prepared by Robert E. Morley, PLS
640 Idaho Street

High Desert Engineering
Elko, NV 89801



RECEIVED

JUL 10 2019



SITE PLAN
OF
LOT 13 & 14, BLOCK 30
& VACATED PORTIONS OF SIXTH & PINE STREET
FOR
THE LAMBERT FAMILY TRUST
CITY OF ELKO, NEVADA

**Elko City Planning Commission
Agenda Action Sheet**

1. Review, consideration and possible action on Variance No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust for a reduction of the required interior side yard setback from 10' to 0', for a professional office in an RO (Residential Office) Zoning District, and matters related thereto, **FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant has applied for a rezone, variance and conditional use permit for the property to bring the property into conformance with its current land use. The existing structure sits as close as 0' to the property line on the interior side yard.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Conditionally approve Variance No. 3-19 based on the facts, findings and conditions as presented in the Staff Report dated July 17, 2019**
9. Findings: **See Staff Report dated July 17, 2019**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **John and See Lambert
10010 Fritz Lane
Reno, NV 89521

High Desert Engineering
Mr. Bob Morley
remorley@frontiernet.net**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 8/6

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

Title: Variance No. 3-19

Applicant(s): John + See Lambert as Trustees of The Lambert Family Trust

Site Location: 603 Pine Street - APN 001 - 231 - 009

Current Zoning: R Date Received: 7/10 Date Public Notice: 7/23

COMMENT: This is to reduce the required interior side yard set back from 10' to 0', in conjunction with a Zone Change Application.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 7/31/19

Recommend approval as presented by staff

SAU
Initial

City Manager: Date: _____

Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7219

CITY OF ELKO STAFF REPORT

REPORT DATE:	July 17, 2019
PLANNING COMMISSION DATE:	August 6, 2019
AGENDA ITEM NUMBER:	II.A.2
APPLICATION NUMBER:	Variance 3-19
APPLICANT:	John and See Lambert as Trustees of the Lambert Family Trust
PROJECT DESCRIPTION:	603 Pine Street
RELATED APPLICATIONS:	Rez 3-19 & CUP 6-19

A variance request from provisions under Section 3-2-5, requiring minimum interior yard setbacks in a RO- Residential Office Zoning District.



STAFF RECOMMENDATION:

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

PROJECT INFORMATION

PARCEL NUMBER: 001-231-009

PARCEL SIZE: 6,120 sq. ft.

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

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Developed as a professional office

NEIGHBORHOOD CHARACTERISTICS:

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

PROPERTY CHARACTERISTICS:

- The property is developed.
- The property fronts Pine Street and 6th Street.
- Access to the property for parking is off the alley at the rear of the parcel.

MASTER PLAN AND CITY CODE SECTIONS:

Applicable Master Plan Sections, Coordinating Plans and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Redevelopment Plan
- City of Elko Zoning – Section 3-2-5 Residential Zoning District
- City of Elko Zoning – Section 3-2-22 Variances

BACKGROUND:

1. The parcel is identified as APN 001-231-009.
2. The applicant is the property owner.
3. The property is located north of the Pine Street and 6th Street intersection.
4. The area of the parcel is approximately 6,120 square feet.
5. The required off street parking for the existing business exists at the rear of the property. Two off-street parking for the principal use as a single family residence is also provided off the alley.
6. The applicant has applied for a zone amendment (REZ 3-19) from Residential to Residential Office to be reviewed by the Planning Commission in conjunction with this application.
7. The applicant has applied for a Conditional Use Permit (CUP 6-19) for use of the property as a professional office. The application will be reviewed by the Planning Commission in conjunction with this application.
8. The property has a Conditional Use Permit approved on September 18, 1991. It doesn't appear that the CUP was issued in conformance with the code at the time as the property

was zoned R- Single Family Multi-Family Residential when the CUP was approved. The CUP is specific to the use as an attorney's office for up to two attorneys. The CUP was recorded with the Elko County Recorder in Book 764 page 437.

MASTER PLAN - Land Use:

1. The Master Plan Land Use Atlas shows the property as Residential Medium Density.
2. RO- Residential Office zoning district is listed as a corresponding zoning district for Residential Medium Density. The proposed RO district is consistent with current RO uses and/or residential uses in the immediate vicinity.
3. Objective 2: Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community
4. Objective 4: Consider a mixed-use pattern of development for the downtown area, and for major centers and corridors, to ensure the area's adaptability, longevity, and overall sustainability.

The proposed variance is in conformance with the Master Plan Land Use component

ELKO REDEVELOPMENT PLAN:

1. The property is located within the redevelopment area. The proposed variance supports several objectives in the redevelopment plan. The most important objective being the continuation of economic activity in the area.

The proposed variance and continuation of the existing established business conforms to the redevelopment plan.

SECTION 3-2-5 RESIDENTIAL ZONING DISTRICT:

1. Under the property development standards for permitted principal uses:
 - a. Lot Area: For existing platted subdivisions characterized by twenty five foot (25') wide lots and situated within a residential zoning district, any lot or parcel reconfiguration or resubdivision shall adhere to a minimum lot area of five thousand (5,000) square feet.
 - b. Lot Width: 60 ft.
 - c. Lot Depth: 100 ft.
 - d. Front yard Setback: 15 feet
 - e. Rear yard setback: 20 feet
 - f. Interior side yard setback: 5 ½ feet
 - g. Exterior side yard setback: 12 feet

The property meets all requirements with the exception of the interior side yard setback. The existing interior side yard setback is 0'.

Approval of Variance 3-19 in conjunction with approval of Rezone 3-19 will bring the property into conformance with Section 3-2-5 of City Code.

SECTION 3-2-22 VARIANCES:

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

Application Requirements

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
 - The applicant has stated that the building is existing and the interior side yard setback is less than 5' in certain areas.
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
 - The applicant has stated that a variance will avoid the necessity to adjust property line boundaries with the neighboring property, which will cause additional problems with other properties. The structures have stood together for decades, so there is no change to the existing buildings on either side. The building is not marketable under the current circumstances, as there is no reasonable market for a building that can only be sold to two attorneys.
 - The applicant has applied for a zone change of the property to conform to the Master Plan and existing use of the property.
 - The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.
3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
 - The applicant stated this problem may apply to other businesses in the area, but probably not to residential properties.
4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
 - The applicant stated nothing will change. Applicant's property has been a law office for 28 years. The neighbors have lived next door for 42 years.
5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
 - The applicant stated that granting the variance will not result in a change of land use, but there is an application for zone change that accompanies this request. Applicants seek a CUP and zone change that allows for Residential Office.
6. The granting of the variance will not substantially impair affected natural resources.
 - The applicant stated that granting of the variance will not impair natural resources.

FINDINGS

1. The variance approval is in conformance with the Land Use Component of the Master Plan.
2. The property is located within the Redevelopment Area and the proposed variance and continuation of the existing established business conforms to the redevelopment plan.
3. Approval of Variance 3-19 in conjunction with approval of Rezone 3-19 will bring the property into conformance with Section 3-2-5 of City Code.
4. The special circumstance is directly related to the property being improperly zoned for the developed use of the property.
5. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.
6. The special circumstance does not generally apply to other properties which are within a properly zoned residential district with residential land uses.
7. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with the use of the property as a small scale commercial use.
8. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
9. The property is fully developed and the granting of the variance will not impair natural resources.

STAFF RECOMMENDATION:

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

1. Approval of rezone application 3-19.
2. No additional structures to be built between the existing building and the interior side property line.

Rezone 3-19, Var 3-19, CUP 6-19 - Lambert

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001183005	ANDERSON, JOHN R & THERESA A TR		673 JUNIPER ST	ELKO NV	89801-3537
001231010	ANDERSON, ROSE M		670 6TH ST	ELKO NV	89801-3522
001223004	BND PROPERTIES LLC		687 6TH ST STE 1	ELKO NV	89801-3580
001231011	BROWN, JAMES M & PATRICIA S		336 HULL ST	HENDERSON NV	89015-2720
001231003	CLEARWATER, KYLE & COURTNEY		661 7TH ST	ELKO NV	89801-3525
001234001	EDEN FAMILY PROPERTIES LLC		643 COURT ST	ELKO NV	89801-3531
001227001	ELKO COUNTY OF	C/O COURT HOUSE ANNEX	540 COURT ST	ELKO NV	89801-3515
001226010	ELKO COUNTY OF		571 IDAHO ST	ELKO NV	89801-3715
001226001	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3515
001234005	ERREA, LOUISE ET AL		570 6TH ST	ELKO NV	89801-3520
001223003	FARLEY, THEODORE E JR TR ET AL	} 1 p.c.	8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223002	FARLEY, THEODORE E JR TR ET AL		8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223006	FINLEY, ROBERT C & ELIZABETH L		555 PINE ST	ELKO NV	89801-3541
001183004	FIRST BAPTIST CHURCH OF ELKO		685 JUNIPER ST	ELKO NV	89801-3537
001176011	FUGATE, CINDY ANN		535 JUNIPER ST	ELKO NV	89801-3535
001234004	GALLAGHER PROPERTIES LLC		2770 DEL MONTE LN	RENO NV	89511-7536
001231012	GILLIAM, JACQULYNE	C/O SALLY RASMUSSEN	651 BULLION RD SPC 74	ELKO NV	89801-4100
001183007	GLENNON, DEREK D		641 JUNIPER ST	ELKO NV	89801-3537
001226009	GLENNON, KAY K		PO BOX 8386	SPRING CREEK NV	89815-0007
001223008	GULDAGER, GERALD		509 PINE ST	ELKO NV	89801-3541
001183009	HEGUY, ROBERT A & ELIZABETH A		611 JUNIPER ST	ELKO NV	89801-3537
001234006	HOLTON, ALEX & CHERRIE		590 6TH ST	ELKO NV	89801-3520
001223010	HOOIMAN, ERIC & TERA		674 5TH ST	ELKO NV	89801-3551
001231008	HOPKINS, EVERETT A & LORETTA H		615 PINE ST	ELKO NV	89801-3543
001183006	KEMMISH, STEPHANIE A ET AL		649 JUNIPER ST	ELKO NV	89801-3537
001234002	MADDEN, KIRIN L		643 COURT ST	ELKO NV	89801-3531
001176008	NODINE, DEBORAH		585 JUNIPER ST	ELKO NV	89801-3535
001176010	O'BRIEN, COLLEEN MAVOURNEEN		494 GLEN HAVEN DR	SPRING CREEK NV	89815-6103
001231005	PETERSEN, DENNIS E & JANET	} 1 p.c.	655 PINE ST	ELKO NV	89801-3543
001231006	PETERSEN, DENNIS E & JANET		655 PINE ST	ELKO NV	89801-3543
001183008	SIGMAN, KAYE		5900 HIGHWAY 45	NAMPA ID	83686-5884
001231004	SONORA LLC		PO BOX 1597	ELKO NV	89803-1597
001176009	SOVIE, JOSHUA S ET AL		565 JUNIPER ST	ELKO NV	89801-2666

001231001 STARKEY, BRIAN & DENA
001223001 STOKES, BRENT & ERIN
001231013 TREE STREET INVESTMENST GROUP G
001223005 TURNER, DANIEL L & DOROTHY M
001234003 VENTERS, BRIGIT & BRENT
001231007 WOODBURY FAMILY 2013 TRUST

698 6TH ST
756 ALPINE DR
725 2ND ST
631 6TH ST
627 COURT ST
1053 IDAHO ST

ELKO NV	89801-3522
SPRING CREEK NV	89815-7348
ELKO NV	89801-3009
ELKO NV	89801-3521
ELKO NV	89801-3531
ELKO NV	89801-3920

35

Post marked
7/26/19

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a change in zoning from R (Single-Family and Multi-Family Residential) to RO (Residential Office) Zoning District, approximately 0.14 acres of property, specifically APN 001-231-009, located generally on the north corner of the intersection of 6th Street and Pine Street, more particularly described as:
A parcel of land located in City of Elko, Nevada, being all of Lots 13 and 14 in Block 30, as shown on the Plat of the Town of Elko, filed in the Office of the Elko County Recorder, Elko, Nevada, on March 18, 1870 and portions of Pine Street and Sixth Street, more particularly described as follows:
Beginning at the most Northerly Corner of said Lot 14, Block 30, being Corner No. 1, The True Point of Beginning;
Thence S 48° 01'40" E, 140.00 feet along the Northeasterly Line of said Lot 14, Block 3 to Corner No. 2, a point being on the centerline of said Pine Street;
Thence S 41°58'20" W, 90.00 feet along the said centerline of Pine Street to Corner No. 3, a point being the centerline intersection of said Pine Street and said Sixth Street;
Thence N 48°01'40" W, 140.00 feet along the centerline of said Sixth Street to Corner No. 4;
Thence N 41°58'20" E, 90.00 feet along the Northwesterly Line of said Lots 13 and 14, Block 30 to Corner No. 1, The Point of Beginning, containing 12,600 Sq. Ft., more or less.
Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for the Lambert Family Trust attached hereto and made a part hereof.
The intent of the zone change is to allow for a professional office.
- Variance No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a reduction of the required interior side yard setback from 10' to 0' for a professional office in an RO (Residential Office) Zoning District, in conjunction with a Zone Change Application, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)
- Conditional Use Permit No. 6-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7219 fax

APPLICATION FOR VARIANCE

APPLICANT(s): John & See Lambert as Trustees of the Lambert Family Trust

MAILING ADDRESS: 10010 Fritz Lane, Reno, NV 89521

PHONE NO (Home) (775) 340-0084 **(Business)** (775) 385-8447

NAME OF PROPERTY OWNER (If different): The Lambert Family Trust

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

MAILING ADDRESS: 10010 Fritz Lane, Reno, NV 89521

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

ASSESSOR'S PARCEL NO.: 001-231-009 **Address** 603 Pine St., Elko, NV 89801

Lot(s), Block(s), & Subdivision Lots 13 & 14 in Block 30, as shown on the plat of the Town

Or Parcel(s) & File No. of Elko, filed in the County Records Office on March 18, 1870

Exh: 6: + 1 : see attached Ex. 1

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

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

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

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

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this Variance application.

RECEIVED

JUL 10 2018

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

Section 3-2-4(B) of the City Code

Note: A request for Zone Change and Application for CUP are filed along with this request for variance.

1. The existing zoning classification of the property R and CUP: Two Attorneys and their staff
2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

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

The interior side yard setback of the building at 603 Pine St. is less than 5' in certain areas. See accompanying site plan survey

See Exhibit 7 2

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

A variance will avoid the necessity to adjust property line boundaries with the neighboring property, which will cause additional problems with other properties. The structures have stood together for decades, so there is no change

to the existing buildings on either side. The building is not marketable under the current circumstances, as there is no reasonable market for a building that can only be sold to two attorneys. (See Below)

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

Applicants seek rezoning of the district to Residential Office, pursuant to 3-2-5(F) and a CUP allowing occupancy under RO criteria. This will allow other professionals potentially use the property. See Sect. 3-2-5(F)(1) "Intent" is to blend residential with "professional offices." See Attached

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

This problem may apply to other businesses in the area, but probably not to residential properties.

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

Nothing will change. Applicant's property has been a law office for 28 years. The neighbors have lived next door for 42 years.

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

The variance will not change the uses or the overall density of the district where the property is located. See 3-2-22. Instead, it will further the objectives by avoiding blight, buildings which can not be sold and in danger of sitting empty.

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

Granting the variance will not result in a change of land use, but there is an Application for Zone Change that accompanies this request. Applicants seek a CUP and Zoning change that allows for Residential Office.

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

No natural resources are impaired by this request.

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

I have sufficient funds should a variance cost money, but I do not believe under the circumstances this will be necessary.

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

This area intentionally left blank

By My Signature below:

X I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspecting said property as part of this application process.

I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

X I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

X I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

X I have carefully read and completed all questions contained within this application to the best of my ability.

John E. Lambert

Applicant / Agent _____
(Please print or type)

10010 Fritz Lane

Mailing Address _____
Street Address or P.O. Box
Reno, NV 89521

City, State, Zip Code
775-340-0084
Phone Number: _____
jemile1@me.com
Email address: _____

SIGNATURE: John E. Lambert, Trustee for the
Lambert Family Trust

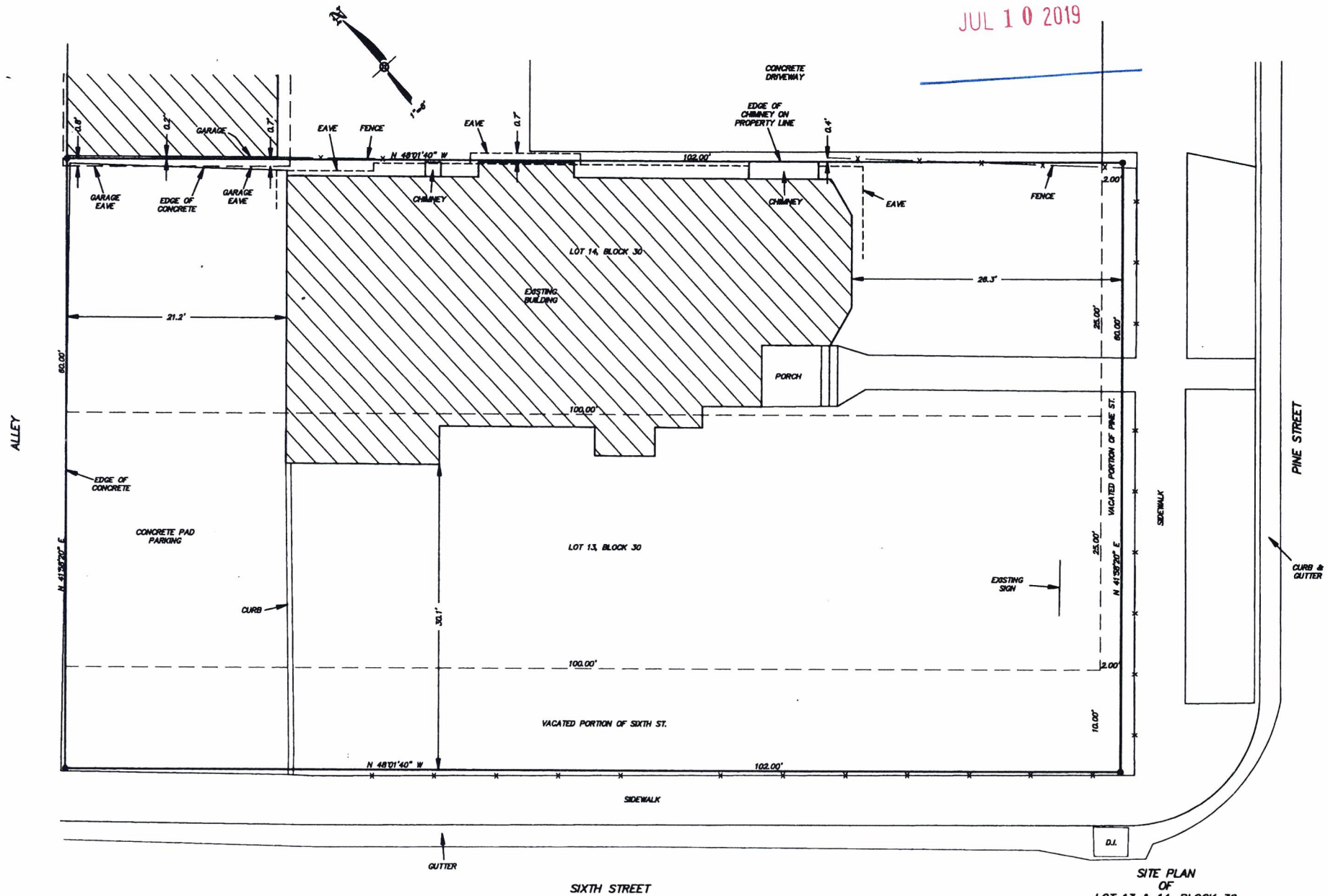
FOR OFFICE USE ONLY

File No.: 3-19 **Date Filed:** 7/10/19 **Fee Paid:** \$250 cx# 955

RECEIVED

JUL 10 2019

2+19:22



SITE PLAN
OF
LOT 13 & 14, BLOCK 30
& VACATED PORTIONS OF SIXTH & PINE STREET
FOR
THE LAMBERT FAMILY TRUST
CITY OF ELKO, NEVADA



**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 6-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, which would allow for a professional office within a RO (Residential Office) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant has applied for a rezone, variance and conditional use permit for the property to bring the property into conformance with its current land use.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 6-19 based on the facts, findings and conditions presented in Staff Report dated July 17, 2019.**
9. Findings: **See Staff report dated July 17, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **John and See Lambert
10010 Fritz Lane
Reno, NV 89521

High Desert Engineering
Mr. Bob Morley
remorley@frontiernet.net**

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 8/6

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

Title: Conditional Use Permit NO. 6-19
Applicant(s): John + See Lambert as Trustees of The Lambert Family Trust
Site Location: 603 Pine Street - APN 001-231-009
Current Zoning: B Date Received: 7/10/19 Date Public Notice: 7/23/19
COMMENT: This is to allow for a professional office within
an R0 zoning district.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 7/31/19
Recommend approval as presented by staff

SAW

Initial

City Manager: Date: _____

Initial



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

CITY OF ELKO STAFF REPORT

REPORT DATE:	July 17, 2019
PLANNING COMMISSION DATE:	August 6, 2019
AGENDA ITEM NUMBER:	II.A.3
APPLICATION NUMBER:	CUP 6-19
APPLICANT:	John and See Lambert as Trustees of the Lambert Family Trust
PROJECT DESCRIPTION:	603 Pine Street
RELATED APPLICATIONS:	Rez 3-19 & Var 3-19

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



STAFF RECOMMENDATION:

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

PROJECT INFORMATION

PARCEL NUMBER: 001-231-009

PARCEL SIZE: 6,120 sq. ft.

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

MASTER PLAN DESIGNATION: (RES-MD) Residential Medium Density

EXISTING LAND USE: Developed as a professional office

NEIGHBORHOOD CHARACTERISTICS:

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

PROPERTY CHARACTERISTICS:

- The property is developed.
- The property fronts Pine Street and 6th Street.
- Access to the property for parking is off the alley at the rear of the parcel.

MASTER PLAN AND CITY CODE SECTIONS:

Applicable Master Plans and City Code Sections are:

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

BACKGROUND:

1. The parcel is identified as APN 001-231-009.
2. The applicant is the property owner.
3. The property is located north of the Pine Street and 6th Street intersection.
4. The area of the parcel is approximately 6,120 square feet.
5. The required off street parking for the existing business exists at the rear of the property. Two off-street parking for the principal use as a single family residence is also provided off the alley.
6. The applicant has applied for a zone amendment (REZ 3-19) from Residential to Residential Office to be reviewed by the Planning Commission in conjunction with this application.
7. The applicant has applied for a variance (VAR 3-19) for interior side yard setback to be

reviewed by the Planning Commission in conjunction with this application.

8. The property has a Conditional Use Permit approved on September 18, 1991. It doesn't appear that the CUP was issued in conformance with the code at the time as the property was zoned R- Single Family Multi-Family Residential when the CUP was approved. The CUP is specific to the use as an attorney's office for up to two attorneys. The CUP was recorded with the Elko County Recorder in Book 764 page 437.

MASTER PLAN:

Land use:

1. The Master Plan Land Use Atlas shows the property as Residential Medium Density.
2. RO- Residential Office zoning district is listed as a corresponding zoning district for Residential Medium Density. The proposed RO district is consistent with current RO uses and/or residential uses in the immediate vicinity.
3. Objective 2: Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community
4. Objective 4: Consider a mixed-use pattern of development for the downtown area, and for major centers and corridors, to ensure the area's adaptability, longevity, and overall sustainability.

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

Transportation:

1. The property fronts Pine Street and 6th Street as well as a public access alley in the rear.
2. Parking is established at the rear of the property off the alley.

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

ELKO REDEVELOPMENT PLAN:

1. The property is located within the redevelopment area. The proposed use supports several objectives in the redevelopment plan. The most important objective being the continuation of economic activity in the area.

The proposed zone district and continuation of the existing established business conforms to the redevelopment plan.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is not located within the capture zone of any City wells.
2. Conformance with the Wellhead Protection Plan is required.

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

SECTION 3-2-3 GENERAL PROVISIONS

- Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.
 1. Principal Uses: Only those uses and groups of uses specifically designated as “principal uses permitted” in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
 2. Conditional Uses: Certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
 3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

1. Section 3-2-3(C) states that certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance specified in Chapter 3 or imposed by the Planning Commission or City Council.
2. Section 3-2-3(D) states that “No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed use of the property as a professional office requires a conditional use permit to conform to Section 3-2-3 of City code.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS:

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.
3. The property is developed and the structure does not meet the interior side yard setback requirements stipulated in Section 3-2-5 of city code.

As a result of the above referenced non-conformance issue, the applicant has applied for a variance for the interior side yard setback. Variance 3-19 will be considered by Planning Commission in conjunction with this application.

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

1. The applicant has applied for Rezone 3-19 which will be heard in conjunction with VAR 3-19 and CUP 6-19.
2. As noted in the evaluation under Section 3-2-4 the property does not conform to interior side yard setback requirement stipulated for the zoning district.
3. Variance 3-19 application will be heard by the Planning Commission to address the

conformance deficiencies.

The proposed conditional use is in conformance with Section 3-2-5(F)(3) RO- Residential Office only with conditional approval of variance 3-19 and conditional approval of rezone 3-19.

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

1. There is off-street parking located in the rear of the parcel and it meets the two off street parking stalls code requirement for a principal permitted use as a single family residence. If the property is issued a conditional use permit to be developed as an office use or is developed as a more intense use than single family residence, it will be required to provide off-street parking to be located at the rear of the property and accessed from the alley way in conformance with Elko City Code 3-2-17(F). The applicant will be required to provide ADA compliant parking as part of the off-street parking requirement.

The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. As per Elko City Code 3-2-17(F), off-street parking to be located at the rear of the property and ingress/egress from the alley way to support the proposed conditional use.

SECTION 3-2-18 CONDITIONAL USE PERMITS:

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
4. Conditional use permits shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation.

