



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, November 6, 2018 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.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: October 31, 2018 2:10 p.m.

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

Date/Time Posted: October 31, 2018 2:05 p.m.

ELKO POLICE DEPARTMENT – 1448 Silver Street, Elko NV 89801

Date/Time Posted: October 31, 2018 2:15 p.m.

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

Date/Time Posted: October 31, 2018 2:00 p.m.

Posted by: Kim Wilkinson Administrative Assistant

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 October, 2018.

NOTICE TO PERSONS WITH DISABILITIES

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

Cathy Laughlin, City Planner

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

CALL TO ORDER

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

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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

APPROVAL OF MINUTES

September 6, 2018 – Special Meeting **FOR POSSIBLE ACTION**

September 18, 2018 – Special Joint Meeting **FOR POSSIBLE ACTION**

October 2, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

I. NEW BUSINESS

A. PUBLIC HEARING

1. Review, consideration, and possible action on Zoning Ordinance Amendment 2-18, Ordinance No. 834, an amendment to the City Zoning Ordinance, specifically Title 3, Chapter 3, of the Elko City Code entitled “Subdivisions”, specifically a repeal and replacement of the chapter, and matters related thereto. **FOR POSSIBLE ACTION**
2. Review, consideration, and possible action on Zoning Ordinance Amendment 3-18, Ordinance No. 836, specifically an amendment to Title 3, Chapter 4, Section 2 of the Elko City Code entitled “Planning Commission”, and matters related thereto. **FOR POSSIBLE ACTION**

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review and consideration of Final Plat No. 12-18, filed by DDS Properties, LLC, for the development of a subdivision entitled Humboldt Hills involving the proposed division of approximately 9.443 acres of property into 26 lots for residential development within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east side of W Jennings Way, approximately 120' north of Cortney Drive. (APN 001-01H-001).

II. REPORTS

- A. Summary of City Council Actions.
- B. Summary of Redevelopment Agency Actions.
- C. Professional articles, publications, etc.
 1. Zoning Bulletin
- D. Preliminary agendas for Planning Commission meetings.
- E. Elko County Agendas and Minutes.
- F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.
- G. Staff.


COMMENTS BY THE GENERAL PUBLIC

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

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

ADJOURNMENT

Respectfully submitted,



Cathy Laughlin
City Planner

CITY OF ELKO
PLANNING COMMISSION
SPECIAL MEETING MINUTES
5:30 P.M., P.D.S.T., THURSDAY, SEPTEMBER 6, 2018
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

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

CALL TO ORDER

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

ROLL CALL

Present: **Jeff Dalling**
 John Anderson
 Stefan Beck
 Tera Hooiman

Excused: **David Freistroffer**
 Evi Buell
 Ian Montgomery

City Staff Present: **Scott Wilkinson, Assistant City Manager**
 Cathy Laughlin, City Planner
 Bob Thibault, Civil Engineer
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

August 7, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

*****Motion: Approve the August 7, 2018 Minutes as presented.**

Moved by Tera Hooiman, Seconded by John Anderson.

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

I. NEW BUSINESS

B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration and possible action on a transfer of Conditional Use Permit No. 4-86 to new property owner, filed by Cristina Giammalvo on behalf of Kathern L. Stringfield, which would allow for a child care center and a preschool within a R (Single-Family and Multi-Family) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The location of said property is generally on the northwest corner of the intersection of 2nd Street and Sewell Drive. (1737 Sewell Drive – APN 001-640-035).

Cathy Laughlin, City Planner, explained that this existing CUP 4-86 was conditionally approved by the Planning Commission on September 16, 1986. There were two conditions that were stated in the Conditional Use Permit, and they have been satisfied. Kathy Stringfield is the current permittee of Conditional Use Permit 4-86, she is the owner of the property and is selling the property and the business to the applicant. They stated that they were proposing that the transfer would be done around Oct 1, 2018. CUP 4-86 was recorded with the Elko County Recorder's Office. It is specific to being a child care center and at the address of 1737 Sewell Drive. The proposed transfer is not conflicting with the approved use or the specific property. The property is currently being ran as Noah's Ark Daycare Center, and the existing structure was permitted on April 22, 1988. Ms. Laughlin continued to go over the City of Elko Staff Report dated July 31, 2018. Staff recommended approval with the conditions listed in the Staff Report. One additional condition was added, which was that the transfer of Conditional Use Permit 4-86 shall be recorded with the Elko County Recorder's Office after the recordation of the Deed of Sale to Cristina Giammalvo. This is to occur within one year of approval of the Conditional Use Permit Transfer by the Planning Commission, or the transfer will automatically lapse and be of no effect.

Bob Thibault, Civil Engineer, had no comments and recommended approval.

Scott Wilkinson, Assistant City Manager, had no comments and recommend approval as presented by staff.

Ms. Laughlin stated that the Fire Department did not have any conditions or requirements.

*****Motion: Approve the transfer of Conditional Use Permit No. 4-86 subject to the conditions in the City of Elko Staff Report dated July 31, 2018, listed as follows:**

Conditions as stated in approved CUP 4-86:

1. The parking spaces are to be located entirely upon the applicants property along 2nd Street, and frontage along Sewell Drive be designated a loading zone, with no parking allowed during the hours of operation.
2. This conditional use permit shall automatically lapse and be of no effect one year from the date of its issue unless the permit holder is actively engaged in developing the specific property to the use for which this permit is issued.

Planning Department Condition:

1. The transfer of CUP 4-86 shall be recorded with the Elko County Recorder's office after the recordation of the deed of sale to Cristina Giammalvo. This to occur within 1 year of approval of the CUP transfer by the Planning Commission or the CUP transfer will automatically lapse and be of no effect.

Commissioner Beck's findings to support his recommendation was the existing conditional use permit is consistent with the Land Use Component of the Master Plan. The existing conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system. The transfer of Conditional Use Permit is in conformance with the Wellhead Protection Plan. The transfer of the existing conditional use permit is in conformance with Section 3-2-3 of City Code. The existing conditional use permit is in conformance with Section 3-2-5(E)(3) of City Code. With the filing of the application for the transfer from permittee to new owner, the applicant is in conformance with Section 3-2-18 of City Code. The property as developed is in conformance with City Code 3-2-17 as legal non-conforming.

Moved by Stefan Beck, Seconded by Tera Hooiman.

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

2. Review, consideration, and possible action and possible approval of Final Plat No. 11-18, filed by Parrado Partners, LP, for the development of a subdivision entitled Great Basin Estates Phase 3 involving the proposed division of approximately 9.65 acres divided into 38 lots 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 generally at the extension of Village Parkway and Opal Drive. (001-633-030).

Robert Capps, 1706 Flagstone Drive, stated that he was ok with the conditions as presented. The Final Plat complies exactly with the Preliminary Plat.

Ms. Laughlin went over the City of Elko Staff Report dated August 23, 2018. Staff recommended conditional approval based on the findings and conditions listed in the staff report.

Mr. Thibault recommended approval as presented by Ms. Laughlin.

Ms. Laughlin stated that the Fire Department had no concerns.

Mr. Wilkinson recommended approval as presented by staff.

*****Motion: Forward a recommendation to City Council to conditionally approve Final Plat No. 11-18 subject to the conditions in the City of Elko Staff Report dated August 23, 2018, listed as follows:**

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-45 of city code. In conformance with Section 3-3-44 of city code, the public improvements shall be completed within a time of no later than two (2) years of the date of Final Plat approval by the City Council unless extended as stipulated in city code.
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 Plat by the City Council.
4. The Final Plat is approved for 38 single family residential lots.
5. The Utility Department will issue a Will Serve Letter for the subdivision.
6. State approval of the subdivision is required.
7. Conformance with Preliminary Plat conditions is required.
8. Civil improvements are to comply with Chapter 3-3 of City code.
9. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition Standard Specifications for Public Works. All Right -of-Way and utility improvements are to be certified by the Engineer of Record for the project.
10. An engineer's estimate for the public improvements shall be provided prior to the final plat being presented to the City Council to allow for finalization of the required Performance Agreement.
11. Modify Planning Commission approval jurat to the 3rd day of May, 2016 prior to City Council approval.

Commissioner Beck's findings to support his motion was that the Final Plat for Great Basin Estates Phase 3 has been presented before expiration of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City Code. The Final Plat is in conformance with the Preliminary Plat. The proposed subdivision is in conformance with the Land Use Component of the Master Plat. Based on the modification of standards for lot dimensions granted under the preliminary plat application, the proposed development conforms with Sections 3-3-20 through 3-3-27 (inclusive). The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-40 of City Code. The Subdivider has submitted civil improvement plans in conformance with Section 3-3-41 of City Code. The plans have been approved by City Staff. 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 3-3-42 of City Code. The Subdivider has submitted civil improvement plans which are in conformance with Section 3-3-43 of City Code. The Subdivider will be required to enter into a Performance Agreement to conform to Section 3-3-44 of City Code. The Subdivider will be required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-45 of City

Code. Based on the modification of standards for lot dimensions granted under the preliminary plat 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. The subdivision is in conformance with 3-8 Floodplain Management.

Moved by Stefan Beck, Seconded by John Anderson.

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

A. PUBLIC HEARING

1. Review, consideration, and possible action on Variance No. 9-18, filed by Moises Luna for a reduction of the required interior side yard setback from 5 1/2' to 0' and the required rear yard setback from 10' to 0' for an accessory building within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of Benti Way, approximately 257' east of Spruce Road. (927 Benti Way - APN 001-621-015)

Ms. Laughlin went over the City of Elko Staff Report dated August 23, 2018. Staff had two different recommendations, if it is denied why, or if it is conditionally approved there are conditions listed in the Staff Report. She then she showed some photos and explained them. The property owner did put in a drain between the shed and the fence to capture any drainage, but the roof of the shed does shed water towards the property owner's property and the Peace Park. She explained that there were two windows on the rear of the house, that if the shed was located within the setbacks they would be blocked, restricting egress.

Commissioner Stefan Beck asked if it was enough of a violation of any codes that that could not be allowed.

Ms. Laughlin explained that that's why there was a Variance application. A Variance would bring the property into conformance with the Elko City Code, if approved. If the Variance is denied the applicant will be required to remove the shed. The setback of the rear, towards the Peace Park, is 10 feet, and side setback is 5 %o feet. The Fire Department recommended denial and had the same concerns that the rest of staff had. If approved the shed would be required to comply with fire rating standards.

Mr. Thibault recommended denial based on the shed being on an existing easement. There can't be structures on easements. Alternatively, if the Planning Commission were to approve the Variance, the applicant would be required to vacate the easement.

Mr. Wilkinson stated that the City Manager had a recommendation for denial based on staff report findings.

Commissioner Tera Hooiman asked if the applicant turned the shed to face the back of the house if he would lose the two bedrooms.

Ms. Laughlin explained that there would be two feet between back of the house and the front of the shed.

Commissioner Hooiman said that wouldn't work.

Ms. Laughlin explained that the windows were bedroom windows, they are required to have an egress out of the bedroom, and there is a clearance required by Building Code. If the applicant were to build the shed on the other side of the property it would be close to the flood zone. She stated that it was unfortunate that lot is 6,600 square feet. The minimum lot size in the R Zone is 6,000 square feet. The lot is a little more than the minimum lot size and it's a large size house, so it is built setback to setback. There was a different application not too long ago for a shed and there were other locations on the property that the shed could have been place. This one they are built out to the setbacks. The only difference is accessory buildings can be as close as 10 feet from the rear property line.

Mr. Wilkinson added that a smaller shed could always be built to meet the setbacks.

Commissioner Beck suggested changing the geometry of the shed.

Ms. Laughlin explained that there was 20 feet between the back of the house and the back lot line. If we are requiring a 10 foot setback, and there needs to be room for the egress from the bedroom windows, that would leave about 6 feet.

Commissioner Beck said the shed could be 6 feet deep and then the length could be expanded.

Mr. Wilkinson said then the question would be if a narrow shed would be practical. That would be something to take into consideration.

Vice-Chairman Jeff Dalling added that there was always the option for a storage unit.

Ms. Laughlin pointed out that the applicant had arrived. She thought that the applicant needed to answer questions and discuss the six items that a Variance needs to be in conformance with.

Vice-Chairman Dalling explained to the applicant that he had missed most of the discussion on his item, and that they had moved his item to the end to try to help him out on time. He asked if the applicant would like to come and address the Commission.

Moises Luna, 927 Benti Way, explained that he didn't know it was going to be a problem putting his shed there, because he looked around and everyone has sheds like that. He explained that when he did his awning he called the Building Department and asked if he needed permits. They told him as long as the awning wasn't touching the house he didn't need it. He sees sheds all over town like this, so he didn't think it would be a problem. To meet the setbacks, like the Commission said, it would have to be about 5 feet wide, and take up the yard, and he wouldn't have any yard for his kids to play in. He stated if he could meet the requirements he would, but where ever he sets the sheds he couldn't meet the setbacks.

Commissioner Beck asked if the applicant didn't know there were certain rules and regulations. He asked if the applicant put a lot of time and effort into building the shed.

Mr. Luna stated that he put a lot of time, money, and work into it. He even put extra drainage on the side, so that when the water would come off the shed it would go down into the grading. He never knew there was setbacks, because when you look around town everyone has sheds against their fences, because everyone wants to take advantage of their small lots.

Vice-Chairman Dalling said it made sense that he built it in the corner. Mr. Dalling stated that he liked big lots better, especially in Elko, because everyone has toys. Unfortunately, the City does have setback requirements. The last one the Commission denied already had stucco on it.

Mr. Luna explained that he stopped construction as soon as he got the stop work notice. He said he wanted to do everything right.

Vice-Chairman Dalling asked Mr. Luna if he had considered having a storage shed, if the Commission denied his request.

Mr. Luna said the thing was he had already put a lot of money into the shed. It made it hard on him, and he would have to tear it all down.

Reece Keener asked if the shed was sitting on a concrete slab.

Mr. Luna said he put the corner posts in with cement, so he can't move it. He stated he would have nowhere to put his stuff if this was denied, because it's all in his garage now and he doesn't have very much room to park his cars. He said he was breaking the off-street parking code, because he couldn't park his cars in the garage.

Commissioner Beck said he was going to have to side on the rule and the Zoning Ordinance. In the Staff Report under Findings it states that granting the variance will substantially impair intent or purpose of the Zoning Ordinance. He asked if it would be a big deal if they made an exception here, would it open a can of worms. Would it be a real issue to make an exception? Would that make things more difficult down the road?

Mr. Luna added the he spoke with his neighbors, and they are ok with him leaving the shed where it is. He said the shed is not blocking his next door neighbor's view, because his lot is lower.

Mr. Wilkinson thought, in this circumstance, they probably had enough information that they've determined, the other corner of the property is not a suitable location. This is a normal size lot. People build big homes on lots that create these issues. The Commission has heard testimony that we have this across the community. Typically they are purchased from Home Depot, across the street on Idaho, they move them in and no one even knows and you don't have to have a building permit. Here you are having one constructed, which is a little different. He thought the Commission could also determine that meeting the setbacks would result in a shed configuration that would not be practical. That's another finding. Whether or not that gets the Commission to a hardship would be up to the Commission as they deliberate. Asking for forgiveness after you

start something probably isn't a hardship, but the applicant did call the Building Department and asked if he needed a building permit, so he made an effort to do that. Technically, he didn't need a permit because of the size. What didn't get conveyed was that it couldn't put it in the setbacks. These sheds that are purchased at Home Depot don't need a building permit. People just have them delivered and set in the backyard. Those are a little different because they could be relocated pretty easily if there were any complaints. Setbacks are important. They address safety issues, such as fire and things like that. Maintaining setbacks maintain the integrity of neighborhoods and they address the fire issues.

Commissioner Beck read the findings listed in the Staff Report. The applicant did make a good faith effort to at least contact the Building Department.

*****Motion: Conditionally approve Variance No. 9-18 based on the facts, findings, and conditions in the City of Elko Staff Report dated August 23, 2018.**

Moved by Stefan Beck.

After the motion Mr. Wilkinson explained that to grant a variance you have all six findings. On the fourth finding, Mr. Wilkinson thought the Planning Commission would have to have a finding that states granting of the variance will not substantially impair. Staff has a finding that they believe it will impair the intent and purposed of the Zoning Ordinance. He thought if the Commission was going to consider a conditional approval of the variance, you have to state for the record that the Planning Commission has determined that granting the variance will not substantially impair the intent or purpose of the Zoning Ordinance. If you have a finding that it will, you should not grant a variance.

Commissioner Beck asked, specific to Mr. Luna's situation, how it was going to impair the general concept of the Zoning Ordinance.

Mr. Wilkinson explained that was what the Commissioners were deliberating. If you have a finding that it will impair, you shouldn't grant the variance. You have to have these six findings, but one of them can't be that you're going to impair the intent of the Zoning Ordinance. You will have to reconsider staff's finding No. 4. If you are recommending a conditional approval your finding should be based on that granting of the variance will not substantially impair the intent of the Zoning Ordinance.

Commissioner Beck said that the Zoning Ordinance was a broad brush.

Mr. Wilkinson said to grant the variance the Commission would have a finding that by granting this variance it will not substantially impair the Zoning that applies under the broad brush that Commissioner Beck has talked about. If granting this variance impairs the broad brush zoning, then we shouldn't grant the variance. All he was saying was that the finding needed to be adjusted to be consistent with the recommendation.

Commissioner Beck thought that was why they had these meetings, to address each individual situation.

Mr. Wilkinson stated that he wasn't disputing that, he was just stating that there needed to be a different finding than what was read into the record before.

***** Commissioner Beck amended finding No. 4 to state that granting of the variance will not impair the intent or purpose of the Zoning Ordinance.**

The motion died for lack of second.

*****Motion: Recommend denial of Variance No. 9-18 based on findings that not all six of the findings are met, and including the findings listed in the City of Elko Staff Report dated August 23, 2018, listed as follows:**

It does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity. It appears that the FEMA floodway would present a higher level of hazard for the structure or contents within the structure if it was located in the northeast corner. Granting of the variance does not appear to be detrimental to the interest, health, safety and general welfare of the public. Granting of the variance will substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. It appears that the features or conditions of the property result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

Moved by Tera Hooiman, seconded by John Anderson.

**Motion passed (3 - 1, Commissioner Beck voted no).*

Vice-Chairman Dalling informed Mr. Luna that he had the right to an appeal and to see Ms. Laughlin for information on how to file an appeal.

Mr. Luna asked if it was denied.

Vice-Chairman Dalling explained that it was denied at the Planning Commission level, if appealed it would go to the City Council for their review.

Mr. Thibault explained that Ms. Laughlin was checking to see if a majority of the Planning Commission members was required to approve, or deny, or if it was just a majority of the quorum.

Mr. Wilkinson stated that staff would double check with the City Attorney and the NRS to see what decision was made. If this action doesn't stand then another hearing will need to be set up.

Vice-Chairman Dalling explained to Mr. Luna that at the moment the variance request was denied, but staff was going to look into if there would need to be another hearing with more members present.

Mr. Luna asked if he would have to wait until the next Planning Commission Meeting.