The Conditional Use Permit previously approved on September 18, 1991 is not in conformance with the Elko City Code. Under the R- Single Family Multi-family Residential Zoning District, small scale commercial uses are not allowed. The 1991 CUP was issued to Eric Easterly and one of the conditions stated that the permit shall run concurrent with this occupancy by applicant only. The permit was never transferred to a new applicant with the sale of the property so it is questionable if the current permit is even valid.

The applicant has conformed to this section of code with the filing of the application with the conditional approval of the zone amendment REZ 3-19 to RO – Residential Office zoning district.

SECTION 3-8

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

FINDINGS

1. The proposed conditional use under the conditionally approved Residential Office district is consistent with the Land Use Component of the Master Plan. The proposed conditional use permit is consistent with existing land uses in the immediate vicinity. The proposed conditional use permit meets Objectives 2 and 4 of the Land Use Component of the Master Plan.
2. The proposed conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.
3. The proposed conditional use permit and continuation of the existing business conforms to the Redevelopment Plan.
4. The proposed conditional use is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the RO-Residential Office zoning district do not present a hazard to City wells.
5. The proposed use of the property requires a conditional use permit to conform to Section 3-2-3 of City code.
6. The proposed use based on conditional approval of Variance 3-19 conforms to Section 3-2-4 of City code.
7. The proposed conditional use is in conformance with Section 3-2-5(F)(3) RO-Residential Office based on conditional approval of variance 3-19 and conditional approval of rezone 3-19.
8. The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single family residence. As per Elko City Code 3-2-17(F), off-street parking to be located at the rear of the property and ingress/egress from the alley way to support the proposed conditional use.
9. The parcel is not located within a designated Special Flood Hazard Area.
10. Development under the proposed conditional use will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.
11. The proposed conditional use is consistent with surrounding land uses.

STAFF RECOMMENDATION:

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

1. CUP 6-19 shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
 2. The CUP 6-19 to be recorded with the Elko County Recorder within 90 days after
 3. The permit is granted to the applicant John and See Lambert as Trustees of the Lambert Family Trust for the use of a professional office.
 4. 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.
-
1. Conditional approval of Variance 3-19 and all conditions be met.
 2. Conditional approval of Rezone 3-19 and all conditions be met.

Rezone 3-19, Var 3-19, CUP 6-19 - Lambert

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001183005	ANDERSON, JOHN R & THERESA A TR		673 JUNIPER ST	ELKO NV	89801-3537
001231010	ANDERSON, ROSE M		670 6TH ST	ELKO NV	89801-3522
001223004	BND PROPERTIES LLC		687 6TH ST STE 1	ELKO NV	89801-3580
001231011	BROWN, JAMES M & PATRICIA S		336 HULL ST	HENDERSON NV	89015-2720
001231003	CLEARWATER, KYLE & COURTNEY		661 7TH ST	ELKO NV	89801-3525
001234001	EDEN FAMILY PROPERTIES LLC		643 COURT ST	ELKO NV	89801-3531
001227001	ELKO COUNTY OF	C/O COURT HOUSE ANNEX	540 COURT ST	ELKO NV	89801-3515
001226010	ELKO COUNTY OF		571 IDAHO ST	ELKO NV	89801-3715
001226001	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3515
001234005	ERREA, LOUISE ET AL		570 6TH ST	ELKO NV	89801-3520
001223003	FARLEY, THEODORE E JR TR ET AL	} 1p.c.	8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223002	FARLEY, THEODORE E JR TR ET AL		8824 AUBURN VALLEY RD	AUBURN CA	95602-9256
001223006	FINLEY, ROBERT C & ELIZABETH L		555 PINE ST	ELKO NV	89801-3541
001183004	FIRST BAPTIST CHURCH OF ELKO		685 JUNIPER ST	ELKO NV	89801-3537
001176011	FUGATE, CINDY ANN		535 JUNIPER ST	ELKO NV	89801-3535
001234004	GALLAGHER PROPERTIES LLC		2770 DEL MONTE LN	RENO NV	89511-7536
001231012	GILLIAM, JACQULYNE	C/O SALLY RASMUSSEN	651 BULLION RD SPC 74	ELKO NV	89801-4100
001183007	GLENNON, DEREK D		641 JUNIPER ST	ELKO NV	89801-3537
001226009	GLENNON, KAY K		PO BOX 8386	SPRING CREEK NV	89815-0007
001223008	GULDAGER, GERALD		509 PINE ST	ELKO NV	89801-3541
001183009	HEGUY, ROBERT A & ELIZABETH A		611 JUNIPER ST	ELKO NV	89801-3537
001234006	HOLTON, ALEX & CHERRIE		590 6TH ST	ELKO NV	89801-3520
001223010	HOOIMAN, ERIC & TERA		674 5TH ST	ELKO NV	89801-3551
001231008	HOPKINS, EVERETT A & LORETTA H		615 PINE ST	ELKO NV	89801-3543
001183006	KEMMISH, STEPHANIE A ET AL		649 JUNIPER ST	ELKO NV	89801-3537
001234002	MADDEN, KIRIN L		643 COURT ST	ELKO NV	89801-3531
001176008	NODINE, DEBORAH		585 JUNIPER ST	ELKO NV	89801-3535
001176010	O'BRIEN, COLLEEN MAVOURNEEN		494 GLEN HAVEN DR	SPRING CREEK NV	89815-6103
001231005	PETERSEN, DENNIS E & JANET	} 1p.c.	655 PINE ST	ELKO NV	89801-3543
001231006	PETERSEN, DENNIS E & JANET		655 PINE ST	ELKO NV	89801-3543
001183008	SIGMAN, KAYE		5900 HIGHWAY 45	NAMPA ID	83686-5884
001231004	SONORA LLC		PO BOX 1597	ELKO NV	89803-1597
001176009	SOVIE, JOSHUA S ET AL		565 JUNIPER ST	ELKO NV	89801-2666

001231001 STARKEY, BRIAN & DENA
001223001 STOKES, BRENT & ERIN
001231013 TREE STREET INVESTMENST GROUP G
001223005 TURNER, DANIEL L & DOROTHY M
001234003 VENTERS, BRIGIT & BRENT
001231007 WOODBURY FAMILY 2013 TRUST

698 6TH ST
756 ALPINE DR
725 2ND ST
631 6TH ST
627 COURT ST
1053 IDAHO ST

ELKO NV	89801-3522
SPRING CREEK NV	89815-7348
ELKO NV	89801-3009
ELKO NV	89801-3521
ELKO NV	89801-3531
ELKO NV	89801-3920

35

Post marked
7/26/19

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a change in zoning from R (Single-Family and Multi-Family Residential) to RO (Residential Office) Zoning District, approximately 0.14 acres of property, specifically APN 001-231-009, located generally on the north corner of the intersection of 6th Street and Pine Street, more particularly described as:
A parcel of land located in City of Elko, Nevada, being all of Lots 13 and 14 in Block 30, as shown on the Plat of the Town of Elko, filed in the Office of the Elko County Recorder, Elko, Nevada, on March 18, 1870 and portions of Pine Street and Sixth Street, more particularly described as follows:
Beginning at the most Northerly Corner of said Lot 14, Block 30, being Corner No. 1, The True Point of Beginning;
Thence S 48° 01'40" E, 140.00 feet along the Northeasterly Line of said Lot 14, Block 3 to Corner No. 2, a point being on the centerline of said Pine Street;
Thence S 41°58'20" W, 90.00 feet along the said centerline of Pine Street to Corner No. 3, a point being the centerline intersection of said Pine Street and said Sixth Street;
Thence N 48°01'40" W, 140.00 feet along the centerline of said Sixth Street to Corner No. 4;
Thence N 41°58'20" E, 90.00 feet along the Northwesterly Line of said Lots 13 and 14, Block 30 to Corner No. 1, The Point of Beginning, containing 12,600 Sq. Ft., more or less.
Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for the Lambert Family Trust attached hereto and made a part hereof.
The intent of the zone change is to allow for a professional office.
- Variance No. 3-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, for a reduction of the required interior side yard setback from 10' to 0' for a professional office in an RO (Residential Office) Zoning District, in conjunction with a Zone Change Application, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)
- Conditional Use Permit No. 6-19, filed by John and See Lambert as Trustees of the Lambert Family Trust, which would allow for a professional office within an RO (Residential Office) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 6th Street and Pine Street. (603 Pine Street - APN 001-231-009)

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7219 fax

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s):	John & See Lambert as Trustees of the Lambert Family Trust		
(Applicant must be the owner or lessee of the proposed structure or use.)			
MAILING ADDRESS:	10010 Fritz Lane, Reno, NV 89521		
PHONE NO. (Home)	(775) 340-0084	(Business)	(775) 385-8447
NAME OF PROPERTY OWNER (If different):	Lambert Family Trust		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:	10010 Fritz Lane, Reno, NV 89521		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-231-009	Address	603 Pine St., Elko, NV 89801
Lot(s), Block(s), & Subdivision	Lots 13 & 14 in Block 30, as shown on the plat of the Town of Elko,		
Or Parcel(s) & File No.	filed in the Office of the County Recorder of Elko, Co., 03/18/1870		

Exhibit 1 is attached

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$750.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code.

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

RECEIVED

1. Current zoning of the property: R with CUP for two attorneys and their staff

2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:
Residential Office, see Sect. 3-2-5(F)(3) of the Elko City Code.
Note: A request for Zone Change and an application for a Variance are filed with this document.

3. Explain in detail the type and nature of the use proposed on the property:
To create a professional office in an RO district compatible with the residential neighborhood.
This property has been a low traffic law office for 28 years. A Residential Office (RO) CUP will
allow the property to be marketed for a purpose for which it is suited. There is no market for a property
that can only be sold to "two attorneys." An RO designation will not be a burden on
adjacent property because nothing changes to the occupancy load or the traffic. A purchaser must
conform to the requirement of the CUP. See attached statement regarding the suitability of the RO
CUP for this property. Applicant will apprise any prospective buyer of the limitation of
the CUP and advise that any changes to occupancy load or significant remodeling will
require approval and possible compliance with fire rating the wall.

4. Explain how the use relates with other properties and uses in the immediate area:
The present nature of the property will not change, and it is unlikely to change in any
meaningful way. It will remain a business with light traffic. See the attachment of similar
businesses in the area. *Exhibit 2*

5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property: None.

6. Describe the general suitability and adequacy of the property to accommodate the proposed use: The property has been an office for years. It could as easily be the location for an
insurance agent or a CPA or any number of other uses similar in scope to two
attorneys. Additional uses include, but are not limited to, financial advisors, a chiropractor, etc.
This change to RO will insure that the building, which is an attractive Victorian, early 20th
Century structure, is utilized and is a positive part of the neighborhood,

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: No development is contemplated in this Application.

8. Describe the amounts and type of traffic likely to be generated by the proposed use: 4 to 10 clients per day and periodic deliveries of office supplies, Fed-Ex, UPS, etc.

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: Loading and unloading is easily accomplished in the rear of the building, There are five parking spaces in the rear of the building. There is room for 4 vehicles curbside on the west side of the building and two curbside spaces in front. The back entrance is handiap accessible.

10. Describe the type, dimensions and characteristics of any sign(s) being proposed: Currently, the CUP allows for a 4' x 8' sign, which is adequate.

11. Identify any outside storage of goods, materials or equipment on the property: None.

12. Identify any accessory buildings or structures associated with the proposed use on the property: None. There is a basement adequate for storage.

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

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent

John Lambert

(Please print or type)

Mailing Address

10010 Fritz Lane

Street Address or P.O. Box

City, State, Zip Code

Reno, NV 89521

Phone Number:

Email address:

jemile1@me.com

SIGNATURE:

*John Lambert as Trustee for the
Lambert Family Trust*

FOR OFFICE USE ONLY

File No.: 6-19 Date Filed: 7/10/19 Fee Paid: \$750 ck# 957

RECEIVED

JUL 10 2019

ATTACHMENT

4. Explain the use relates with other properties in the immediate area.

John Lambert & See Lambert
603 Pine St.
Elko, NV 89801
ZR

Robert Wines, Law Office
687 6th St.
Elko, NV 89801
ZR

Raymond James, Financial Advisor
993 Court St.
Elko, NV 89801
ZRO

Farmers Insurance
501 Oak St.
Elko, NV. 89801
ZRB

Farmers Insurance
1010 Court St.
Elko NV. 89801
ZC

Lisa Mendez, Attorney
927 Idaho St.
Elko, NV 89801
ZC

Tangles Hair Salon
844 Court St.
Elko, NV 89801
ZC

Lockie & McFarlane, Attorneys
919 Idaho St.
Elko, NV 89801
ZC

John E. Lambert

10010 Fritz Lane
Reno, NV 89521
(775) 340-0084
jemile1@me.com

May 20, 2019

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

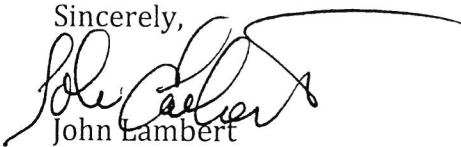
Dear City Planner Laughlin and Commissioners:

Accompanying this letter is an Application for Conditional Use Permit, Exhibits, and a check for \$750.00; Application for Zone Change and Exhibits, and a check for \$500.00; and an Application for Variance and Exhibits, with a check for \$250.00.

I will be out of the country the first three weeks of July, so please calendar this matter for the regularly scheduled meeting on August 6, 2019.

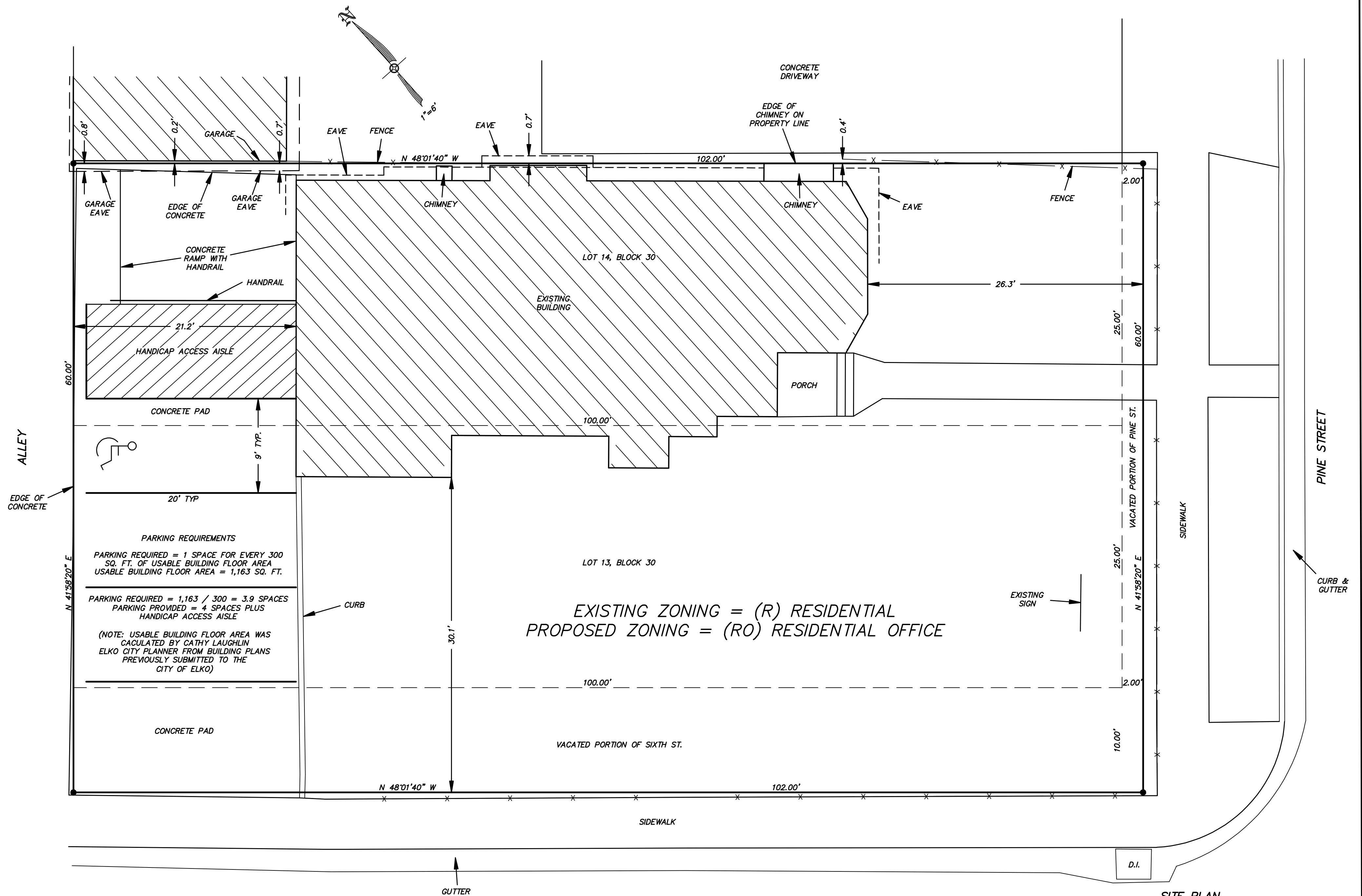
Thank you for your assistance, and please contact me if there are any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Lambert', with a long, sweeping horizontal line extending to the right.

John Lambert





**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 7-19, filed by Petersen Holdings, LLC., which would allow for the development of a facility that provides maintenance and repairs to automobiles within a C (General Commercial) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **Petersen Holdings, LLC is proposing an additional service shop and parking for Big O Tires.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff report**
8. Recommended Motion: **Deny or Table Conditional Use Permit 7-19 based on the facts and findings as presented in Staff Report dated July 25, 2019**
9. Findings: **See Staff Report dated July 25, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Petersen Holdings, LLC
330 11th Street
Elko, NV 89801**

Lana Carter
lanalcarter@live.com

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 8/6

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

Title: Conditional Use Permit No. 7-19

Applicant(s): Petersen Holdings, LLC

Site Location: 285 12th St + 1120 Railroad St - APNs 001-363-003 + 006

Current Zoning: C Date Received: 7/16/19 Date Public Notice: 7/23/19

COMMENT: This is to allow for the development of a facility that provides maintenance and repairs to automobiles within a C zoning district.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 7/31/19

Recommended denial or labeling of CUP application as presented by staff

SAW

Initial

City Manager: Date: _____

Initial

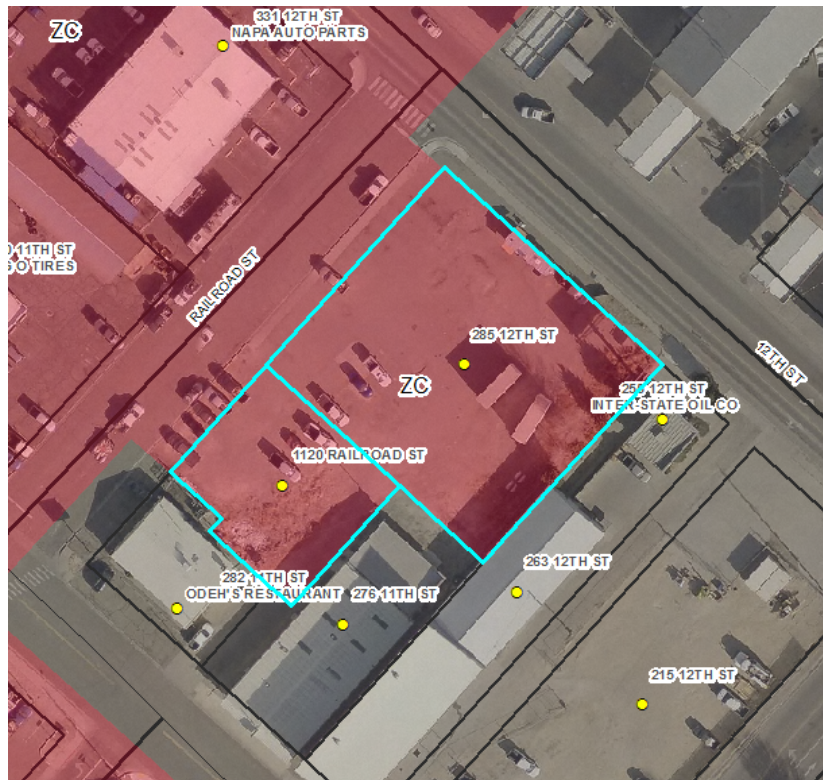


City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

MEMO DATE:	July 25, 2019
PLANNING COMMISSION DATE:	August 6, 2019
AGENDA ITEM NUMBER:	II.A.4
APPLICATION NUMBER:	Conditional Use Permit 7-19
APPLICANT:	Petersen Holdings, LLC.
PROJECT DESCRIPTION:	285 12th St & 1120 Railroad St.

Within the C general commercial zoning district, gas stations, businesses where gasoline and oil are sold, including businesses with facilities for repairing or maintaining automobiles are required to obtain a conditional use permit.



STAFF RECOMMENDATION:

RECOMMEND DENIAL OR TABLE, subject to findings of fact as stated in this report.

PROJECT INFORMATION

PARCEL NUMBER: 001-363-003 & 001-363-006

PROPERTY SIZE: 33,569 sq. ft., both parcels combined

EXISTING ZONING: C -General Commercial

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

EXISTING LAND USE: Undeveloped, previous building was demolished

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by developed land to the north, south, west, and east.

PROPERTY CHARACTERISTICS:

The property is generally flat with no unusual conditions.

The property will be accessed from Railroad Street and 12th Street with limited access to and from 12th Street.

The property is not in the floodway and flood zone.

APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:

- City of Elko Master Plan-Land Use Component
- City of Elko Master Plan-Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Code 3-2-3 General Provisions
- City of Elko Code 3-2-4 Establishment of Zoning Districts
- City of Elko Code 3-2-10 General Commercial (C)
- City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Code 3-2-18 Conditional Use Permits
- City of Elko Code 3-8 Flood Plain Management

BACKGROUND INFORMATION

1. The parcels are identified as APN 001-363-003 & 001-363-006.
2. The applicant is the property owner.
3. There is a conditionally approved parcel map (PM 4-18) administratively approved on July 12, 2018 which would combine the two parcels. The conditions on the approval have not been met and therefore the map has not been recorded. The map will expire on July 12, 2020 if not recorded prior to that date.
4. The property is located south of the 12th Street and Railroad Street intersection.
5. The area of the proposed combined parcel is approximately 33,569 square feet.

MASTER PLAN:

Land use:

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

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

Transportation:

1. The property fronts 12th Street and Railroad Street.
2. 12th Street is classified as a major arterial.
3. Railroad Street is classified as a Commercial/Industrial Collector.
4. Objective 1: Provide a balanced transportation system that accommodates vehicles, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.
5. Objective 2: Provide a backbone of arterial roadways to emphasize regional vehicle travel and provide adequate capacity to move large traffic volumes, including truck traffic, safely and efficiently.

The proposed conditional use is consistent with the Transportation Component of the Master Plan. There has been discussion with staff and the developer/engineer in regards to the proposed use, intensity of use and limitations of intensity of use which some design elements have been addressed regarding traffic flow ingress and egress onto 12th Street. Other concerns will be listed as conditions or addressed with the submittal for the building and site permits.

CITY OF ELKO REDEVELOPMENT PLAN

1. The property is located within the Redevelopment Area and more specifically the Central Business District.
2. Redevelopment goals and objectives:
 - To promote and insure public safety and welfare; to eliminate and prevent the spread of blight and deterioration, and the conservation, rehabilitation and redevelopment of the Redevelopment Area in accord with the Master Plan, the Redevelopment Plan and local codes and ordinances
 - To promote and support a pedestrian oriented downtown; and, to achieve an environment reflecting a high level of concern for architectural, landscape, and

urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.

- To ensure adequate vehicular access and circulation; to retain and sustain existing businesses by means of redevelopment and rehabilitation activities, and encourage cooperation and participation of owners, businesses and public agencies in the revitalization of the Redevelopment Area.
- To promote historic and cultural interest in the Redevelopment Area; and, encourage investment by the private sector in the development and redevelopment of the Redevelopment Area by eliminating impediments to such development and redevelopment.
- To achieve Plan conformance and advancement through re-planning, redesign and the redevelopment of areas which are stagnant or improperly used.

The Conditional Use Permit application doesn't provide detail on the elevations that supports the goals and objectives of the Redevelopment Plan in terms of reflecting a high level of concern for architectural and urban design. Therefore, the proposed conditional use permit is not in conformance with the Redevelopment Plan.

ELKO WELLHEAD PROTECTION PLAN

- The property is located outside the 30-year capture zone for several City wells.

SECTION 3-2-3 GENERAL PROVISIONS

- Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.
 1. Principal Uses: Only those uses and groups of uses specifically designated as "principal uses permitted" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
 2. Conditional Uses: Certain specified uses designated as "conditional uses permitted" may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
 3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

- Section 3-2-3(D) states that "No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires,

whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed use is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-10(B).

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed use is in conformance with Elko City Code 3-2-4.

SECTION 3-2-10 COMMERCIAL DISTRICTS

1. Section 3-2-10(B)(4) Gas stations. Businesses where gasoline and oil are sold, including businesses with facilities for repairing or maintaining automobiles must obtain a conditional use permit.
2. Height Restrictions: All structures within the C general commercial zoning district must comply with the height and other requirements of the current city airport master plan, to the extent the plan applies to that location.
3. The property does not abut a residential zone so therefore is not subject to the screen wall requirements set forth in subsection 3-2-3(J).
4. Development of the property is required to be in conformance with City code and conditions for the CUP.

The proposed use is in conformance with Elko City Code 3-2-10.

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

- Conformance with this section is required. The proposed facility is in conformance and will be evaluated further with plan submittal.

The proposed use conforms to section 3-2-17 of Elko city code.

SECTION 3-2-18 CONDITIONAL USE PERMITS

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the

permit holder is actively engaged in developing the specific property to the use for which the permit was issued.

3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
4. Conditional use permits shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation.

The applicant is in conformance with 3-2-18 by submission of this application.

SECTION 3-8 FLOOD PLAIN MANAGEMENT

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

FINDINGS

1. The proposed development is in conformance with the Land Use component of the Master Plan
2. The proposed development is in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan.
3. The proposed conditional use permit is not in conformance with goals and objectives listed in the Redevelopment Plan.
4. The site is suitable for the proposed use.
5. The proposed development is in conformance with the City Wellhead Protection Program.
6. The proposed use is consistent with surrounding land uses.
7. The proposed use is in conformance with City Code 3-2-10 (B) General Commercial with the approval of the Condition Use Permit
8. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-8 and 3-2-18 of the Elko City Code.

STAFF RECOMMENDATION:

Staff recommends **DENIAL or TABLE** of CUP 7-19 until a complete application is submitted:

The deficiencies in the application are:

1. Provide details and information on the proposed elevations on how the project will support the goals and objectives of the Redevelopment Plan, specifically the high level of concern for architectural and urban design.
2. Public Works would like to see the median curb extended to Silver Street for safety

reasons or a pork chop style median installed at the driveway to only allow for the right in right out turn movements on 12th street.

CUP 7-19 Petersen Holdings, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001362008	AGUILAR, MARTIN & MARIA DOLORES		1019 SILVER ST	ELKO NV	89801-3936
001366002	ALVARADO, JESUS & MARIA E		623 MONROE WAY	ELKO NV	89801-4333
001363002	ANCO LLC	C/O LAURIE ANDREWS	8221 ALPINE AVE	SACRAMENTO CA	95826-4708
001363001	ANCO LLC	C/O LAURIE ANDREWS	8221 ALPINE AVE	SACRAMENTO CA	95826-4708
001362007	CHARLES H CHESTER PLUMBING AND	HEATING	PO BOX 278	ELKO NV	89803-0278
001293001	ELKO CITY OF		1755 COLLEGE AVE	ELKO NV	89801
001286008	FLOREZ, MARIAM I	DAIRY QUEEN	1912 LAXALT WAY	ELKO NV	89801-2695
001293002	GARLINGTON, WAYNE & TREVA M		4001 MAIN ST STE 50	VANCOUVER WA	98663-1888
001293003	GR&R DEVELOPMENT	C/O GILBERT M ASHIKAWA	PO BOX 727	KEALAKEKUA HI	96750-0727
001366011	GRISWOLD, RICHARD A & MADELINE C		3190 SCENIC VIEW DR	ELKO NV	89801-2562
001366012	GRISWOLD, RICHARD A & MADELINE C		3190 SCENIC VIEW DR	ELKO NV	89801-2562
001286004	HANLEY, NANCY C		685 W BIRCH ST	ELKO NV	89801-7811
001286009	HAYES, GERTRUDE M TR	C/O KIRKHAM, DELYNE	295 SPRINGFIELD PKWY	SPRING CREEK NV	89815-5545
001371003	HUNT NEVADA PROPERTIES LLC		5750 S WATT AVE	SACRAMENTO CA	95829-9349
001371002	HUNT NEVADA PROPERTIES LLC		5750 S WATT AVE	SACRAMENTO CA	95829-9349
001371001	HUNT NEVADA PROPERTIES LLC		5750 S WATT AVE	SACRAMENTO CA	95829-9349
001286005	JENSEN, STEWART A & ARDIS A TR		1437 W HEATHER GLEN DR	SAINT GEORGE UT	84790-4938
001374002	LIPPARELLI, BARRY W & LYNN M ETA		517 IDAHO ST	ELKO NV	89801-3756
001374001	MCCONNELL, JOEL A TR ET AL		1832 SEQUOIA DR	ELKO NV	89801-1612
001286006	NAPA KEENELAND LLC		350 N 9TH ST STE 200	BOISE ID	83702-5469
001362003	NEGRETE, JOSE R SR TR		1039 COMMERCIAL ST	ELKO NV	89801-3949
001362002	NEGRETE, JOSE R SR TR		1039 COMMERCIAL ST	ELKO NV	89801-3949
001363005	ODEH, FOUAD & REEM		2091 RUSSELL DR	ELKO NV	89801-2666
001362012	PENROD, VIVIAN EILEENTR		295 SKYLINE DR	ELKO NV	89801-2553
001286007	PETERSEN HOLDINGS LLC		330 11TH ST	ELKO NV	89801-3915
001366003	SIMPLE MAN SOLUTIONS LLC		661 ELKO SUMMIT DR	ELKO NV	89801
001285005	VAUGHN INDUSTRIAL PARK		316 CALIFORNIA AVE # 12	RENO NV	89509-1650
001280001	VAUGHN INDUSTRIAL PARK		316 CALIFORNIA AVE # 12	RENO NV	89509-1650
001363007	VICTORY COMMUNITY CHURCH		159 GLEN BRIER DR	SPRING CREEK NV	89815-5728
001290RRL					
006090					

22

Postmarked 7/26/19

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

- **Conditional Use Permit No. 7-19, filed by Petersen Holdings, LLC, which would allow for the development of a facility that provides maintenance and repairs to automobiles within a C (General Commercial) Zoning District, and matters related thereto. The subject property is located generally on the south corner of the intersection of 12th Street and Railroad Street. (285 12th Street & 1120 Railroad Street - APN 001-363-003 & 001-363-006)**

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

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

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s): Petersen Holdings, LLC

(Applicant must be the owner or lessee of the proposed structure or use.)

MAILING ADDRESS: 330 11th Street, Elko Nevada 89801

PHONE NO. (Home) _____ **(Business)** 775-738-2877

NAME OF PROPERTY OWNER (If different): Same as Applicant

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

MAILING ADDRESS: _____

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

Parcel 4 of File No. 237417 and Parcel 2 of File No. 595245

ASSESSOR'S PARCEL NO.: 001-363-003 and 001-363-006

Address 285 12th St and 1120 Railroad Street, Elko Nevada

Lot(s), Block(s), & Subdivision N/A **Or Parcel(s) & File No.** Same as above

RECEIVED

JUL 16 2019

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$750.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code.

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

1. Current zoning of the property:

C (Commercial).

2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:

3-2-10 B. 4 Conditional Uses Permitted. Gas stations. Businesses where gasoline and oil are sold, including businesses with facilities for repairing or maintaining automobiles.

3. Explain in detail the type and nature of the use proposed on the property:

The proposed use of the properties is an additional service shop and parking for Big O Tires. The proposed service shop will be approximately 5530 square feet. The main proposed two-way access is from Railroad Street. A right in only, right out only access from 12th Street is proposed and will be controlled by the installation of a glue down median curb on 12th Street with location and configuration per coordination with City of Elko Public Works. Twenty-one standard parking spaces and two accessible spaces are proposed. A sign meeting the requirements of Chapter 9 Sign Regulations is proposed on the property at the corner of 12th Street and Railroad Street.

4. Explain how the use relates with other properties and uses in the immediate area:

There are several automobile service related businesses adjacent or across the street from this property to include Big O Tires, Napa Auto Parts and Al Park Petroleum. Other non-auto service businesses in the area are commercial in nature. The property is not abutting any residential properties.

5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property:

Currently there are two properties included in the proposed conditional use permit. These properties are to be combined into one through the parcel map process. It is our understanding from review of this parcel map by City Staff that the remaining public improvements along the Railroad Street right of way must be installed.

The fire service connection and water service connection are proposed from 11th street in existing utility easements to the existing 10-inch water line in 11th street. If water lines were extended along the Railroad Street and 12th Street frontages of these two properties there are no existing waterlines in Railroad Street or 12th Street to connect to. Additionally, existing properties in the area are currently served from other existing lines so it appears that extending the water along the property frontage would serve no purpose. Therefore, the intent is to request a waiver for the requirement to install of water line along the frontages.

6. Describe the general suitability and adequacy of the property to accommodate the proposed use:

The property is adequate for the proposed use as it is large enough to accommodate the use and adequate the infrastructure for this use is available.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.:

The property will be graded to drain southwesterly towards 12th Street. The design standards for City of Elko storm water management will be followed to address storm water leaving the site. The property is relatively flat and will not require mass grading or terracing.

8. Describe the amounts and type of traffic likely to be generated by the proposed use:

The traffic generated by tire services shops is approximately 4.15 vehicles per 1000 sf of shop = 21 vehicle trips per peak hour. The proposed two-way access is from Railroad Street. A right in only, right out only access from 12th Street is proposed and will be controlled by the installation of a glue down median curb with location and configuration per coordination with City of Elko Public Works.

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property:

Twenty-one standard parking spaces and two accessible spaces are proposed. This is in excess of the 7 standard parking spaces and one accessible space required by code.

10. Describe the type, dimensions and characteristics of any sign(s) being proposed:

A sign meeting the requirements of Chapter 9 Sign Regulations is proposed on the property at the corner of 12th Street and Railroad Street.

11. Identify any outside storage of goods, materials or equipment on the property:

None

12. Identify any accessory buildings or structures associated with the proposed use on the property:

None

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent Chuck Petersen
(Please print or type)

Mailing Address 330 11th St
Street Address or P.O. Box

ELKO NV 89801
City, State, Zip Code

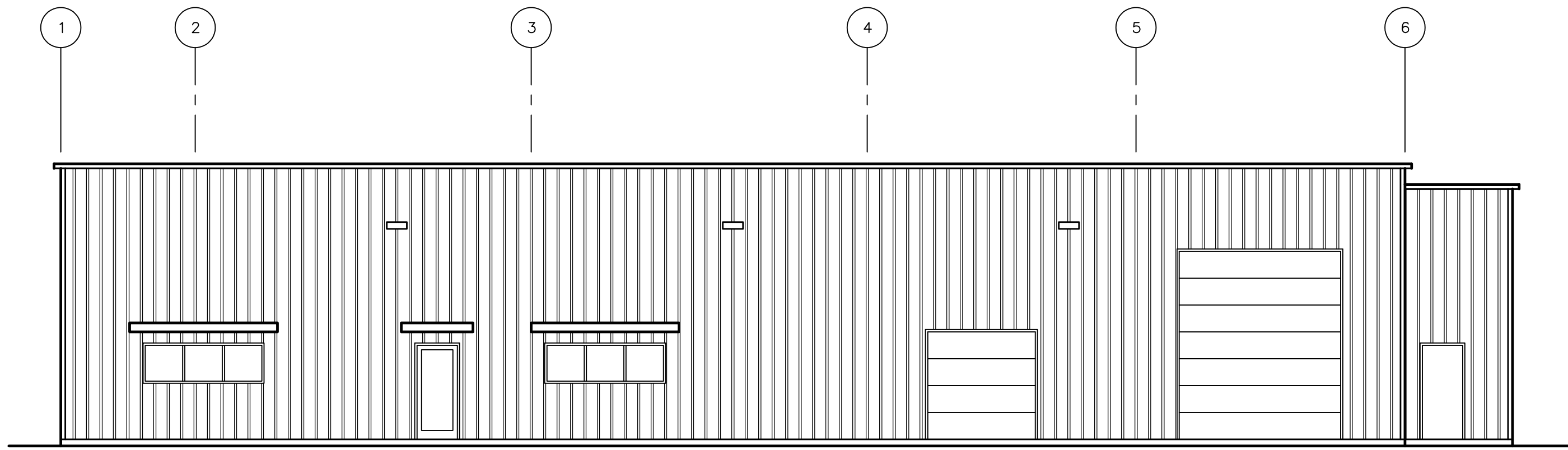
Phone Number: (775) 340-2391

Email address: ~~Chuck Petersen@~~ petersenchuck@yahoo.com

SIGNATURE: 

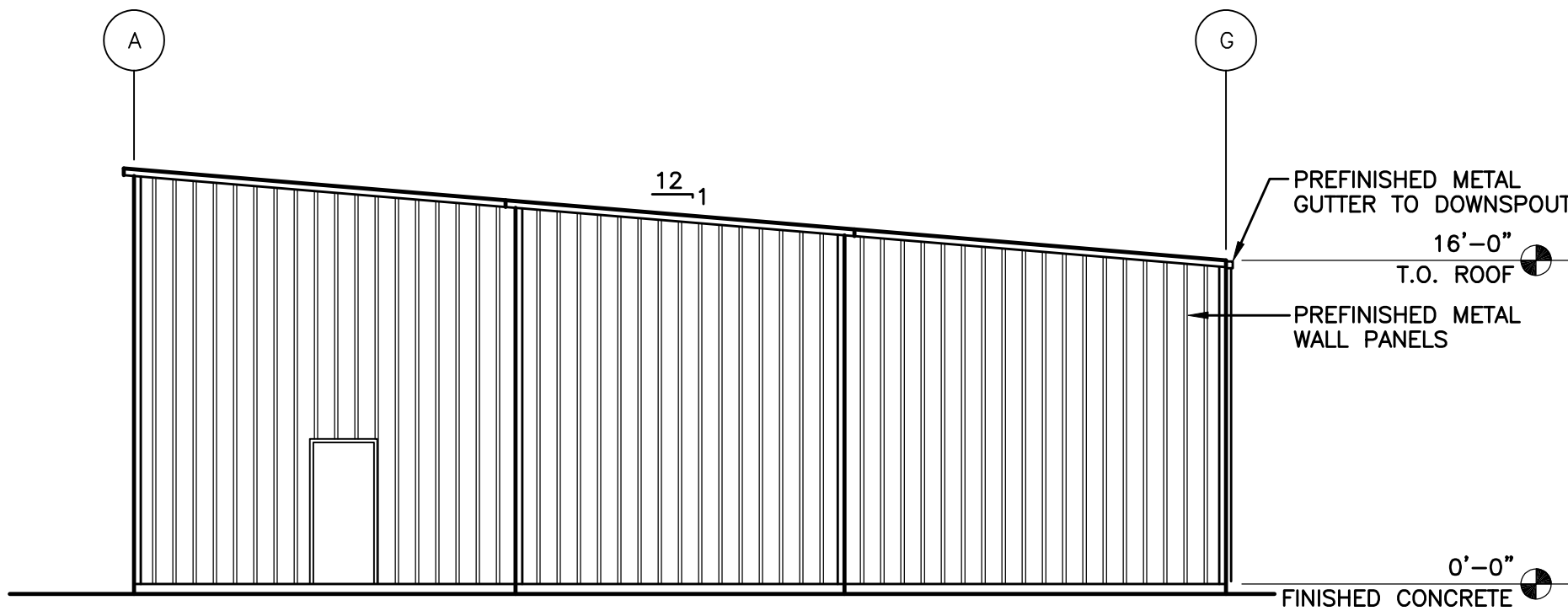
FOR OFFICE USE ONLY

File No.: 7-19 Date Filed: 7/16/19 Fee Paid: \$750 CX# 1554



NORTH ELEVATION

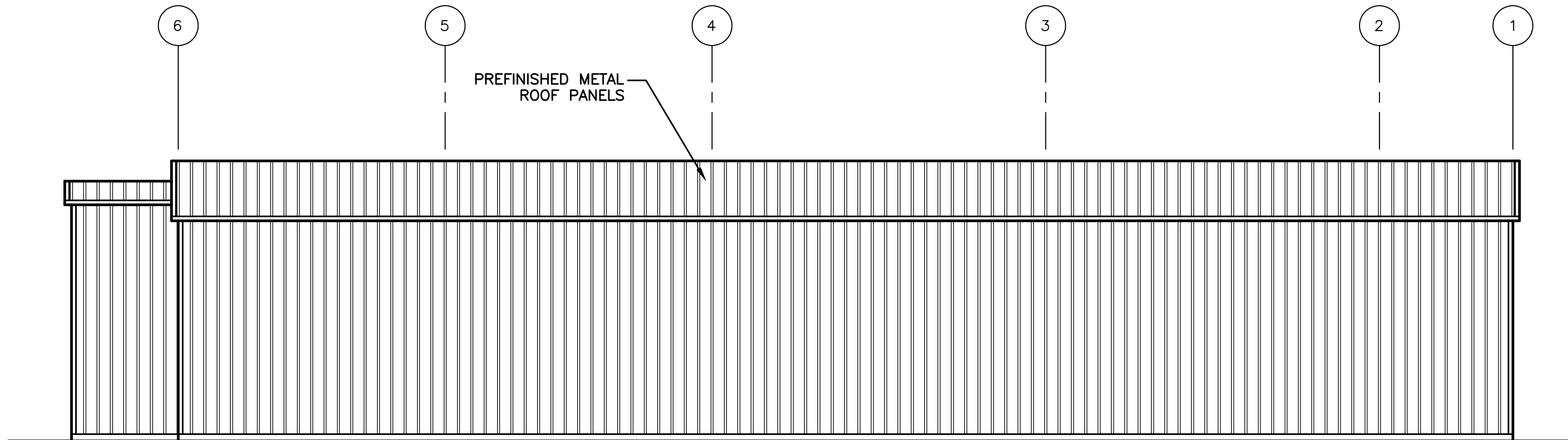
1/8" = 1'- 0"



WEST ELEVATION

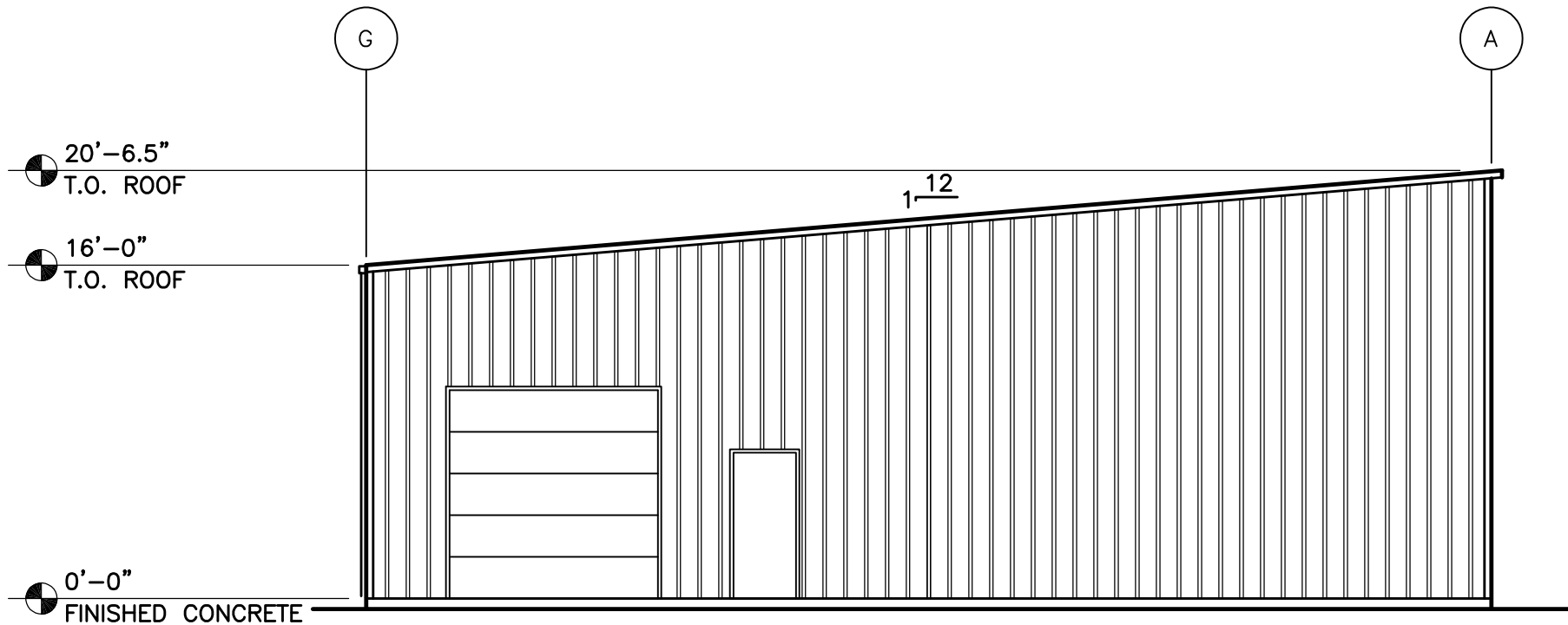
1/8" = 1'- 0"

File Name: 108-elev.dwg
Edit Date: 07-15-19 (12:36:41)



SOUTH ELEVATION

1/8" = 1'- 0"



EAST ELEVATION

1/8" = 1'- 0"

File Name: 10p-a21.dwg
Edit Date: 08-08-18 (10:57:02)

REVISIONS	BY



1014 S. LA POINTE STREET
BOISE, IDAHO 83706
208.343.5511
www.dresarch.com
administrator@dresarch.com



NEW SERVICE FACILITY
FOR:
BIG O TIRES
ELKO, NEVADA

DRAWN TJM
CHECKED TJM
DATE MAY 8, 2018
SCALE AS NOTED
JOB NO. 18-110
SHEET A2.1
OF SHEETS

Print Date: 7/15/2019 12:37 PM

Elko City Planning Commission
Agenda Action Sheet

1. Title: **Review, consideration, and possible action on an amendment to Conditional Use Permit No. 4-19, filed by Elko County School District, which would allow for the expansion of the current Elko High School campus with the addition of a new building, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 6, 2019**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **Planning Commission conditionally approved CUP 4-19 on June 4, 2019. Due to site drainage, the design professional has determined that the building needs to set back from College Avenue. The new site location reflects changes to the parking lot as well. Since the previous approval included a site plan with a different layout, the Planning Commission must approve or deny the CUP amendment.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Staff report, email from Design Professional**
8. Recommended Motion: **Conditionally approve the revisions to Conditional Use Permit 4-19 based on the facts, findings and conditions as presented in Staff Report dated July 20, 2019.**
9. Findings: **See Staff Report dated July 20, 2019.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Elko County School District**
Mr. Casey Kelly
850 Elm Street
Elko, NV 89801
ckelly@ecsdnv.net

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 8/6

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

Title: Conditional Use Permit No. 4-19 Amendment

Applicant(s): Elko County School District - Elko High School

Site Location: 1297 College Ave. - APNs 001-191-001 & 004

Current Zoning: PQP Date Received: 5/13/19 Date Public Notice: 7/23

COMMENT: This is to allow for the expansion of the current Elko High School campus with the addition of a new building.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 7/31/19

Recommend approval as presented by Staff

SAW

Initial

City Manager: Date: _____

Initial

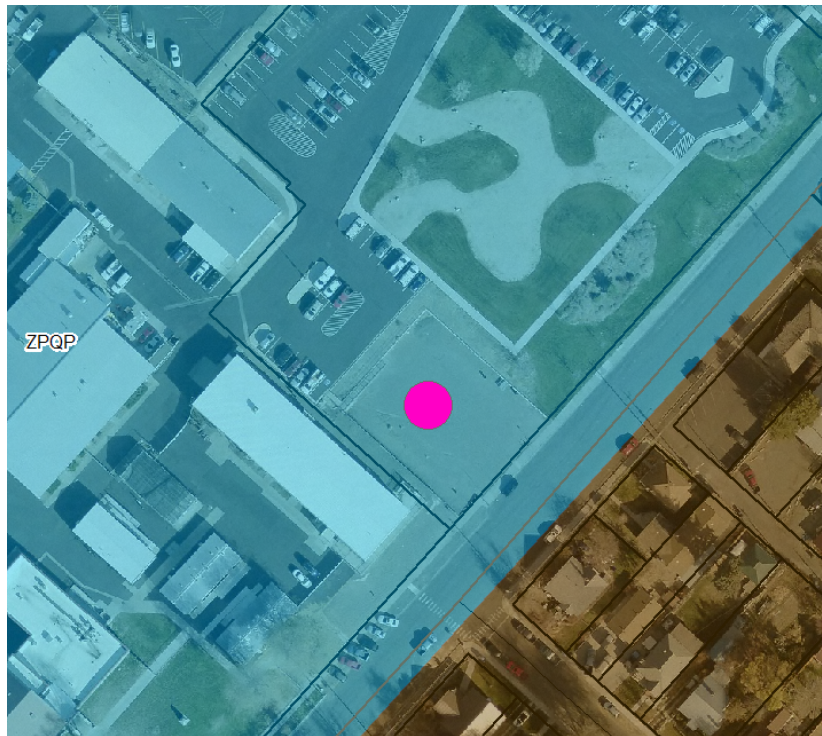


City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE:	July 20, 2019
PLANNING COMMISSION DATE:	August 6, 2019
AGENDA ITEM NUMBER:	II. A. 4
APPLICATION NUMBER:	Conditional Use Permit 4-19
APPLICANT:	Elko County School District
PROJECT DESCRIPTION:	Elko High School Campus, New Science Building
RELATED APPLICATIONS:	Variance 1-19, Parcel Map

An amendment to the previously approved Conditional Use Permit 4-19 for the expansion of the current Elko High School campus with the addition of a new building.



STAFF RECOMMENDATION:

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

INFORMATION:

During the June 4, 2019 Public Hearing, the following codes were reviewed for CUP 4-19 initial application:

- City of Elko Master Plan-Land Use Component
- City of Elko Master Plan-Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Code 3-2-3 General Provisions
- City of Elko Code 3-2-4 Establishment of Zoning Districts
- City of Elko Code 3-2-8 Public, Quasi-Public District
- City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Code 3-2-18 Conditional Use Permits
- City of Elko Code 3-8 Flood Plain Management

The proposed amendment to the CUP 4-19 doesn't reflect any changes to the following findings with the exception of the variance required in order to be in compliance with 3-2-8 PQP, Public-Quasi, Public in Finding #7 as the building in the new location meets the setback requirements as set forth in 3-2-8.

FINDINGS

1. The proposed development is in conformance with the Land Use Component of the Master Plan. The proposed conditional use permit meets Objectives 3 & 8 of the Land Use Component of the Master Plan.
2. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan.
3. The proposed development conforms with the goals and objectives of the Redevelopment Plan.
4. The site is suitable for the proposed use.
5. The proposed development is in conformance with the City Wellhead Protection Program.
6. The proposed use is consistent with surrounding land uses.
7. The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the Condition Use Permit ~~and variance 1-19 for street line setback reduction.~~
8. 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.
9. The parcel is not located within a designated Special Flood Hazard Area.
10. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code with the approval of the variance for street line setback that is associated with this CUP.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the amendment to CUP 4-19 with the conditions as stated in the approval on June 4, 2019 with elimination of condition 3:

1. The permit is granted to the applicant Elko County School District.
2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. ~~A variance for the College Ave. street line setback for the principal building is required to be approved prior to issuing of a building permit. All conditions of VAR 1-19 to be met prior to occupancy of the building.~~
4. Slope stabilization will be required on all slope areas.
5. A Parcel Map for the consolidation of the two parcels be approved and recorded prior to issuing a building permit for the new building.
6. CUP 4-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the construction of the new building.