Vice-Chairman Dalling explained that Ms. Laughlin would get in touch with him on the official decision and what his rights are on an appeal.

Mr. Luna asked if he could start reporting people that have their sheds right next to their fences.

Mr. Wilkinson explained that he could make those complaints to the City.

Mr. Luna said he was going to start reporting people and he wanted to see someone start doing something about it.

II. REPORTS

A. Summary of City Council Actions.

B. Summary of Redevelopment Agency Actions.

Ms. Laughlin reported that there would be an RDA Meeting on Tuesday at 3pm.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

E. Elko County Agendas and Minutes.

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

Commissioner John Anderson said when the 8 Mile Subdivision housing development was first put in this room was packed. One group wanted the Peace Park, and the other group wanted this development. The main argument was the fence line. One group said the Peace Park would fill up with little kids and they would be putting holes in the fence getting in the Peace Park destroying it. The other people said no, because of the setbacks. The setback was a big deal they put in to keep stuff away from the fence. That is what the Planning Commission stood for. They can't come in now and say despite trying you made an honest mistake. The Planning Commission has stood for that original decision throughout the town, they can't go through now and change their minds. The applicants argument that there are so many like that, most of them were built before there were setbacks in place. If anyone comes in now and wants another one they will get denied, just like Mr. Luna did. He said the shed could have been cut in half and each one would be in compliance.

Ms. Laughlin said no, that the shed would have to be 10 feet away from the fence, no matter what.

Commission Anderson said if there was one shed and it would fit within the one you put up against the fence.

Ms. Laughlin explained that you can't put a shed up against a fence, no matter what size it is.

Commissioner Beck said what turned him was when the applicant said he had tried to get a building permit.

Vice-Chairman Dalling thought the applicant had only tried to get a permit for the canopy.

Ms. Laughlin explained that the applicant had tried to get a permit for both the shed and the canopy structure. The canopy structure was not required a building permit because it wasn't attached to the house. The Building Department asked him how big the shed was, it was under 200 square feet, so it didn't require a building permit. There has been some turnover in the Building Department, so it could have been an error, but they are now aware that accessory structures need to meet the setback requirements even if they aren't required a building permit. The applicant came in and got an electrical permit for the awning. The applicant has complied with our requirements, just when we told him to stop and come in for a variance he did.

Commissioner Beck said he learned a lesson. He sees why the rules are in place and why they need to be followed.

Reece Keener said they were small lots. He asked if there were any CC&R's that prohibit accessory structures.

Mr. Wilkinson explained that this area was not under a Development Agreement. The lot actually exceeds the minimum lot size required in Code. The issue we have, that is across the City, is that builders are building homes from setback to setback, and it's not leaving anyone any room for storage. People should understand when they are buying a property like that, they are buying a house with very small yard area. Setbacks are intended to preserve yard areas, it has to do with the clutter and density of neighborhoods; more importantly, especially with storage sheds where you store gasoline, if they aren't fire rated and a fire breaks out, it will encroach into the neighbor's property readily. It's really important from that perspective that people are truly meeting a hardship when we look at variances. 98 or 99% of variance applications are not justified. A Variance is meant to get someone the same use of their property as everyone else in that Zoning District, it is not to get them more use than everyone else.

Mr. Keener said it was a tough call, but he thought the Board made the right decision. He thought if they would have approved it they would have set themselves up for the same exact scenario in every one of the yards in the area.

Commissioner Hooiman felt as a board they try to be super consistent with stuff like this, because they don't want to open a can of worms for everyone else. She felt that if they approved one it would open Pandora's Box.

Vice-Chairman Dalling said it was a tough call and he thought they did the right thing. He felt as a property owner you should look into options.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Dalling, Vice-Chairman

Tera Hooiman, Secretary

CITY OF ELKO
CITY COUNCIL AND
PLANNING COMMISSION
SPECIAL JOINT WORKSHOP MINUTES
1:00 P.M., P.D.S.T., TUESDAY, SEPTEMBER 18, 2018
ELKO CONVENTION CENTER, RUBY MOUNTAIN ROOM #1B
700 MOREN WAY, ELKO, NEVADA

CALL TO ORDER

The Meeting was called to order by Mayor Chris Johnson at 1:22 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

City Council Present: Mayor Chris Johnson
Councilman Reece Keener
Councilwoman Mandy Simons
Councilman Robert Schmidlein

Excused: Councilman John Rice

Planning Commission Present: Chairman David Freistroffer
Vice-Chairman Jeff Dalling
Evi Buell
John Anderson
Tera Hooiman

Excused: Stefan Beck
Ian Montgomery

City Staff Present: Curtis Calder, City Manager
Scott Wilkinson, Assistant City Manager
Cathy Laughlin, City Planner
Bob Thibault, Civil Engineer
Kelly Wooldridge, City Clerk
Dave Stanton, City Attorney
John Holmes, Fire Marshal
Shelby Archuleta, Planning Technician

INITIAL PUBLIC COMMENT PERIOD

Mike Lattin, Elko, NV asked if there were facilities for the hearing impaired.

He was provided an assisted hearing device.

I. NEW BUSINESS

A. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS

1. Workshop to discuss proposed amendments to Title 3, Chapter 3 of the Elko City Code, to include receiving input and comments from the public and members of the development community regarding possible changes to the proposed Divisions of Land Code, which may replace the chapter currently titled "Subdivisions," and matters related thereto, **FOR POSSIBLE ACTION.**

Mayor Chris Johnson announced that today was the workshop on the Subdivision Code. He explained that they would start with the history of subdivisions, then go over the revisions that are in place, there is a flow chart that will be presented, and then open it up to questions and comments from the public, the Planning Commission, and City Council.

Curtis Calder, City Manager, explained that he did some research on why the City Code looks the way it does today in its current form. He researched some old planning books and got online and found a report from 1953, from the American Society of Planning Officials, which was entitled *Performance Bonds for the Installation of Subdivision Improvements*. This issue had been studied in the 50's fairly extensively. It was republished by the American Planning Association. It provided considerable background regarding the evolution of Subdivision Codes in the United States since the 1920's. The City's current Subdivision Code, which has been in place since the 1950's, appears to be based, almost entirely, on the best practices of the era. The purpose that led to the use of Performance Bonds was the result of unbridled land subdivision in the 1920's, just prior to the Great Depression. There were many dead subdivisions that remained in both large and small cities until after World War II. Those were forming obstacles in the path of normal city growth. The process of uneconomic subdividing and premature platting had negatively affected city development and was considered gross negligence of city officials, because they failed to prevent it from occurring. In response, cities protected themselves from premature subdividing by insisting on assured land improvements, the performance bond being one of those assurances. The report pointed out that subdividing land was a risky business and that the profit to the developer was the payment for the risk undertaken. Further adding that it is illogical for the government to assume risk for which the developer receives payment. In other words, if the government was willing to assume all of the risk in land development there was no need for performance bonds or any other method of assuring the installation of improvements. The report concluded three things: that one, cities have a responsibility to prevent premature subdivisions; two, Assured installation of the improvements is a proven method for carrying out this responsibility; and three, some part, or all of the risks should be assumed by developers. That is the broad history that led up to the development of the City Code.

Cathy Laughlin, City Planner, discussed how the City Code came about. It started with Ordinance No. 115, which was passed on February 11, 1954. This was the first Subdivision

Code. A Performance Bond was in the original Ordinance, as well as a 12 month completion period for improvements. Then on May 16, 1973 the State of Nevada Urban Planning Division sent a letter stating that Senate Bill No. 460 was adopted and it established a subdivision evaluation procedure administered by the Urban Planning Division that would be available to all cities and counties except for the areas of Washoe and Clark Counties. Because the rural communities were small and didn't have planning staff, the State of Nevada Urban Planning Division provided communities with planning consultants, which was done through grants. Many of the small rural areas, such as Elko and Winnemucca have similar Subdivision Codes written after the SB 460 was adopted. That was due to the same consultant writing the codes for both Elko and Winnemucca. On November 6, 1974 the City of Elko's Planning Consultant, Mr. Tom Conger, presented draft copies of the proposed Subdivision Ordinance for the changes that were in relation to the Urban Planning Division sending out the letter. They had three different special workshop meetings that were held between December of 1974 and January of 1975. Those were for discussion of the ordinance and the proposed changes. On December 9, 1975 it was passed by City Council as Ordinance No. 226, which is the current code. There have been some minor modifications that have been made to the code. Ordinance No. 548 was approved in November of 2000, which was when the Performance Agreement was added to the Code. Ordinance No. 624 was done in 2004, Ordinance No. 739 was done in 2011, Ordinance No. 768 was done in 2013, and Ordinance No. 785 was done in 2014. Those were all minor modifications that were made to the current code.

Councilman Reece Keener, asked if Ms. Laughlin knew what the driver was for Ordinance No. 554 in November of 2000 that initiated the Performance Agreement.

Ms. Laughlin stated that she didn't have the minutes for the meeting that was approved at, but she stated that she would do some research on that.

Dave Stanton, City Attorney, explained that he would go through a power point that hit some of the high points of the Code revisions in the present draft. He wanted to let everyone know where he envisioned the process and what he saw the workshop being all about. He thought that the Code had become archaic in a number of ways. He thought the intent needed to be preserved, but having worked with the Code for a number of years and in a variety of different circumstances and situations he had run across areas that were capable of multiple interpretations and that is a bad thing in a code. You want a code to be very clear so that anyone, even someone without a lot of back ground in this area, could pick it up, read it, and understand what the requirements are. He didn't think the draft today was a finished product. He thought there were other things that could be done to the Code. When he reads through it he sees other things that could be cleared up even further. What he thought the workshop could accomplish today was to give the people working on it insight to the public concerns. Mr. Stanton stated that he wanted to hear what the public's issues were. He also wanted to hear proposed language, language that was unclear, and he wanted to be able to get input from everyone here and go back and address those concerns. The product that comes out of this needs to be clear, understandable, concise, and consistent with Nevada Law. If that's the Code that is ultimately adopted, he would consider it a success. He wanted everyone to approach this in a spirit of cooperation, and understanding that this was a draft and a working document, which is still capable of being revised and will be revised before it becomes final. He then went through the power point. He asked for comments and concerns on

the changes, so that the Planning Commission and City Council could make an informed decision on the direction they wanted the Code to go.

Ms. Laughlin explained that the flow chart was a draft and it would be modified with some additional information. This will give you the basic summary of how a subdivision is processed. She then went over the flow chart for the subdivision process.

Chairman David Freistroffer left the meeting at 2:05 p.m.

Scott MacRitchie, 312 Four Mile Trail, wanted to briefly get into what he thought were the most important parts of the changes. The Performance Agreement and the Performance Guarantee, as Mr. Stanton mentioned, would be an area where they think there is some room for some changes. Part of the problem they have with it, is the new flow. There used to be a mechanism whereby they would come in and get final approval, but not certification of the plat. That allowed them to build the development for cash. That may, or may not, be a possibility at this point in time. The bigger problem that he saw with the overall portion of this agreement is prior to commencement of construction of the subdivision improvements he must enter into the Performance Agreement, but he also must complete both the bond for the full engineer's estimate, pay that in any one of the three forms, and complete the maintenance bond and pay that. He asked if that was correct.

Mr. Stanton added that Mr. Wilkinson might want to refine that. It would be at different times, not all simultaneously.

Mr. MacRitchie asked what would not all be simultaneously, the payment of it?

Scott Wilkinson, Assistant City Manager, explained that they don't need to post the maintenance guarantee at the same time the performance guarantee is posted for the body of the work.

Mr. MacRitchie asked if that was done at the time it was accepted by the City for maintenance.

Mr. Wilkinson said that was correct.

Mr. MacRitchie said the biggest issue was the language that pretty much, in two locations, states that there is no ability to draw from a cash bond. Let's say he put in a cash bond. That cash bond might be \$1 Million. He goes out and does some work and gets it certified. He should be able to draw from that, but this Code specifically states in two locations that he cannot. There is an additional provision, notwithstanding, which is 3-3-21(B) that states: Addition Provisions: Notwithstanding any other requirements set forth is Subsection 3-3-21(A), the agreement to install improvements may, in the discretion of the City, also contain any of the following provisions and/or requirements. That allows for it in 3-3-21(B)(3): That upon a determination by the City that specific improvements have been satisfactorily constructed and completed, funds may be released from the performance guaranty either by refunding a portion of a cash deposit to the subdivider or by authorizing a reduction of a bond or other form of non-cash guaranty, so long as the foregoing release of funds does not exceed ninety percent of the value of the completed improvements that have been certified by the subdivider's engineer and approved by the City. But in two locations the Code specifically spells out that that is not allowed. To have

that subject to, and solely, in the discretion of the City to be able to be put in a Performance Agreement. That means that it might not be put in all Performance Agreements. It should be standardized in the Code. The Code should read, not that they can't draw down on that, but that they should be able to draw down on that, and it could be further explained in the Performance Agreement. As it stands, the Performance Agreement upon being executed would be in direct violation of the Code.

Mr. Stanton asked what other provision Mr. MacRitchie could direct him to that they should revise.

Mr. MacRitchie stated 3-3-21(A)(10): That a performance guaranty given in the form of a bond or irrevocable letter of credit shall not expire or be released prior to completion of all required subdivision improvements and written authorization by the City permitting the performance guaranty to expire or be released.

Mr. Stanton said since the entire performance guaranty can't be released, only 90% of it, this provision keeps the bond or the letter of credit active, right up until the time that all of the subdivision improvements have been completed. He thought they could clear this up by adding some language after the word released, which would say "subject to any reduction".

Mr. MacRitchie added any language that would not ban subdividers from being able to draw on any cash, reduce any surety bond or letter of credit would go a long way to make the developers more comfortable than specifically banning it in two locations.

Mr. Stanton stated that the intent was to do exactly what Mr. MacRitchie was describing.

Mr. MacRitchie asked why it was left up to the City's discretion, instead of putting the Code as to do that.

Mr. Stanton explained that the discretionary part was staff's job, they will decide whether they want it to be discretionary or mandatory. He stated what he was trying to do with Mr. MacRitchie is to get some language in, which would take care of what Mr. MacRitchie viewed as an ambiguity.

Mr. MacRitchie said that he didn't see it as an ambiguity, he found it as an absolute block to get any of the money back until all items are completed.

Mr. Stanton suggested adding after the word released, "subject to any reductions permitted under the agreement to install improvements."

Mr. MacRitchie said that would put it right back over to a performance agreement, which is subject to the City's discretion.

Mr. Stanton said that was a different issue.

Mr. MacRitchie said he didn't like that language, because it kept it in that framework of it being subject to a performance agreement instead of it being codified that you can have reductions in your bond. That's what he wanted it to state.

Mr. Stanton said let's get past the discretionary part of the performance agreement. If staff wants to take that out, and they direct us to take that out, then that's what we will do. Let's assume that that is in there. Mr. Stanton wanted to add a little language to 3-3-21(A)(10) that says that even though the bond or the letter of credit has to stay active until its done, that it will be subject to any reductions that are permitted. Hopefully that takes care of that section. Mr. Stanton thought the other section was in the performance guarantee.

Mr. MacRitchie said it was in 3-3-22(B) on page 80 and it stated: No Release of Funds from or Reduction of Performance Guaranty: Except as otherwise specifically permitted under Section 3-3-21 of this Code, once a performance guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the performance guaranty except upon written certification by the City that all required subdivision improvements have been completed in conformance with the agreement to install improvements and that the release of funds is permitted the agreement to install improvements; provided, in no event shall the release of funds exceed the amount of the performance guaranty.

Mr. Stanton suggested that they replace the word "all required" with "the required".

Mr. MacRitchie stated that it wouldn't change the material, because "the required" is still required under what needs to be proved for the final approval. Until any/all/the requirements are completed that are in the agreement, no money could be received back from that. Let's say he went in and put in his sewer and water, or a certain amount of his infrastructure, he couldn't ask for a draw on that because he hasn't completed all of it. Let alone you would be in violation if you made a performance agreement that had him allowing to draw some of that out. It should state that he is allowed to reduce his bond by anything that is certified, accepted, completed by the City as certified.

Mr. Wilkinson thought if there was some language tying it back to the certification. Another reason they put this language in is, typically if you get a surety they'll issue them for one year. So we wanted to have some language in the Code, so that if someone obtained a surety we could point to the Code and say that surety will be in place, not just for a period of one year, and then automatically expire, because they have provisions that do that. It will have to stay active and stay in place until communication from the City of Elko that it could be reduced or eliminated in its entirety.

Mr. MacRitchie said in the form of a cash bond, which a lot of people use a cash bond in Elko, it is much easier to utilize cash if you have the luxury of doing it. When a Phase of a million dollars is put in, and then do several hundred dollars' worth of work that then can be certified completed, and the City does inspect that, and the engineer of record is providing all of that documentation, or testing companies like Thurston are providing all of the testing. There shouldn't be a blockade for a developer to be able to retrieve some of that money back in order to pay bills. What happens is it expands exponentially. For Mr. MacRitchie an \$800,000

construct of a phase might effectively require him to put in a performance agreement that might be well over \$1 Million. If that money can't be drawn on, his \$800,000 construct would now cost him \$800,000 plus \$1 Million before he would get to the end of the line. That more than doubles the cost of entry into developing in Elko. In a town that has tough margins, it's tough to allocate that kind of resource for that kind of recovery.

Mr. Stanton said he heard Mr. MacRitchie and he didn't disagree with him. He suggested after the words "performance guaranty", at the end of (B) add "further provided nothing herein shall prevent the reduction of a performance guarantee, pursuant to an agreement to install improvements."

Mr. MacRitchie said or it should state affirmatively that the reduction in a bond or performance guarantee can be achieved and a cash draw can take place by providing the City with certified portions of completion of items as part of the total number of items to complete.

Mr. Stanton said it depended on how they wanted to structure this.

Mr. MacRitchie added that any release of funds or reduction would automatically be in violation of that.

Councilwoman Mandy Simons asked Mr. MacRitchie if he just wanted something in the Code that guarantees that if you provide X,Y, and Z you will be allowed to make a cash draw.

Mr. MacRitchie said certification of completion of individual item done. He wanted to be assured of that in a way that doesn't have in the Code stating specifically that he can't do that.

Councilwoman Simons asked Mr. MacRitchie if he didn't want it to refer back to the previous, where it provides for that.

Mr. MacRitchie said he wanted it directly, right up front. It shouldn't say no release of funds. It should say release of funds can only occur.

Councilwoman Simons asked Mr. MacRitchie if he didn't want it to say release of funds unless.

Mr. MacRitchie repeated that he wanted it to say that release of funds can occur, not cannot occur. They can occur but you have to meet certain criteria in order to have that happen. He said they just went through that with Tower Hill, it was pretty good. It wasn't what they expected in the middle of Tower Hill to be confronted with, but it worked out great. In the end they put 'X' amount of dollars into a cash bond and when they completed certain items, they applied to the City, and it wasn't unreasonably withheld, in fact it was ten times faster getting the money out that he thought it would be, but he was allowed to do that. In this particular code it makes it explicit that he is not allowed to do it, unless in the City's discretion in a private agreement that he can get it approved. The problem with that is that is arbitrary, it could be approved for him and not for someone else. It should be directly allowed by all people who develop in the City of Elko, not just those that he could convince to take his side on the issue.