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

CITY OF ELKO STAFF REPORT

DATE:	May 20, 2019
PLANNING COMMISSION DATE:	June 4, 2019
AGENDA ITEM NUMBER:	I. A. 1
APPLICATION NUMBER:	Conditional Use Permit 4-19
APPLICANT:	Elko County School District
PROJECT DESCRIPTION:	Elko High School Campus, New Science Building
RELATED APPLICATIONS:	Variance 1-19, Parcel Map

A Conditional Use Permit for the expansion of the current Elko High School campus with the addition of a new building.



STAFF RECOMMENDATION:

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

PROJECT INFORMATION

PARCEL NUMBER: APN 001-191-001 & 004

PROPERTY SIZE: 14.03 acres combined after approval and recordation of parcel map combining the two parcels

EXISTING ZONING: PQP –Public, Quasi, Public

MASTER PLAN DESIGNATION: Public

EXISTING LAND USE: Developed as the Elko High School campus

NEIGHBORHOOD CHARACTERISTICS:

) The property is surrounded by developed land to the north, south, east and west. The campus is currently zoned PQP, Public, Quasi-Public with R- Single Family and Multiple Family Residential to the south.

PROPERTY CHARACTERISTICS:

-) The property is currently undeveloped on the portion of APN 001-191-004 which is proposed for the new building.
-) The property has moderate topography with slope down toward College Ave.
-) The property is currently accessed from 13th Street.
-) The property has frontage along College Avenue as well as 13th Street.
-) The property is not in the flood zone.

APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:

-) City of Elko Master Plan-Land Use Component
-) City of Elko Master Plan-Transportation Component
-) City of Elko Redevelopment Plan
-) City of Elko Wellhead Protection Plan
-) City of Elko Code 3-2-3 General Provisions
-) City of Elko Code 3-2-4 Establishment of Zoning Districts
-) City of Elko Code 3-2-8 Public, Quasi-Public District
-) City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
-) City of Elko Code 3-2-18 Conditional Use Permits
-) City of Elko Code 3-8 Flood Plain Management

BACKGROUND INFORMATION

-) The application for the Conditional Use Permit was filed as required under City Code 3-2-8 (D).
-) The applicant has applied for a variance (VAR 1-19) for a reduction in the street line setback from College Avenue for the new building.
-) The applicant is preparing a parcel map to combine both parcels into one parcel. To this date, the application has been received by the Planning Department but the map has not been submitted by the surveyor.
-) The property is located in the Redevelopment Area.

MASTER PLAN

Land Use

1. The Master Plan Land Use Atlas shows the area as Public.
2. PQP- Public, Quasi-Public is listed as a corresponding zoning district for Public in the Master Plan Land Use.
3. Master Plan states that Public land use designation is applied to community and public and quasi-public uses such as those associated with government, non-profit, and utilities. Uses of land must comply with the Elko City Code, and must be compatible with, and not frustrate, the Master Plan's goals and policies.
4. Objective 3: Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
5. Objective 8: Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The conditional use permit is in conformance with the Master Plan Land Use Component

Transportation

1. The Master Plan identifies College Avenue as a minor arterial.
2. The Master Plan identifies 13th Street as a Commercial/Industrial Collector.
3. The site has pedestrian access along College Avenue, 13th Street an interior network of sidewalks from parking area to the buildings. Sidewalks are a necessary safety feature, particularly in residential neighborhoods where children walk to and from the campus.
4. There is no proposed vehicular access from College Avenue to the new building and the current access off 13th Street will remain as existing. It is a safer approach having the access not from the minor arterial.
5. The existing facility meets the goals listed in the Master Plan Transportation document as Best Practice Objective 1; Provide a balanced transportation system that accommodates vehicle, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.

The conditional use permit is in conformance with the Master Plan Transportation Component and existing transportation infrastructure.

ELKO REDEVELOPMENT PLAN:

1. The property is located within the redevelopment area. The proposed use doesn't provide tax increment growth but does support several goals and objectives listed in the Redevelopment Plan.

The proposed conditional use conforms to the Redevelopment Plan.

ELKO WELLHEAD PROTECTION PLAN

-) The property is located in the 30-year capture zone for City wells. Development will be required to conform to the Elko Wellhead Protection Plan

SECTION 3-2-3 GENERAL PROVISIONS

-) Section 3-2-3 (C) City code specifies use restrictions. The following use restrictions shall apply.
1. Principal Uses: Only those uses and groups of uses specifically designated as "principal uses permitted" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses
 2. Conditional Uses: Certain specified uses designated as "conditional uses permitted" may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
 3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

1. Section 3-2-3(D) states that "No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability."

The proposed development is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-8(D).

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

1. Section 3-2-4(B) Required Conformity To District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed development does not conform with this section of the code and therefore the applicant has applied for a variance (VAR 1-19) for the street line setback requirement.

SECTION 3-2-8 PQP PUBLIC, QUASI-PUBLIC DISTRICT

1. The intent of the district is to accommodate public or quasi-public institutional uses.
2. Section 3-2-8(D) The establishment, expansion or change of any use, including principal permitted uses, shall be governed by the conditional use permit procedure, as set forth in section [3-2-18](#) of this chapter.
3. Section 3-2-8(C) The total ground floor area of all buildings shall not exceed thirty five percent (35%) of the net site area. Minimum setback from any street line is not less than one and one-half (1 ½) times the height of the principal building. Minimum setback from interior side and rear lot lines is not less than the height of the principal building, plus one additional foot for each five feet (5') or part thereof that such building exceeds thirty five feet (35') in the aggregate horizontal dimension of the wall generally parallel to such side or rear lot line. Building height shall conform with requirements contained within the city airport master plan.
4. Development of the property is required to be in conformance with City code and conditions for the CUP. It appears the property can be developed in conformance with the requirements stipulated in City code with the approval of a variance.

The proposed development does not conform with the development standards of this section of code and therefore, the applicant has requested a variance.

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

-) Conformance with this section is required as the property is developed.

SECTION 3-2-18 CONDITIONAL USE PERMITS

General Regulations:

1. Certain uses of land within designated zoning districts shall be permitted as principal uses only upon issuance of a conditional use permit. Subject to the requirements of this chapter, other applicable chapters, and where applicable to additional standards established by the Planning Commission, or the City Council, a conditional use permit for such uses may be issued.
2. Every conditional use permit issued, including a permit for a mobile home park, shall automatically lapse and be of no effect one (1) year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.

3. Every conditional use permit issued shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
4. Conditional use permits shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation.

3-8 FLOOD PLAIN MANAGEMENT

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

FINDINGS

1. The proposed development is in conformance with the Land Use Component of the Master Plan. The proposed conditional use permit meets Objectives 3 & 8 of the Land Use Component of the Master Plan.
2. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan.
3. The proposed development conforms with the goals and objectives of the Redevelopment Plan.
4. The site is suitable for the proposed use.
5. The proposed development is in conformance with the City Wellhead Protection Program.
6. The proposed use is consistent with surrounding land uses.
7. The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the Conditional Use Permit and variance 1-19 for street line setback reduction.
8. 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.
9. The parcel is not located within a designated Special Flood Hazard Area.
10. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code with the approval of the variance for street line setback that is associated with this CUP.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of CUP 4-19 with the following conditions:

1. The permit is granted to the applicant Elko County School District.
2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. A variance for the College Ave. street line setback for the principal building is required to be approved prior to issuing of a building permit. All conditions of VAR 1-19 to be met prior to occupancy of the building.
4. Slope stabilization will be required on all slope areas.
5. A Parcel Map for the consolidation of the two parcels be approved and recorded prior to issuing a building permit for the new building.
6. CUP 4-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the construction of the new building.

CUP 4-19 ECSD - Amendment.

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001241012	AHLIN, JASON & MEGAN		530 N 300 E	SPANISH FORK UT	84660-1530
001202014	AIAZZI, STANLEY G & JOYCE L TR		1309 OAK ST	ELKO NV	89801-3433
001242018	ARENDT, SCOTT		575 12TH ST	ELKO NV	89801-3404
001252010	BEACH, JACKIE LEE & LORRAINE K		572 13TH ST	ELKO NV	89801-3407
001203012	BIEGLER, PHILIP J		1319 COLLEGE AVE	ELKO NV	89801-3427
		C/O VICTORIA			
001233017	BILY, ELISABETH A	BILY/MARYS RIVER	HC 60 BOX 710	RUBY VALLEY NV	89833-9804
001241034	BLACKMAN, DAVID A TR ET AL		997 COURT ST	ELKO NV	89801-3942
001201001	BLANKENSHIP, ROBERT ET AL		791 13TH ST	ELKO NV	89801-3443
001242015	BRASWELL, JAY C & MAHELIA J		576 11TH ST	ELKO, NV	89801-3403
001202015	BROWN, HOWARD A & JILL R		716 13TH ST	ELKO NV	89801-3442
001241020	CARDER, JAMES & HOLLY		988 COLLEGE AVE	ELKO NV	89801-3420
001252001	CARNICLE, ALLEN R & NATALIE B		588 13TH ST	ELKO NV	89801-3407
001203005	CAVALIERE, RICHARD J & JANICE J		10566 RIDGECREST DR	JACKSON CA	95642-9348
001251014	CHARPENTIER, KAY MARIE		576 12TH ST	ELKO NV	89801-3405
001201002	CLINTON, ELDON WAYNE ET AL		7850 E MEMORY LANE	PRESCOTT VALLEY AZ	86315
001233015	COPE, EDWARD L & KATHERINE TR		213 GREENCREST PL	SPRING CREEK NV	89815-5411
001241024	CREWS, JAMES V		1026 1/2 COLLEGE AVE	ELKO NV	89801-3479
001203010	CURWEN, MIKE & MACKENZIE		1351 COLLEGE AVE	ELKO NV	89801-3427
001251011	DENNIS, ROY J & LODEEN M		546 12TH ST	ELKO NV	89801
001251012	DOLBERG, ANDREW & MELANIE		552 12TH ST	ELKO NV	89801-3405
		DBA: DOUBLE C			
001185003	DOUBLE C APARTMENTS ET AL	APARTMENTS	135 VESTA ST	RENO NV	89502-2913
001241036	EINBODEN, ALLAN F & DINA L	C/O ZIONS BANK ATN:			
		MATT SNELL	2460 S 3270 W	WEST VALLEY CITY UT	84119-1116
001241035	EINBODEN, ALLAN F & DINA L	C/O ZIONS BANK ATN:			
		MATT SNELL	2460 S 3270 W	WEST VALLEY CITY UT	84119-1116
001241016	EKLUND, BRANDON S ET AL		910 COLLEGE AVE	ELKO NV	89801-3420
001236001	ELKO ASSOC-1 LP	C/O PHILIP MACBRIDE	PO BOX 2177	FRIDAY HARBOR WA	98250-2177
001185002	ELKO CITY OF		1755 COLLEGE AVE	ELKO NV	89801
001185001	ELKO CITY OF	CITY CLERK	1751 COLLEGE AVE	ELKO NV	89801-3401
001620000	ELKO CITY OF		1755 COLLEGE AVE	ELKO NV	89801

} 1 p.c.

} No p.c.

001620014	ELKO CITY OF	<i>NOP.C.</i>	1755 COLLEGE AVE	ELKO NV	89801
001191003	ELKO COUNTY OF		540 COURT ST	ELKO NV	89801-3515
001620020	ELKO COUNTY SCHOOL DISTRICT	} <i>1p.c.</i>	850 ELM ST	ELKO NV	89801-3349
001620019	ELKO COUNTY SCHOOL DISTRICT		850 ELM ST	ELKO NV	89801-3349
001241015	ELMORE, GEORGE W TR ET AL		630 9TH ST	ELKO NV	89801-3329
001242017	GEIST & SCHVANEVELDT LLC		318 FALLS AVE	TWIN FALLS ID	83301-3373
001241019	GLENNON, SCOTT B & SHARON E		962 COLLEGE AVE	ELKO NV	89801-3420
001241025	GREDZINSKI, ISABELLA JOY		1026 COLLEGE AVE	ELKO NV	89801-3422
001233007	GRIEGO, MATTHEW L & TANYA M		673 9TH ST	ELKO NV	89801-3328
001251001	GUISTI, MARK L		592 12TH ST	ELKO NV	89801-3405
001242003	GUZMAN, SERGIO A & GEORGIA C TR		207 MOUNTAIN CITY HWY # 14	ELKO NV	89801-9505
001203011	HARRIS, JERALD		1329 COLLEGE AVE	ELKO NV	89801-3427
001202003	HASSETT, DANIEL M		1342 CEDAR ST	ELKO NV	89801-3418
001202013	HASSETT, MARY CATHERINE TR		1335 OAK ST	ELKO NV	89801-3433
001203002	HAYES, DEREK JON		467 WESTCLIFF DR	SPRING CREEK NV	89815-6830
001233010	HAYES, PAULINE O		829 PINE ST	ELKO NV	89801-3340
001251003	HENNEBERRY, MICHAEL J & JACQUELI		565 13TH ST	ELKO NV	89801-3406
001233016	HOOVER, KELSEY		347 SPRING CREEK PL	SPRING CREEK NV	89815-5902
001203003	IRIBARNE, JANET		1328 OAK ST	ELKO NV	89801-3434
001242014	JONES, DIANA J		110 WILSON AVE	ELKO NV	89801-4144
001203004	KENNEDY, MARK E		1340 OAK ST	ELKO NV	89801-3434
001233003	KEOGH, KEVIN J & DIANA		828 JUNIPER ST	ELKO NV	89801-3337
001233014	KRENKA, WANDA L		494 MAPLE ST APT B	ELKO NV	89801-3276
001202002	LARIOS, ADA ROSE		1320 CEDAR ST	ELKO NV	89801-3418
001241018	LOSTRA ENTERPRISES LLC		930 COLLEGE AVE	ELKO NV	89801-3420
001251002	LOSTRA, ANSON J & JOLANDE L TR		591 13TH ST	ELKO NV	89801-3406
		C/O MICHAEL L			
001241017	LOSTRA, THERESA L TR ET AL	LOSTRA	930 COLLEGE AVE	ELKO NV	89801-3420
001233005	LUNA, BENJAMIN & JUANA		202 AERIE LN	ELKO NV	89801-8495
001241029	MAHTAPENE-CORDOVA, NOAH ET AL		589 11TH ST	ELKO NV	89801-3402
001241021	MARIN, JESUS & EVANGELINA		998 COLLEGE AVE	ELKO NV	89801-3420
001203013	MARVEL, JODY		1640 BALLARD LN	WINNEMUCCA NV	89445-3241
001233009	MCELDOWNEY, CHRISTIAN & SARA		841 PINE ST	ELKO NV	89801-3340
001241026	MCKNIGHT, SHARON K		PO BOX 281205	LAMOILLE NV	89828-1205

001241022 MUTUBERRIA, EUSTAQUIO ET AL
001233002 MYERS, MATTHEW R
001241013 NYREHN, DELMAR J & EVELYN C
001242013 OLSON, LISA
001201003 PATTANI, FERN J & GLEN J
001233006 PEREZ, MARTIN S
001233004 QUINTERO, LUZ & CATALINA
001203001 RAGLAND, LEVI & HALEY L
001241028 REMALY, TAYLOR DAVID ET AL
001203009 RHOADS, DEAN A & SHARON L TR
001241030 RIOS, ANTONIO & RUIZ, GUADALUPE
001242006 ROBINSON, RICHARD L & MYRNA L } 1p.c.
001242005 ROBINSON, RICHARD L & MYRNA L }
001241027 SANDHOFF, SEAN R ET AL
001202012 SHERRILL, THOMAS EDWARD JR ETAL
001202011 SHINN, KAREN L
001251013 SMITH, WINIFRED C TR
001242016 STEFLIK, DANIEL M TR ET AL } 1p.c.
001242002 STEFLIK, DANIEL M TR ET AL }

001202001 STEIN, CAROL TR
001202016 STEIN, MICHAEL S
001242001 STOWELL, ROSEMARY ANN
001251004 TRUXAL, CHRISTOPHER & LACEY
001241014 WRIGHT, WILLIAM B JR TR ET AL
001241009 ZELCO LLC SERIES 2

C/O HUGHES, JANET S
POA

1004 COLLEGE AVE
176 BELLWOOD DR
596 9TH ST
552 11TH ST
739 13TH ST
308 LORENZI ST
830 JUNIPER ST
1306 OAK ST
593 11TH ST
PO BOX 8
328 MAPLE ST
563 12TH ST
563 12TH ST
2715 PURPLE ROOT DR
1345 OAK ST
1355 OAK ST
564 12TH ST
1010 COURT ST
1010 COURT ST
87 DILLONS LN
5679 KEYMAR DR
594 11TH ST
555 13TH ST
705 COURT ST
901 COURT ST

ELKO NV 89801-3422
SPRING CREEK NV 89815-5313
ELKO NV 89801-3327
ELKO NV 89801-3403
ELKO NV 89801-3443
LAS VEGAS NV 89107-2493
ELKO NV 89801-3337
ELKO NV 89801-3434
ELKO NV 89801-3402
TUSCARORA NV 89834-0008
ELKO NV 89801-3148
ELKO NV 89801-3404
ELKO NV 89801-3404
LAS VEGAS NV 89156-7702
ELKO NV 89801-3433
ELKO NV 89801-3433
ELKO NV 89801-3405
ELKO NV 89801-3945
ELKO NV 89801-3945
MORGANTON GA 30560-2491
SAN JOSE CA 95123-3416
ELKO NV 89801-3403
ELKO NV 89801-3406
ELKO NV 89801-3330
ELKO NV 89801-3942

78

Postmarked 7/26/19

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a series of public hearings on Tuesday, August 6, 2019 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

- **An amendment to Conditional Use Permit No. 4-19, filed by Elko County School District, which would allow for the expansion of the current Elko High School campus with the addition of a new building, and matters related thereto. The subject property is located generally north of the intersection of 11th Street and College Avenue. (1297 College Avenue - APN 001-191-001 & 001-191-004).**

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY PLANNING COMMISSION

Shelby Archuleta

From: Jeff Ford
Sent: Thursday, July 18, 2019 1:14 PM
To: Shelby Archuleta
Subject: RE: CUP 4-19 ECSD Amendment

Shelby,

I have no new concerns regarding this site plan.

Thank you,

Jeff Ford, CBO.CBCO.
Building Official

Building Department
1753 College Ave
Elko, NV 89801

775-777-7221
Fax 775-777-7229

From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
Sent: Thursday, July 18, 2019 8:42 AM
To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>
Subject: CUP 4-19 ECSD Amendment

Good Morning,

Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.

Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219

Shelby Archuleta

From: Michele L. Rambo
Sent: Thursday, July 18, 2019 10:21 AM
To: Shelby Archuleta; Cathy Laughlin; Bob Thibault; Ryan Limberg; Dennis Strickland; John Holmes; Jeff Ford; Kelly C. Wooldridge
Subject: RE: CUP 4-19 ECSD Amendment

I'm good with it.

Michele Rambo, AICP

Development Manager
City of Elko
1755 College Avenue
Elko, NV 89801
(775) 777-7217
mrambo@elkocitynv.gov

From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
Sent: Thursday, July 18, 2019 8:42 AM
To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>
Subject: CUP 4-19 ECSD Amendment

Good Morning,

Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.

Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219

Shelby Archuleta

From: Kelly C. Wooldridge
Sent: Thursday, July 18, 2019 9:59 AM
To: Shelby Archuleta; Cathy Laughlin; Bob Thibault; Ryan Limberg; Michele L. Rambo; Dennis Strickland; John Holmes; Jeff Ford
Subject: RE: CUP 4-19 ECSD Amendment

I have no comments or concerns.

Thank You

Kelly Wooldridge
Elko City Clerk
1751 College Avenue
Elko, NV 89801
775-777-7126 (office)
775-777-7129 (fax)



From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
Sent: Thursday, July 18, 2019 8:42 AM
To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>
Subject: CUP 4-19 ECSD Amendment

Good Morning,

Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.

Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219

Shelby Archuleta

From: Dennis Strickland
Sent: Thursday, July 18, 2019 9:47 AM
To: Shelby Archuleta; Cathy Laughlin; Bob Thibault; Ryan Limberg; Michele L. Rambo; John Holmes; Jeff Ford; Kelly C. Wooldridge
Subject: RE: CUP 4-19 ECSD Amendment

Shelby,

I have no concerns..

Thanks,

Dennis Strickland
Public Works Director
City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7241 (phone)
(775) 777-7249 (fax)

From: Shelby Archuleta <sarchuleta@elkocitynv.gov>
Sent: Thursday, July 18, 2019 8:42 AM
To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>
Subject: CUP 4-19 ECSD Amendment

Good Morning,

Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.

Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219

Shelby Archuleta

From: Ryan Limberg
Sent: Thursday, July 18, 2019 9:26 AM
To: Shelby Archuleta; Cathy Laughlin; Bob Thibault; Michele L. Rambo; Dennis Strickland; John Holmes; Jeff Ford; Kelly C. Wooldridge
Subject: RE: CUP 4-19 ECSD Amendment

Hi Shelby,

I don't have any new or additional comments with the proposed changes/amendment.

Ryan Limberg
Utilities Director
City of Elko
1751 College Avenue
Elko, NV 89801
Phone: 775-777-7212
Fax: 775-777-7219
Email: rlimberg@elkocitynv.gov

From: Shelby Archuleta
Sent: Thursday, July 18, 2019 8:42 AM
To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>
Subject: CUP 4-19 ECSD Amendment

Good Morning,
Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.
Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta
Planning Technician
City of Elko
Planning Department
Ph (775) 777-7160
FX (775) 777-7219

Shelby Archuleta

From: Bob Thibault
Sent: Thursday, July 18, 2019 9:26 AM
To: Shelby Archuleta; Cathy Laughlin; Ryan Limberg; Michele L. Rambo; Dennis Strickland; John Holmes; Jeff Ford; Kelly C. Wooldridge
Subject: RE: CUP 4-19 ECSD Amendment

No comments or concerns.

Sincerely,

Bob Thibault, PE, PLS

Civil Engineer

City of Elko

1751 College Ave

Elko, NV 89801

Phone: 775-777-7214

Fax: 775-777-7219



From: Shelby Archuleta <sarchuleta@elkocitynv.gov>

Sent: Thursday, July 18, 2019 8:42 AM

To: Cathy Laughlin <claughlin@elkocitynv.gov>; Bob Thibault <bthibault@elkocitynv.gov>; Ryan Limberg <rlimberg@elkocitynv.gov>; Michele L. Rambo <mrambo@elkocitynv.gov>; Dennis Strickland <dstrickland@elkocitynv.gov>; John Holmes <jholmes@elkocitynv.gov>; Jeff Ford <jford@elkocitynv.gov>; Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>

Subject: CUP 4-19 ECSD Amendment

Good Morning,

Please review this amended Site Plan for the additional science building at the high school. There is also an explanation to go along with it. We will be doing an amendment to their CUP, which will be considered by the Planning Commission on August 6th.

Please email Cathy and I with any comments or conditions.

Thank you!

Shelby Archuleta

Planning Technician

City of Elko

Planning Department

Ph (775) 777-7160

FX (775) 777-7219



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of June 4, 2019

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on June 4, 2019 under Public Hearing format, in accordance with notification requirements contained in Section 3-2-18 (F) of the City Code:

Conditional Use Permit No. 4-19, filed by Elko County School District, which would allow for the expansion of the current Elko High School campus with the addition of a new building, and matters related thereto.

The subject property is located generally north of the intersection of 11th Street and College Avenue. (1297 College Avenue - APN 001-191-001 & 001-191-004).

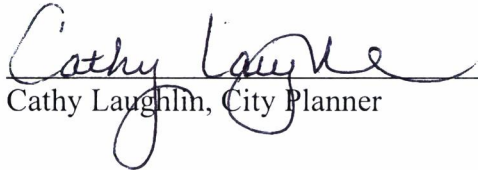
NOW THEREFORE, upon review and consideration of the application, supporting data, public input and testimony, the Planning Commission conditionally approves Conditional Use Permit No. 4-19 subject to the conditions in the City of Elko Staff Report dated May 20, 2019, listed as follows:

1. The permit is granted to the applicant Elko County School District.
2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. A variance for the College Ave. street line setback for the principal building is required to be approved prior to issuing of a building permit. All conditions of VAR 1-19 to be met prior to occupancy of the building.
4. Slope stabilization will be required on all slope areas.
5. A Parcel Map for the consolidation of the two parcels be approved and recorded prior to issuing a building permit for the new building.
6. CUP 4-19 to be recorded with the Elko County Recorder within 90 days after the commencement of the construction of the new building.

The Planning Commission's findings to support its recommendation are the proposed development is in conformance with the Land Use Component of the Master Plan. The proposed conditional use permit meets Objectives 3 & 8 of the Land Use Component of the Master Plan. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan. The proposed development conforms with the

goals and objectives of the Redevelopment Plan. The site is suitable for the proposed use. The proposed development is in conformance with the City Wellhead Protection Program. The proposed use is consistent with surrounding land uses. The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the Conditional Use Permit and Variance 1-19 for street line setback reduction. Development under the proposed conditional use will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety. The parcel is not located within a designated Special Flood Hazard Area. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code with the approval of the variance for street line setback that is associated with the CUP.

The applicant is advised of the right to appeal this decision to the City Council within 10 days of the date of approval as stated above.


Cathy Laughlin, City Planner

Attest:


Shelby Archuleta, Planning Technician

CC: Applicant
Kelly Wooldridge, City Clerk
Michele Rambo, Development Manager (email)

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 6/4

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

Title: Conditional Use Permit 4-19
Applicant(s): Elko County School District - Elko High School
Site Location: 1297 College Ave. - APN 001-191-004 + 001
Current Zoning: PQP Date Received: 5/13 Date Public Notice: 5/24
COMMENT: This is to allow for the expansion of the current Elko High School campus with the addition of a new building.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 5/23/19
Recommend approval as presented by staff

SAW

Initial

City Manager: Date: 5/29/19
Recommend approval, assuming off-street parking does not increase. The City of Elko receives complaints about off-street parking in this area (on occasion).

cc

Initial



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 phone * (775) 777-7219 fax

APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

APPLICANT(s): Elko County School District

(Applicant must be the owner or lessee of the **proposed** structure or use.)