Mr. Stanton said it seemed like there was two different things that Mr. MacRitchie was proposing, one is that the additional provisions section in the Agreement to Install Improvements that that become part of every single agreement to install improvements, as opposed to something that is put in some agreements and not in others; and also that the release of funds is mandatory, not something that is tied to the agreement.

Mr. MacRitchie said it could be tied to the agreement as well, but it should be mandatorily available to all who comply with what is required in order to get that released.

Mr. Stanton just wanted to say it so that everyone understood where Mr. MacRitchie was coming from.

Mr. MacRitchie said above and beyond anything else, that was the largest area that has remained unclear, and has even gotten cloudier in the new draft. It has become sediment that you cannot. His problem was with how it was worded today, if he had his performance agreement state that he could. The City could easily go back and say that the Code says under no circumstances can you do this. He wanted that to be altered, so that developers could have assurance that if they did the work and met the certifications of the City, and the requirements that they could expect to get some of their own working capital back, not the City's, in order to pay their development bills. He didn't want to guess or negotiate in the performance agreement, he wanted it written in the Code.

Mayor Johnson asked if he had anything else.

Mr. MacRitchie stated that he had a whole lot more, but he wasn't going to go in to a whole bunch of the little items. There used to be a process, they called it building for cash and then certifying the plat afterwards. He wasn't advocating that that needed to be done in this Code. He was explicitly explaining that that has been absolutely barred in this Code for a number of different reasons. Starting on Page 58 on 3-3-7(G)(5) where it states: Following approval of the final map by the City Council, the city clerk shall place upon the final map a certificate, signed by the mayor and the city clerk, stating that (a) the City Council approved the map. So, now they are certifying the map at the same time they are getting City approval. When he did Benti Way, he came through, got his approvals, didn't develop illegally, had approvals to do the development, paid cash for all the infrastructure improvements, and at the time he was nearly completed he came to the City to record his plat. The difference being is, you used to be able to get final approval without getting certification of the map. That may, or may not, become available in this environment, but it goes a long way to allowing for a developer, who knows that we have two year time periods to develop a particular phase in a development. Let's say he comes through the more lengthy process, 60 days for all of the different approvals. It could take him four to five months to get approval on things. The moment he gets that approval, let's say it's in the middle of February and he can't start his project until April or May. He has the right to do construction, but construction really just isn't feasible at that point in time. He gets his approvals done in February, he has to post his entire cash development bond, or one of the other two instruments allowed. That money would sit in that account for all that time until he can begin construction on a project, and he wouldn't be able to draw anything because he wouldn't be doing any work on it. But he has his approval. He would have no choice, he would have to put

the money in. He could tie up \$1 Million for the greater part of six to eight months before he could get his first draw. That would be his risk and his problem. He would have to time approvals as best as he could. Where they could come in before and get final approval and begin construction with a performance guaranty, but without the money put into a bank account, and develop for cash. That was a luxury that he wasn't sure they would see again in Elko, although he would like to. He asked what everyone's thoughts were on that.

Mr. Stanton said Mr. MacRitchie talked about a number of things and he wanted to zero in. One of them was final map approval, final map certification, and when construction can begin.

Mr. MacRitchie said that construction could not begin, as Mr. Stanton has mentioned before, under the tentative map, nor have they treated it that way. They used to get final approval, then do their development, and come back in and get certification of the map. Mr. MacRitchie stated: You're creating a situation where every single developer is going to be a paper developer in this town.

Mr. Stanton wanted to talk about approvals and certifications, because to some extent the City is constrained by the NRS. There are two difference NRS Sections, 278.380, which deals with approvals, and 278.378 that talks about certifications. The section reads: A final map presented to the county recorder for recording must include a certificate by the clerk saying that the City approved the map.

Mr. MacRitchie interrupted with before recording. Those are the key words. They don't want to record before they finish the development and now they are going to be forced to.

Mr. Stanton explained that the City Clerk cannot certify the map without it being approved.

Mr. MacRitchie said you can get the map approved without certifying it until the infrastructure is complete.

Mr. Stanton asked if Mr. MacRitchie was talking about the timing of construction, when the construction can take place.

Mr. MacRitchie said in this particular instance he was talking about the fact that you can go and get approval from City Council for your map. For instance, in Tower Hill when he did the tentative on phase 1, they had it one way. When he came back for the final there were some changes that needed to be made, i.e. a dedication of land for a particularly deep storm drain that went through. So he came back, got his final, because there were some changes during the final that needed to take place for the City to accept his infrastructure plan for that phase. At that point in time he received final approval, but he didn't have certification. Final approval gives him the ability to go forth and develop, meaning construct the infrastructure within his project. Final map certification gives him the ability to sell the lots. He preferred the other way around. The safest bet from a City standpoint, that secures the City even more, is a developer who doesn't ask for certification. He can't go out and sell any of his lots until he completes all the infrastructure and goes through all the hoops of getting it certified. All of his infrastructure gets certified, the engineer's stamp goes on saying that it was built to standards, only then can he come in and say

now that he's all done does he wants certification for the map. He doesn't want to sell the lots before they are completed. That poses a riskier environment for the City. He could go out and sell 10 lots, take the money, and run. That is what has gone on all over America for a long time, and is part of the reason why some of these have tightened down. Now they are being required to literally record the map at the time they get final approval, before they have ever constructed. That eliminates any type of cash development going forward.

Mr. Stanton asked Mr. MacRitchie to point him to the section in the new Code that Mr. MacRitchie thought needed to be revised to distinguish between final map approval and final map certification.

Mr. MacRitchie said they could go right back to the start on Page 58, Section 3-3-7(G)(5) Following approval of the final by the City Council, the city clerk shall place upon the final map a certificate. If that was eliminated until such time that you would have at least two options. Not to put the certification on the map at this point in time, hold that off until the developer comes back in and states that the improvements are complete. At that point in time on the final map, that is the only time he wanted certification in the way he has developed in Elko in the past.

Mr. Stanton said the language in Number 5 that he was looking at was basically taken out of the NRS.

Mr. MacRitchie said if you look at NRS 278.380 it specifically gives two options, to develop for cash and then come in for certification, or not.

Mr. Stanton said to take a look at NRS 278.378.

Mr. MacRitchie said to take a look at NRS 278.380.

Mr. Stanton said that wasn't relevant, and it wasn't what they were talking about. Take a look at 278.378 and you will see where the language in the code comes from. Section 278.378 is regarding certification and 278.380 is regarding approval.

Mr. MacRitchie said what they were discussing was approval versus certification. There is a difference between the two. Mr. Stanton was going to certification, and Mr. MacRitchie understood that, but he wanted to go to approval, because he believed that there was a mechanism in NRS 278.380 that would allow him to gain approval, build for cash, then come back to get the certification, and record the map when he is complete.

Mr. Stanton stated that 3-3-7(G)(5) stated following approval, which was after approval of the final map.

Mr. MacRitchie asked if the City had any interest in that type of environment.

Mr. Wilkinson said the question was if the City Council and/or the Planning Commission considered alternatives, because you may have a developer that would argue differently because they want to record their lots, to sell their lots, to pay for their improvements. Mr. Wilkinson

thought Mr. MacRitchie's question to the Council, the City Attorney, and the Planning Commission is, does it make sense to have Code that allows for two different scenarios. Then the City Attorney would review the NRS and determine whether or not that is possible.

Mr. MacRitchie stated where he lives and does other projects, he has the option to do either one of those. He does have to post a restoration bond if he chooses to develop for cash and go in and has his map certified after the fact. He can also bond for it up front, complete the infrastructure, receive draws upon that bond, and then certifies his infrastructure to the municipality. He has two options available to him in Utah. He was asking the question if the City had any interest in that, not only do they have interest but the City has done that throughout the City's history, and Mr. MacRitchie's time here. He was asking if the City was at all interested in that type of development, because it seemed to be the most secure for the City.

Mr. Stanton said as long as it was consistent with 278.378 and 278.380, he didn't have an opinion either way. He thought that was open to discussion.

Mr. MacRitchie referred to NRS 278.380(1) and (2) and said that that gave developers the options to put in the improvements, or agree to put in the improvements with a performance agreement and a bond in place. It can be stipulated that a performance agreement must be in place. That might be a great way to go, but that performance agreement states that the developer agrees to put in the improvements and should they come in to full acceptance prior to every last item being done, which there is always time when you have to schedule Planning Commission or City Council. He didn't know if he would complete every last item of his development at that time. He might have a few hanging chads off to the side, that the City says you know you've got \$40,000 worth of items that aren't complete you've got to bond for that. Up until that point he had paid cash for everything along the way, it's all certified and all there. Then he would enter into his maintenance period and pay the maintenance bond and any last remaining items that are left. That is one way that seems allowable under 278.380.

Mr. Stanton said that was something that was open for discussion. It's just not having a performance agreement at all under some circumstances.

Mr. MacRitchie stated that they could still have a performance agreement that would state that the map won't be certified until all the items are completed or bond for any items that aren't complete. He agreed with the performance agreement, it puts him under the gun to make sure he completes the items he agreed to complete. It has the City dictating all the items that need to be completed and the terms of the agreement. It could be written in such a way that allows the developer to pay out of pocket and not put the City at risk, and not sell any lots until the map is certified.

Mr. Stanton said it would do away with the guarantee requirement.

Mr. MacRitchie said it would do away with the initial part of the guarantee requirement.

Mr. Stanton asked if it would do away with the performance part.

Mr. MacRitchie said that was correct, unless certain items weren't completed at the end, then he would be responsible to put in a guarantee for whichever items are left.

Mr. Wilkinson thought a performance agreement was critical, because there is time for completion, requirements that needed to be required provisions, that a properly licensed engineer is hired, QAQC, and a variety of things. He thought everyone could agree that a performance agreement is required regardless of what scenario might be available under the Code. We're really talking about the level of performance agreement that would be required. We have to have time of completions, especially if you're into multiple phases. the NRS only allows for two years to record maps. Mr. Wilkinson thought there needed to be that contractual obligation between the parties.

Mr. MacRitchie said it was already in the Code. Twenty-four months is in the Code. A performance agreement is just duplication of what's already in the Code for 24 months.

Mr. Wilkinson added that it was also in the Code that the developer needs to hire an engineer. So a performance agreement is required.

Katie McConnell stated that she didn't think they were asking for the performance agreement to be taken away. What they were saying was that the NRS is flexible enough to allow for some of these options to be in the Code. It is not mandatory. It is permissive to allow for the option of what Mr. MacRitchie is talking about, or the option as the Code is written if other developers wanted it that way. She thought the initial question was if there was enough flexibility, and it's in their position that there is.

Mr. Stanton said it was a functional practicality issue.

Mayor Johnson asked for the next item.

Mr. MacRitchie wanted some clarification on 3-3-21(A)(2)(d), which states the cost to replace any existing streets, utilities or other improvements that are included in the required improvements as shown on the construction plans. What he gathered was if he had some offsite infrastructure that isn't currently in place and he needed to tear into a street in order to tap into something, it is his job to repair that. He asked if that was the intent of that section of Code.

Mr. Wilkinson said yes, and the way this was reworded is those offsite improvements would actually have to be shown on the construction plans.

Mr. MacRitchie added unless he damaged something.

Mr. Wilkinson didn't think it was practical to try and address anything that may, or may not happen. He thought they changed the language to address that.

Mr. MacRitchie referred to Section 3-3-21(A)(7) on Page 78. It states; In the event the subdivider fails to construct all required subdivision improvements according to the approved

construction plans and within the times set forth in a schedule. He said he had 24 months and he wasn't aware that the City was going to put a schedule of development activity in his way.

Mr. Wilkinson clarified that the agreement would stipulate the two years, and then typically in those agreements the City allows for a one year extension for cause.

Mr. MacRitchie asked what the Code meant by "a schedule determined by the City."

Mr. Wilkinson explained that it would be based on the two year time frame.

Mr. MacRitchie said so it is not a schedule to get certain things done laid out by the City.

Mr. Wilkinson said no, it would be based on the NRS requirement if you were in your final plat time requirements, where you have to meet that two year schedule. You have to meet that, record the subsequent final plat within a two year time frame. Initially under the existing code, that can be extended for one year, if that provision is in the performance agreement.

Mr. MacRitchie asked if Section 3-3-21(A)(14) was new on Page 79, which states That the parties acknowledge the City Council will only accept the subdivision improvement if (a) the subdivider's engineer certifies that the subdivision improvements are complete and (b) the City independently confirms that the subdivision improvements are complete. He thought that it had been there all along, but it was in red.

Mr. Stanton explained that this was a living document. Some of things that are seen in black are not in the old code, the old code is the strike out stuff. Some of the stuff in color is newer, more recent revisions.

Mr. MacRitchie asked if it was just revised.

Mr. Stanton said the old code worked that way.

Mr. Wilkinson added that it was a clarifying provision.

Mr. MacRitchie referred to 3-3-22(C), which reads: Penalty in Case of Default: In the event the subdivider fails to complete all required subdivision improvements in accordance with terms of the agreement to install improvements, the City may, in its sole discretion, complete the work at its own expense and thereafter reimburse itself for the cost and expense thereof from the performance guaranty. Any decision by City staff to complete the work in accordance with the subsection is subject to review by the City Council. At this point in time it brings up the question, on these particular things. Have they already dedicated over all of the land where City dedications are going to take place, where the City would be doing work; or does that still remain private property.

Mr. Wilkinson explained that if the map was of record it would have been dedicated.

Mr. MacRitchie asked if the map wasn't of record, but if the map is approved its not been dedicated.

Mr. Wilkinson said that would be private property.

Mr. MacRitchie said the developer would have to have an agreement with the City that that would be ok in the performance agreement.

Mr. Wilkinson said if the City Council and Planning Commission decide to initiate a variety of scenarios, these are the type of things that will take considerable amount of time for City staff to go back through this Code and address all these provisions that apply to the scenario that is envisioned under the Code.

Mr. MacRitchie said the City staff had already put a great deal of effort into it. He thought if they weren't allowed a little variety in the Code the way it is, specifically in the things Mr. Stanton and himself had talked about earlier, then this code would become somewhat unworkable anyways. He thought it would be worth the investment of figuring out how to make Section C fit in with that scenario, even if it just means in the performance agreement. If he signed the performance agreement that stated that he wasn't going to record the map, it would have a clause that gives that right.

Mr. Stanton asked Mr. MacRitchie if he thought 3-3-22(C) should be put into a performance agreement instead of code and be a performance agreement provision and there be some flexibility built into the Penalty provision to take into account different scenarios.

Mr. MacRitchie said he was saying that 3-3-22(C) becomes a problem for the City if there was a scenario in which he would get final approval but not record the map, because upon recordation of the map is where the City takes dedication of certain items, like roadways.

Mr. Wilkinson said that would be correct.

Mr. MacRitchie stated therein lies another cleanup problem. It was the only one he saw, that if he did a development in which he gained final approval, develop out of pocket, and ask for final certification and recordation of the map at the end. The City would want this clause hanging over his head in advance of him getting that far, he thought. If not the City would be developing on private property and there would be some issues with that.

Mr. Wilkinson added that the City wouldn't have a guarantee to reimburse itself from. This provision does not work under another scenario. There are probably other provisions in the Code that when the City Council and the Planning Commission decided to initiate alternatives in the Code. We will have to go through all of the Code to make sure there aren't other conflicts.

Mr. MacRitchie asked how this worked before, like with his development on Benti Way. How was this address on that particular development, because he developed it for cash?

Mr. Wilkinson stated that Mr. MacRitchie didn't default on that development, so there wasn't a penalty for default on Benti Way. (Correct)

Mr. Stanton pointed out as an aside, that this provision matches a provision in the old code, so this isn't entirely new. This is from the old Code Section 3-3-45(B). It has been reworded a little, but the intent is there. He then read the Section out of the old Code. Mr. Stanton said that if Mr. MacRitchie thought there was some other language that should be added in order to clear it up some more.

Mr. MacRitchie said no, it just referred back to the two main points that he had today, which were that there should be directly in the Code a mechanism, not in a performance agreement, that does not oppose the ability for a developer to draw cash on completed portions of infrastructure of the great total amount. The other point was the difference in today's version of the Code versus where things were before, where developers could get final approval without certification. That allowed for a gap in time for developers to have final approval, which allowed for them to go get building permit that allowed them to construct the project, and it allowed enough of a gap for them to construct the project and then come back for certification. This section would only be a problem in that particular scenario, to make sure that the City has rights in case the developer does default on doing the infrastructure within the two year time period. He thought those were the big items that he wanted to see some movement on. To have Code that states in two places that developers cannot draw against it until all items are completed goes directly against what he thought the intent of Council, Commission, and Staff is, which is that developers should be able to draw on it. If all the money has to be put up in advance, developers should be able to draw some of it down when items are completed. What he was referencing before when he talked about when to put that amount of money down, he thought it should state that it should be put down prior to the start of construction. Now with the larger dates developers have to plan more in advance. The minimum time now goes from two to three month to four to six months to get through the approval process, and that cannot line up with months of construction. In doing so that may mean developers have to put in a large cash bond at a time when they can't start construction, which that bond is there to protect against. The developer may have to let the bond sit there for months until construction can start. Mr. MacRitchie said he would prefer it be put in place prior to the start of construction, not when they get an approval date, which is out of the developer's hands.

Mr. Wilkinson said they could take a look at that. The problem he saw was once you get into that two year NRS requirement. Once you record a map you have two years to record the next map, so it is up to the developer to get their applications in, get the approvals moving, and get the construction done. The City may not have the flexibility to write an agreement that says you have two years and three months.

Mr. MacRitchie said he wouldn't expect any increase in the duration of time available. Let's say the map was approved in February, knowing that there are 24 months from that month, but the bond does no good for either party because construction can't start. The bond would be required to state prior to any mobilization of equipment on the project, or start of construction, the bond must be in place with the City of Elko.

Councilman Schmidtlein asked if would be a grace period.

Mr. MacRitchie said it's not a grace period at all.

Councilman Schmidtlein said he realized that, but prior to construction starting. He asked if Mr. MacRitchie would be willing to put the cash down 15 days prior to, or 30 days prior to the start of construction.

Mr. MacRitchie said he would be willing to do that.

Mr. Wilkinson said that may be possible. There is the two year time for completion, but we could probably add a provision that states the bonding would be in a place by a date certain that the developer could propose to the City Council.

Mr. MacRitchie added but not after construction begins.

Mr. Wilkinson said yeah, that was something that could probably be working into there.

The Mayor called for a break at 2:53 pm.

The meeting was called back to order at 3:28 p.m.