MAILING ADDRESS: 850 Elm St., Elko, NV 89801

PHONE NO. (Home) (Business) 775-738-5196

NAME OF PROPERTY OWNER (If different):

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

MAILING ADDRESS:

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

ASSESSOR'S PARCEL NO.: 001-191-004 **Address** 1297 College Ave.

Lot(s), Block(s), & Subdivision 10, 15, 34N

Or Parcel(s) & File No. 001-191-004

FILING REQUIREMENTS

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month).

Fee: A \$750.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the proposed conditional use permit site drawn to scale showing property lines, existing and proposed buildings, building setbacks, distances between buildings, parking and loading areas, driveways and other pertinent information that shows the use will be compliant with Elko City Code.

Elevation Plan: Elevation profiles including architectural finishes of all proposed structures or alterations in sufficient detail to explain the nature of the request.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support this conditional use permit application.

RECEIVED

1. Current zoning of the property: PQP
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:
3-2-8, D
3. Explain in detail the type and nature of the use proposed on the property:
Expansion of education space on property adjacent to Elko High School Campus and owned by Elko County School District. Specifically, the construction of a new 2-story, +/-22,000 sf science building.
4. Explain how the use relates with other properties and uses in the immediate area:
The use is congruent with the use of the adjacent buildings to the north and west - secondary education buildings.
Property to the southeast consists of single-family residential.
5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property: None.
6. Describe the general suitability and adequacy of the property to accommodate the proposed use: The property is adjacent to Elko High School and parts of the lot are currently used for their parking. The School District has used this property in the past for modular classrooms. Current zoning is PQP with public schools as an allowed use. The past use was for a hospital.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: Development of the building site will likely require demolition of the existing retaining walls and ramped walkways, excavation of additional material to expand the building pad and construction of new retaining walls and ramped walkways.

8. Describe the amounts and type of traffic likely to be generated by the proposed use:

Traffic is not expected to change based on the addition of this building to the campus. Classes currently held in adjacent buildings on the campus will be moved to this building.

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property:

Off-street parking is currently provided to the northeast and northwest. Required parking is not expected to increase with the addition of this building to the campus. Loading and unloading is expected to be infrequent and can occur either at the street or via the parking lot to the northwest.

10. Describe the type, dimensions and characteristics of any sign(s) being proposed:

No permanent sign(s) proposed. Required construction signage is expected.

11. Identify any outside storage of goods, materials or equipment on the property:

No outside storage is planned beyond the construction period.

12. Identify any accessory buildings or structures associated with the proposed use on the property:

None.

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

By My Signature below:

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent Casey Kelly, P.E., PMP
(Please print or type)

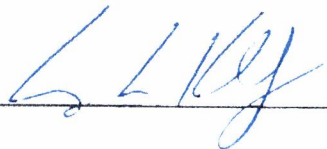
Mailing Address 850 Elm St.
Street Address or P.O. Box

Elko, NV 89801
City, State, Zip Code

Phone Number: 775-738-5196

Email address: ckelly@ecsdnv.net

SIGNATURE: _____



FOR OFFICE USE ONLY

File No.: 4-19 Date Filed: 5/13/19 Fee Paid: \$750 cc#0491

Cathy Laughlin

From: Brandon Weholt <bweholt@designwestid.com>
Sent: Wednesday, June 26, 2019 11:18 AM
To: Cathy Laughlin
Subject: Elko HS Science Building
Attachments: Site 2019-06-25.pdf

Cathy,

Good morning. Last week I met with the owner and our civil engineer on the site. The purpose was to look at drainage and pedestrian access within the site. After some investigation we determined that there is a significant amount of site drainage being routed through the parking lot to the north of the proposed building (2-3 acres of hardscape and roof by a quick estimate). That drainage, as it exists today, is intended to be routed through a buried pipe that daylights across the sidewalk along College Ave. and runs down the gutter to the SW. What is actually happening is some of the water takes that route, but much of it spills around the inlet and runs down the concrete ramp to the lower gravel lot, then finds its way to the sidewalk and street through the gravel lot.

Based on all of this, plus the desire to not put a lot of subsurface water against the building on 3 sides, we determined that it makes the most sense to locate the building over the existing parking lot to the north. This allows us to place an underground detention/infiltration system at the lower lot and cover it with a paved parking lot. This will significantly reduced site run-off. We may still want to allow some water to leave the site, possibly just in extreme events, if allowed. Regardless, it would be a vast improvement over the system currently in place which is really just draining everything to College Ave. We would size the infiltration to accept some percentage of runoff from the future auditorium as well. That percentage is TBD.

With all of this, we no longer need the variance for the street setback for the science building. We will likely come back with a similar variance request for the auditorium in the future. Do we need to submit a new CUP application for the science building since the location is changing? Any unforeseen issues you're aware of with this change?

Thank you,

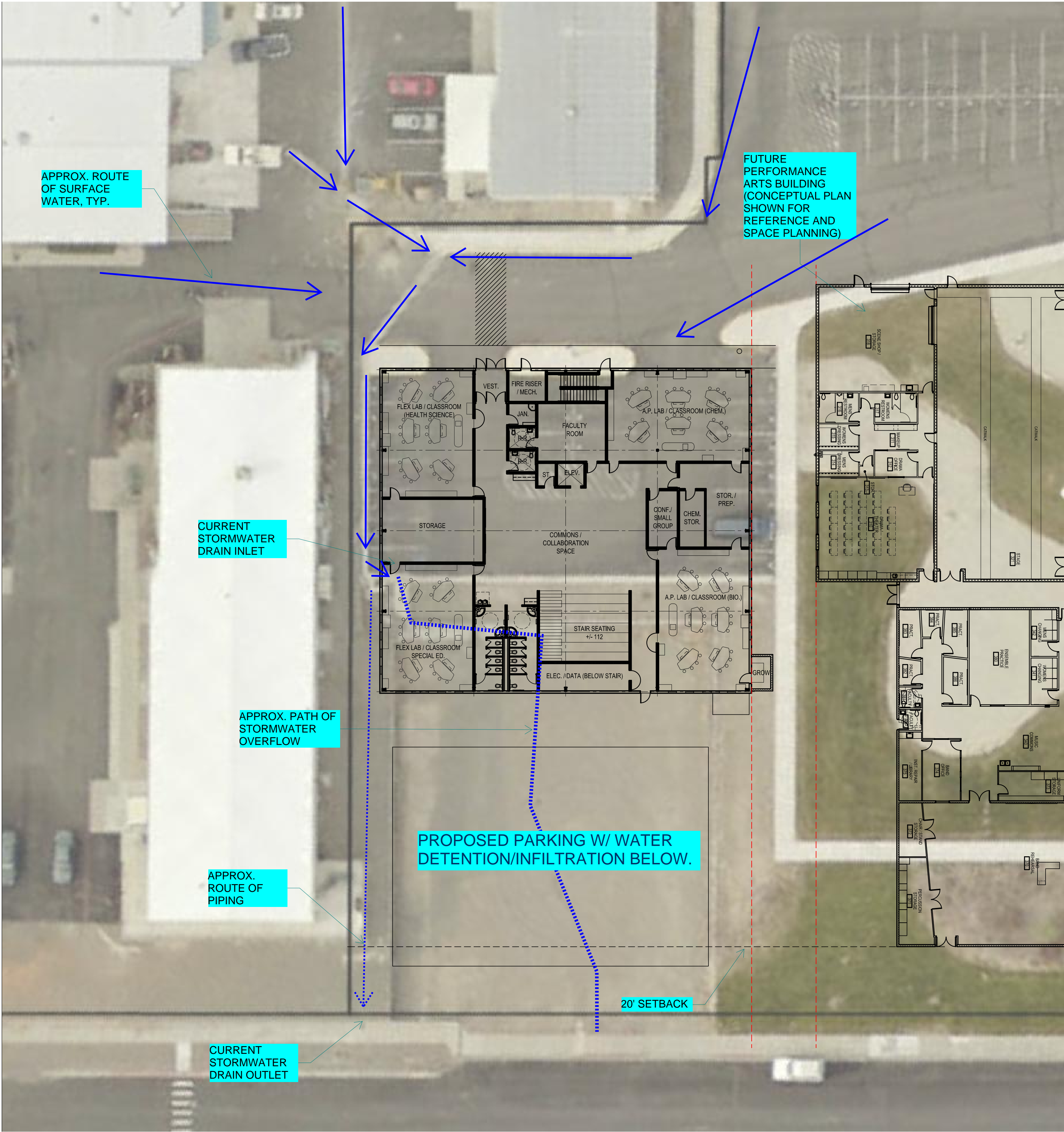


Brandon Weholt, NCARB

P: 208.888.1768 | M: 208.699.0810

E: bweholt@designwestid.com

DESIGN WEST ARCHITECTS, P.A.



ELKO HIGH SCHOOL
SCIENCE BUILDING
CONCEPTUAL ELEVATION



ELKO HIGH SCHOOL
SCIENCE BUILDING
CONCEPTUAL ELEVATION



ELKO HIGH SCHOOL
SCIENCE BUILDING
CONCEPTUAL ELEVATION



ELKO HIGH SCHOOL
SCIENCE BUILDING
CONCEPTUAL ELEVATION



Zoning Bulletin

in this issue:

Use Variance—Applicant seeks use variance to covert multi-family dwelling from three to five residential units

1

Special Exception—Town planning commission denies special exception application, finding applicant failed to demonstrate streets were adequate to support anticipated traffic

3

Use Variance—Zoning board grants use variance with conditions, including on hours of operation of business

4

Standing—Objector to conditional use application submits a letter of objection to board but does not appear at hearing

5

Fees—School district imposes impact fees on housing development for agricultural employees only, without dependents

6

Zoning News from Around the Nation

8

Use Variance—Applicant seeks use variance to covert multi-family dwelling from three to five residential units

Applicant claims hardship warranting the variance is the unmarketable configuration of current units

Citation: *South Broad Street Neighborhood Association v. Zoning Board of Adjustment*, 2019 WL 1995953 (Pa. Commw. Ct. 2019)

PENNSYLVANIA (05/07/19)—This case addressed the issue of whether evidence justified the grant of a use variance to allow the conversion of a building from three residential units into five. More specifically, it addressed whether the variance applicant sufficiently demonstrated the existence of an unnecessary hardship associated with the use of the property so as to warrant a use variance.

The Background/Facts: In 2016, Great Real Estate, LLC (the “Owner”) purchased property (the “Property”) in the City of Philadelphia (the “City”). The Property was improved with a three-story building. The Property was located in the City’s RSA-5 zoning district, which did not permit multi-family uses. In 2013, the previous owner of the Property had obtained a variance, allowing use of the building on the Property as a three-unit multi-family dwelling.

After purchasing the Property, the Owner sought to convert the building from three residential units into five residential units. The Owner applied to the City’s Zoning Board of Adjustment (the “Board”) for a use variance to allow that conversion. Under the City’s Zoning Code, entitlement to a use variance required the existence of an “unnecessary hardship.” The Owner claimed entitlement to the variance, arguing that there was an unnecessary hardship in that, as currently configured, the first and second floor units were not marketable.

Accepting the Owner’s argument of hardship, the Board granted the Owner’s request for a use variance.

The South Broad Street Neighborhood Association (the “Association”) appealed the Board’s decision.

The Court of Common Pleas reversed the Board’s decision.

The Owner appealed. On appeal, the Owner “essentially argue[d] that the neighborhood’s transition from single-family to multi-family use imposed an unnecessary hardship on Owner if it [was] not allowed to reconfigure its building from three units to five.” The Owner also argued that the physical configuration of the building was unmarketable, thus imposing an unnecessary hardship that justified a variance.



DECISION: Judgment of Court of Common Pleas affirmed.

The Commonwealth Court of Pennsylvania held that the Owner failed to show evidence of an unnecessary hardship justifying a variance.

In so holding, the court explained that where, as here, an owner seeks relief from a condition attached to an existing variance, the owner has two options: (1) obtain a modification of a condition attached to the previously granted variance by establishing (a) ground for traditional variance or changed circumstances which render the condition inappropriate and (b) absence of injury to the public interest (i.e., no negative impact on the neighborhood); or (2) meet the traditional standard for obtaining a variance.

The court further explained that when choosing the first option, the owner must show substantial evidence of: (1) a

change in circumstances that occurred between the time the condition was imposed and the owner's request for modification; and (2) that such changes in circumstances "render the [previously imposed] conditions no longer appropriate." An owner that does not show changed circumstance may still obtain modification of a variance condition by meeting the standard to obtain a new variance, said the court. Importantly, the court held that "when a court applies the traditional standard for variance relief to a request to modify or remove a condition attached to an existing variance, the court must consider the use of the property as permitted by the current variance and associated conditions to be the legally permitted use of the property from which the owner is seeking a new variance."

Accordingly, here, the court treated the Owner's variance request "as a request to modify a condition attached to the 2013 variance—specifically, to increase the number of units permitted under the 2013 variance from three to five." The court noted that the Owner could have pursued its requested modification by claiming a change in circumstances requiring a modification of the conditions of the 2013 variance, but did not do so. Thus, because there was no evidence in the record to support a claim of changed circumstances, the court analyzed the Owner's request for modification using the same standard applicable to variances generally.

In so analyzing, the court explained that, generally, to obtain a variance, an applicant must "show substantial, serious, and compelling reasons for the variance request, including 'that unnecessary hardship will result if the variance is denied.'" Moreover, the hardship demonstrated "must be unique to the property at issue, not a hardship arising from the impact of the zoning regulations on the entire district." While the applicant "is not required to show that the property at issue is valueless without the variance or that the property cannot be used for any permitted purpose, . . . [m]ere economic hardship . . . is not sufficient; there must be unnecessary hardship," said the court. More specifically, the court noted that, here, the City's Zoning Code required the Owner establish "unnecessary hardship" by showing that: (a) unnecessary hardship was due to "unique physical circumstances or conditions (such as irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions) peculiar to the property"; (b) because of those physical circumstances or conditions, the property could not be used in strict conformity with the provisions of the Zoning Code and that a variance was necessary "to enable the viable economic use of the property"; (c) the use variance, if authorized, would "not alter the essential character of the neighborhood . . . nor be detrimental to the public welfare"; and (d) the hardship could not be cured by the grant of a dimensional variance.

Here, the court found that the Owner's argument that changes in surrounding uses had imposed an unnecessary hardship was "not persuasive" because the Property was not "uniquely burdened" by circumstances or conditions peculiar to the Property. Although the Owner had argued that the Property was unmarketable as currently configured, the court found it failed to present evidence as such.

Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS®

610 Opperman Drive
P.O. Box 64526
St. Paul, MN 55164-0526
1-800-229-2084
email: west.customerservice@thomsonreuters.com
ISSN 0514-7905
©2019 Thomson Reuters
All Rights Reserved
Quinlan™ is a Thomson Reuters brand

In fact, two of the three floors of the Owner's building were occupied by tenants while the case was pending. The court found that, at most, the Owner only established that use of the Property "would be more easily marketable and more profitable" if it obtained a variance to convert the three units to five units. The court concluded that such "mere economic hardship is insufficient as a matter of law to demonstrate the unnecessary hardship required for a variance."

See also: *German v. Zoning Bd. of Adjustment*, 41 A.3d 947 (Pa. Commw. Ct. 2012).

See also: *Marshall v. City of Philadelphia*, 626 Pa. 385, 97 A.3d 323 (2014).

Special Exception—Town planning commission denies special exception application, finding applicant failed to demonstrate streets were adequate to support anticipated traffic

Applicant appeals, suggesting commission improperly based denial on speculation and not expert opinion or fact

Citation: *American Institute for Neuro-Integrative Development, Inc. v. Town Plan and Zoning Commission of Town of Fairfield*, 189 Conn. App. 332, 2019 WL 1760081 (2019)

CONNECTICUT (04/23/19)—This case addressed the issue of whether a plan and zoning commission properly denied a special exception application.

The Background/Facts: American Institute for Neuro-Integrative Development, Inc. ("AINID") is a nonprofit corporation. AINID owned property (the "Property") in the Town of Fairfield (the "Town"). The Property was located in a residential zoning district, accessible by a private driveway off of a cul-de-sac. The Property contained two buildings: a former elementary school, which AINID occupied; and a former high school, which was vacant. In the former elementary school, AINID operated a private school that provided educational and therapeutic services to students aged two to 16 years of age with complex neurobiological based learning and developmental disorders. AINID sought to use the former high school to provide a private school offering continued educational, vocational, and other services to students aged 17 years and over (the "Next Steps Project").

In June 2015, AINID applied for a special exception

under the Town's zoning regulations to use part of the former high school for the Next Steps Project. The special exception application proposed designating six rooms in the building to host nonprofit agencies that would provide vocational training opportunities to young adults with severe learning disabilities.

The Town zoning regulations permitted by special exception the uses of "schools" and "charitable institutions" "not conducted as a business, or for profit" in residential districts in the Town. The zoning regulations set forth specific requirements to be met in order to obtain a special exception. Among those requirements was a requirement that "the streets serving the proposed use shall be adequate to carry prospective traffic and that provisions for entering or leaving the site have been made to avoid undue hazard or congestion."

At hearings on AINID's special exception application, neighbors voiced opposition to the application. They cited concerns about "possible adverse effects caused by the anticipated increased traffic volume in the neighborhood." The neighbors "surmised that [the Next Steps Project] traffic might both result in traffic congestion and further aggravate the unsafe traffic conditions that they claimed to experience." Also at the hearings, AINID presented the only expert to address prospective traffic impact. That expert concluded that "the roads adequately could accommodate the anticipated additional traffic generated by [the Next Steps Project]," that "from a traffic engineering perspective the road's not considered congested," and the road could "handle additional traffic."

In August 2015, the Town's Plan and Zoning Commission (the "PZC") denied AINID's special exception application. The PZC determined that AINID's application failed to comply with certain requirements set forth in the regulations. Specifically, the PZC found that AINID had "not demonstrated that the streets serving the proposed use shall be adequate to carry prospective traffic and that provisions for entering or leaving the site have been made to avoid undue hazard or congestion."

AINID appealed.

The superior court dismissed AINID's appeal, concluding that the PZC properly denied the special exception application.

AINID again appealed. AINID contended that it met the specific requirements for a special exception under the Town's zoning regulations. It argued that the PZC erred in denying its application based on "the neighbor's general traffic concerns."

DECISION: Judgment of superior court reversed, and matter remanded.

The Appellate Court of Connecticut agreed with AINID and held that the PZC lacked substantial evidence to support its decision to deny AINID's special exception application.

The court explained that when a use is allowed "only by special exception, the zoning commission is required to judge whether any concerns, such as parking or traffic congestion, would adversely impact the surrounding

neighborhood . . .” “The reason for this requirement,” further explained the court, “is that, although such uses are not as intrusive as commercial uses . . . they do generate parking and traffic problems that, if not properly planned for, might undermine the residential character of the neighborhood . . .” Thus, unlike with a permitted use, “there is no presumption that a specially permitted use, or the traffic that it will generate, necessarily is compatible with any particular neighborhood within the zoning district,” said the court.

Here, with regard to neighborhood compatibility, the zoning regulation required special exception applicants such as AINIDs to demonstrate that the streets serving the proposed use were adequate to “avoid undue hazard or congestion.” Accordingly, the court reviewed the record as to the adequacy of the streets to carry the prospective Next Steps Project traffic and whether the record supported the PZC conclusion that prospective traffic would result in “undue hazard . . . or congestion.”

The court explained that with regard to things such as traffic impacts “expert testimony may be required [since] the question involved goes beyond the ordinary knowledge and expertise of the trier of fact” (i.e., here the PZC). Accordingly, the court noted that “[u]nless presented with evidence that undermines either the credibility or the ultimate conclusions of an expert, the [PZC] must credit expert testimony.” And, here, AINID’s expert traffic engineer was the only expert to address any prospective traffic impact. While the neighbors surmised that the Next Steps Project might result in traffic congestion and unsafe traffic conditions, the court found this was “speculation” about the “mere possibility” of adverse effects, which did “not constitute substantial evidence.” Since the PZC’s denial of AINID’s special exception application relied on the neighbor’s concerns about potential adverse effects, which were “not reasonably supported by the record,” the court concluded that the PZC had improperly concluded that AINID had not satisfied the zoning regulation traffic requirements.

See also: *Gevers v. Planning and Zoning Com’n of Town of North Canaan*, 94 Conn. App. 478, 892 A.2d 979 (2006).

Use Variance—Zoning board grants use variance with conditions, including on hours of operation of business

Applicant argues such conditions are unreasonable and unauthorized

Citation: *W.J. Menkins Holdings, LLC v. Douglass Township*, 2019 WL 1940352 (Pa. Commw. Ct. 2019)

PENNSYLVANIA (05/02/19)—This case addressed the

issue of whether a zoning hearing board’s conditions for a variance—including limiting hours of operation and requiring land use development approval—were “authorized and reasonable.”

The Background/Facts: W.J. Menkins Holdings, LLC (“Menkins”) owned property (the “Property”) in Douglass Township (the “Township”). The Property was located in the Township’s Village Commercial (“VC”) Zoning District. The Property was improved with a single-family residence and a five-bay garage/office. The prior owners of the Property had obtained a zoning variance from the Township to operate an electrical contracting business on the Property. Menkins was using the Property to operate a quarry trucking business, which largely involved employee personal vehicles and company dump trucks coming and going from the Property between 1:00 a.m. and 4:00 p.m.

After the Township contacted Menkins about zoning violations, Menkins applied for a zoning permit to change the Property’s use from an electrical contracting business to a “hauling business.” The Township’s zoning enforcement officer denied Menkins’ zoning permit application because “[a] truck hauling businesses [was] not a permitted use in the [Township’s VC] Zoning District . . .”

Menkins then appealed to the Township’s Zoning Hearing Board (“ZHB”) seeking, among other things, a use variance. The ZHB granted Menkins’ use variance subject to conditions. Among those conditions were: (1) limits on the hours of operation of the hauling use to between 6:00 a.m. and 6:00 p.m. Monday through Friday; and (2) a requirement that Menkins apply for and obtain “final land development approval.”

Menkins appealed the ZHB conditions to superior court. Menkins argued that the conditions were “unreasonable and/or without authority.”

The trial court affirmed the ZHB’s decision.

Menkins appealed.

DECISION: Judgment of Court of Common Pleas affirmed in part and reversed in part.

The Commonwealth Court of Pennsylvania held that the ZHB’s variance condition limiting hours of operation for the hauling use was “authorized and reasonable,” but the condition requiring Menkins to apply for and obtain land use development approval was not.

In so holding, the court explained that Menkins had properly applied for a new variance since it was altering the use granted by variance (i.e., the electrical contracting business use). The court explained that in seeking the variance, Menkins had to demonstrate “both unnecessary hardship if the variance [were] denied and that the proposed variance [would not be] contrary to the public interest.” The Township Zoning Ordinance provided more specificity on the burden of proof Menkins had to meet to obtain a variance.

With regard to the conditions imposed by the ZHB, the court explained that state law—the Pennsylvania Municipalities Planning Code (the “MPC”)—authorized a zoning hearing board, in granting any variance, to “attach such

reasonable conditions and safeguards as it may deem necessary to implement the purposes of [the MPC] and the [applicable] zoning ordinances.” (See P.S. § 10910.2(b).) The court further explained that any such conditions “must bear a reasonable relation to the protection of the public interest . . . and be reasonable under the facts of the case.” The court said the ability to impose such conditions was “an extension of the [zoning hearing board’s] power to deny a variance where, though a hardship has been established, it has not been shown to the [zoning hearing board’s] satisfaction that the proposed use would not be adverse to the public interest.” “‘Since a zoning [hearing] board has power to deny an application where the evidence shows that it would be contrary to the public interest, it necessarily possesses the lesser power to impose restrictions on the permit designed to eliminate its objectionable features,’ ” said the court.

Here, the court found that ZHB had determined that Menkins had established unique physical circumstances peculiar to the Property that Menkins did not create and which did not lend themselves to another permitted use in the VC Zoning District—thus warranting a use variance under the Township’s Zoning Ordinance. However, the ZHB had also determined that the change in use sought by Menkins would impact the neighborhood and could only be permitted with conditions that would limit the detrimental effects on the public interest. The court concluded that the condition limiting hours of operation of the hauling use was supported by evidence that noise from the operation of dump trucks had negatively impacted the surrounding property owners. Accordingly, the court concluded that the ZHB was “authorized to impose reasonable conditions necessary to minimize or neutralize the intrusion on the neighborhood.” In particular, the court concluded that the ZHB could “impose reasonable limitations on operating hours” because such limitation would make the hauling use more compatible with the VC Zoning District. Because the condition was consistent with the Zoning Ordinance/MPC-imposed authority to safeguard the public’s health, safety, and welfare, and was supported by the record evidence, the court concluded that it was reasonable and the ZHB did “not abuse its discretion in imposing it.”

The court, however, also concluded that the variance condition requiring Menkins to obtain land development approval was not authorized and reasonable because it was not supported by substantial evidence, but rather was based on speculation. Specifically, the condition was meant to alleviate the speculative concern that the washing of dump trucks might contaminate neighboring property—a concern that the ZHB had concluded a land development plan would address. Moreover, the court found that a land development plan was only required by the Township Zoning Ordinance for “improvement to any lot, parcel, or tract of land.” Thus, the court found that the ZHB lacked authority to require Menkins’ compliance with land use development regulations as a variance approval condition. Accordingly, because this condition was not supported by the Zoning Ordinance/MPC or the record, the court concluded it was not reasonable, and the ZHB abused its discretion by imposing it.

See also: *Van Sciver v. Zoning Bd. of Adjustment of Philadelphia*, 396 Pa. 646, 152 A.2d 717 (1959).

See also: *Fifty-Fourth St. Center, Inc. v. Zoning Bd. of Adjustment*, 395 Pa. 338, 150 A.2d 335 (1959).

Standing—Objector to conditional use application submits a letter of objection to board but does not appear at hearing

When objector later challenges board approval of the application, applicant argues objector lacks standing because solely submitting a letter of objection does not grant party status

Citation: *Coppola v. Smith Township Board of Supervisors*, 2019 WL 1940357 (Pa. Commw. Ct. 2019)

PENNSYLVANIA (05/02/19)—This case addressed the issue of whether an objector to a conditional use application obtained party status for appeal purposes (of the board of supervisor’s decision to grant the conditional use) solely by submitting a letter to the board of supervisors setting forth her objections to the application.

The Background/Facts: In April 2017, MarkWest Liberty Midstream & Resources, LLC (“MarkWest”) submitted a conditional use application to the Board of Supervisors (the “Board”) of Smith Township (the “Township”). MarkWest’s application sought to construct a natural gas processing facility on property it owned in a rural residential zoning district in the Township.

The Board held two hearings on MarkWest’s conditional use application. Susan Coppola (“Coppola”) did not personally appear at the hearings, but submitted a letter to the Board, setting forth her objections to MarkWest’s proposed conditional use. The Board and MarkWest received the letter, which contained a “thorough discussion of the factual and legal issues” and “raised concerns” for the Board’s consideration. Coppola did not request her letter be made part of the record, and it was not made part of the record by the Board.

Eventually, the Board granted MarkWest’s conditional use application. Coppola appealed the Board’s decision to the trial court. MarkWest filed a motion to quash Coppola’s appeal, arguing that since Coppola failed to make an appearance before the Board and was not a person affected by the application, she lacked standing (i.e., the legal right) to bring the action.

In order to have standing to appeal a local governing body’s decision, an individual must be a “party” to the

underlying proceedings. Here, standing was governed by the Pennsylvania Municipalities Planning Code (the “MPC”) and the Smith Township Ordinance (the “Township Zoning Ordinance”). Section 908(3) of the MPC provides that parties to a hearing include “any person affected by the application who has made timely appearance of record before the board” It also provides that “[t]he board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.” The Township Zoning Ordinance contained similar provisions. And, here, the Board had not established specified procedures or a form for obtaining party status in a land use matter.

In support of its motion to quash, MarkWest argued that Coppola’s “mere submission of a letter to the [Board] was not a sufficient appearance on the record to preserve her standing and right to appeal the [Board’s] decision to the trial court.” MarkWest asserted that because Coppola did not appear before the Board, and because her letter was not part of the record, it deprived MarkWest of its right to due process because Coppola’s allegations avoided cross-examination. MarkWest also asserted a policy argument that if objectors could simply submit letters to confer party status, there would be no incentive for the public to actively participate in zoning application hearings.

Coppola maintained that her detailed letter setting forth her concerns and objections was sufficient to confer party status on her under the MPC and Township zoning ordinance. She also presented a policy argument: that allowing party status (and the right to appeal) to those who submit letters of objection in land use proceedings would grant affected landowners the ability to participate when they are incapable of in-person attendance.

The trial court denied MarkWest’s motion to quash. It concluded that although Coppola’s letter was not made part of the record, her factual and legal concerns were made apparent to the Board for the Board’s consideration. In other words, the trial court determined that “for all practical purposes” Coppola’s concerns were “voiced in a timely appearance of record before the [Board].” The trial court placed responsibility on the Board for failing to inform Coppola that the letter “would not be considered or made part of the record.”

MarkWest appealed

DECISION: Judgment of Common Pleas Court vacated, and matter remanded.

The Commonwealth Court of Pennsylvania held that Coppola did not have standing to appeal the Board’s decision to court because she was not a party to the land use proceedings. The court explained that this was because, as a matter of law under section 908(3) of the MPC, the Board could not consider Coppola’s letter in its deliberations because it was not made part of the record at the hearings on MarkWest’s conditional use application. Agreeing with MarkWest’s arguments, the court reasoned that “letters to the [B]oard that are not made part of the record deprive other parties of the opportunity to answer or contest the matters they contain.” Further, the court

explained that “such communications” that are outside of the record may not only not be considered by the Board in its deliberations, but are also inadequate to preserve issues for appellate review.

Still, the court emphasized that “primary responsibility for assuring compliance with proper procedures and ensuring all parties have a right to be heard lies with the [Board].” Finding Coppola acted in good faith and complied with rules established by the Board (i.e., there were no Board-specified procedures or a form for obtaining party status in a land use matter in the Township), the court remanded for a supplemental hearing before the Board at which Coppola’s written objections would be made part of the record and other parties would have an opportunity to respond.

See also: *Gateside-Queensgate Co. v. Delaware Petroleum Co.*, 134 Pa. Commw. 603, 580 A.2d 443 (1990).

Case Note:

The Commonwealth Court of Pennsylvania’s decision here overrules Orie v. Zoning Hearing Bd. of Borough of Beaver, 767 A.2d 623 (Pa. Commw. Ct. 2001) (which had held that objectors had standing to appeal a board decision where they sent a letter to the board expressing their concerns regarding an applicant’s request for zoning relief). Here, the court cited, and were persuaded by, the dissenting opinion in *Orie*.

Fees—School district imposes impact fees on housing development for agricultural employees only, without dependents

Developer asserts fee application lacks statutorily required reasonable relationship to development project since adult-only development would not generate new students

Citation: *Tanimura & Antle Fresh Foods, Inc. v. Salinas Union High School District*, 34 Cal. App. 5th 775, 246 Cal. Rptr. 3d 622 (6th Dist. 2019)

CALIFORNIA (04/26/19)—This case addressed the issue of whether a school district acted reasonably in imposing school impact fees on a new residential development project intended to house adult seasonal farmworkers. More specifically, the case addressed whether a school district was required to consider agricultural employee-housing as a distinct “type” of development within the meaning of the California Mitigation Fee Act.

The Background/Facts: Tanimura & Antle Fresh

Foods, Inc. (“T&A”) sought to develop a 100-unit agricultural employee housing complex (the “Project”) in Monterey County (the “County”) for “agricultural employees only, without dependents.” The Project was located within the boundaries of the Salinas Union High School District (the “District”). In September 2015, the County Board of Supervisors (the “Board”) approved a combined development permit for the Project. The District imposed on the Project a “Level 2” school impact fee, which applied to new residential construction in the area. T&A challenged the fee as unreasonable. T&A contended that since the Project would house agricultural employees only, without dependents, it would not generate new students for the district. T&A paid the school impact fee of \$292,210 under protest, and then filed a legal action in superior court seeking declaratory relief and a refund of the fee paid, plus interest.

In court, T&A again argued that “to impose fees on a project that does not burden schools is contrary to the reasonable relationship requirement, which evolved as a principle of takings law to protect landowners and private developers from fees imposed as a condition of development that bear little or no relationship to the impact on public facilities.”

The trial court agreed with T&A, finding that there was “no reasonable relationship” between the fee and the Project’s impact on school enrollment. It granted the T&A’s petition for writ of mandate to refund the fees.

The District appealed. The District argued that the authorizing statutes—the Mitigation Fee Act (Cal. Gov. Code §§ 66000 through 66003) and other statutes governing the imposition of school impact fees on private development projects (Ed. Code, § 17620; Gov. Code, §§ 65995, 65995.5, 65995.7)—did “not require that school districts anticipate and analyze specific use cases for subtypes of residential housing, e.g., adult employees only.” “Rather,” argued the District, “the law requires [only] a reasonable relationship between the fee’s use, the need for the school facilities, and the type of development project—in this case, residential.”

DECISION: Judgment of superior court reversed.

Agreeing with the District, the Court of Appeal, Sixth District, California, held that “the statutes governing the imposition of school impact fees do not require a school district to separately analyze the impact of a unique subtype of residential construction not contemplated in the statute”—such as agricultural employee-housing seen here. Thus, the court concluded that the District here “properly determined a reasonable relationship between the fee imposed and new residential construction as the type of development.”

In so holding, the court noted that, as T&A had argued, the language of the Mitigation Fee Act required a “reasonable relationship” between the type of development project, the fee’s user, and the need for public facilities. (See Cal. Gov. Code §§ 66000, subd. (b), 66001, subd. (a)(3) & (4).) Combining this requirement of the Mitigation Fee Act, and the language of the state statutes authorizing a school district to levy fees on new construction in its ser-

vice area for school facilities to accommodate a growing student population—the court found that “a school district must determine the reasonable relationship required under the Mitigation Fee Act.”

In analyzing whether there was such a reasonable relationship here between the proposed Project and the fee imposed by the District on T&A, the court first “dispel[led] the notion that T&A’s intent not to house children in the proposed [P]roject dominate[d] the reasonable relationship analysis.” The court said it is not the developer’s stated intent that determines project “type” for purposes of the reasonable relationship analysis under the applicable statutes, but rather it is the “recorded terms of government agency approval”—here the Board’s combined development project permit for the Project.

Here, the Board had approved the Project with a description that the development was for “agricultural employees only without dependents.” T&A had argued that the District was required to separately analyze the projected impact of agricultural employee-only housing on school facilities as a “type” of residential development under the reasonable relationship test. T&A contended that “the District’s needs analysis failed to establish the requisite reasonable relationship because it neither addressed ‘a type of residential project that [would] not allow children’ nor proposed a method to estimate whether such a project ‘[would] in fact generate additional students.’”

The court, however, rejected T&A’s argument. Looking at the language of the Mitigation Act, the court found that, in the context of school impact fees, the “type of development project on which the fee is imposed” means “at a minimum, residential, commercial, or industrial construction.” (See Cal. Gov. Code §§ 65995, subd. (d) and 66001, subd. (a)(3) and Ed. Code § 17620.) The court concluded that “to adopt T&A’s position would have the practical effect of requiring a school district to expand its needs analysis to address the projected impact on school facilities of undefined, variant subtypes of residential construction not contemplated in the statute.” The court found such a consequence inconsistent with the purpose of the Mitigation Fee Act insofar as the Act enabled “the imposition of quasi-legislative fees that are applied prospectively.” The court said even though there was a “strained . . . connection” in the application of the fee to T&A’s “adults-only project,” there was no other way to read the governing statutes. Thus, the court concluded that, based on its review of the applicable statutes, the District “was not required to anticipate and analyze agricultural employee-only housing (as a distinct subtype of residential housing) in the school facilities needs analysis under section 65995.6 for purposes of satisfying the reasonable relationship requirement under section 66001, subdivision (a).”

The court further concluded that the District did not act arbitrarily in imposing the resulting fee on T&A’s Project. The court said that since the statutory scheme did not require separate analysis of “subtypes” of residential development not contemplated by the statute, “the Dis-

trict's needs analysis adequately determined a reasonable relationship between the Level 2 fee's use, the need for school facilities, and new residential development in the District." Thus, the court concluded that the imposition of the Level 2 fee was not arbitrary or entirely lacking in evidentiary support for failing to account for the actual impact of T&A's adults-only project, because nothing in the statute required the school district imposing a quasi-legislative fee to justify its action based on a project's actual impact.

See also: *Garrick Development Co. v. Hayward Unified School Dist.*, 3 Cal. App. 4th 320, 4 Cal. Rptr. 2d 897, 72 Ed. Law Rep. 913 (1st Dist. 1992).

See also: *Loyola Marymount University v. Los Angeles Unified School Dist.*, 45 Cal. App. 4th 1256, 53 Cal. Rptr. 2d 424, 109 Ed. Law Rep. 1323 (2d Dist. 1996).

See also: *Warmington Old Town Associates, L.P. v. Tustin Unified School Dist.*, 101 Cal. App. 4th 840, 124 Cal. Rptr. 2d 744, 168 Ed. Law Rep. 875 (4th Dist. 2002).

See also: *Cresta Bella, LP v. Poway Unified School Dist.*, 218 Cal. App. 4th 438, 160 Cal. Rptr. 3d 437, 295 Ed. Law Rep. 706 (4th Dist. 2013).

Zoning News from Around the Nation

ILLINOIS

A new state law (HB2988) now authorizes counties and municipalities to establish standards for developing wind farms; townships will no longer have authority in the process. The new law is meant to "streamline" zoning of wind farms.

Source: *Illinois Public Media*; <https://will.illinois.edu>

MASSACHUSETTS

Governor Baker has filed a bill—H.4075—that would allow communities to adopt zoning regulations through a simple majority vote of a governmental body, such as city council or town meeting. Current state law requires a two-thirds vote for zoning changes.

Source: *NECN*; www.necn.com

MICHIGAN

Pending House Bill 4046 would allow short-term rental housing use as a permitted use in all residential zoning districts.

Source: *Michigan Legislature*; www.legislature.mi.gov

Ypsilanti Township's Board of Trustees recently approved an ordinance that puts a temporary moratorium on issuing licenses for recreational marijuana businesses. In issuing the moratorium, the Board of Trustees cited to the failure of the State of Michigan to yet have established rules or guidelines for such businesses. The temporary moratorium is set to expire on June 30th of 2020.

Source: *WEMU*; www.wemu.org

OREGON

House Bill 2001 would increase housing density in all cities in the state that have a population above 25,000 by allowing developers to build up to four units of attached housing, cottage clusters and townhouses in areas that are currently zoned exclusively for single-family homes. The bill would require smaller cities—with a population between 10,000 and 25,000—to allow duplexes in single-family zones. Supporters of the bill say it would address housing affordability.

Source: *OPB News*; www.opb.org

Zoning Bulletin

in this issue:

Variance—City denied owners of agriculturally-zoned land a variance to continue their nonconforming lease of buildings for commercial enterprise storage

1

Short-term Rental/Nonconforming Use—Property owner argues that township is equitably estopped from enforcing zoning ordinances against her, prohibiting her short-term rental of property

3

Validity of Ordinance/Wind Energy Use—As county drafted wind energy ordinance, renewable energy companies provided suggestions on content of regulation

4

Districts/Zoning Powers—After city council designates area as historic district, residents appeal alleging violation of city charter

5

Solar Panel Arrays/Application of Zoning Ordinance—Landowners appeal town planning board approval of zoning resolutions related to solar arrays

6

Zoning News from Around the Nation

7

Variance—City denied owners of agriculturally-zoned land a variance to continue their nonconforming lease of buildings for commercial enterprise storage

Landowners argue entitlement to variance based on “unnecessary hardship and lost income”

Citation: *Bruning v. City of Omaha Zoning Board of Appeals*, 303 Neb. 146, 927 N.W.2d 366 (2019)

NEBRASKA (05/17/19)—This case addressed the issue of whether landowners of agriculturally-zoned property were entitled to a variance to use their property to lease storage buildings to commercial enterprises.

The Background/Facts: In 1979, Sharon Bruning and Robert Bruning (the “Brunings”) acquired a 4.66-acre parcel of land (the “Property”) in the City of Omaha (the “City”). The Brunings’ Property was zoned for agricultural use. This zoning designation allowed for the following permitted uses of the Property: horticulture, single family residential, park and recreation services, kennels, and stables. It also allowed for conditional or special permit uses such as campgrounds, religious assembly, agricultural sales and service, sports and recreation, and veterinary services.

From 1979 until 2004, the Brunings operated seeding businesses on the Property. During that time period, the Brunings improved the property with several buildings for their businesses. Finally, in 2004, the Brunings sold the seeding businesses. Thereafter, they rented to the purchaser of the seeding businesses some of the buildings on the Property for use as storage. They also rented buildings on the Property for storage use to landscaping businesses, private car collections, and a local boiler repair business. No customers of those businesses were received on the Property, and no boiler repair work was performed on the Property.

In 2015, after receiving a complaint, the City concluded that the Brunings’ Property was being used for activities not permitted by City ordinance in an agricultural district. The Brunings then applied for a variance, requesting waivers that would allow them to continue to use the Property for storage for commercial businesses.



The City's Zoning Board of Appeals ("ZBA") denied the variance. In doing so, the ZBA expressed concern that "granting waivers would be a significant deviation from the zoning plan, and not merely reasonable adjustments."

The Brunings appealed to the district court.

The district court affirmed the ZBA's variance denial. The court concluded that although the Property was zoned agricultural, the Brunings "unilaterally altered the use of the Property by leasing buildings to others, a commercial activity."

The Brunings again appealed. On appeal, they argued that they were entitled to a variance because they had "invested in the improvements [to the Property] and would suffer unnecessary hardship and lost income if they return[ed] the land to agricultural use."

DECISION: Judgment of District Court affirmed.

The Supreme Court of Nebraska concluded that the Brunings' situation "did not warrant a variance under [Nebraska statutory law—] Neb. Rev. Stat. § 14-411" because the factual circumstances here were "insufficient to justify a finding of hardship."

The court explained that Nebraska statutory law—Neb. Rev. Stat. § 14-411—authorized city zoning boards of appeals to grant zoning variances "[w]here there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of [the city zoning] ordinance . . . [such] that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done."

Here, the court noted that the Brunings' claim relied on "unnecessary hardships, which generally address a use prohibited by an ordinance," while the Brunings did not claim "practical difficulties, which generally address improvements which conflict with restrictions." The court also, however, noted that the Brunings' assertion that they were entitled to a variance due to unnecessary hardship implicated "the desire for increased profits and self-created hardships"—which the court said were insufficient factual circumstances to justify a finding of hardship. More specifically, the court said that maximizing profits (through the lease of the Property for commercial enterprise storage), although a "laudable" goal, did "not provide a basis for 'a variance from zoning regulations with which the rest of the community must live.'" The court further noted that any hardship claimed by the Brunings here was "self-created" in that it was caused by their affirmative actions and could have been avoided through a different course of action. "When the Brunings developed and began leasing the Property to others, ultimately expanding to numerous separate businesses and uses, their activities became incompatible with agricultural use," said the court. Moreover, the court found that the denial of the variance did not deprive the Brunings of all beneficial or reasonable use of their Property as would constitute a "legally cognizable hardship." Rather, the Brunings could use their Property for any of the permitted and specially permitted uses allowed in the agricultural zone by the City's zoning ordinance.

See also: *Rousseau v. Zoning Bd. of Appeals of Omaha*, 17 Neb. App. 469, 764 N.W.2d 130, 137 (2009).

Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS®

610 Opperman Drive
P.O. Box 64526
St. Paul, MN 55164-0526
1-800-229-2084

email: west.customerservice@thomsonreuters.com

ISSN 0514-7905

©2019 Thomson Reuters

All Rights Reserved

Quinlan™ is a Thomson Reuters brand

Short-term Rental/Nonconforming Use— Property owner argues that township is equitably estopped from enforcing zoning ordinances against her, prohibiting her short-term rental of property

She alleges town officials told her short-term rental use of her property was lawful and argues she has a lawful nonconforming use

Citation: *Reaume v. Township of Spring Lake*, 2019 WL 2195030 (Mich. Ct. App. 2019)

MICHIGAN (05/21/19)—This case addressed the issue of whether a township was estopped from enforcing zoning ordinances to preclude an owner from using her property for short-term rentals based on the owner's allegations that the township had assured her that short-term rentals were lawful. The case also addressed whether an owner's use of property as a short-term rental prior to the adoption of ordinances related to short-term rentals was lawful, thus entitling the owner to continue using the property for short-term rentals as a nonconforming use.

The Background/Facts: Susan Reaume ("Reaume") owned a home (the "Property") in an "R-1 Low Density Residential" zoning district in the Township of Spring Lake (the "Township"). Reaume used the Property as her full-time residence until 2015. In 2015, Reaume made "substantial improvements" to the Property, and in 2015 and 2016 Reaume rented her Property seasonally as a short-term vacation rental. Reaume maintained that she did so only after contacting the Township and receiving a response from Connie Meiste ("Meiste") that the Township "had no restrictions on short[-]term or long[-]term rentals."

In December 2016, the Township adopted two ordinances that impacted short-term rentals in the R-1 zone. The ordinances prohibited short-term rentals in the R-1 zone, but allowed "limited short-term rentals" if registered and licensed for rental activity. "[L]imited short-term rentals" were defined as "[t]he rental of any Dwelling for any one or two rental periods of up to 14 days, not to exceed 14 days total in a calendar year."

After the ordinances were adopted, Reaume applied to the Township for a short-term rental license. The Township denied the license request. Reaume appealed and the

Township's Zoning Board of Appeals (the "ZBA") denied the appeal. Reaume then appealed to the trial court, which affirmed the Township's denial of the license. Reaume then sought leave to appeal in the Court of Appeals of Michigan, which was granted.

On appeal, Reaume argued that the Township was equitably estopped from enforcing the zoning ordinances against her because her use was "grandfathered" since the Township had previously communicated to her that her use of her Property for short-term rentals was lawful and she had expended considerable sums of money on modification to her Property in reliance upon the Township's assurances that short-term rentals were lawful in the R-1 zoning district. Reaume also argued that her use of the Property for short-term rentals was a lawful nonconforming use because the use was lawful prior to the adoption of the ordinances based on the definition of "dwelling" in the Township's zoning ordinance.

DECISION: Judgment of Circuit Court affirmed.

Rejecting Reaume's arguments, the Court of Appeals of Michigan held that Reaume's use of her Property for short-term rentals was "never permitted under the Township's R-1 zoning," and was "not a prior nonconforming use because it was never lawful pursuant to the [Township's zoning] [o]rdinance."

In so concluding, the court first determined that the Township was not estopped from enforcing the zoning ordinances to preclude Reaume from using the property for short-term rentals. The court explained that "[a] municipality may, in some cases, be estopped from enforcement 'pursuant to the positive acts of municipal officials which induced [the property owner] to act in a certain manner, and where [the property owner] relied upon the official's actions by incurring a change of position or making expenditures in reliance upon the officials' actions.'" However, the court said a municipality could only be estopped under "exceptional circumstances," and could not be estopped "by unauthorized or illegal conduct by individual officers" or by "private advice offered by township officials." Here, the court found no evidence that Meiste had authority to bind the Township. The court also found that the failure of the Township's Zoning Administrator to enforce the zoning ordinance against Reaume for her use of her Property for short-term rentals in 2015 and 2016 did "not constitute approval of an otherwise illegal use," and "standing alone, [was] insufficient to preclude enforcement in the present."

Next, the court determined that Reaume's use of her Property for short-term rentals prior to the 2016 adoption of the relevant ordinances was "not lawful," and thus Reaume "was not entitled to continue using the [P]roperty [for short-term rentals] as a prior nonconforming use." The court explained that Michigan statutory law (MCL 125.3208(1)) and the Township's Zoning Ordinance both provided that if a use of a dwelling was lawful at the time of enactment of a zoning ordinance then that use could be continued as a nonconforming use. Again, the court found no merit to Reaume's contention

that the Township had determined that her use of her Property for short-term rentals was lawful. The court also rejected Reaume's contention that the Township zoning ordinance's definition of "dwelling" allowed for use of the Property as a short-term rental. Reading the definition as a whole, the court found that it "unambiguously exclude[d] transient or temporary rental occupation" in single-family dwellings like Reaume's. Since Reaume's short-term rental use of the Property was not permitted in the R-1 district at any time, the court concluded that Reaume was not entitled to continue that use as a prior nonconforming use.

See also: *Lyon Charter Twp. v. Petty*, 317 Mich. App. 482, 896 N.W.2d 477 (2016).

See also: *Parker v. West Bloomfield Tp.*, 60 Mich. App. 583, 231 N.W.2d 424 (1975).

Validity of Ordinance/ Wind Energy Use—As county drafted wind energy ordinance, renewable energy companies provided suggestions on content of regulation

After ordinance is adopted, landowners challenge the ordinance as illegal given renewable energy companies' input

Citation: *Mathis v. Palo Alto County Board of Supervisors*, 927 N.W.2d 191 (Iowa 2019)

IOWA (05/03/19)—This case addressed the issue of whether a wind energy ordinance was rendered illegal by the fact that renewable energy companies had provided input on the ordinance while it was being drafted and considered. The case also addressed the issue of whether a county's approval of a renewable energy company's application for approval of a wind-energy project was illegal since it was required to be filed by the "owner" of the project, but the applicant intended to transfer ownership.

The Background/Facts: Starting in 2016, Palo Alto County (the "County") began drafting a new zoning ordinance relating to wind energy turbines. During the drafting process, Invenergy, L.L.C. ("Invenergy") and MidAmerican Energy Company ("MidAmerican") offered suggestions and input on the draft ordinance. Invenergy was interested in developing a 170-turbine wind energy project in the County, which would be owned and operated by MidAmerican.

On August 11, 2016, the County Planning and Zoning Commission (the "Commission") finalized the draft ordinance. Invenergy and MidAmerican urged the County Board of Supervisors (the "Board") to reconsider some of the provisions in the Commission's draft ordinance. For example, Invenergy and MidAmerican proposed that the Board modify a proposed 2640-foot setback for wind energy turbines from permanent residential dwellings, contending that "a setback greater than 1500 feet 'would make it virtually impossible for Invenergy to move forward with the proposed project and [could] very well deter other wind development within the County.'"

In September 2016, the Board approved a modified wind energy ordinance. The ordinance incorporated a number—but not all—of Invenergy and MidAmerican's suggestions. The ordinance did include a modification to the required setback for turbines from residences from 2640-feet to 1500-feet.

In August 2017, Invenergy submitted an application for site plan review and approval for a 340-megawatt wind energy project, including 199 potential turbine locations. In October 2017, the Board granted conditional approval of the application.

In November 2017, County landowners (the "Landowners") filed an action in district court, asking the court to: (1) declare that the County wind energy ordinance was "arbitrary, capricious, unreasonable, void, and unenforceable" because Invenergy and MidAmerican wrote it; and (2) declare that approval of the site plan application should be set aside as illegal, arbitrary, capricious, unreasonable, and void because Invenergy, which submitted the request for application approval, was not the "Owner/Developer" of the project since Invenergy intended to transfer ownership of the project to MidAmerican and thus never intended to "operate" it.

Invenergy and MidAmerican intervened in the case as defendants.

Finding there were no material issues of fact and deciding the matter on the law alone, the district court issued summary judgment in favor of the Board, Invenergy and MidAmerican.

The Landowners appealed.

DECISION: Judgment of District Court affirmed.

The Supreme Court of Iowa was not persuaded by the Landowners' arguments. The court first held that the County wind energy ordinance was not rendered illegal by the fact that Invenergy and MidAmerican had provided input on the draft ordinance. The court said that "the mere fact that an ordinance incorporates one or more requests from a private party does not make the ordinance unlawful." The court noted that "[l]obbying our government is every citizen's constitutional right," and found that both the Landowners and the renewable energy companies had exercised that right here. (See Iowa Const. art. I, § 20.) Moreover, the court found that the Board here had not "merely rubberstamp[ed]" the renewable energy companies' requests for modifications to the draft

wind energy ordinance, but rather had considered the suggestions, accepted some but not all, with Board members educating themselves and making their own decisions. Accordingly, the court concluded that it found no basis for setting aside the County's wind energy ordinance as approved by the Board.