Spencer Defty, 32500 State Highway 16, Woodland, CA, stated that he had been investing in Elko for 4 or 5 years. As someone from California who is looking for an avenue to leave crazy land. They are in three western states California, Wyoming, and Nevada. He wanted to talk a little bit about his experience. He was asked by some of the local development community to come speak. They are in three western states doing business, five different counties, and five different cities. Within those they have seen a wide range. One of his concerns with where they are at is they have the local government trying to control the narrative and not reacting to the business and development community. They are king of the kingdom and there are people within staff who play king of the kingdom. It's very frustrating when you come in with your hard earned money and somebody gets some idea that they're going to put this regulation in place to protect against the what if, and it just adds nothing but parasitic load to the developer's cost to do business, whether it is development or business. This is the reason they are moving money into places like Wyoming and Nevada. He had heard people say that here they are doing this because this is the way everyone else is doing. That is exactly the reason he was coming here, because you're not doing it like everyone else. He cautioned the City on doing it the way everyone else does it, because it is a problem from where his standpoint was. They don't have that flexibility, they don't have that interaction that you have. Just in the short time he had been here today and talking to some of the people in here. The City has very bright people here that can help manage and drive this. He would propose what they had done locally in their county in Woodland. They now have a working group that meets quarterly. That working is group is private and public coming together and working out these types of issues. Staff is really driven by the private sector, they say that doesn't work and here's the reason why. As far as this bond issue, the question he had was what is the City's failure rate? Is there a statistical failure rate since 1954? How many times has the City taken over a subdivision and had to finish it?

Mayor Johnson said he didn't know about a specific subdivision, but the City has had to take over for public improvements outside of the subdivision.

Mr. Defty said at the risk of being subjective, it seemed like the City was making an Ordinance for what ifs. It doesn't seem like it's broken. The City has a good thing going here.

Mayor Johnson deferred to the City Attorney. The City is not changing the Ordinance that much from what has been in place since the 70's.

Mr. Defty said it sounded like a lot of parasitic load was being added to the development community. In his opinion, when you start trying to guaranty outcomes you lend it to more liability for the City. If you're going to guaranty an outcome and that subdivision fails, then the bond company fails, it's going to be on the City. They are moving their money out here because Elko is not like everyone else. If you want to break something that is running well, this sounds like it's a good start to it. There will be a vacuum created that will suck money out of Elko and it will go somewhere else. Whether you realize it or not, you are competing. You are not only competing locally in Nevada, but also with Idaho and Wyoming. There are people like himself that are looking for places to put their money. Mr. Defty stated that he was on a pathway to move about 70% of his wealth out of California right now. It was because of these types of narratives, where their staffs, in their counties and cities, have become what they think is smarter than the private sector. They come up with these different Ordinances and rules that become problematic for the developers, and they don't understand that parasitic load. We are in a very crucial time right now, the cost of money is going up hugely, and it's going to continue to go up. That will put a lot of people out of the game, and if you add to that load by elongating the process, it will stop development. He wants to come here and invest his money. He stated his experience in the City of Elko and the County of Elko had been nothing but good. Every one of the City staff members that he had talked to had been wonderful to deal with. They were open, collaborative, they want to see business, and the culture seems very strong to help. They seem to get that they are public servants. They are here to serve all of us, we drive the ship, and they are there to clear the way. He always tells people it is crazy the system that we live in, whereby the City, or the Government, is a basically an average 35% no risk partner with all of us in business. As a no risk partner, if he were in the City's position he would be trying to get his partners to make money. It seems like more times than not, Staff's ultimate job is to say let's put more stuff in the way of these guys, so they can't make money. He was just here to say that the City had a room full of bright people. Start a working group, where you guys work collaboratively with them.

Howard Schmidt, 1694 E Torrey Pines Circle, Draper, Utah, explained that he had a long history with Elko City and it had been really great. It has been 30 years since they started their first development here. They have done a lot of lots and have had a good relationship with the City. He appreciated the time and effort that had gone into this rewrite. There are a couple things that they really needed. They need a second option, not to have to bond a subdivision when they are ready to start. Take it through all the approval processes that are laid out, and then give developers the window to build the development and get it done, have the City come inspect it, turn in the certifications from the engineers, and then record the plat. He thought that was an option that made sense a lot of times. People say well just go get a bond for it. Well, not

everyone has the ability to get those bonds. They are tricky, and Elko is not the most attractive place for bonding agencies to want to put their money. If you have a relationship from another area of the world, or if you do a lot of bonding that is understandable, but typical subdivisions aren't doing a lot of that right now. He asked if there was an appetite for that. He wanted to know how the City felt about that.

Councilman Robert Schmidtlein stated he was in favor of entertaining the options on both of those items. As Scott said, on Page 78, Section 10, and Page 80, Section B, he was very much in favor of both of those. He hit multiple other items to retain the options. From the sounds of it, Mr. Stanton is in the process of potentially rewriting those, more or less in the flavor that the developers want it written, to give them the options. The City is here to encourage development, not to hinder it.

Councilman Keener said he concurred with what Councilman Schmidtlein said. When you look at the increase in housing prices in Elko, up 14% year over year for 2018 versus 2017. We need more inventory. There's only 3.5 months of inventory on the market right now. If the construction gets slowed down, it's only going to increase prices and push people out of the area. He thought it was crucial. We really need for the economy, here in Elko, a robust construction sector. It really helps the City a lot, in terms of sales tax revenues and jobs. He was all for responsible development within the City Limits. We have been doing a lot of annexations as well, and we need to continue to acquire more land to keep up with the number of developable lots.

Mr. Schmidt thought they needed that kind of partnership. That was really important to them. He stated he was spending less time here in Elko, but his partner, Dusty, is trying to do a lot. The other concern he had was the timing. It takes so long to get a subdivision approved. By the time you go through Stage I, and then move on to Stage II, the Code that is changing is lengthening the time, not shrinking the time. He thought one of the time periods was 45 days. Section 3-3-5, Page 48 talking about Tentative Map, in (C)(1). He then read through the section of Code. He thought 60 days was too long. He thought 30 days should be plenty of time to review the application and put it before the Planning Commission.

Ms. Laughlin explained that it was changed to 60 because the NRS allows the City to go up to 60 days on that. One of the issues that the Planning Department has come across is, right now they currently have 21 days prior to the Planning Commission meeting. The Planning Department has approximately 7 days before they have to get the item out for public hearing notices. If any member of the staff is out of town, and haven't had a chance to review the application, the notifications are going out to the Free Press, and spending hundreds of dollars, and maybe it's not a complete application. What we are really hoping is that if a very complete application gets submitted, it can get processed onto the next Planning Commission meeting, staff doesn't have a problem with that. What is happening is when they are incomplete, or there is questions on something, and we go back and forth and ask for revisions, then we had already advertised for the public hearing. The 60 days would allow staff enough time to do a complete review and get revisions if necessary, but it would be staff's goal to get it on the next Planning Commission Meeting.

Mr. Wilkinson added that the subdivision applications have to be complete enough to make some findings required for an approval. The findings are required as stipulated in the NRS and the City Code. The Planning Commission can't make a recommendation to the City Council unless those findings can be made. Many times we get applications that don't contain enough information to make those findings. The question Mr. Wilkinson had in response to that was why the developer can't plan according to the Code and make applications sooner rather than later. What is the inconvenience with being able to do that?

Mr. Schmidt said the tentative map had already gone through the Stage I Meeting and they have already addressed a lot of issues. He thought that the time wouldn't start until the City had a complete application.

Mr. Wilkinson explained that the tentative map was in the Stage II process. The Development Review Committee is in Stage I, which is an informal process without an application. The Tentative Plat for all subdivision is the most important review process in the entire subdivision planning and approval for the City of Elko. That's where all of the elements have to be addressed in order to make the findings that are required for approval of subdivisions. It's really about the construction season that Elko has to offer. He thought it was incumbent on the developer to take a look at those time frames and plan and make application according to the time frames stipulated in Code to meet the construction season.

Mr. Schmidt couldn't agree more. His concern was with building this time that it would become an assumed thing that that amount of time is going to be used. Maybe the clock doesn't start until the developer brings in a complete packet. That was a concern that he wanted to bring up. He felt like adding more time didn't help the developers. He wanted to ask about Tentative Map versus Final Map. Typically a tentative map may have three or four different phases on it. If it is a larger development the tentative map will have phases one, two, and three. In the even that you have a tentative map that is one phase. He asked if it was possible to run tentative map and final map at the same time. They do that in some cities, and some will not allow it.

Mr. Wilkinson didn't think under the NRS, and the requirements for State approval, that the City could do that. We could look at whether that is possible or not. What factors into all of the timing, and the timing for construction of projects, is the State approval. The tentative plat approval allows for the City of Elko to issue an intent to server letter. At that point, it allows for the State to review the tentative plat and go through its approval process. The State's approval process is documented in writing back to the City of Elko. He didn't believe that it would work for the City to approve both of the maps at the same time. He thought it would probably be in violation of the NRS and how the City works with the State. Once we have the tentative approval the State has actually approved it and then you are able to move forward with your final plat application and the final engineering design of the subdivision and make those submittals not only to the City, but to the State. Both of those, the final plat and the construction plans, run in conjunction with each other through the State approval process and with the City.

Mr. Schmidt said let's try and research that, because it would probably save the City a lot of time if they didn't have to go through two meeting processes. They do that in several cities that he works in.

Mr. Wilkinson imagined that the other cities took separate actions.

Mr. Schmidt said yes, but at the same meeting. They were separate agenda items, but at the same meeting.

Bob Thibault, Civil Engineer, asked if that took place in Nevada.

Mr. Schmidt said no.

Dusty Shipp, 959 Montrose Lane, said he was going to pick up on the timing situation. We have talked a lot about some of the new and clarified code writings, but timing has a lot to do to development, because the amount of time the money is tied up. In Elko there are weather situations. If a subdivision records in certain times of the year, or can't record because they can't get asphalt, that is a big deal for the timing of the subdivision. When you start implementing bonding, performance agreements, and things like that and developers can't follow through on some of those, or it's difficult to, because of timing. It becomes very hard to do and then the money is tied up because of that timing as well. The other thing that is in Elko that is pretty unique is a lot of times the developers are developers, they come in and develop the land, but then the builder is someone else. In Elko, because it's hard to find both, the builder and the developer are the same. On Page 58, items 8 and 9 of the new proposed draft. In the current code, it doesn't really state this, but developers have been allowed to start and obtain building permits in conjunction with their subdivisions. So, they are building the subdivision out and they are building the homes in conjunction. In the new revision in Section 3-3-7(G)(8) states: The City shall not issue any building permits in accordance with Section 3-2-2(B)(4) and 3-2-3(B)(6) prior to completion, certification and acceptance by the City Council of the required improvements as shown on the construction plans. With this being the case, if you get a subdivision that can't get final certification and the developer can't pull building permits, developers could lose six to nine months of building time. A lot of times they will jump on an early spring, pull a permit, and get a foundation in the ground, so that people can be finishing up in the decent building weather. In theory, this kills some of that potential. The other problem with that is the market in Elko changes. The subdivision Mr. Shipp is currently working on, last year they had 20 people lined up that wanted to take lot reservations. For many reasons that subdivision has been delayed until next year, so they will have a change in who's lined up to do that, and then a market change that will probably happen during the course of building the subdivision. All those things add to the stress of getting things done. Timing is a big deal. He thought that item needed to be looked at again. There are some things they can do. If they are building the subdivision out of cash, if that gets allowed, then the City is not as protected if they started building homes. If they do bond that subdivision and they tried to pull home permits, then there would be no risk to the City at that point. He thought that needed to be reworded to allow some of that. Obviously there is some risk when you start building a home where you don't have a subdivision. Maybe there is a requirement that there has to be water and fire hydrants be alive. He thought not allowing that until the subdivision is certified is a problem.

Mr. Wilkinson clarified that Mr. Shipp suggested that if a subdivision is certified and bonded, because there would need to be lots of record to issue building permits, that that might be a way

to go. The City would also need State approvals to place the utilities into service, so that there would be fire protection for vertical construction. The City would need to figure that out. If a subdivision wasn't bonded and of record, it's not possible to issue building permits. Mr. Wilkinson asked Mr. Shipp if he agreed.

Mr. Shipp said yes. He clarified that timing is of essence. There are some things that can be done in the building process that wouldn't need fire protection. Maybe there is some give and take there that allows some of it to get started. You have a month of building that can be done prior to needing that.

Mr. MacRitchie stated that in areas that he had worked, if the subdivision is bonded for and the plat is recorded, the municipality will give a building permit, but not a Certificate of Occupancy until all of the items are completed and certified. The building permit can be had in order to be able to continue with work, but no occupancy can take place until that is done.

Mr. Wilkinson said that was in the Code.

Mr. MacRitchie said it goes back to the zoning. If you have a larger project, maybe it encompasses 100 acres, but you're considering only doing a tentative map that is only a small portion of that. The reason you would consider doing a small portion of that because the moment you get into a tentative map you're now on the clock. Every two years you've got to come through. In a town like Elko, where the absorption rates go up and down, you can't plan six years from now to make sure that you take an entire massive development, and have that on a two year schedule. You had mentioned that there are some areas for that currently in this Code, which would allow for the potential to rezone the area before submitting a tentative map.

Mr. Wilkinson explained that the Code allows for that under Section 3-2-21 before you get into a subdivision process. The zoning that they had talked about, related to a subdivision is under the subdivision process. Other zoning amendments occur under 3-2-21. If you are looking at zoning a larger area prior to subdividing property, that would be done under 3-2. Then once you get into the subdivision process, the zoning that is referenced is specific to the subdivision of that property under that application.

Robert Capps, Flagstone Drive, said he had heard a lot of really good points he felt were made this afternoon. He was happy with the response and the dialog that he heard. It's been a constructive afternoon and some progress was being made. He explained that he had been developing real estate for a long time. He wanted to tell everyone that developing real estate and building homes in Elko has been a pleasure, relative to other areas where he has worked. He hoped to continue to do so. There were a few things in the proposed Code revision that he thought were very important, primarily the performance bond. It was music to his ears to hear that there are some open ears as to having the two options, to either do the improvements or financially guarantee to do the improvements. Bonds aren't easy and there isn't a cost free approach to a financial guarantee, whether it be cash or borrowing. They are difficult to obtain and very expensive. Since the proposed Code change came up a few months ago he had been studying it himself thoroughly and looking at other Codes throughout Nevada to try brainstorm and come up with some solutions to make everyone comfortable. He thought they were making

some good strides. He was in favor of the City being assured that they are getting good quality improvements when they take them over, because they are stuck with them. He wasn't sure that a mandatory performance bond in every situation was the best way to get there. He wanted to touch on a few of the minor points. He thought some good points were made in regards to timing. It is interesting, and some other cities do it too, that you come in for a tentative map approval. That gets approved, then you go to work and start spending a ton of money. Then you come back for a final map approval, which in essence is the same approval twice. Nothing changes, you have a tentative map and construction drawings and that is what you build. He wasn't sure if it was a productive use of anybody's time to go through that same process, Planning Commission and City Council, twice. To him the final map was more of a surveyor's instrument, a map of recordation, so everyone knows property descriptions and things.

Mr. Wilkinson explained that the final map had to be consistent with the tentative map. The final map may be a portion, or part of, a tentative plat. All of that is dictated by the NRS. There is a process in the NRS. The Code follows the NRS, and follows the State approval process for subdivisions, which also follows the NRS. As part of that process the NRS requires a tentative process and a final plat process.

Mr. Capps said he wasn't 100% clear on the NRS code in that regard. He did know that other cities did that. It just doesn't seem like a very effective use of anyone's time. He understood that the Code needed to be consistent with the NRS. The project that he is involved with, and others that he has sat through at Planning Commission and City Council meetings, it is the exact same approval at the tentative map and the final map, so he didn't understand why it needed to go through two public hearings.

Mr. Wilkinson explained that a final plat may be portion of a tentative plat. Then if you're doing a phase of a tentative plat, of course, then under the NRS there is a two year period to continue recording the final plats until the entire tentative plat has been recorded. That is all dictated by the NRS.

Mr. Capps said he understood that. It would just be a shame if you get a tentative map approval and you're out doing work, and then additional things get added.

Mr. Wilkinson clarified that at the tentative plat stage, the engineering or construction plans have not been submitted. The tentative plat approval provides enough information to make the findings to approve the subdivision of the property. At the tentative plat approval you then have authorization to do the final design, the construction plans, engineering plans, and all the detailed plans. With any tentative plat the City doesn't get a full set of civil improvements. Those come with the final plat approval process.

Mr. Capps said he understood the process. If possible they might want to look at if it is necessary to go through two Planning Commission meetings and two City Council meetings for the same approval. He wanted to talk about the partial release of funds. The issue that you run into is, it is like a construction loan, the timing never works between a loan draw and when you actually have to pay subcontractors and material suppliers. That is a bit of an issue, but a necessary evil perhaps. In trying to come up with some solutions, understanding that the City needs to protect

itself from shotty improvements, so he has done a lot of research on this. He looked through the NRS, and Chapter 278.380 says as a condition precedent to the acceptance of streets or easements, require that the subdivider improve or agree to improve the streets or easements. He also looked through several cities and counties throughout Nevada; Minden, Douglas County, Carson City, Fernley, Churchill County, Yerington, Lyon County, Tonopah, Reno, Hawthorne, Sparks, Washoe County, Battle Mountain, and Humboldt County. They all say it in slightly different wordings, but in every one of them they have a second option, where you can either do the improvements or financially guarantee to do them. He hoped the City of Elko ended up being consistent with that.

Mike Lattin, 3250 Sundance Drive said in the way of background on the tentative map issue. He felt, having developed for over 40 years, that the tentative map was an important part of the process to protect the developer. Whether or not, after the initial public hearing, the final map needed to go back to the Planning Commission. He questioned the need for that. Whatever could be done to streamline the process is going to save the ultimate customer money. If the developer saves money, the home buyer is going to save money. Things are already expensive enough. He thought the two things he has heard this afternoon, which are absolutely necessary, was that there has to be a provision for draw down on the cash guaranty. It should probably be like a voucher control system off of the engineer's estimate. When that work is done, then the money is released to the developer. The second thing that he thought was critically important, and also helps keep the cost down, was what Mr. MacRitchie referred to as building with cash. There needs to be that option for developers to go in and front the cost, complete the improvements, and come in for the final map certification and recordation after it's all done. That was very important to him.

Jim Winer, 700 Idaho Street, thanked everyone for their time today. This is an important issue that will affect the community for years to come. He stated the same thing at the Planning Commission meeting a month ago. It has been 1970 something since this section of the Code has really been looked at. The decisions that you guys are going to collectively make and whatever comes out the other end is going to affect the City and how it grows for years. The President of the Elko County Association of Realtors was here, but she has State meetings tomorrow and had to drive to Reno, so he was going to say some things for her. Reece also mentioned come of the statics in the market right now. The National Association of Realtors says 3% to 5% is the growth rate that you like to see in a residential community on housing stock going up, as far as average increase in prices. We are sitting at about 14%, it is at 13.8%. That is in the City. The entire market, which is all of Northeastern Nevada from Wells to Carlin, is 10.8%, but the City itself is 13.7%. We are currently in a housing shortage. The topic at hand affects that for all the reasons that people mentioned before about cost, development, time is money, money is money, and supply issues. This issue has peaked the demand of the major employers in the area. He knew in the audience there were representatives from, and/or reached out to people directly to express their interest, Newmont and Barrick are tracking this, and also the hospital and the college. It's not too far back in history, 2006 and 2007, when there was such a housing crunch from apartments to houses, that Newmont and Barrick were forced into the housing industry. They don't want to be there again. Globally, the decisions that are about to be made, collectively affect the community on so many levels for so many years. The first time the topic came up about guarantees, as he recalled, was a meeting that Mr. MacRitchie was in front of the City on Tower Hill. It was at that meeting that Mr. Winer remembered Councilwoman Simons saying

that perhaps two paths or two methods are needed. He thought after a lot of good dialog today, he thought that's where they were headed. Two plans, two ways, each would be beneficial to the City to make sure the citizens are protected, and also that developers can develop with flexibility for some degrees of cost control. One of the things that plan B would allow, which is where you get your approvals, you build the stuff, get it certified, and then get your plat recorded. That allows for market slowdowns. If you're putting in all your money up front and the market slows down then you can pull back the reins on the expenditures, but if the money is in the hands of the City, or in bonding or financial instruments, all your cash is tied up. If you take away plan B you are taking away the potential for a developer to slow down the process and make prudent decisions on money. From the real estate industry standpoint those are the statistics that the community is looking at right now.