The court next held that the Board's approval of Invenergy's application was not rendered illegal by failure of Invenergy to substantially comply with the County ordinance's requirement that the "Owner/Developer" of the project submit the site plan approval application. Reading the ordinance in its entirety, the court concluded that an application for site plan approval would be "compliant if filed by the party or parties that own the project at the time of the application, with disclosure of any anticipated future transfer." The court found that substantial compliance occurred here, with Invenergy, in its application, seeking approval to transfer the permit, agreements, and other project assets and interests to MidAmerican.

See also: *Montgomery v. Bremer County Bd. of Sup'rs*, 299 N.W.2d 687 (Iowa 1980).

See also: *Obrecht v. Cerro Gordo County Zoning Bd. of Adjustment*, 494 N.W.2d 701 (Iowa 1993).

Case Note:

Invenergy was the parent company of Palo Alto Wind Energy, L.L.C. ("PAWE"). PAWE and Invenergy submitted the application for site plan review for the proposed wind energy project and it was PAWE that intended to transfer ownership of the property to MidAmerican. For simplicity, PAWE and Invenergy are referred to interchangeably as Invenergy in this case summary.

Case Note:

The Landowners brought additional claims that the Board acted arbitrarily and capriciously in a number of additional ways when it approved Invenergy's site plan application, but the court was unpersuaded by those allegations.

Districts/Zoning Powers— After city council designates area as historic district, residents appeal alleging violation of city charter

City argues city charter does not apply to historic district designation because such designation is not an exercise of city council's zoning powers under its charter to create "districts"

Citation: *O'Connell v. City Council of Denver*, 2019 COA 65, 2019 WL 2108760 (Colo. App. 2019)

COLORADO (05/02/19)—This case addressed the issue of whether the establishment of a historic district under a city's landmark preservation code was an exercise of the city council's zoning powers under its charter to create "districts."

The Background/Facts: In September 2017, the Denver City Council (the "City Council") designated a certain neighborhood in the City of Denver as a historic district (the "District"). Some property owners in that neighborhood, including Kevin O'Connell, Paul Hudgens, Carol Purdy, and Dee Hayes (collectively, the "Residents") opposed the historic district designation. The Residents sued the City Council and the City and County of Denver (hereinafter, collectively, the "City"). The Residents argued that the historic district designation violated the City Charter section 3.2.9(E).

As a home rule city, the City's Charter is effectively the City's constitution. City Charter section 3.2.9(B) gives the City Council the authority to create "[d]istricts of such manner, shape and area as may be deemed best suited to carry out the purposes of this Charter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land." Charter section 3.2.9(E) provides that those "regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed." It also provides that if a proposal to make such a change is opposed by the owners of at least 20% of the area included in the proposal, it requires at least 10 votes on the City Council to pass.

The Residents contended that owners of at least 20% of the area that was designated as the historic district opposed its designation. As such, they contended that it triggered the 10-vote requirement, and since there were only eight City Council votes in favor of the designation (and five against), the designation violated section 3.2.9(E).

The City moved to dismiss the Residents' claims. The

City argued that the Residents failed to state a plausible claim for relief because the Charter provision did not apply to historic district designation. More specifically, the City argued that historic district designations were not an exercise of zoning powers under the City Council's Charter section 3.2.9 powers. The City pointed out that the City Council enacted a zoning code pursuant to its section 3.2.9 powers, which was a separate section of the municipal code than the landmark preservation code that governed historic district creations. The City also argued that designating a historic district under the landmark preservation code could not be an exercise of the City Council's section 3.2.9 powers because it was instead an exercise of the City's police power to preserve the "general welfare." Finally, the City argued that historic districts were distinct from the districts referred to under section 3.2.9.

The district court agreed with the City that the Charter provision did not apply to historic district designation, and the court dismissed the Residents' claims.

The Residents appealed.

DECISION: Judgment of district court reversed and matter remanded.

Agreeing with the Residents, the Colorado Court of Appeals, Division II, held that a historic district designation is an exercise of the City Council's Charter section 3.2.9 powers. As such, the court agreed that the designation had to comply with section 3.2.9's 10-vote requirement.

In so concluding, the court noted that, "[b]y its clear language, the landmark preservation code regulate[d] the same activity that Charter section 3.2.9(B) authorize[d] the City Council to regulate." Charter section 3.2.9(B) empowered the City Council to regulate or restrict the "erection, construction, reconstruction, alteration, repair or use of buildings, structures or land." And the City's landmark preservation code required a landmark preservation commission permit for "[a]lteration of, reconstruction of, or addition to the exterior of any structure" designated for preservation . . . [d]emolition of any structure [designated for preservation] . . . or "[c]onstruction of, erection of, or any addition to any structure upon any land [designated for preservation" Therefore, the court concluded that by creating a historic district under the landmark preservation code, the City Council was exercising its section 3.2.9 powers.

In reaching its conclusion, the court was "not persuaded otherwise by any of [the City's] arguments." The court found it irrelevant that the zoning code and landmark preservation code were in separate sections of the municipal code. The court found no reason why both codes could not be separate exercises of the City Council's section 3.2.9 powers. The court also determined that the similarities in the purposes of the City's police power and the landmark preservation code (i.e., to preserve the general welfare) did "not distinguish the landmark preservation powers from the 3.2.9 powers." Indeed, the court found that the City Council's section 3.2.9 powers also

existed for the "purpose of promoting . . . the general welfare of the community." (Charter § 3.2.9(A).) Finally, the court rejected the Residents' argument that historic districts were distinct from "districts" referred to in section 3.2.9. The court found that section 3.2.9 did not define "districts" but simply permitted the City Council to divide the City and County into "[d]istricts of such manner, shape and area as may be deemed best suited to carry out the purposes of [the] Charter." (Charter § 3.2.9(B).) The court found that historic districts designated under the landmark preservation code "certainly" seemed to fit that description.

In summary, the court concluded that "Charter section 3.2.9 clearly authorizes the City Council to draw districts and regulate and restrict what can be done to buildings, structures, and land within those districts," which creating a historic district pursuant to the landmark preservation code does as it establishes "a new district and imposes regulations and restrictions on the activity described by Charter section 3.2.9."

See also: *Glenwood Post, a div. of Stauffer Communications, Inc. v. City of Glenwood Springs*, 731 P.2d 761 (Colo. App. 1986).

Case Note:

The court found that the Residents' complaint had failed to allege facts establishing that the creation of the District at issue here triggered the 10-vote requirement of Charter section 3.2.9(E) because the complaint failed to allege that the historic district designation "had any effect on existing regulations, restrictions, or boundaries." The court found that given the procedural circumstances here, the Residents should have an opportunity on remand "to cure the deficiency in their complaint, if they can."

Solar Panel Arrays/ Application of Zoning Ordinance—Landowners appeal town planning board approval of zoning resolutions related to solar arrays

Parties dispute whether solar arrays are "buildings" requiring frontage and access under town law

Citation: *Perkins v. Town of Dryden Planning Board*, 2019 WL 2127373 (N.Y. App. Div. 3d Dep't 2019)

NEW YORK (05/16/19)—This case addressed the issue of whether town zoning laws applied to installation of solar panel arrays.

The Background/Facts: SUN8 PDC LLC and Distributed Sun LLC (collectively, “SUN8”) leased farmland in the Town of Dryden (the “Town”) in order to construct five separate community solar projects. (A community solar project involves a group of solar arrays located at ground level in a central location that provides utility-bill credits to subscribers in the community.) SUN8 sought to divide the farmland into five separate lots and place one solar project on each lot. In 2017, the Town Board (the “Board”) granted SUN8 a special use permit and site plan approval and the Town’s Planning Board approved the preliminary subdivision plat. In 2018, the Town’s Planning Board approved two resolutions—one allowing for a common driveway to provide access to all five subdivision lots and one approving the final subdivision plat for the solar project.

Willow Glen Cemetery Association and Sarah Osmelowski (collectively, the “Opponents”) both owned land adjacent to the farmland on which SUN8 planned to construct the solar project. They brought a legal action against the Town’s Planning Board. Among other things, they alleged that the subdivision violated the frontage and access requirements of the Town Law § 280-a.

The Supreme Court determined that Town Law § 280-a was inapplicable because the solar arrays were not a “building” and thus not governed by that law.

The Opponents appealed.

DECISION: Judgment of Supreme Court affirmed.

The Supreme Court, Appellate Division, Third Department, New York, agreed that the Town Law § 280-a did not apply to SUN8’s installation of solar panel arrays.

In so concluding, the court looked to the language of Town Law § 280-a. As relevant here, the court found that Town Law § 280-a provided that “[n]o permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the official map or plan.” The Town Zoning Law defined “building” as “[a]ny [s]tructure where space, greater than 150 square feet in area, is covered or enclosed.” (Town Zoning Law art III). The Town Zoning Law defined “structure” as “[a]nything constructed or erected on the ground or with a fixed location on the ground or attached to something having a fixed location on the ground” and included “power generating equipment such as . . . solar panels.” (Town Zoning Law art III). The court determined that the solar arrays met the definition of structure, but not the definition of building, inasmuch as “they [were] not covered or enclosed.” Given that the solar project did not concern the erection of a building, the court concluded that Town Law § 280-a did not apply here. More specifically, the court concluded that the Opponents’ claims that the Town Planning Board’s resolutions violated Town Law § 280-a were “devoid of merit.”

Zoning News from Around the Nation

CALIFORNIA

The state Assembly recently passed Assembly Bill 1783—known as the Farmworker Housing Act of 2019. Among other things, the bill provides that qualifying farmworker housing projects are “exempt from the usual zoning requirements and subject to a streamlined review from local jurisdictions.” The bill also authorizes farmworker housing to be constructed “on land zoned for agricultural use without needing to be rezoned as residential.” Further, the bill “speed[s] the path to approval for qualifying farmworker housing projects by giving local jurisdictions no longer than 90 days to decide whether a project meets the requirements set out by the bill.”

Source: *Santa Cruz Sentinel*; www.santacruzsentinel.com

FLORIDA

The state Legislature recently passed House Bill 7103, which “restricts how local governments can implement inclusionary zoning regulations to require developers set aside a fraction of units for low income residents.” Under the bill, local governments can still implement inclusionary zoning, but “costs to the developer associated with setting aside such housing must be fully offset by incentives like bonuses or waived fees.” Another provision in the bill would require those who lose development disputes in court pay both parties’ legal fees. Reportedly, as of early June 2019, environmental groups were asking Governor Ron DeSantis to veto the bill, contending that latter provision could “stop advocates from suing to protect the Everglades in the future.”

Source: *Tampa Bay Times*; www.tampabay.com

ILLINOIS

On May 31, 2019, the Illinois General Assembly adopted the Cannabis Regulation and Tax Act (the Act), which legalizes the sale, possession and use of marijuana for recreational purposes by adults over age 21 starting January 1, 2020. The bill awaits signature by the Governor J.B. Pritzker. Among other things, under the bill, “[p]rimary licensing authority for cannabis businesses is reserved to the state, while local governments are granted limited authority to regulate cannabis businesses through zoning.” More specifically, the Act “declares that the regulation of recreational cannabis sale and consumption is a matter of statewide concern, effectively preempting local governments, including home-rule units, from imposing regulations that conflict with, or are more stringent than, the Act.” Still, the Act allows a municipality to “prohibit or significantly limit” the location of cannabis businesses by ordinance. The bill also allows municipalities to “enact reasonable zoning regulations that are not in conflict with the Act.” Thus, municipalities could, for example, limit cannabis businesses to certain

zoning districts. The bill also “explicitly authorizes municipalities to impose limits on the ‘time, place, manner, and number’ of cannabis business by requiring the businesses to obtain conditional or special use permits. These limits must be reasonable and may not conflict with the requirements of the Act.”

Source: *Lexology*, “*Illinois Legislature Legalizes Recreational Marijuana*,” by Holland & Knight LLP; www.lexology.com

MICHIGAN

In late May 2019, the state House of Representatives passed House Bill 4095, which will “revise a law that prohibits local zoning codes from excluding a child foster care facility with six or fewer residents from being located in a residential neighborhood.” The bill would prohibit zoning ordinances that ban foster care homes with up to 10 residents if they are located on 20 acres or more.

Source: *Ionia Sentinel-Standard*; www.sentinel-standard.com

NEW YORK

The Town of Chatham is considering a proposed amendment to its zoning laws, which would require permitting for “all short-term rentals advertised on online platforms.” Under the proposal, short-term rental owners would “need to obtain a rental permit from the town code enforcement officer or planning board, depending on a number of factors that include how many days a year they plan to rent the home, whether they live in the home and where their home is located on the zoning map.” Under current zoning law, short-term rentals of homes are illegal.

Source: *HudsonValley360*; www.hudsonvalley360.com

PENNSYLVANIA

Bedminster Township is reportedly considering adoption of an agritourism ordinance. The ordinance would add to existing zoning laws an “agritourism” use for working farms. The new use “would allow farmers to hold events and have regular attractions, including farmers’ markets and agriculture classes.” Essentially the ordinance would allow farms to hold more than 20 different kinds of farming-related activities. However, agritourism would not be permitted as the farm’s primary use. As well, restrictions on the use would include: food or drink sales or other indoor commercial uses limited to no more than 50% of the farm’s floor space; outdoor events limited

to up to 30% of the “net site area”; large events restricted to farms of 20 or more acres; and small events allowed on farms of 10 or more acres. Setbacks restrictions and noise restrictions would also apply.

Source: *Bucks County Courier Times*; www.buckscountycouriertimes.com

The Philadelphia City Council is considering two zoning bills—one which “would establish a commission to reexamine the zoning code,” and the second which “would limit the ability of the Zoning Board of Adjustment to grant variances specifically for multifamily housing in new, specifically designated ‘Single Family Preservation Districts.’ ” Opponents reportedly contend that these proposals would negatively impact climate change by limiting increases on urban density.

Source: *The Philadelphia Inquirer*; www.inquirer.com

RHODE ISLAND

The state Senate Judiciary Committee recently voted in favor of a bill that would create “special economic development districts” to “streamline” the process of developing state-owned land. Among other things, the bill would give the I-195 Redevelopment District Commission the power over the I-195 Redevelopment District, “superseding local control on issues like zoning.” The bill would also enable the state General Assembly “to create new districts in the future on any state-owned land that’s more than 20 acres, excluding land controlled by the Department of Environmental Management.”

Source: *WPRI*; www.wpri.com

TEXAS

In late May 2019, House Bill 2439 was passed by the state Legislature and sent to Governor Greg Abbott for signature. Under the bill, “a governmental entity may not adopt or enforce a rule, charter, provision, ordinance, order or building code that prohibits or limits the use of building products or materials—approved for use by the national model code within the last three code cycles—in residential or commercial structures.” Opponents of the bill, including the City of Hudson Oaks, are asking the Governor to veto the bill, saying it would strip municipalities’ abilities to set building standards, and would “significantly change the character of the city’s residential subdivisions.”

Source: *Weatherford Democrat*; www.weatherforddemocrat.com

Zoning Bulletin

in this issue:

Time to Bring Action—Town settles zoning enforcement action, allowing illegal structure to remain in exchange for money 1

Evidence—Residents from one municipality testify against proposed natural gas well site in second municipality 3

Preemption/Variance—City requires stricter standards for area variances than state statute does 4

Nonconforming Use/Variance—10 years after development permit issues and church builds sanctuary, church seeks to construct a fellowship hall, despite current ordinance prohibiting increase in site's occupant load 6

Zoning News from Around the Nation 7

Time to Bring Action—Town settles zoning enforcement action, allowing illegal structure to remain in exchange for money

Abutting property owners bring enforcement action, seeking to have structure torn down, but their action is challenged as time-barred

Citation: *Barkan v. Zoning Board of Appeals of Truro*, 2019 WL 2306559 (Mass. Ct. App. 2019)

MASSACHUSETTS (05/30/19)—This case addressed the issue of whether abutters' action challenging the town's decision to not take zoning enforcement action against an illegal structure in deference to a cash settlement agreement that town officials privately negotiated with the structure's owners was either precluded because the abutters failed to appeal the issuance of the building permit in earlier proceedings or barred by a statute of repose.

The Background/Facts: In 2008, David Kline (the "Owners") sought to construct a new residence on a 9.11-acre parcel overlooking Cape Cod Bay in the Town of Truro (the "Town"). The Owners sought to convert an existing nonconforming cottage on the parcel into a studio and to construct a new 6,800 square foot home some 200 feet away. The Owners proposed the construction as an "alteration" of the existing cottage that would not increase the nonconforming nature of that structure. The Town building commissioner approved the building permit.

A group of individuals (the "Schiffenhaus Parties") appealed. The Town's Zoning Board of Appeals ("ZBA") affirmed the issuance of the building permit. The Schiffenhaus Parties again appealed, and eventually, the Appeals Court of Massachusetts held that the new house was not an "alteration" of the existing cottage and the building permit was invalid. By the time of the Appeals Court's ruling, the Owners had built the new 6,800 square foot house.

Eventually, the Schiffenhaus Parties settled with the Owners. Still, pursuant to the court decision finding the building permit invalid, Town officials chose to order the house removed. However, Town officials later settled with the Owners, and an agreement for judgment was approved by the Land Court judge, allowing the house to remain. Under that agreement, the Owners would pay the Town a total of \$3 Million.

Various individuals (the "Abutters") who were not parties to the Schiffenhaus



litigation then brought a legal action, seeking to have the Owners' 6,800 square foot house torn down. The Abutters challenged the Town's decision to not take enforcement action against the illegal 6,800 square foot house in deference to the settlement agreement the Town had negotiated with the Owners. The Abutters viewed the failure to take enforcement action as "the naked sale of enforcement forbearance for cash," and "a case of private money being used to buy zoning nonconformity."

The Owners sought to have the Abutters' action dismissed. A land court judge found that the Abutters' action was barred by the six-year statute of repose in Mass. Gen. L. c. 40A, § 7. That statute provides strict limitations periods for enforcement actions running from "the commencement of the alleged violation": a six-year limitations period for structures "erected in reliance upon a

building permit"; and a 10-year limitations period otherwise.

The judge, however, dismissed the Abutters' action based primarily on another ground—the judge's finding that the Abutters had "forfeited their right to seek enforcement regarding the 2008 zoning violation when they failed to appeal from the ZBA's original decision that had affirmed the building inspector's initial grant of the building permit."

The Court's Decision: Judgment of land court affirmed on other grounds.

The Appeals Court of Massachusetts, Suffolk, first held that, contrary to the land court judge's conclusions, the Abutters' enforcement action was not barred by the fact that they had not appealed the ZBA's original decision that affirmed the grant of the building permit to the Owners. The court explained that there were two judicial pathways that aggrieved parties could take in appealing zoning violations: (1) an appeal of the issuance of the permit to the local zoning board of appeals (pursuant to Mass. Gen. L. c. 40A, § 8); or (2) request the municipality to enforce the zoning bylaw (pursuant to Mass. Gen. L. c. 40A, § 7). Here, although the Abutters failed to pursue the first pathway, the court found that their action here was via the second pathway and thus was not barred by their failure to appeal the grant of the building permit.

Still, the court found that the Abutters' appeal was barred by the statute of repose. Finding that the Abutters had waived any claim to the longer, default 10-year statute of repose, and assuming the six-year statute of repose applied, the court held that the Abutters' action was barred because it was brought more than six years after construction of the 6,800 square foot house began. In so holding, the court rejected arguments raised by the Abutters, and determined that: (1) the six-year statute of repose applies to bar an action regardless of whether the property owner has used the structure for a full six years; and (2) the limitations period for the statute of repose begins to run upon "the commencement of the alleged violation" (Mass. Gen. L. c. 40A, § 7) (here, either the date the permit issued or the date that construction began—the court did not reach a conclusion as either would have exceeded the statute of repose's time limitation) and not when the building permit is adjudicated to be invalid.

See also: *Connors v. Annino*, 460 Mass. 790, 955 N.E.2d 905 (2011).

See also: *Gallivan v. Zoning Bd. of Appeals of Wellesley*, 71 Mass. App. Ct. 850, 887 N.E.2d 1087 (2008).

Case Note:

Although David Kline was the original owner that applied for the building permit in 2008, the ownership of the parcel changed hands several times thereafter. For simplicity here, all owners (from David Kline and onward through the litigation) of the parcel are referred to as "the Owners."

Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS®

610 Opperman Drive
P.O. Box 64526
St. Paul, MN 55164-0526
1-800-229-2084
email: west.customerservice@thomsonreuters.com
ISSN 0514-7905
©2019 Thomson Reuters
All Rights Reserved
Quinlan™ is a Thomson Reuters brand

Evidence—Residents from one municipality testify against proposed natural gas well site in second municipality

Applicant challenges such testimony as “general” and “speculative” and not “relevant and probative” as to the specific gas well at issue

Citation: *EQT Production Company v. Borough of Jefferson Hills*, 2019 WL 2313377 (Pa. 2019)

PENNSYLVANIA (05/31/19)—This case addressed the issue of “whether a municipality, in addressing a natural gas extraction company’s conditional use application for the construction and operation of a well site, may consider as evidence the testimony of residents of another municipality regarding the impacts to their health, quality of life, and property which they attribute to a similar facility constructed and operated by the same company in their municipality.”

The Background/Facts: In 2015, EQT and ET Blue Grass Clearing LLC (collectively “EQT”) sought to construct, operate, and maintain a natural gas production complex on a 126-acre parcel of property in the Borough of Jefferson Hills (the “Borough”). The property was located in a Business Park Zoning District and an Oil and Gas Development Overlay District. Both zoning districts permitted “unconventional oil and gas well drilling”—drilling which utilizes hydraulic fracturing production (“fracking”) to extract natural gas from a subjacent reservoir—as a conditional use.

EQT applied to the Borough for conditional use approval so that it could commence construction of its natural gas production facility. The Borough Planning Commission provisionally recommended that the application be granted. The Borough Council (the “Council”) then held a public hearing on the application. At the hearing, eight individuals (the “Objectors”) testified in opposition to EQT’s conditional use application. Four of those individuals were Borough residents, three were residents of Union Township who lived near another of EQT’s unconventional natural gas wells known as “Trax Farm,” and one who had lived in Union Township close to Trax Farm but had recently moved to the Borough. The Union Township Objectors testified as to their firsthand personal experiences with EQT’s drilling and operational practices while living near Trax Farm. They testified as to “foul stench, intense vibrations, loud and penetrating sounds, and increased levels of traffic and air and light pollution they continuously endured, in and around their homes.” They also testified that EQT offered residents near Trax Farm a waiver agreement under which residents would

receive \$50,000 cash payment in exchange for a grant to EQT of easements and rights-of-way over their properties for “noise, dust, light, smoke, odors, fumes, soot or other pollution, [and] vibrations . . . [and other] adverse impacts and other conditions or nuisances which may emanate or be caused by [EQT’s] operations.”

In December 2015, the Council unanimously voted to deny EQT’s application. The Council’s decision credited the “credible” testimony of the Objectors. The Council determined that EQT’s application met the general standards for the grant of a conditional use under the Borough’s Zoning Ordinance but found that there was evidence that “permitting the proposed natural gas production facility as a conditional use [would] not protect the healthy, safety and welfare of the Borough and its residents as required by the objective standards of the Borough Zoning Ordinance”

EQT appealed the Council’s decision.

The trial court reversed the Council’s decision. The court found that EQT had met its burden in showing that its proposed use was of the nature and type of conditional use described in the zoning code and that it complied with requirements of the zoning ordinance. The trial court said that the burden then shifted to the Objectors to prove that the proposed land use would have an adverse effect on the general public by posing a threat to health, safety, and welfare. The court concluded that the Objectors failed to meet that burden, characterizing their testimony as “speculative regarding general oil and gas development” and raising only “theoretical concerns about air pollution and odors.”

The Borough appealed.

The Commonwealth Court affirmed the trial court’s holding. The court explained that “the applicant seeking conditional use approval has the burden of persuasion to establish that its proposed use satisfies the objective requirements enumerated by the relevant zoning ordinance governing conditional uses.” The court said that once the applicant meets that burden, it “is entitled to approval, unless objectors in the proceeding offer credible and sufficient evidence that the proposed use would have a detrimental impact on public health, safety, and welfare.” The court found that, because EQT had met its initial burden of complying with the requirements of the zoning ordinances governing conditional uses, the burden of proof shifted to Objectors “to show with a high degree of probability that EQT’s proposed well site would cause detrimental impacts that exceed those which would be ordinarily expected from unconventional gas wells.” The court concluded that the Objectors failed to carry their burden. The court found that the Objectors’ testimony regarding the Trax Farm site and “the general harms posed by drilling activities and operation of unconventional wells” was “insufficient” to prove that the proposed development in the Borough would have “a negative impact on the public health, safety, and welfare which was greater than that normally associated with any other unconventional well site.”

The Borough filed a petition for allowance of appeal with the Supreme Court of Pennsylvania, which the court granted.

The Court's Decision: Judgment of Commonwealth Court vacated and matter remanded.

The Supreme Court of Pennsylvania held that the testimony of the Objectors was “properly received and considered by Council in rendering its decision on EQT’s [conditional use permit] application.”