Mayor Johnson thought if everything remained the same, or not enough changes, the next step would be the Planning Commission meeting and then back to City Council.

Mr. Calder explained that City Staff was looking for some direction from the working group with regard to what types of revisions the Council and the Planning Commission would like to see. Once staff gets that direction they can make those revisions and then go back to the Planning Commission to show them the revisions for an initiation process. That process would ultimately lead to the City Council hearing it at a first reading.

Mayor Johnson thought it was sounding as though they wanted to see a two option path. For the developer to choose whether they are going to provide bonding or cash. He thought it was going along the lines of whether or not they wanted to sell property before the subdivision is complete or after. That might go hand in hand. He thought that was one.

Councilman Schmidlein asked if they needed to make a decision on each change.

Mayor Johnson didn't think they needed to be specific, but here's the two path. He thought there was some great points regarding the tentative versus the final map. He thought there was something they could do there to help.

Councilman Keener thought Mr. Stanton was taking some pretty good notes. He thought that Mr. Stanton could put together a proposed draft, and then meet with a representative from the developers group, Planning Commission Chairman, and a member of Council to have a working meeting on that to see where things are at, how close things are, and make some revisions and have another meeting to go through and debate it.

Mr. Stanton asked if Councilman Keener was referring to another joint meeting.

Councilman Schmidlein explained that Councilman Keener was saying to get a working group together. Have a member from the development, someone from the Planning Commission, and have a member of the City Council sit down so they weren't bringing 50 people together.

Vice-Chairman Jeff Dalling said he liked that idea.

Mayor Johnson thought the main thing that needed to happen, as Mr. Calder asked for, was what we want to do as elected officials and appointed officials. We need to define that. He thought they were willing to go with the two path. He wanted to see whether or not they could do something with tentative map versus final. He thought Mr. Schmidt brought up a good point with the 60 days. He also heard good comments from Ms. Laughlin on that. He thought that as long as the developer knows that it could be shorter than 60 days. Keeping that timeframe as short as possible, so that the development can happen as it needs to.

Councilwoman Mandy Simons asked if they could also include some language clarifying that the developers are able to draw down. If they present what the City requires, you will be able to draw down. She thought that was an important point.

Mr. Stanton wanted to make a couple of suggestions, because both the Planning Commission and the City Council were present. He thought that if they were going to take action, it would have to be done as separate bodies. We might get direction from the Planning Commission as one voter, and then the City Council would give direction in another vote, if it decided that it wanted to do that. He had been listening to the input from everyone, staff and developers both. He thought there were some areas where we could clean up the part about reducing cash bonds and how that works. He thought they could clean up other areas as well. In terms of the tentative maps, some of that is in the NRS. We really have to stick to the NRS scheme for how the tentative map/final map process works. What you're really talking about is reducing the 60 days back down to a shorter number of days to complete that tentative map process. He really thought that part of the working group needed to have Scott and/or Cathy involved as well, because they have to live with the Code changes. He thought staff needed to be involved in the working group, right alongside of us. He thought he had enough information to generate another draft, which would address the majority of the concerns that he heard subject to NRS restrictions. He didn't think he could change anything that the legislature is telling us that we have to do.

Mr. MacRitchie thought that it was fundamental that the language in the Code that currently states that you cannot draw it down, be changed specifically. That is a fundamental point. Even if there is not two paths, although it would be great if there was, the inability for the language to change allowing for draw downs and making it specific only to a separate agreement, absolutely has got to change, or it could easily be tagged back to say that it couldn't actually be put in the agreement because Code specifically states no draw down ability.

Mr. Stanton thought Mr. MacRitchie brought up a good point. This was something that he could use direction on. He could clear up the language that talks about the draw down and make that clear that it works that way. What he thought Mr. MacRitchie was getting at was is the draw down going to be something that is in Code that works automatically, or is this going to be a provision that we have in a development agreement, and is enforced that way.

Mr. MacRitchie said but then it could be arbitrarily dispensed.

Mr. Stanton said that they could reword it so that that provision is in all development agreements. It seemed logical to include it in a development agreement.

Mr. MacRitchie said unless the Code specifically stated that you cannot do a draw down, which in two places in the Code it does.

Mr. Stanton thought they were past that.

Mayor Johnson said he understood what Mr. Stanton was saying. He thought that if it was in the Code that the developer had the option of drawing down, and then if there is some circumstance that the developer wanted to finish the project without a draw down, do they necessarily have to have it.

Mr. Stanton thought there was some flexibility built into this right now, the way it is drafted. So that not all circumstances are the same and you might not need to have that provision for a draw down in a development agreement. It might not even be relevant to it. The way it is worded now, if you're in a circumstance where it is relevant, then that can be added.

Mayor Johnson added as long as it is said that the developer has the option of whether they can draw down based on things within the performance agreement. That's what needed to happen.

Mr. Stanton thought that was the way it was written now, but there was some confusion about whether that is clear enough. He intended to clear that up and make it so there is no room for doubt.

Mr. MacRitchie said it wasn't confusing at all. It specifically bans that in the Code in two places. One other clarification that was that the tentative map does not give approval to start construction. Under no circumstance could you get a tentative plat that then allowed you to put a lot of money into construction before you had final plat approval. (Correct).

Mr. Stanton said he needed to know what direction the Planning Commission and the City Council wanted to take. If the direction is to have a working group composed of certain members and develop another draft to present to the Planning Commission.

Councilman Schmidlein asked if the Council needed to initiate, or if the Planning Commission initiated that.

Mr. Stanton said that either the Planning Commission or the City Council could do it.

Mayor Johnson asked if there was a chance they could get to a Planning Commission meeting without having a workshop.

Mr. Stanton thought so.

Mr. Wilkinson thought if they could get direction, do they want to have options or alternatives. If they can get that type of direction, he thought they had had enough conversation and comment. That was the biggest issue that they would need to consider when going through this revision process to try to get it back to the Planning Commission for initiation. At that point in time we would have the ability to review that under a public hearing setting and even make additional

revisions between that meeting and a second public hearing with the Planning Commission before it went to the City Council. He thought that compressed the timeline a bit. Or there could be a working group, but he still thought they needed that type of direction for the working group to come up with a revision.

Mr. Stanton said if they were to have a working group they would need some direction on what they were going to do.

Mr. Schmidt said that they really never addressed if there was ever a circumstance where a person would have 110% bond in place.

Mayor Johnson said probably not.

Mr. Schmidt added because they did. That's what was after Scott MacRitchie that he threw the fit on last spring. That's what happened to them at Golden Hills. He was wondering, because that hadn't been addressed. That should never happen.

Mayor Johnson said that the discussion of the two paths should solve that.

Mr. Schmidt thought so, and the draw down should solve it.

Mr. MacRitchie thought Cathy and Scott specifically addressed that by saying not in addition to, and that clarified it enough to let everyone that the 100% contained the 10% maintenance bond. It removed the language of in addition to the 100% there's an additional 10%.

Mr. Wilkinson said it can. The Code allows you to draw down to 90%. Some surety companies issue a performance bond and they replace that with a maintenance bond. Under difference scenarios, however you have provided the guarantee, if its cash the Code allows it down to 90% envisioning that the 10% then becomes the maintenance guarantee upon acceptance of the improvements by the City Council. Under some sureties they'll reduce it down to 90%, a lot of the surety companies actually title the sureties "Performance" and "Maintenance" and then one replaces the other and the other one goes away.

Vice-Chairman Dalling stated that he was ready to make a motion.

***** A motion was made by Vice-Chairman Jeff Dalling, seconded by Evi Buell, to direct staff to create a working group consisting of one member of the Planning Commission, one member of City Council, a developer group representative, the City Planning, the City Manager, and the City Attorney; and direct them to work on the two paths for performance bonding, work on the draw down language, and also to discuss the 45 to 60 days for the application period.**

**Motion passed unanimously. (4-0, Jeff Dalling, Evi Buell, Tera Hooiman, and John Anderson voted yes)*

Robert Capps asked if anyone would be opposed to having two representatives from the development community.

Vice-Chairman Dalling said that two would be fine.

Commissioner Tera Hooiman asked if they had an idea of how the representatives could, or should, be selected.

Councilman Schmidlein explained that the developers had a group among themselves.

Vice-Chairman Dalling amended his motion to include **“two representatives from developers groups.”**

FINAL PUBLIC COMMENT PERIOD

There were no public comments made at this time.

ADJOURNMENT

There being no further business, Mayor Chris Johnson adjourned the meeting.

Mayor Chris Johnson

Kelly Wooldridge, City Clerk

Jeff Dalling, Vice-Chairman

Tera Hooiman, Secretary

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
5:30 P.M., P.D.S.T., TUESDAY, OCTOBER 2, 2018
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

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

ROLL CALL

Present: Evi Buell
 Ian Montgomery
 Jeff Dalling
 Stefan Beck

Excused: David Freistroffer
 John Anderson
 Tera Hooiman

City Staff Present: Scott Wilkinson, Assistant City Manager
 Cathy Laughlin, City Planner
 John Holmes, Fire Marshal
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

APPROVAL OF MINUTES

September 6, 2018 – Special Meeting **FOR POSSIBLE ACTION**

*****Motion: Table approving the minutes from September 6, 2018.**

Moved by Evi Buell, Seconded by Stefan Beck.

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

I. NEW BUSINESS

A. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review and consideration of Site Plan Review No. 1-18, filed by The State of Nevada for approval of the location of an accessory building in the PQP (Public, Quasi-Public) Zoning District. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest side of Idaho Street, approximately 450' northeast of Convention Drive. (1951 Idaho Street – APN 001-560-002)

Ross Baker, 1260 S. Stewart Street, Carson City, announced that he was there to answer any questions the Commission might have.

Cathy Laughlin, City Planner, went over the City of Elko Staff Report dated September 24, 2018. She recommended approval with the conditions listed in the Staff Report.

John Holmes, Fire Marshal, stated that there would need to be a separate submittal for the fire suppression system that must be submitted to the City of Elko Fire Department. He asked how big the proposed building was going to be.

Mr. Baker explained that it would be several thousand square feet and it would be sprinklered, because of IFC requirements. They plan to develop to the 2012 IFC.

Mr. Holmes explained that the submittal would need to be submitted to the Fire Department.

Mr. Baker said they might have to do some coordination on that. They generally submit to the State Fire Marshal, and then theoretically he would give it to the City Fire Department.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff.

Commissioner Stefan Beck asked what the building was going to be used for.

Ms. Laughlin explained that it would be a paint booth.

Mr. Baker said it would be a paint booth for vehicles and equipment.

*****Motion: Conditionally approve Site Plan Review No. 1-18, subject to the conditions in the City of Elko Staff Report dated September 24, 2018, listed as follows:**

Fire Department:

1. A separate submittal for the fire suppression system must be submitted to the City of Elko Fire Department.

Utility Department:

1. Please confirm that there is no water or sewer services for the building or provide a plumbing plan if there are services to the building.

Commissioner Buell's findings to support her recommendation are the proposed development is in conformance with the Land Use Component of the Master Plan. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan. The site is suitable for the proposed use. The proposed expansion of the development is required to conform 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 accessory structure. The proposed development is in conformance with 3-2-3, 3-2-17, and 3-8 of the Elko City Code.

Moved by Evi Buell, Seconded by Stefan Beck.

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

II. REPORTS

A. Summary of City Council Actions.

Ms. Laughlin reported that she had not taken the Great Basin Estates Phase 3 Final Plat to City Council yet, as staff is waiting on some additional information to be provided from the developer.

B. Summary of Redevelopment Agency Actions.

Ms. Laughlin reported that there would be a RAC meeting on Oct. 25th. At this time there is not an agenda set for that meeting. Ms. Laughlin is waiting on some information on the Final Acceptance of the Centennial Park Expansion to have an RDA meeting.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

Ms. Laughlin reported that the latest addition of the revisions to the Subdivision Code were available online. The meeting will be Thursday, October 4th from 12:00 p.m. to 2:00 p.m. It is a public meeting and it will be in Council Chambers. We will make sure the information gets out after the Committee meeting, and if they are required to have a second Committee meeting it will be on October 17th. Then hopefully it will come back to the Planning Commission in November. There are also a few other Code revisions that will be on the November meeting.

E. Elko County Agendas and Minutes.

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

Ms. Laughlin announced that she and Ms. Archuleta would be out of the office next week on Monday, Tuesday, and Wednesday to attend the Nevada Chapter for American Planning Association Conference. We will hopefully bring back some good information.

Vice-Chairman Jeff Dalling said last time he talked to Mr. Calder, he mentioned that he would give the Planning Commission money to do training for the Commissioners.

Ms. Laughlin explained that there was no budget in this year's budget. We were looking for some specific Planning Commissioner type training, and there weren't any that were being presented at this conference. We are still trying to look for some training for the Commissioners. Mr. Calder is bringing in a couple people from the POOL/PACT after the City Council starts a new City Council in January. They will be conducting some training in Elko for Commissions, Council, and all sorts of things.

G. Staff.

COMMENTS BY THE GENERAL PUBLIC

There were no public comments made at this time.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Dalling, Vice-Chairman

Tera Hooiman, Secretary

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Zoning Ordinance Amendment 2-18, Ordinance No. 834, an amendment to the City Zoning Ordinance, specifically Title 3, Chapter 3, of the Elko City Code entitled "Subdivisions", specifically a repeal and replacement of the chapter, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **November 6, 2018**
3. Agenda Category: ***NEW BUSINESS, PUBLIC HEARINGS***
4. Time Required: **20 Minutes**
5. Background Information: **Planning Commission at their May 1, 2018 meeting, initiated an amendment to the City Zoning Ordinance, Section 3-3. It was further discussed at the August 7, 2018 meeting. A motion was made to have a special meeting with City Council and Planning Commission on September 18, 2018. From that meeting a special working group was formed and they held two meetings, October 4th and 17th, 2018 to finalize the changes to the code.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Ordinance 834**
8. Recommended Motion: **Forward a recommendation to the City Council to adopt Ordinance No. 834, entitled "Divisions of Land," repealing and replacing Title 3, Chapter 3 of the Elko City Code, entitled "Subdivisions."**
9. Findings:
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution:

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 11/16

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

Title: Zoning Ordinance Amendment 2-18

Applicant(s): City of Elko

Site Location: N/A

Current Zoning: N/A Date Received: N/A Date Public Notice: 10/23

COMMENT: This is to repeal and Replace Title 3,
Chapter 3 of the Elko City Code, entitled "Subdivisions."

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 10/29/18

Recommend approval

SACU

Initial

City Manager: Date: 10/25/18

Based on joint meetings and subsequent working group

meetings, recommend approval.

CS

Initial



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@ci.elko.nv.us

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7119

Memorandum

To: Planning Commission
From: Cathy Laughlin
Date: October 31, 2018

Re: Divisions of Land Code

Major components of the code revision

- Chronological order
- Removed ambiguity
- Consistent with NRS
- Timeline for submittal and review, 3-3-5(C) & 3-3-7(F)
- City of Elko to submit maps to State, 3-3-5(D)(2) & 3-3-7(G)(2)
- Performance agreement and guarantee, 3-3-21 & 3-3-22
- Building permits and COO, 3-3-7(H) 8 & 9
- Construction shall not begin before Federal / State approval, 3-3-21(A)7
- Created a new section for Appeals, 3-3-30

**CITY OF ELKO
ORDINANCE NO. 834**

**AN ORDINANCE AMENDING TITLE 3, CHAPTER 3, OF THE ELKO CITY CODE
ENTITLED “SUBDIVISIONS” BY REPEAL AND REPLACING CHAPTER 3
ENTIRELY, AND MATTERS RELATED THERETO.**

WHEREAS, the City of Elko desires to amend the City Code to provide clarification within the Title 3 Zoning Regulations, Chapter 3 Subdivisions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO,
NEVADA

For amendment purposes, words which are in bold and underlined are additions to the Ordinance, and words which are lined through and bold are deleted from the Ordinance.

Section 1: Title 3, Chapter 3 is hereby amended to read as follows:

**~~Chapter 3~~
SUBDIVISIONS**

~~3-3-1: PURPOSE AND INTENT:~~

~~3-3-2: DEFINITIONS:~~

~~3-3-3: OUTLINE OF PROCEDURES:~~

~~3-3-4: PREAPPLICATION (CONFERENCE) STAGE (STAGE I):~~

~~3-3-5: PRELIMINARY PLAT STAGE (STAGE II):~~

~~3-3-6: FINAL PLAT STAGE (STAGE III):~~

~~3-3-7: INFORMATION REQUIRED FOR PRELIMINARY PLAT SUBMISSION:~~

~~3-3-8: INFORMATION REQUIRED FOR FINAL PLAT SUBMISSION:~~

~~3-3-20: GENERAL PROVISIONS FOR SUBDIVISION DESIGN:~~

~~3-3-21: STREET LOCATION AND ARRANGEMENT:~~

~~3-3-22: STREET DESIGN:~~

~~3-3-23: BLOCK DESIGN:~~

~~3-3-24: LOT PLANNING:~~

~~3-3-25: EASEMENT PLANNING:~~

~~3-3-26: STREET NAMING:~~

~~3-3-27: STREET LIGHTING DESIGN STANDARDS:~~

~~3-3-40: RESPONSIBILITY FOR IMPROVEMENTS:~~

~~3-3-41: ENGINEERING PLANS:~~

~~3-3-42: CONSTRUCTION AND INSPECTION:~~

~~3-3-43: REQUIRED IMPROVEMENTS:~~

~~3-3-44: AGREEMENT TO INSTALL IMPROVEMENTS:~~

~~3-3-45: PERFORMANCE GUARANTEE:~~

~~3-3-50: PARK LAND DEDICATIONS:~~

~~3-3-60: PARCEL MAPS:~~

~~3-3-70: MODIFICATION OF STANDARDS:~~

~~3-3-75: REVERSIONS TO ACREAGE:~~

~~3-3-80: PROHIBITION AGAINST SALE IN VIOLATION:~~

~~3-3-85: MERGERS AND RESUBDIVISION OF LAND:~~

~~3-3-90: VIOLATIONS AND PENALTIES:~~

3-3-1: PURPOSE AND INTENT:

The purpose of this chapter is to provide for the orderly growth and harmonious development of the city; to ensure adequate traffic circulation through coordinated subdivision street system with relation to major thoroughfares, adjoining subdivisions, and public facilities to achieve individual property lots of optimum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to facilitate reservation of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose; safeguard the public health, safety and general welfare; and to ensure development in conformance with the city master plan. In its interpretation and application, the provisions of this chapter are intended to provide a common ground of understanding and a sound and equitable working relationship between public and private interests to the end that both independent and mutual objectives can be achieved in the subdivision of the land. (Ord. 624, 10-26-2004)

3-3-2: DEFINITIONS:

For purposes of this chapter, certain words, terms and phrases are defined as follows:

BLOCK: A piece or parcel of land, or group of lots, entirely surrounded by public rights of way, streams, railroads or parks, or a combination thereof.

BUILDING LINE: A line between which and the street right of way line no building or structure or portion thereof, shall be erected, constructed, or otherwise established.

CITY COUNCIL: The city council of the city of Elko.

COMMISSION: The city of Elko planning commission.

CONDITIONAL APPROVAL: An affirmative action by the commission or city council indicating the approval of preliminary plat will be forthcoming upon compliance with certain specified stipulations.

DEVELOPMENT MASTER PLAN: A preliminary map showing the tentative layout of streets and arrangements of land uses, including the location of schools, recreation areas and other community facilities for the entirety of a large landholding of which a portion is to be submitted as a preliminary plat; a map meeting the requirements of section 3-3-4 of this chapter.

EASEMENT: A grant by the owner of the use of a strip of land by the public, a corporation, or persons for specific and designated uses and purposes.

ENGINEERING PLANS: Plans, profiles, cross sections and other required details for the construction of public improvements, prepared in conjunction with the plat and in compliance with standards of design and construction approved by the city council.

EXCEPTIONS: Any parcel of land located within the perimeter of the subdivision but which is not included in the plat.

FINAL APPROVAL: Unconditional approval of the final plat by the city council as evidenced by certification on the plat by the mayor of the city of Elko. Final approval constitutes authorization to record the plat.

FULL FRONTAGE: All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner lots.

LAND DISTURBANCE: The removal of the vegetative cover from the surface of any land, parcel, lot or construction site that exceeds one acre of disturbed surface area and, most probably, is a result of grading activity associated with new construction.

LOT: A distinct part or parcel of land separated from other pieces or parcels by description, as in a subdivision or on a record survey map, or by metes and bounds, with the intention or for the purpose of sale, lease, separate use or for the purpose of building.

A. Corner Lot: A lot abutting on two (2) or more intersecting streets.

B. Double Frontage Lot: A lot abutting two (2) parallel or approximately parallel streets.

C. Interior Lot: A lot having but one side abutting on a street.

D. Key Lot: An interior lot, one side of which is contiguous to the rear line of a corner lot.

LOT DEPTH: The shortest distance, measured on a line parallel to the axis of the lot, between points on the front and rear lot lines.

LOT LINE: A line bounding a lot.

A. Front Lot Line: The lot line coinciding with the street line; or, in the case of a corner lot, the shortest of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines.

B. Rear Lot Line: The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

C. Side Lot Line: Any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is designated as the exterior side lot line; all other side lot lines are designated as interior side lot lines.

LOT WIDTH: A. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines measured parallel to the street or to the street chord and measured on the street chord.

B. In the case of a lot abutting on the inside of a street curve, the distance between the side lot lines measured parallel to the street or the street chord at the rear line of the dwelling, or, where there is no dwelling, thirty feet (30') behind the minimum front setback line.

MASTER PLAN: The adopted plan or parts thereof, providing for the future growth and improvement of the city of Elko and for the general location and coordination of streets and highways, schools and recreation areas, public building sites, and other physical development which shall have been duly adopted by the planning commission and city

council.

NEIGHBORHOOD PLAN: A plan prepared by the city to guide the platting of remaining undeveloped parcels in a partially built up neighborhood so as to make reasonable use of all land, correlate street patterns, and achieve the best possible land use relationships.

OFFICIAL STREET CLASSIFICATION AND HIGHWAY PLAN COMPONENT OF THE MASTER PLAN: A plan adopted by the planning commission and city council which provides for development of a system of major streets and highways.

OWNER: The person or persons holding title by deed to land, or holding title as vendees under land contract, or holding any other title or record.

PARCEL MAP: As defined in the Nevada Revised Statutes.

PEDESTRIANWAY: A public or private walk through a block from street to street or from a street to a school, park, recreation area or other public facility.

PLAT: A map of a subdivision; the same as "map" as defined in the Nevada Revised Statutes.

A. Final Plat: A plat of all or part of a subdivision essentially conforming to an approved preliminary plat, prepared in accordance with provisions of section 3-3-8 of this chapter.

B. Preliminary Plat: A preliminary tentative map, including supporting data, indicating a proposed subdivision development, prepared in accordance with section 3-3-7 of this chapter.

C. Recorded Plat: A final plat bearing all of the certificates of approval required by this chapter and duly recorded in the Elko County recorder's office.

PRELIMINARY APPROVAL: Approval of a preliminary plat by the planning commission. Preliminary approval constitutes authorization to proceed with preparation of engineering plans and final plat.

PUBLIC IMPROVEMENT STANDARDS: A set of standards approved by the city council regulating the design and construction of public improvements in the city of Elko. These standards are the "Standard Specifications For Public Works Construction", latest edition, as distributed to the cities and counties of northern Nevada by the regional transportation commission of Washoe County.

PUBLIC UTILITIES: Underground, aboveground or overhead facilities furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, flood control, irrigation or refuse disposal, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. "Public utilities", as used herein, may also refer to such persons, firms, corporation, departments or boards, as the context indicates.

STREET: Any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access; or, a street shown in a plat heretofore approved pursuant to law; or, a street in a plat duly filed and recorded in the county recorder's office. A street includes all land within the street right of way, whether

~~improved or unimproved, and includes such improvements as pavement, shoulder, curbs, gutters, sidewalks, parking space, bridges, viaducts, lawns and trees.~~

~~A. Alley: A public way providing secondary vehicular access and service to properties which also abut a street.~~

~~B. Arterial And Minor Arterial Streets: A general term describing large major streets, including freeways, expressways and interstate roadways, and state and/or county highways having city and regional continuity.~~

~~C. Collector Residential And Local Residential Streets: City streets serving the primary function of providing access to abutting property:~~

~~1. Cul-De-Sac Street: A short collector residential and local residential street having one end permanently terminating in and including a vehicular turning area.~~

~~2. Marginal Access Street: A collector residential and local residential street parallel to and abutting an arterial street which provides access to abutting property, intercepts other collector residential and local residential streets, and controls access to the arterial street.~~

~~D. Collector Street: A street generally with limited continuity serving the primary function of moving traffic between arterial streets and local residential streets, and the secondary function of providing access to abutting properties.~~

~~E. Private Street: A nondedicated, privately owned right of way or limited public way that affords the principal means of emergency and limited vehicular access and connection from the public street system to properties created through the division or subdivision of land.~~

~~F. Public Street: A dedicated public right of way that is part of the public street system and which affords the principal means of emergency and general vehicular access to abutting property.~~

~~G. Street Line: A line describing the limits of a street right of way.~~

~~SUBDIVIDER: The person, firm, corporation, partnership, association, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter; provided, that an individual serving as agent for such legal entity shall not be deemed the subdivider.~~

~~SUBDIVISION: As defined in the Nevada Revised Statutes.~~

~~SUBDIVISION REVIEW COMMITTEE: A committee consisting of the city engineer, city planner, public works director, fire chief or fire marshal, and planning commission chair or vice chair formed for the purpose of conducting a subdivision preapplication (stage I) review prior to preliminary plat submittal. (Ord. 739, 8-9-2011)~~

3-3-3: OUTLINE OF PROCEDURES:

The preparation, submission, review and official action concerning all subdivision plats located within the city shall proceed through the following progressive stages:

A. Stage I – preapplication (conference) stage;

B. Stage II – preliminary plat stage;

C. Stage III – final plat stage. (Ord. 548, 11-28-2000)

3-3-4: PREAPPLICATION (CONFERENCE) STAGE (STAGE I):

The preapplication stage of subdivision planning comprises an investigatory period preceding actual preparation of the preliminary plat by the subdivider. During this stage, the subdivider shall make known his intentions to the subdivision review committee and be advised of specific public objectives related to the subject tract and other details regarding platting procedures and requirements. During this stage, it shall be determined whether a change in zoning will be required for the subject tract or any part thereof, and, if such change is required, the subdivider shall initiate the necessary application for zoning amendment in conjunction with submission of the preliminary plat. In carrying out the purposes of the preapplication stage, the subdivider and the subdivision review committee shall be responsible for the following sections:

A. **Actions By Subdivider:** The subdivider shall meet with the subdivision review committee and present a general outline of his proposal, including, but not limited to:

1. Sketch plans and ideas regarding land use, street and lot arrangement, and tentative lot sizes.
2. Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements, and any additional information required by this code and the subdivision review committee.

B. **Actions By Subdivision Review Committee:** The subdivision review committee may advise the subdivider of procedural steps, design and improvement standards, and general plat requirements. The subdivision review committee may then proceed with the following investigations, and report its recommendations in writing to the subdivider, planning commission and city council:

1. Check existing zoning of the tract and of abutting properties, and determine whether a zoning amendment is necessary or desirable.
2. Examine the adequacy of parks and other public facilities.
3. Determine the relationship of the site to major streets, utility systems and adjacent land uses, and determine whether there are any potential problems related to topography, utilities, drainage or flooding.
4. Determine whether a development master plan shall be prepared and approved prior to preparation and consideration of a preliminary plat.

C. Development Master Plan: Whenever, in the opinion of the planning commission, the proposed subdivision is sufficiently large to comprise a major part of a future neighborhood, or, the tract initially proposed for platting is only a part of a larger land area the development of which is complicated by unusual topographic, utility, land use, land ownership problems or other conditions, the subdivider shall be required to prepare a development master plan for the larger area which must be submitted to the commission for approval and must be filed with the city engineer at least fifteen (15) days prior to the meeting date at which the commission will be reviewing the plan.

1. Preparation: The plan shall be prepared on a sheet twenty four inches by thirty six inches (24" x 36"), shall be accurate commensurate with its purpose, and shall include:

- a. General street pattern with particular attention to the location and general alignment of collector streets and to convenient circulation throughout the neighborhood.
- b. General location and size of school, park and other public facility sites.
- c. Location of shopping center, multi-family residential and other proposed land uses.
- d. Methods proposed for sewage disposal, water supply and storm drainage.

2. Approval: When the plan has been approved by the planning commission, it shall constitute the general design approach to be followed in the preparation of all preliminary plats within its limits. If development is proposed to take place in several stages, the plan shall be submitted as supporting data for each preliminary plat. The plan shall be kept up to date by the subdivider as modifications occur or become necessary. (Ord. 624, 10-26-2004)

3-3-5: PRELIMINARY PLAT STAGE (STAGE II):

The preliminary plat stage includes preparation, submission, review and planning commission action on the preliminary plat. Processing of the preliminary plat will be expedited by submission of all information essential to determining the intended character and general acceptability of the proposal.

A. Zoning Amendments: The preliminary plat shall be designed to meet the specific requirements of the zoning district in which it is located; however, in the event that an amendment of zoning is necessary, an application for such amendment shall be submitted and processed in conjunction with the preliminary plat. The planning commission shall not proceed with processing of the plat unless and until said application is submitted. The application for zoning amendment should be heard by the planning commission at the same meeting as the preliminary plat, but shall be acted upon separately. When a preliminary plat constitutes only one unit of a larger development intended for progressive platting, zoning amendment shall usually be limited to the area contained in and abutting the initial plat. In any event, any required zoning amendment shall have been approved by the planning commission prior to the preliminary plat approval. Zoning amendments must conform with the master plan, adopted by the planning commission and city council.

B. Sanitary Sewerage, Water Supply, Storm Drainage And Garbage Disposal: As a prerequisite of preliminary plat review by the planning commission, the subdivider shall have informed the commission, health department and the city engineer of the tentative

~~plans and shall provide adequate information to determine the general requirements for sewage disposal, water supply, storm drainage, garbage disposal and other public utilities as applied to the subject tract.~~

C. Preliminary Plat Submission:

- ~~1. Documents; Scheduling: Eighteen (18) copies of the preliminary plat and any required supporting data, prepared in accordance with the requirements of this chapter, shall be filed with the planning department at least twenty one (21) days prior to the planning commission meeting at which the subdivider desires to be heard. Scheduling of the case for planning commission hearing shall be dependent upon submission of adequate data and completion of processing. If additional copies of the submittal are needed for proper review of the proposal, they shall be furnished by the subdivider.~~
- ~~2. Submittal To Be Checked: The submittal shall be checked by the subdivision review committee for completeness, and, if it meets with all requirements of section 3-3-7 of this chapter, it shall be assigned a file number; if incomplete, it shall be rejected and the subdivider notified as to its deficiencies.~~
- ~~3. Filing Fee: The subdivider shall, at the time of filing, pay to the city a filing fee based upon the number of lots in the plat. If preliminary approval subsequently expires prior to application for final approval, the plat shall be resubmitted for preliminary approval as a new case, and the subdivider shall pay the required fee in accordance with the adopted schedule. The filing fee shall be set by resolution by the city council.~~

D. Preliminary Plat Review:

- ~~1. Copy Distribution: The subdivider shall provide additional copies of the preliminary plat to the city for distribution to:
 - ~~a. The city engineer;~~
 - ~~b. School district superintendent, board of trustees of Elko County;~~
 - ~~c. Utility companies;~~
 - ~~d. Division of water resources, department of conservation and natural resources;~~
 - ~~e. Division of environmental protection, department of conservation and natural resources; and~~
 - ~~f. Health department, department of human resources.~~~~
- ~~2. Commission Shall Review: The planning commission shall review the preliminary plat submitted for compliance with the provisions of this chapter and the zoning requirements, and shall consult with and seek the advice of appropriate city departments and agencies on any matters of design or improvement. It shall be the responsibility of the subdivider to provide any necessary data.~~
- ~~3. Public Hearing Required: In reviewing and considering preliminary plats, the planning commission shall first hold a public hearing prior to taking any action on a preliminary plat. Upon the filing of an application for preliminary plat, the city staff shall set the~~

~~matter for hearing not later than forty five (45) days thereafter. After the time and place have been established by the city staff, notice of the hearing shall be sent by mail at least ten (10) days before the hearing to all property owners adjoining or adjacent to the area proposed to be subdivided as shown by the latest assessment rolls of the city. Notice by mail to the last known address of the real property owners as shown by the assessor's records shall be sufficient. Legal notice shall be placed in a newspaper of general circulation within the city at least ten (10) days prior to the date of the public hearing.~~

- ~~4. Modifications: In the event the planning commission requires modifications of the plat as submitted, the commission shall so inform the subdivider and may provide him advice in overcoming deficiencies prior to the commission hearing. A recommendation for modification or change may be sufficiently important to warrant postponement of the commission hearing until the matter has been resolved with the subdivider.~~

E. Preliminary Plat Approval:

- ~~1. The planning commission shall consider the preliminary plat within forty five (45) days after the plat has been filed. The commission shall report to the city council within thirty (30) days after review of the preliminary plat. The report shall approve or disapprove the map or maps of the subdivision. If conditionally approved or disapproved, the report shall state the conditions under which the map would have been approved or that approval was withheld because the land proposed to be subdivided was not suitable for such development. If approval is withheld, the report shall state the reasons why the land was not considered suitable. The city council shall approve or disapprove a tentative map within forty five (45) days after receipt of the planning commission's recommendations, after first holding a public hearing as set forth in subsection D3 of this section.~~

- ~~2. Before approving a tentative plat, the planning commission and city council shall make such findings as are not inconsistent with the provisions of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, or local ordinances adopted pursuant thereto, including, but not limited to, findings that the subdivision:~~

~~a. Will not result in undue water or air pollution. In making this determination it shall consider:~~

- ~~(1) The topography of the land and its relation to the floodplains or areas subject to flooding or water damage;~~
- ~~(2) The nature of soils and subsoils and their ability adequately to support waste disposal;~~
- ~~(3) The slope of the land and its effect on effluents;~~
- ~~(4) The effectiveness of sewerage plans and solid waste disposal; and~~
- ~~(5) The applicable environmental and health laws and regulations.~~

~~b. Has sufficient water meeting applicable health standards for the reasonably foreseeable needs of the subdivision.~~

- ~~c. Will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.~~
 - ~~d. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.~~
 - ~~e. Will not cause unreasonable street or highway congestion or unsafe conditions with respect to use of the streets or highways existing or proposed and addresses for the new streets or highways to serve the subdivisions.~~
 - ~~f. Is in conformance with the duly adopted master plan and zoning ordinances, except in cases of inconsistency between the two, the zoning ordinance takes precedence. No provision of this chapter shall be constructed to prevent a governing body from disapproving a tentative map if such disapproval is in the best interests of the public health, safety or welfare, and such disapproval is made by a majority vote of its members and made within the time limit provided.~~
 - ~~g. Availability and accessibility of utilities.~~
 - ~~h. Availability and accessibility of public services, such as schools, police and fire protection, recreation and parks.~~
- ~~3. If satisfied that the preliminary plat meets all requirements of this chapter, the planning commission may grant preliminary approval, whereupon the secretary shall note such approval on three (3) copies of the plat, return one copy to the subdivider, retain one copy in the permanent commission file, and give one copy to the city engineer.~~
 - ~~4. If the plat is generally acceptable but requires minor revision, the planning commission may find conditional approval, and the required conditions and revisions shall be noted in the meeting minutes. Thereafter, at the discretion of the commission, the plat may be given preliminary approval when it has been satisfactorily revised in accordance with the commission's stated conditions.~~
 - ~~5. If the plat is disapproved by the planning commission, any new filing of a plat for the same tract, or any part thereof, shall follow the aforesaid procedure and be subject to payment of a new filing fee. The subdivider may appeal the planning commission's decision to the governing body within fifteen (15) days. The city council may overrule any ruling of the planning commission in regard to the tentative plat.~~
 - ~~6. Upon preliminary approval, the planning department shall notify the utility companies of such approval.~~
- ~~F. Significance Of Preliminary Approval: Preliminary approval constitutes authorization for a subdivider to proceed with preparation of the final plat and engineering plans. Preliminary approval is based upon the following terms:~~
- ~~1. Basic conditions under which preliminary approval is granted shall not be changed prior to expiration date.~~
 - ~~2. Unless the time is extended consistent with the requirements of Nevada Revised Statutes 278.360, the subdivider shall present to the planning commission within four (4) years:~~

- a. ~~A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved, or~~
- b. ~~One of a series of final maps, each covering a portion of the approved tentative map.~~
- 3. ~~If the subdivider fails to record a final map for any portion of the tentative map within four (4) years after the date of approval of the tentative map by the city council, or within two (2) years after the date of approval by the city council of the most recently recorded final map, all proceedings concerning the subdivision are terminated.~~
- 4. ~~The city council, after referral to the planning commission for review and comment, may grant an extension of not more than two (2) years for the presentation of the next final map in a series of final maps covering a portion of the approved tentative map after the two (2) year period for presenting the entire final map or next successive final map has expired.~~
- 5. ~~Preliminary approval does not constitute an authorization to proceed with site improvements prior to approval by the city engineer of engineering plans.~~
- G. ~~Expiration Of Preliminary Approval: If preliminary approval expires prior to filing of a request for an extension or the time given in an extension expires, the preliminary plat, if resubmitted, shall be processed as a new case, and a new fee paid. If planning commission review of a resubmitted plat reveals no significant change from the previously approved preliminary plat and conditions under which previous approval was granted have not changed, the filing fee shall be as set by the city council and the resubmitted plat scheduled for hearing by the commission at its first regular scheduled meeting thereafter. (Ord. 785, 7-8-2014)~~

3-3-6: FINAL PLAT STAGE (STAGE III):

The final plat stage includes the final design and engineering of the subdivision, and the preparation, submission, review and action on the final plat and engineering plans.

A. Presubmission Requirements:

- 1. ~~Zoning: The final plat shall meet all requirements of the zoning district in which located, and any necessary zoning amendments shall have been adopted by the city council prior to filing of the final plat.~~
- 2. ~~Preparation Of Final Plat: The final plat shall conform closely to the approved preliminary plat and be prepared in accordance with the provisions of this chapter.~~
- 3. ~~Easements: The final plat submittal shall include a letter signifying approval of utility easements by all public utilities involved, and shall be so indicated by an affidavit on the map.~~

B. Final Plat Submission:

- 1. ~~The planning commission shall review the final plat for conformity with the preliminary plat and conformity with the engineer's approval of final plat and construction drawings.~~

- ~~2. The subdivider shall file with the city clerk the final plat and four (4) true copies thereof, together with the recordation fee, at least fifteen (15) days prior to the city council meeting date at which the subdivider desires to be heard.~~

C. Final Plat Review:

- ~~1. Upon receipt of the final plat submittal, the city clerk shall record receipt and date of filing, and transmit all copies of the final plat to the city engineer for checking the submittal for completeness. If incomplete, the filing dated shall be voided and the subdivider so notified. If complete, and if the final plat substantially conforms to the approved preliminary plat, the city engineer shall transmit copies of the submittal to the Nevada highway department, where applicable, who shall make known their recommendations in writing addressed to the city engineer.~~
- ~~2. The city engineer shall assemble the recommendations of the various reviewing offices, including the planning commission findings and recommendations, and submit same to the city council.~~
- ~~3. In the event that the city engineer finds that the final plat does not substantially conform to the approved preliminary plat, as approved by the planning commission, then the final plat shall be submitted to the commission for review and recommendations prior to consideration by the city council.~~

D. Final Plat Approval And Recordation:

- ~~1. Upon notification from the city engineer that the plat is in order, the city clerk shall place the case on the agenda of the next regular meeting, at which time the city council shall approve or deny the plat.~~
- ~~2. If the city council denies approval of the plat for any reason whatever, such reasons shall be recorded in the minutes and the subdivider so notified. If the city council gives final approval of the plat, the city clerk shall transcribe upon the plat a certificate of approval signed by the mayor and the city clerk, first making sure that all other required certifications have been duly signed, and that engineering plans have been approved by the city engineer.~~
- ~~3. The subdivider shall then cause signed prints of the plat to be provided to the city engineer, the county recorder, the county assessor and the planning commission, all at the expense of the subdivider.~~
- ~~4. The subdivider shall then record the plat in the county recorder's office and pay the recordation fee. (Ord. 548, 11-28-2000)~~

3-3-7: INFORMATION REQUIRED FOR PRELIMINARY PLAT SUBMISSION:

- ~~A. Form And Scale: Preliminary plat information hereinafter required shall be shown graphically on one or more plan sheets with written data either entered directly thereon or attached thereto. All mapped data for the same plat shall be drawn at the same standard engineering scale, such scale having not more than one hundred feet (100') to the inch. Whenever practicable, the plan scale shall be selected to produce an overall sheet measuring twenty four inches by thirty six inches (24" x 36").~~

B. Identification Data:

- ~~1. Proposed subdivision name, location and section, township and range; reference by dimension and bearing to a section corner or quarter-section corner.~~
- ~~2. Name, address and phone number of subdivider(s).~~
- ~~3. Name, address and phone number of engineer or surveyor preparing plat, together with the registration number issued to such engineer or surveyor by the Nevada registering board.~~
- ~~4. Scale, north point and date of preparation, including dates of any subsequent revisions.~~
- ~~5. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.~~
- ~~6. Legal description defining the boundaries of the subdivision.~~

C. Existing Conditions Data:

- ~~1. Topography by two foot (2') contour intervals related to the city current coordinate system shown on the same map as the proposed subdivision layout. Topographic data shall be adequate to show the character and drainage of the land.~~
- ~~2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow; location and extent of areas subject to frequent periodic or occasional inundation.~~
- ~~3. The location of designated flood zones and/or special flood hazard areas.~~
- ~~4. Within or adjacent to the tract, the location, widths and names of all platted streets, railroads, utility rights of way of public record, public areas, permanent structures to remain, and municipal corporation lines.~~
- ~~5. Name, book and page numbers of all recorded plats abutting the tract or across a boundary street from the tract.~~
- ~~6. Existing zoning classification of the tract and adjacent properties.~~
- ~~7. Dimensions of all tract boundaries; gross and net acreage of tract.~~

D. Proposed Conditions Data:

- ~~1. Street layout, including location and width of streets, alleys, pedestrianways and easements, including connections to adjoining platted subdivisions and through unsubdivided tracts, proposed names of all streets and approximate grade of all rights of way. A traffic impact analysis may be required where additional traffic in the area may exceed city roadway capacities and warrant traffic signal improvements, additional travel lanes or impact state highways.~~

~~2. Lot layout, including dimensions of typical lots; and the dimensions of all corner lots and lots on street curves; each lot numbered consecutively; total number of lots.~~

~~3. Location, width and proposed use of easements.~~

~~4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.~~

~~5. Location and boundary of all proposed zoning districts.~~

~~6. Draft of proposed deed restrictions.~~

~~7. The subdivider and/or subdivision engineer shall provide a preliminary or conceptual grading plan; including conceptual depiction of areas proposed for cut and fill; estimated quality of material to be graded; estimated finished grades adequate to establish general grading trend; proposed methods of erosion control; general location and specifications of any manufactured (cut or fill) slopes.~~

~~8. The subdivider shall comply with all applicable provisions of the city national pollutant discharge elimination system general permit for discharges from small municipal separate storm sewer systems, permit no. NV040000.~~

~~E. Proposed Utility Methods:~~

~~1. Sewage Disposal: It shall be the responsibility of the subdivider to furnish information as to design for sewage disposal connecting to the city system.~~

~~2. Water Supply: Evidence of adequate volume and quality satisfactory to the city engineer from the city system.~~

~~3. Storm Drainage: Preliminary drainage calculations and layout of proposed storm drainage system, including locations of outlets, shall be submitted. Storm drainage shall comply with the city of NPDES permit requirements and current regulations.~~

~~4. Telephone, Power, Gas, Television: Design and location shall be shown.~~

~~5. Will Serve Letters: The engineering department shall provide a water, sewer and solid waste disposal "will serve" letter to the applicable state agencies. (Ord. 624, 10-26-2004)~~

~~3-3-8: INFORMATION REQUIRED FOR FINAL PLAT SUBMISSION:~~

~~A. Form And Content: The final map shall be clearly and legibly drawn with black, waterproof India ink upon good tracing cloth or Mylar, including affidavits, certificates and acknowledgments. Each sheet shall be twenty four inches by thirty six inches (24" x 36") in size. A marginal line shall be drawn completely around each sheet showing an entirely black margin of one inch (1") at bottom, top and right edge, and two inches (2") on the left edge on the twenty four inch (24") dimension. The scale of the map shall be not less than one inch equals one hundred feet (1" = 100'). The particular number of the sheet and the total number of sheets comprising the map shall be so stated on each of the sheets and the number in relation to each adjoining sheet shall be clearly shown. The title sheet shall~~

~~contain the location of the property being divided with references to maps which have been previously recorded or by reference to the plat of the United States survey. Copies of the final plat shall be reproduced in the form of blue line or black line prints on the white background.~~

~~B. Identification Data:~~

- ~~1. Name of subdivision and location by section, township, range and county.~~
- ~~2. Name, address and registration number of the registered land surveyor preparing the plat. The land surveyor preparing the plat must be registered in the state of Nevada.~~
- ~~3. Scale, north point and date of plat preparation.~~

~~C. Survey Data (Required):~~

- ~~1. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field; all dimensions expressed in feet and decimals thereof.~~
- ~~2. Any exceptions within the plat boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field.~~
- ~~3. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced; the subdivision traverse shall be tied by course and distance to a section corner or quarter-section corners.~~
- ~~4. Location and description of all physical encroachments upon the boundaries of the tract.~~

~~D. Descriptive Data:~~

- ~~1. Name, right of way lines, courses, lengths and widths of all streets, alleys, pedestrianways and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; radii of all rounded street line intersections.~~
- ~~2. All drainageways, designated as such.~~
- ~~3. All utility and public service easements, including designation whether for public access or utilities.~~
- ~~4. Location and dimensions of all lots, parcels and exceptions.~~
- ~~5. All residential lots shall be numbered consecutively throughout blocks.~~
- ~~6. Location, dimensions, bearings, radii, arcs, and central angles of boundaries of all sites to be dedicated to the public, including designation of proposed use.~~
- ~~7. Location of all adjoining subdivisions with name, date, book and page number of recordation noted, or if unrecorded, so noted, along with names of adjoining landowners of unsubdivided property.~~

8. ~~Any private deed restrictions to be imposed upon the plat, or any part hereof, written on or attached to the plat and each copy thereof.~~

E. ~~Dedication And Acknowledgment:~~

1. ~~Statement of dedication of all streets, alleys, pedestrianways, and easements for public purposes by the person holding title of record, by persons holding title as vendees under land contract, and by wives of such persons. If lands to be dedicated are mortgaged, the mortgagee shall also sign the plat. Dedication shall include a written description by section, township and range of the tract. If the plat contains private streets, public utilities shall be reserved the right to install and maintain utilities in such street rights of way.~~
2. ~~Execution of dedication acknowledged and certified by a notary public.~~

F. ~~Additional Information:~~

1. ~~Where the centerline has been established for any street, highway, alley or public way within an adjoining subdivision, all monuments along said street, highway, alley or public way within the proposed subdivision shall be located with reference to that centerline which shall be shown on the map.~~
2. ~~The centerline of each highway, street, alley or way within the proposed subdivision and width on each side of the centerline, and showing the width to be dedicated and there shall be designated on all centerlines the bearing thereof and length of each radius, central angle and length of each curve within the proposed subdivision.~~
3. ~~The location of monuments or other evidence formed upon the ground and used in determining the boundaries of the subdivision. If other subdivisions adjoin, the map shall show sufficient corners of such adjoining subdivisions, sufficiently identified to locate precisely the limits of the proposed subdivision.~~
4. ~~The length and bearing of each block line, lot line and boundary line; the length, radius and central angle of each curve or the length of curve and that portion of the central angle lying within each lot. Such data shall be shown in a manner satisfactory to the city engineer.~~
5. ~~Each city boundary line crossing or adjoining the subdivision with adequate ties to monuments set or found within the subdivision.~~
6. ~~Section lines, one quarter ($1/4$) section lines and one sixteenth ($1/16$) section lines crossing or adjoining the subdivision boundaries.~~

G. ~~City Engineer To Check:~~

1. ~~The city engineer shall check said final map as to accuracy of dimensions, the placing of monuments, the establishment of survey records shown on said map, and the conformance of said map with the preliminary map. The final map shall be accompanied by:~~
 - a. ~~A worksheet showing the closure of the exterior boundaries of the proposed subdivision and of the closure of lots and blocks therein;~~

b. ~~A complete set of construction plans are required by the city engineer showing typical street sections, centerline and curb grades, sanitary sewer and storm drain locations and invert grades and elevations. The construction drawings must be stamped and dated by a civil engineer registered in the state;~~

c. ~~Construction plans for manholes, catch basins and other appurtenant structure;~~
and

d. ~~An estimate of quantities required to complete the improvements.~~

2. ~~The minimum allowable error of closure shall be one ten thousandth ($\frac{1}{10,000}$). Temperature and tension correction shall be applied to all measured distances in conformance with the standard adopted by the federal board of surveys and maps in May, 1925.~~

H. ~~Required Certifications: The following certifications shall appear on the final map:~~

1. ~~A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section. Any map including territory originally patented by the United States or the state, under patent reserving interest to either or both of the entities, may be recorded under the provisions of Nevada Revised Statutes sections 278.010 through 278.730 inclusive, without the consent of the United States or the state thereto, or to dedications made thereon. Signatures required by this section of parties owning rights of way, easements or reversions which, by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.~~

2. ~~A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use, except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, their licensees, visitors, tenants and servants.~~

3. ~~A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.~~

4. ~~A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the~~

~~easements are created or whose utility services are to be required for the platted parcels.~~

5. A certificate by the engineer or surveyor responsible for the survey and final map, which certificate must be in the following form:

SURVEYOR'S CERTIFICATE

~~—I (name of surveyor), a registered land surveyor in the state of Nevada, certify that:~~

- ~~—1. This is a true and accurate representation of the lands surveyed under my supervision at the instance of (owner, trustee, etc.);~~
- ~~—2. The lands surveyed lie within (sections, township, range, meridian, and, if required by the governing body, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less) and the survey was completed on (date);~~
- ~~—3. This plat complies with the applicable state statutes and any local ordinances;~~
- ~~—4. The monuments are of the character shown and occupy the positions indicated by (a day certain) and that an appropriate performance bond has been or will be posted with the governing body to assure their installation.~~

~~—(date, name of surveyor, registration number and seal)~~

6. A certificate by the city engineer or city surveyor stating that he has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of Nevada Revised Statutes sections 270.010 through 278.630, inclusive, and of any local ordinance applicable at the time of approval of the tentative map have been complied with, and that he is satisfied that the map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance bond has been deposited guaranteeing their setting on or before a day certain. The certificate shall be dated and signed and certified by a registered land surveyor or a registered civil engineer.

7. A certificate by the state health division reading:

~~—This final map is approved by the health division of the department of human resources concerning sewage disposal, water pollution, water quality and water supply facilities in accordance with the Nevada Revised Statutes. This approval predicates (community, individual) water supply and (community, individual) sewage disposal.~~

8. A copy of the review by the state engineer required by subsection H7 of this section shall be furnished to the subdivider who in turn shall provide a copy of such review to each purchaser of land prior to the time the sale is completed. No statement of approval or review as required in subsection H7 of this section is a warranty or representation in favor of any person as to the safety or quantity of such water.

9. The final subdivision map shall contain the following certificate:

~~—Division of Water Resource Certificate: This final map is approved by the division of water resources of the department of conservation and natural resources concerning water quantity subject to the review of approval on file in this office.~~

- ~~10. The city council shall not approve any final map for a subdivision served by the city water system unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure water delivered to each water user in the subdivision. (Ord. 624, 10-26-2004)~~

3-3-20: GENERAL PROVISIONS FOR SUBDIVISION DESIGN:

- ~~A. Conformance With Master Plan: Every subdivision shall conform to requirements and objectives of the city master plan, to the city zoning ordinance, to other ordinances and regulations of the city and to the statutes of the state, except as otherwise provided in this chapter.~~
- ~~B. Provision Of Public Facility Sites: Whenever the statutes of the state permit the dedication of school sites or parks, the city council may require the subdivider to dedicate such sites.~~
- ~~C. Land Unsuitability: No land shall be subdivided which is determined by the planning commission to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health, safety and general welfare of the community or the future property owners. The planning commission, in applying the provisions of this section, shall state the particular facts upon which its conclusions are based, and shall also define the conditions under which the land may, in its opinion, become suitable for the proposed development. Land located within any floodway as designated on the city flood insurance rate maps shall be deemed unsuitable for development by local, state and federal regulation. Any subdivider proposing development of such land shall have the right to present evidence to the city council contesting such determination of unsuitability, whereupon the city council may affirm, modify or withdraw the restriction. (Ord. 768, 1-22-2013)~~

3-3-21: STREET LOCATION AND ARRANGEMENT:

- ~~A. Conformance With Plan: Whenever a tract to be subdivided embraces part of a street designated in a city official street and highway plan, such street shall be platted in conformance therewith.~~
- ~~B. Layout: Street layout shall provide for the continuation of such streets as the planning commission may designate.~~
- ~~C. Neighborhood Plan: Whenever the tract is located within an area for which a neighborhood plan has been approved by the planning commission, the street arrangement shall conform to such plan.~~
- ~~D. Extensions: Certain proposed streets, as designated by the planning commission, shall be extended to the tract boundary to provide future connection with adjoining unplatted~~

~~lands. Such extensions shall generally not be farther apart than the maximum permitted length of a block, as hereinafter provided.~~

~~E. Arrangement Of Residential Streets: Residential streets shall be so arranged as to discourage their use by traffic originating outside the immediate neighborhood.~~

~~F. Protection Of Residential Properties: Lots intended for single-family residential use shall not normally front or have access from arterial streets. Where a proposed subdivision abuts an existing or proposed arterial street, the planning commission may require marginal access streets or reverse property frontage with nonaccess easements abutting the arterial street, or such other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and for protection of the traffic function of the arterial street.~~

~~G. Parallel Streets: Where a residential subdivision abuts the right of way of a railroad, a limited access highway, or a commercial or industrial land use, the planning commission may require location of a street approximately parallel to such right of way or use at a distance being determined with due regard for approach grades, drainage, bridges and future grade separation.~~

~~H. Topography: Streets shall be so arranged in relation to topography as to produce desirable lots or maximum utility and streets of reasonable gradient, and to facilitate adequate surface drainage.~~

~~I. Alleys: Where alleys are platted, their alignment and arrangement shall be such as to minimize backtracking and single tier service by trash collection forces and to avoid the facing of residences directly into alley openings.~~

~~J. Half Streets: Half streets shall be prohibited unless approved by the planning commission, and conditions which will be considered for approval are: where necessary to provide right of way indicated on the official street and highway plan, to complete a street pattern already begun, or to ensure reasonable development of an adjoining unplatted parcel. Where a platted half street exists abutting to residential lots, the remaining half street shall be platted within the tract.~~

~~K. Dead End Streets: Dead end streets in excess of six hundred eighty feet (680') in length shall be prohibited unless a modification is granted by the planning commission in locations designated by the commission as necessary for future street connection to adjacent unplatted lands. This shall include cul-de-sacs.~~

~~L. Intersection Design: Whenever any street or highway is proposed requiring a separation of grades or requiring any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be so designed to conform to any plan adopted by the city for the intersection design and all lots within the subdivision shall, when necessary, be provided with suitable access from another public way. Any street or highway intersecting with other street or highway shall intersect it at any angle as nearly a right angle as shall be practicable. (Ord. 548, 11-28-2000)~~

3-3-22: STREET DESIGN:

A. Required Right Of Way Widths:

- ~~1. Arterial Streets: One hundred feet (100').~~
- ~~2. Minor Arterial Streets: Eighty feet (80').~~
- ~~3. Collector Streets: Seventy feet (70').~~
- ~~4. Collector Residential Streets: Sixty feet (60').~~
- ~~5. Local Residential Streets: Fifty feet (50').~~
- ~~6. Collector Rural Residential Streets: Seventy feet (70').~~
- ~~7. Local Rural Residential Streets: Sixty feet (60').~~
- ~~8. Hillside Rural Residential Streets: Sixty feet (60').~~
- ~~9. Rural Streets And Roads: All rural streets and roads shall conform with the following provisions:~~
 - ~~a. All rural road standards shall include a minimum ten foot (10') wide public utility easement and slope easement on one or both sides of the street right of way. The city engineer shall have the ability to increase the width of the easement in special circumstances and when warranted.~~
 - ~~b. Rural roads which are projected by traffic study or analysis to serve more than six hundred (600) average daily vehicle trips shall utilize the collector rural residential street design standard.~~
 - ~~c. Sidewalks or pathways associated with rural roads may be constructed of concrete cement, asphalt or comparable material subject to the approval of the city engineer.~~
 - ~~d. On street parking on rural roads shall be prohibited except for temporary/emergency purposes and shall be appropriately signed.~~
 - ~~e. To minimize excessive culvert installation and associated maintenance, access approaches for rural roads shall be limited to one driveway, not to exceed thirty feet (30') in width or two (2) separated driveways, each of which is not to exceed twenty feet (20') in width.~~
- ~~10. Private Streets: Development and use of private streets is limited to local type streets with a local street classification, function and characteristics. Private streets are intended to serve self-contained projects, and shall access the public street system at an intersection subject to the review and approval of the city engineer. All private streets shall conform with the following provisions:~~
 - ~~a. Minimum total width for private streets: Fifty feet (50').~~
 - ~~b. Minimum total width for private streets accessing four (4) or fewer lots: Thirty two feet (32').~~
 - ~~c. Minimum paved section for private streets: Forty feet (40').~~

- ~~d. Minimum paved section for private streets accessing four (4) or fewer lots: Twenty six feet (26').~~
 - ~~e. All residential private streets accessing twenty (20) or fewer lots shall have a four foot (4') wide sidewalk on at least one side of the street.~~
 - ~~f. All residential private streets accessing more than twenty (20) lots shall have a four foot (4') wide sidewalk on both sides of the street.~~
 - ~~g. All commercial and industrial private streets accessing four (4) or fewer lots shall have a five foot (5') wide sidewalk on at least one side of the street, or as otherwise determined as part of an approved concept development plan.~~
 - ~~h. All commercial and industrial private streets accessing more than four (4) lots shall have a five foot (5') wide sidewalk on both sides of the street, or as otherwise determined as part of an approved concept development plan.~~
 - ~~i. All private streets shall provide for adequate storm drainage and employ use of curb and gutter sections to convey runoff subject to the review and approval of the city engineer.~~
 - ~~j. Parking spaces, inclusive of back up area, as required by section 3-2-17 of this title, shall not be located within a private street, or as otherwise waived or determined as part of an approved concept development plan.~~
 - ~~k. Design and construction of improvements associated with private streets shall be subject to a standard guarantee of performance to ensure completion of required improvements and a maintenance agreement to ensure that improvements are maintained to an acceptable standard over time as set forth in sections 3-3-44 and 3-3-45 of this chapter.~~
- ~~11. Cul-De-Sacs: Cul-de-sac streets shall terminate in a circular right of way not less than fifty feet (50') in radius with an improved turning circle at least forty five feet (45') in radius. The planning commission may approve an equally convenient form of turning space where justified by unusual conditions. Maximum length of cul-de-sac streets, as measured along the centerline of the street and between the centerline of the intersecting street and the center point of the cul-de-sac, shall not exceed six hundred eighty feet (680').~~
- ~~a. Length For Rural Roads: Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units, but under no circumstance shall exceed a length of one thousand three hundred sixty feet (1,360').~~
 - ~~b. Marginal Access Streets: As required by adopted current city standards.~~
- ~~12. Alleys: Where permitted or required, twenty feet (20') where there is residential property on both sides, and twenty feet (20') where abutting commercial or industrial property.~~

~~a. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.~~

~~b. Dead end alleys shall be prohibited.~~

~~c. "Half" alleys shall be prohibited.~~

~~13. Dead End Streets: Where permitted, a dead end street shall provide by easements, a temporary turning circle with a fifty foot (50') radius or other approved and acceptable design to accomplish the same purpose.~~

~~14. All Streets: The design and construction of all streets, including private streets, within the city shall conform to the public improvement standards established by the city engineer and approved by the city council as set forth in section 3-3-40 of this chapter.~~

~~15. Fire Code: All streets shall conform to current adopted fire codes.~~

B. Street Grades:

1. Maximum Grades:

~~a. Arterial and minor arterial streets: As determined by the city engineer.~~

~~b. Collector streets: Seven percent (7%).~~

~~c. Collector residential and local residential streets: Nine percent (9%).~~

~~2. Minimum Grades: Asphalt streets with concrete gutters shall have a minimum longitudinal slope of 0.50%.~~

~~3. Exceptions: Where rigid adherence to these standards causes unreasonable or unwarranted hardship in design or cost without commensurate public benefit, exceptions may be made by the planning commission.~~

C. Vertical Curves:

~~1. Arterial and minor arterial streets: As determined by the city engineer.~~

~~2. Collection and local streets: Minimum length, one hundred feet (100').~~

D. Horizontal Alignment:

~~1. Arterial and minor arterial streets shall be as determined by the city engineer.~~

~~2. When tangent centerlines deflect from each other by more than ten degrees (10°) and less than ninety degrees (90°), they shall be connected by a curve having a minimum centerline radius of two hundred feet (200') for collector streets, or one hundred feet (100') for collector residential and local residential streets.~~

- ~~3. Between reverse curves, there shall be a tangent section of centerline not less than one hundred feet (100') long.~~
- ~~4. Streets intersecting an arterial street shall do so at a ninety degree (90°) angle. Intersecting collector streets, collector residential streets and local residential streets shall typically intersect at ninety degree (90°) angles, but in no case at less than seventy five degree (75°) angles.~~
- ~~5. Street jogs shall be avoided, except where justified by unusual existing conditions, and approved by the city engineer.~~
- ~~6. Local residential streets or collector residential streets intersecting a collector street or arterial street shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right of way line of the more major street, except that no such tangent shall be required when the local residential or collector residential street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the more major street right of way line.~~
- ~~7. Street intersections with more than four (4) legs, and Y-type intersections with legs meeting at acute angles, shall be prohibited.~~
- ~~8. Intersections of street lines shall be rounded by a circular arc having a minimum tangent length of fifteen feet (15'). (Ord. 624, 10-26-2004)~~

3-3-23: BLOCK DESIGN:

- ~~A. Maximum Length Of Blocks: Within the following maximums, blocks shall be as long as reasonably possible, in order to achieve all possible street economy and to reduce the expense and safety hazard arising from excessive street intersections. Maximum block length, measured along the centerline of the street and between intersecting street centerlines, shall not exceed one thousand three hundred sixty feet (1,360').~~
- ~~B. Pedestrianways: Pedestrianways with a right of way width of eight feet (8') may be required where, in the opinion of the planning commission, they are essential for pedestrian circulation within the subdivision or access to schools, playgrounds or other community facilities. Pedestrianways may be used for utility purposes. (Ord. 624, 10-26-2004)~~

3-3-24: LOT PLANNING:

- ~~A. Lot Width, Depth And Area: Lot width, depth and area shall comply with requirements of the zoning requirements appropriate for the location and character of development proposed, and for the type and extent of urban street and utility improvements being installed. "Urban improvements" is interpreted to mean paved and curb streets, sidewalks, local storm drainage system, public water supply and public sanitary sewage. However, where steep topography, unusual soil conditions or drainage problems exist or prevail, the planning commission may require increased lot width, depth and/or area exceeding the minimum requirements of the particular zoning district.~~
- ~~B. Lot Depth: Generally, lot depths shall be at least one hundred feet (100') and widths at least sixty feet (60'); provided, however, that the planning commission may allow narrower widths on cul-de-sacs.~~

~~C. Building Setback: Minimum front and exterior side building setbacks shall conform to the applicable provisions of this code.~~

~~D. Side Lot Lines: Side lot lines shall be substantially at right angles or radial to street lines, except where, in the opinion of the planning commission, other alignment may be justified.~~

~~E. Accessibility: Every lot shall abut a public street or private street connecting with the public street system.~~

~~F. Prohibitions: Double frontage lots intended for single-family residences shall be prohibited; provided, that, subject to the approval of the planning commission, such lots may be platted abutting an arterial street so long as dwellings front on local or collector streets and all access from the arterial street is prohibited. (Ord. 557, 2-13-2004)~~

3-3-25: EASEMENT PLANNING:

~~Utilities shall be placed underground unless a modification is approved to permit overhead utilities by the planning commission and only where overhead utilities are determined acceptable by the commission:~~

A. Utility Easements:

~~1. Where alleys are platted, utility easements four feet (4') wide on each side of alley for aerial overhang shall be provided by dedication. Where alleys are not platted, utility easements six feet (6') wide on each side of rear lot lines shall be provided and delineated on the plat. In addition, guy and anchor easements shall be provided one foot (1') wide on each side of a side lot line and thirty five feet (35') in length measured from the rear lot line, in locations selected by the utility committee, or as required by the utility company.~~

~~2. Along side lot lines where required for distribution facilities, utility easements five feet (5') wide on each side of side lot lines; where service to street lighting is required: one foot (1') on each side of such lot lines, or as required by the utility company.~~

B. Underground Utilities: Where all utilities are underground:

~~1. Rear Lot Lines: Where alleys are platted, easements as required by serving utilities.~~

~~2. Side Lot Lines: All utility service lines, including gas, electric, telephone and street lighting, shall be channeled in easements four feet (4') wide on each side of the lot line separating pairs of lots, as required by the utilities for service.~~

~~C. Lots Facing Curvilinear Streets: For lots facing on curvilinear streets, alleys and easements for overhead utilities shall usually consist of a series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, such points of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; however, curvilinear easements or alleys may be employed, providing that the minimum radii of centerlines shall be not less than eight hundred feet (800').~~

~~D. Public Drainage Easement: Where a stream or major surface drainage course abuts or crosses the tract, dedication of a public drainage easement which is sufficient to permit~~

~~widening, deepening, relocating or protecting such drainage course shall be required. Information shall be prepared by subdivider's engineer.~~

~~E. Land Not Considered Minimum Lot Area: Land within a public street or drainage easement, or land within a utility easement for major power transmission lines or pipelines, shall not be considered a part of the minimum required lot area; provided, however, that this provision shall not be applicable to land included in utility easements to be used for distribution or service purposes.~~

~~F. Lots Backing Onto Arterial Streets: Lots arranged to back of arterial streets, railroads, canals or commercial or industrial districts, as provided in this chapter, shall have a minimum depth of one hundred ten feet (110'), the rear one foot (1') of which shall be recorded as a nonaccess private easement.~~

~~G. Water And Sewer Utility Lines: Municipal water and sewer utility line shall be installed within the city street right of way at all times, unless otherwise approved by the planning commission and/or city council. (Ord. 624, 10-26-2004)~~

~~3-3-26: STREET NAMING:~~

~~At the preliminary plat stage, the subdivider shall propose names for all streets, which names shall be subject to be approved by the planning commission. (Ord. 226, 12-9-1975)~~

~~3-3-27: STREET LIGHTING DESIGN STANDARDS:~~

~~A. Requirements: Street lighting shall be installed within any division/development of land project in accordance with the following requirements:~~

- ~~1. The subdivider, developer or property owner is responsible for complying with the requirement to install street lighting and shall make all necessary arrangements with the utility company involved for the installation of streetlights and bear all costs relating to the purchase and placement of streetlights. Installation of street lighting materials shall be performed by a state-licensed contractor also having a city business license prior to commencing any work.~~
- ~~2. Street lighting plans are to be prepared by the utility company involved and shall be submitted by the subdivider, developer or property owner with the improvement plans to the city for review. Such plans shall show the location of each light, power source and size of luminaries in watts or lumens.~~
- ~~3. All street lighting within each construction phase shall be complete and operational prior to acceptance of subdivision public improvements or an issuance of any certificate of occupancy.~~
- ~~4. Requests for street lighting in previously developed areas must be approved by the city engineer for location and installation prior to being submitted to the utility company for design engineering.~~
- ~~5. Once the street lighting has been installed and operational, approval by the city engineer will constitute acceptance of the street lighting and the city will then be responsible for the energy costs and maintenance thereafter.~~

~~B. Design Standards:~~ All streetlight installations shall be designed in accordance with the following minimum design standards:

- ~~1. All luminaries shall be a minimum of one hundred (100) watt high pressure sodium for residential areas and minimum two hundred (200) watt high pressure sodium for commercial/industrial areas or approved equal.~~
- ~~2. A streetlight shall be placed at each street intersection and shall be situated to properly illuminate the intersection.~~
- ~~3. A streetlight shall be placed at any proposed U.S. postal service gang box location.~~
- ~~4. Streetlights shall be placed between intersections at midblock locations such that a minimum spacing of three hundred fifty feet (350') and maximum of five hundred feet (500') is maintained between all lights.~~
- ~~5. A streetlight shall be placed at the end of each cul-de-sac. (Ord. 624, 10-26-2004)~~

~~3-3-40: RESPONSIBILITY FOR IMPROVEMENTS:~~

~~The design, construction and financing of all required grading, sidewalks, curbs, streetlights, gutters, pavements, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures and monuments shall be the responsibility of the subdivider and shall conform to public improvement standards established by the city engineer and approved by the city council; provided, however, that the subdivider may meet such requirements by participation in an improvement district approved by the city. (Ord. 624, 10-26-2004)~~

~~3-3-41: ENGINEERING PLANS:~~

~~It shall be the responsibility of the subdivider to have prepared by an engineer registered in the state, a complete set of engineering plans, satisfactory to the city engineer, for construction of all required street and utility improvements. Such plans shall be based on and be prepared in conjunction with the final plat. Engineering plans shall have been approved by the city engineer prior to recordation of the final plat. (Ord. 226, 12-9-1975)~~

~~3-3-42: CONSTRUCTION AND INSPECTION:~~

~~A. Permits Required: All improvements in the public right of way shall be constructed under the inspection and approval of the city engineer. Construction shall not be commenced until all federal, state, and local permits have been issued for such construction, and if work has been discontinued for any reason, it shall not be resumed until after notifying in advance the department having jurisdiction.~~

~~B. Underground Utilities: All underground utilities to be installed in streets shall be constructed prior to the surfacing of such streets. Service stubs to platted lots within the subdivision for underground utilities shall be placed to such length as to avoid disturbance of street improvements when service connections are made. (Ord. 624, 10-26-2004)~~

~~3-3-43: REQUIRED IMPROVEMENTS:~~

~~A. Streets And Alleys: All streets and alleys within the subdivision shall be graded, drained and surfaced to cross sections, grades and standards, and profile approved by the city~~

engineer. Where there are existing streets adjacent to the subdivision, proposed streets shall be fully improved to the intercepting paving line of such existing streets. Temporary dead end streets serving more than four (4) lots shall be provided a graded asphalt surfaced, temporary turning circle. Construct adequate permanent culverts and bridges at all points within the subdivision where watercourses are crossed by streets or alleys, said construction to be in conformity with the specifications of the city engineer for such structures, and said structures shall be constructed to the full width of the dedicated street or alley.

B. Curbs: ~~Curbs shall be portland cement concrete. Curbs and gutters and valley gutters shall be constructed as designated by the city engineer.~~

C. Sidewalks: ~~Four feet (4') wide in residential areas and five feet (5') wide in commercial zoned areas shall be constructed on both sides of streets with fifty foot (50') pavement width. In subdivisions where lots average one-half ($\frac{1}{2}$) acre or more, the planning commission may waive this requirement.~~

D. Pedestrianways: ~~Portland cement concrete or approved paving of walks shall be constructed to a width, line and grade approved by the city engineer. Fencing on both sides with a four foot (4'), maintenance free fence with posts set in concrete may be required.~~

E. Street Name Signs: ~~Street name signs shall have been installed at all street intersections by the time the street pavement is ready for use. Design, construction, location and installation shall conform to approved city standards.~~

F. Storm Drainage: ~~The design and construction of public streets and alleys, and the grading of private properties shall provide for adequate disposal of stormwaters. Existing major drainage courses shall be maintained and dedicated as public drainageways. The type, extent, location and capacity of drainage facilities shall be planned by subdivider's engineer and approved by city engineer. Install to the grade and in the locations and to the depth and of the materials shown on plans and specifications approved by the city engineer, storm and surface water drain pipes and mains, together with catch basins and to provide discharge from the same in a manner and at a place to be approved by the city engineer.~~

G. Sanitary Sewerage:

~~1. Public sanitary sewers shall be installed in all subdivisions which are accessible to an existing or planned and programmed public sewer system, as determined by the city engineer. Sewers shall be constructed to plans, profiles, and specifications approved by the health department and city engineer. The subdivider shall install to the grade and in the locations and to the depth and of the material shown on the plans and specifications approved by the city engineer, sanitary sewer mains with connections therefrom to each lot in said subdivision, said mains to be connected to the sewer system of the city at a point to be specified by the city engineer.~~

~~2. Install all necessary manholes in connection with the installation of sanitary sewer mains, said manholes to be installed at the points and in the manner and according to the specifications approved by the city engineer.~~

H. Water Supply:

1. Each lot shall be supplied with safe, pure and potable water in sufficient volume and pressure for domestic use and fire protection, in accordance with approved city standards. The subdivider shall install to grade all water mains and lines of the materials shown on plans and specifications approved by the city engineer, connections from said mains and lines to be installed to each lot in said subdivision. Maps and plats shall show location of shutoff valves to each block and lot. All proposed water systems shall connect to the city system.
 2. Water meter boxes and water meters shall be installed on all lots in conformance with adopted city specifications and subject to the review and approval of the city engineering department.
- I. Fire Hydrants: Fire hydrants shall be installed in all subdivisions in accordance with approved city standards as set by the fire department, and current adopted fire codes and standards.
- J. Power, Communications And Gas Utilities: Subdivision required improvements shall include electric power, natural gas, telephone and cable television. These utilities shall be installed in all subdivisions. All electric distribution facilities shall be installed underground, except in unusual situations involving short extensions of overhead facilities existing on abutting subdivisions wherein such extensions may be approved by the city council. All such underground electric distribution lines and telephone lines shall be installed in accordance with general order no. 9 as issued by the public service commission of the state.
- K. Survey Monuments: Permanent monuments shall be installed in accordance with approved city standards at all corners, angle points, points of curve, and at all street intersections. After all improvements have been installed, the subdivider shall have a registered land surveyor check the location of monuments and certify their accuracy. Monuments shall be at or near boundary corners. Monuments shall be set at intermediate points of approximately one thousand feet (1,000') or at such lesser distances as may be necessary by reason of topography or culture to ensure accuracy