The court explained that in previous cases it had “recognized the relevancy and probative value of an applicant’s past conduct in determining whether he meets the conditions of licensure for conducting future business activities of the same nature as those in which he had previously engaged.” Here, the court found that the Objectors’ testimony, “considered in its entirety, established that EQT’s Trax Farm site was of a similar nature to its proposed [site in the Borough].” The court found this similarity rendered the testimony of the Objectors “as to their first-hand actual experience with the effects of the construction and operational activities at the Trax Farm site, relevant and probative as to the question of whether the grant of conditional use approval to EQT for construction and operation of the [Borough] site would adversely impact the health, safety, and general welfare of the residents of [the Borough].” Thus, the court determined that the testimony of the Objectors as to the Trax Farm facility impacts on their lives, health, and property was “both relevant and probative in establishing the potential adverse impacts which [Borough] residents living near [EQT’s proposed site] reasonably could expect.” “Likewise,” the court determined that “the numerous health effects, and the significantly diminished quality of day-to-day life experienced by the Union Township [O]bjectors, which they perceived to be caused by their exposure to these phenomena, was relevant and probative of how the health and overall welfare of [] Borough residents reasonably could be diminished by the operation of the [Borough] site, if it were approved.” “Similarly,” the court found that “testimony about EQT’s proffer of waiver agreements to residents living near the Trax Farm site in response to the deleterious effects they perceived EQT’s drilling activities to be causing to both the value of their property, and their ability to use and enjoy it, was suggestive of a practice by EQT to not terminate activities which were adversely affecting residents living near its well sites, but, instead, to pay them so that EQT could continue those activities without alteration.” Again, the court found such evidence “was both relevant and probative” of EQT operations and EQT facilities’ negative impacts.

The court vacated the order of the Commonwealth Court and remanded the matter with instructions for reconsideration in light of this opinion.

See also: *Visionquest Nat., Ltd. v. Board of Sup’rs of Honey Brook Tp., Chester County*, 524 Pa. 107, 569 A.2d 915, 58 Ed. Law Rep. 959 (1990).

See also: *Street Road Bar & Grille, Inc. v. Pennsylvania Liquor Control Bd.*, 583 Pa. 72, 876 A.2d 346 (2005).

Preemption/Variance— City requires stricter standards for area variances than state statute does

Variance applicants argue state statute’s more lenient requirements control

Citation: *City of Lewes v. Nepa*, 2019 WL 2415047 (Del. 2019)

DELAWARE (06/10/19)—This case addressed the issue of whether a city ordinance that required stricter standards for granting area variances than the state law was preempted by the state law.

The Background/Facts: As an investment property, Ernest and Deborah Nepa (the “Nepas”) purchased a legally nonconforming house (the “Property”) in a historic area in the City of Lewes (the “City”). The Property was nonconforming because it did not meet the City Code’s current setback requirements. The Nepas sought to renovate the Property and then sell it. They applied to the City and the Historic Area Commission for renovation approval. Their applications did not include an increase in house size or encroachment into the setback areas. The City and Historic Area Commission approved the Nepas’ renovation applications.

During their renovation, the Nepas “decided to change course” and build a two-story addition on the back of the house. This addition increased the house size and expanded the already nonconforming encroachment into the setback. A City building officer discovered the violations and issued a stop-work order. Eventually, the Nepas applied for three variances with the City’s Board of Adjustment (the “Board”). The Nepas contended that the variances were justified on two grounds: “the need to lift the stop work order and to improve the home’s marketability because it would allow the eventual occupants to age in place—a modern trend in housing.”

The Board denied the variances. In doing so, the Board found that the Nepas had failed to meet the City Code requirements and criteria for a variance.

The City Code required that variance applicants must show, among other things, that: (1) the hardship claimed is “not shared generally by other properties in the same zoning district and vicinity”; (2) “[t]he variance can be granted without substantial detriment to the public good”; (3) “the benefits from granting the variance would substantially outweigh any detriment”; and (4) “[a]pproval of the variance would not substantially impair the intent and purposes of the [City’s] Comprehensive Plan [or Code].” In addition to those requirements, the Code also specified that the Board must consider certain factors with regard to each variance application, including whether it would “affect neighboring properties and uses.”

Specifically here, the Board found that the Nepas failed to demonstrate “an exceptional practical difficulty in complying with the City Zoning Code.” The Board also found that the Nepas’ Property was “not unique and the variances would ‘represent a deviation from the spirit and intent of the Zoning Code.’ ” Finally, the Board found that the difficulties faced during construction were “self-created as a result of the Nepas’ failure to follow proper procedure.”

The Nepas appealed the Board’s decision to the Superior Court. The Nepas argued that the Board’s decision was in error because the Board had applied “stricter standards for variance applications than those authorized by the state statute governing municipal boards of adjustment—22 Del. C. § 327(a)(3).” That statute provides that a board of adjustment “may” authorize a zoning variance “that will not be contrary to the public interest” where the zoning code application will result in “unnecessary hardship or exceptional practical difficulties to the owner of property” so that the spirit of the zoning code is observed, as long as such variance relief is not “substantial[ly] detriment[a] to the public good” and does not “substantially impair[] the intent and purpose of the zoning [code].”

According to the Nepas, “because the state statute had more lenient requirements for granting a variance, and state law typically controls when it conflicts with local law, the City and its [B]oard could not impose stricter requirements.”

The City responded, maintaining that its variance requirements were “consistent with, and not stricter than,” 22 Del. C. § 327(a)(3). The City further contended that even if its standards were stricter than the state statute, the statute “did not prohibit the City from imposing stricter variance standards because the state statute set only minimum requirements for variance grants.”

The Superior Court agreed with the Nepas. The court found that the City Code’s variance requirements were stricter than, and conflicted with, the requirements of 22 Del. C. § 327(a)(3). Noting that when there is such a conflict, state law controls, the court concluded that the City’s stricter variance standards could not be applied to the Nepas’ variance applications. Thus, the Superior Court reversed the Board’s denial of the variance applications.

The City and Board (hereinafter, collectively, the “City”) appealed. On appeal, the City reiterated its argument that it was free to require stricter variance standards than those imposed by state statute because the state statute—22 Del. C. § 327(a)(3)—did not require municipal boards of adjustment to grant variances and instead only set minimum standards that must be met before such boards grant a variance.

The Court’s Decision: Judgment of superior court reversed.

The Supreme Court of Delaware agreed with the City. It held that the “permissive nature” of the state statute—22 Del. C. § 327(a)(3)—made it clear that the state statute set “a floor and not a ceiling.” In other words, the court

found that the state statute set minimum standards for variances but did not prohibit municipal application of stricter variance standards.

In so holding, the court first found that the City had authority under state law and its Charter to enact rules and regulations for the Board. (See 22 Del. C. § 321, authorizing municipalities to adopt their own laws governing their boards of adjustment.) The court also found that the City Code here did require stricter variance standards than state law, 22 Del. C. § 327(a)(3). While the court found some of the City Code’s variance requirements tracked those of the state statute, the court also found that the City Code had four more stringent and/or additional requirements: (1) the City Code imposed a finding of a “unique” hardship, which was not a required finding under state law; (2) the City Code required consideration of “any” effect on neighboring properties, while the state statute only required consideration of “serious” effects on neighboring properties; (3) the City Code used a heightened exceptional practical difficulty test by requiring the benefits of granting a variance to “substantially outweigh any detriment,” while the state statute simply required the variance be “in harmony with the public interest”; and (4) the City Code, unlike the state statute, excluded nonconformity as a reason for granting a variance. Finally, the court found that the City’s stricter variance standards were not in conflict with state law because the state law language was permissive. Specifically, the court found that 22 Del. C. § 327(a)(3) provided that boards of adjustment “may” grant variances, and thus the court concluded that since it did not “require that a variance be granted,” the City “was free to adopt stricter standards for variance grants than those under the state law”

See also: *Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc.*, 389 A.2d 1289 (Del. 1978).

Nonconforming Use/ Variance—10 years after development permit issues and church builds sanctuary, church seeks to construct a fellowship hall, despite current ordinance prohibiting increase in site's occupant load

Church claims entitlement to such construction as a nonconforming use and/or via a variance

Citation: *Grays Hill Baptist Church v. Beaufort County*, 2019 WL 2017523 (S.C. Ct. App. 2019)

SOUTH CAROLINA (05/08/19)—This case addressed the issue of whether a church's original development permit authorized it to construct a "Phase II" fellowship hall 10 years later (and after the adoption of an ordinance prohibiting significant increase in the site's occupant load) and/or whether the church was entitled to a variance for such Phase II development.

The Background/Facts: In December 1996, Grays Hill Baptist Church (the "Church") applied for a development permit from Beaufort County (the "County"). The permit application sought to develop the Church's property in two phases: Phase I would consist of a 15,872 square foot church sanctuary; and Phase II would consist of an 11,250 square foot fellowship hall. The County issued to the Church a development permit for the proposed project. The development permit specified that all permits would expire two years from the date of approval (January 7, 1997) "unless substantial improvement has occurred or final Subdivision plat has been recorded." The County then issued the Church a construction permit for the church sanctuary. In December 1997, when the work listed on the construction permit was completed, the County issued to the Church a certificate of compliance.

In 2006, the County Council enacted ordinances (the "AO Ordinances") for an "Airport Overlay District" (the "AO District"). The Church's property was within the AO District. The AO District was intended to limit land uses and building expansions near the Marine Corps Air Station so as to institute "accident potential zones" and "noise zones." The AO District prohibited places of worship but allowed "non-conforming places of assembly and worship [to] expand [] by up to 15% . . . provided that the expansion does not increase the occupant load of the building."

In 2007, the Church applied for a construction permit to build the fellowship hall. The County required the Church to instead apply for a development permit, and then notified the Church that it would need a variance from the County Zoning Board of Appeals (the "Board") because the fellowship hall would increase the occupant load of the building and expand its area by more than 15%, in violation of the AO District ordinance.

The County Code of Ordinances (the "Code") set forth criteria that must be met for the grant of a hardship variance. Among other things, the Code required the Church to show that there were "extraordinary and exceptional conditions" on the property, and that the variance-permitted project would "not be injurious to the neighborhood. . ." or otherwise "detrimental to the public welfare," but would be "in harmony" with the purposes and intent of the Code.

The Church contended that the "extraordinary and exceptional conditions" entitling it to a variance were that it obtained the 1997 development permit, which it believed covered the fellowship hall. In other words, the Church contended that it was entitled to construct the fellowship hall as a nonconforming permitted use (as permitted prior to the adoption of the AO District). The Church also maintained that its occupant load would not increase, and that it would be "unreasonable to restrict the use of the property to only the sanctuary because the fellowship hall was a 'reasonable adjunct use' and the expansion would not harm the public good because 'its mission . . . by definition [was] to promote the public good.' "

Eventually, the Board denied the Church's variance request. The Board found the variance request did not meet the County Code of Ordinances' criteria for a hardship variance. Specifically, the Board found: there were "no extraordinary and exceptional conditions" to the Church's property; a grant of a variance for the fellowship hall construction would "adversely affect" the public good and harm the character of the neighborhood; and the requested variance was not in harmony with the Code's purpose and intent.

The County also denied the Church a permit for construction of the fellowship hall. The County found that the Church's proposed construction did "not meet the intent of the [AO] District" because it would double the occupancy load.

The Church appealed. The County Planning Commission ultimately (on remand from circuit court) upheld the denial of the Church's permit application. The Planning Commission, relying on Fire Marshal testimony as to occupant load, concluded that the construction of the fellowship hall would "significantly increase the potential occupancy of load for the site" whether or not the fellowship hall exceeded 15% of the build area.

The Church appealed. The circuit court's master-in-equity reversed the decisions of the Planning Commission and Board. The master-in-equity concluded that the County had erred in requiring the Church to obtain a new development permit. The master found that: the 1997

permit encompassed the fellowship hall; construction of the fellowship hall would not increase the occupant load; and the Planning Commission applied an incorrect expansion standard under the AO Ordinances. The master also found that the Board's denial of the Church's requested variance was "unsupported by evidence."

The County appealed. On appeal, the County argued: (1) contrary to the master-in-equity's findings, the Church's 1997 development permit was inapplicable to the proposed construction of the fellowship hall in 2007 because the permit had expired; (2) evidence supported the Planning Commission's finding that construction of the fellowship hall would significantly increase the occupancy load of the site (as prohibited in an AO District); and (3) evidence supported denial of the Church's variance request because doubling of the occupancy load at the site would "adversely affect" the public good and be inharmonious with the purposes of the AO Ordinances.

The Court's Decision: Judgment of circuit court reversed.

The Court of Appeals of South Carolina agreed with all of the County's arguments.

The court first addressed the Church's claimed entitlement (as a non-conforming use) to construct the fellowship hall pursuant to the 1997 development permit. The court noted that "[a] landowner acquires a vested right to continue a nonconforming use already in existence at the time his [or her] property is zoned in the absence of a showing that the continuance of the use would constitute a detriment to the public health, safety or welfare." However, the court held that the Church's "mere contemplated use" of the property for the fellowship hall before adoption of the AO Ordinances did not protect the fellowship hall use as a "nonconforming use." The court explained that commencement of the construction of the church sanctuary did not "constitute an appropriation of the entire tract to the project." Rather, the court indicated that in order to be entitled to construction of the fellowship hall, the Church should have obtained a building permit for the fellowship hall (which it did not as the Church's building permit applied only to construction of the sanctuary) and begun construction on the Phase II fellowship hall construction (which it did not). Moreover, the court noted that the Church's 1997 development permit, on its face, stated it expired two years from the approval date (January 1997) "unless substantial improvement occurred." The court found that although the Church had made improvements to the site, those improvements were directed solely toward the Phase I construction of the church sanctuary and its parking area. Accordingly, the court concluded that the 1997 development permit did not authorize the Church to construct the fellowship hall "some ten years later."

Next, the court concluded that the Planning Commission had properly denied the Church's application for a new development permit because the construction of the fellowship hall would significantly increase the occupancy load of the site (which was prohibited in the AO

District). The court found that the Fire Marshal had testified that the current occupant load for the church sanctuary was 329, and the occupant load for the fellowship hall could range from 533 to 1,600.

Finally, the court concluded that the Board had properly denied the Church's variance request because evidence supported the findings that the Code's variance criteria would not be met. Specifically, the court found that "allowing the Church to more than double its potential occupant load would 'adversely affect . . . the public good' and be inharmonious with the purposes and intent of the County's legislation addressing the [AO] District."

See also: *Friarsgate, Inc. v. Town of Irmo*, 290 S.C. 266, 349 S.E.2d 891 (Ct. App. 1986).

See also: *F.B.R. Investors v. County of Charleston*, 303 S.C. 524, 402 S.E.2d 189 (Ct. App. 1991).

Case Note:

The United States of America intervened in the case and was a co-appellant with the County on the appeal.

Zoning News from Around the Nation

GEORGIA

The City of Savannah is considering a new zoning ordinance—dubbed "NewZo." Among other things, the goals of NewZo are "to reduce incompatible zoning, reduce the need for variance requests and provide a framework for improving neglected neighborhoods." NewZo proposed changes include: "a simplified map with a reduced number of districts, changes in uses with the number of categories reduced and 'dramatically' simplified, and new categories that were unforeseen, such as food truck parks." NewZo also proposes new residential zoning categories, wine specialty shop uses, a new hotel overlay district, a prohibition on as-of-right nightclubs, and parking requirement changes.

Source: *Savannah Morning News*; www.savannahnow.com

MARYLAND

The Harford County Council is considering a bill—Bill 19-016—that would amend zoning regulations. Among other things, the bill would reportedly "affect[] definitions and regulations for nonprofit, recreational and private clubs, allow[] 'panhandle' lots in industrial districts, the placement of freestanding signs, adjust[] code sections that deal with outdoor dining, [and institute] regulations on building materials allowed in structures in mixed office zoning districts."

Source: *The Baltimore Sun*; www.baltimoresun.com

The owners of 30 liquor stores in the City of Baltimore have appealed zoning regulations to the City's zoning appeals board. City zoning regulations, which as of June 4

prohibit such uses in certain areas, gave the owners two years to close or apply for a hardship exception. The store owners reportedly allege that two years was insufficient and that the City is depriving them of the use of their properties in violation of the United States Constitution.

Source: *The Baltimore Sun*; www.baltimoresun.com

MISSOURI

The Springfield City Council recently approved an amended medical marijuana zoning ordinance. Under the ordinance, “medical marijuana dispensaries and manufacturing facilities must be 1,000 feet away from elementary and secondary schools,” and “200 feet from churches and licensed daycare centers.” “Cultivation and testing facilities will have to be 1,000 feet away from churches, schools and daycares.” The bill also limits the public hours of all such facilities between 6:00 a.m. and 10:00 p.m.

Source: *KY3*; www.ky3.com

OREGON

The state Legislature is considering a bill—House Bill 2001—which would “require denser housing in single-family neighborhoods around the state.” The bill would require cities of more than 1,000 within the Portland area’s urban growth boundary and cities of more than 25,000 in the rest of the state to “allow so-called ‘middle housing’ units in single-family neighborhoods.” Such “middle housing units” would “include up to four units of attached housing, cottage clusters and townhouses.”

Under the bill, cities between 10,000 and 25,000 outside the Portland area would have to “allow at least duplexes.” The bill was expected to “soon move to the Legislature’s budget committee—and then go to showdown votes on the House and Senate floors.” Supporters of the bill reportedly contend that “rezoning single-family neighborhoods to allow more multi-family options” would provide the benefits of: reduced commute distances and thus reduced greenhouse gas emissions; more options for seniors; and “neighborhood diversity.” Opponents reportedly contend that the bill would “trample” local efforts and discretion in determining “where it makes the most sense to provide multi-family housing.”

Source: *OPB News*; www.opb.org

RHODE ISLAND

The state Senate Judiciary Committee recently passed legislation that would override local zoning on Route 195. More specifically, the bill would “allow the state to create special districts exempt from local zoning where there is state-owned property of at least 20 contiguous acres (or what was at some point 20 contiguous state-owned acres).” Under the bill, the 195 Redevelopment District would become such a special state district, “but special state districts elsewhere would need to separate legislation to happen.” The full Senate was expected to vote on the bill soon.

Source: *Providence Journal*; www.providencejournal.com



Elko County Planning Commission

540 Court Street, Suite 104, Elko, Nevada 89801

Phone (775) 738-6816 Fax (775) 738-4581

www.elkocountynv.net

COMMISSIONERS

David Galyen

Dena M. Hartley

David Hough

Mike Judd

Jack Larason

Richard Genseal

Mark Wetmore

SENIOR PLANNER

Corey L. Rice, PLS, WRS

GIS/CADD OPERATOR

Peggy Pierce-Fitzgerald, CFM

PUBLIC MEETING NOTICE

The Elko County Planning Commission, County of Elko, State of Nevada, will meet on Thursday, May 16, 2019, in the Nannini Administration Building, Suite 102, 540 Court Street, Elko, Nevada 89801 at 5:15 PM. Pacific Time Zone

Attached with this Notice is the Agenda for said meeting of the Board.

This Notice is posted pursuant to NRS 241 as amended by the 2017 Legislature and is to be posted at the following places no later than three full working days before the meeting:

ELKO COUNTY MANAGER'S OFFICE

ELKO COUNTY COURTHOUSE

ELKO COUNTY LIBRARY

ELKO CITY HALL

ELKO COUNTY WEBSITE: www.elkocountynv.net

ROBERT K. STOKES

Elko County Manager

WELCOME TO AN ELKO COUNTY BOARD OR COMMISSION MEETING!

We are pleased you are interested in a meeting of one of Elko County's Boards or Commissions. Below is some basic information about our meetings and procedures for you to participate in your government.

AGENDAS

The agenda is available on the Elko County website at www.elkocountynv.net. Hard copies are made available at the meeting, upon request at the County Manager's Office or posted as per NRS 241. Meetings are broadcast live from our website, under the Meetings tab on the home page of the website and then under Agendas, Videos, etc. You can also click the Watch Our Meetings tab on the right side of the home page. Videos of the meeting are available within 24 hours of the end of the meeting. Minutes, when finalized and approved by the Board/Commission, are also posted to that page.

PUBLIC COMMENT

The public's participation in our meetings is valued and appreciated. The Board/Commission can only take action on items that are listed on an agenda properly posted prior to the meeting. During Comments by the General Public, speakers may address matters not listed on the agenda. The Open Meeting Law does not expressly prohibit responses to public comment by the Commissioners, but no deliberation on a matter can be considered without notice to the public. Public comment will be called for on all agenda items marked For Possible Action.

If you are planning to speak during the meeting, please sign the sign-in-sheet at the back of the meeting room. This helps our recording clerk get the correct spelling of your name. When comments are called for, please approach the podium and state your name and who you represent.

If submitting comments or information on an agenda item, please submit to the County Manager's Office as soon as possible in order to provide opportunity for Board/Commission members to review and to avoid possible delays in a decision if not all information is presented previous to the start of a meeting. If information is presented at the meeting, you need to provide at least 10 copies, making sure to submit a copy to the recording secretary for the official public record. All information submitted becomes part of the public record and is added to the backup information for that agenda item on our website with 24 hours of the adjournment of the meeting.

Another avenue for making comments on agenda items, especially if you can't make a meeting, is called e-Comment. If you open the agenda under the process described above, you will find a link by the agenda called e-Comment. Click on the link and follow the directions to register to comment and you are set to comment on specific agenda items. Please note that the e-comment period for a specific agenda closes 24 hours before the start of the meeting to allow those comments to be transmitted to our Board/Commission members and recording staff. Those reports are also uploaded to our agenda on the website.

CONSENT AGENDA

Items listed under the Consent Agenda are considered to be routine in nature and are normally approved by one motion without extensive discussion. If a Board/Commission member wishes to comment or discuss a particular item, that item can be removed from the consent agenda and considered as a separate action during the meeting.



**ELKO COUNTY PLANNING COMMISSION
COUNTY OF ELKO, STATE OF NEVADA MEETING
THE NANNINI ADMINISTRATION BUILDING, SUITE 102,
540 COURT STREET, ELKO, NEVADA 89801.**

5:15 PM Pacific Time Zone

Thursday, May 16, 2019

IN ACCORDANCE WITH NRS 241, THE COMMISSION MAY: (I) CHANGE THE ORDER OF THE AGENDA, (II) COMBINE TWO OR MORE AGENDA ITEMS FOR CONSIDERATION, (III) REMOVE AN ITEM FROM THE AGENDA OR DELAY DISCUSSION RELATING TO AN ITEM ON THE AGENDA AT ANY TIME, (IV) AND IF THE AGENDA IS NOT COMPLETED, RECESS THE MEETING AND CONTINUE ON ANOTHER SPECIFIED DATE AND TIME. THE PUBLIC CAN COMMENT ON ANY AGENDA ITEM BY BEING ACKNOWLEDGED BY THE CHAIR WHILE THE COMMISSION CONSIDERS THAT AGENDA ITEM.

POSTING

This agenda is posted pursuant to NRS 241 as amended by the 2017 Legislature and was posted at the following locations no later than 9:00 a.m. (Pacific Time Zone), on May 13, 2019: ELKO COUNTY COMMUNITY DEVELOPMENT, ELKO COUNTY MANAGER'S OFFICE, ELKO COUNTY COURTHOUSE, ELKO COUNTY LIBRARY, ELKO CITY HALL, ELKO COUNTY WEBSITE (www.elkocountynv.net), STATE OF NEVADA'S PUBLIC NOTICE WEBSITE (<https://notice.nv.gov>).

REQUEST FOR AGENDA INFORMATION

The public may acquire this agenda and supporting materials, pursuant to NRS 241 by contacting Corey Rice at (775) 748-0214 or via email to crice@elkocountynv.net or, Peggy Pierce Fitzgerald at (775) 748-0215 or via email to pfitzgerald@elkocountynv.net. Materials are available from the Elko County Planning and Zoning Office, Nannini Administration Building, located at 540 Court Street, Suite 104, Elko, Nevada 89801 or on the Elko County website at www.elkocountynv.net.

NOTICE OF THE APPEAL PROCESS

Anyone aggrieved by an action of this Planning Commission may appeal such decision to the Elko County Board of County Commissioners within 10 calendar days of said action. An appeal form may be obtained from the Division of Planning and Zoning located at 540 Court Street, Suite 104, in Elko. When completed, return the appeal form with the required \$250.00 filing fee to the Division of Planning and Zoning within the 10 calendar day period.

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko County Planning Commission in writing at 540 Court Street, Suite 104, Elko, Nevada 89801, email pfitzgerald@elkocountynv.net or crice@elkocountynv.net or by calling (775) 738-6816.

PROCEDURES

The public will be given the opportunity to comment on any agenda item by being acknowledged by the chair prior to action being taken by the Planning Commission.

Breaks and recess actions shall be called for at the pleasure of the Commission rather than by agenda schedule. Please place your cell phones on manner mode.

"FOR POSSIBLE ACTION" identifies an action item subject to a vote of the Commission.

A. CALL TO ORDER AT 5:15 P.M.

B. PLEDGE OF ALLEGIANCE

C. ORGANIZATION OF BOARD

C.1. Discussion and consideration of nominations and consideration of appointment of the 2019 Planning Commission Chairman (recently vacated by David Galyen).

FOR POSSIBLE ACTION

D. APPROVAL OF MINUTES

D.1. Discussion and consideration of approval of minutes from April 18, 2019.

FOR POSSIBLE ACTION

[ECPC April 18, 2019 Minutes Draft.pdf](#)

E. COMMENTS BY THE GENERAL PUBLIC

Pursuant to NRS 241 this time is devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified to be an action item.

NON-ACTION

F. PRELIMINARY HEARINGS

F.1. Discussion and consideration of Application 19-2000-0001, Vega Ranch, LLC et al, requesting a change in zoning from Open Space to Special Lands.

APPLICATION: Application submitted by Vegas Ranch, LLC et al, requesting a change in zoning from Open Space (OS) to Special Lands (SL) for the creation of one (1) 10+/- acre parcel for residential use.

LOCATION: APN 006-180-017. A portion of APN 006-180-017 situated in a portion of Section 21, Township 43 North, Range 55 East, M.D.B.&M. APPLICANT/OWNER: Vega Ranch, LLC et al.
FOR POSSIBLE ACTION
[19-2000-0001_CoZ_Vega Ranch_ECPC Map.pdf](#)

G. OTHER BUSINESS

NON-ACTION

H. STAFF UPDATE AND COMMISSIONERS COMMENTS

This time is devoted to comments by Elko County Planning Commissioners and/or County Staff for general information or update purposes. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on a successive agenda and identified to be an action item.

NON-ACTION

I. COMMENTS BY THE GENERAL PUBLIC

Pursuant to NRS 241 this time is devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified to be an action item.

NON-ACTION

J. ADJOURNMENT

E-COMMENT

e-Comment Report

[e-Comment for Planning Com 051619.JPG](#)

POSTING CERTIFICATE

ELKO COUNTY IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER.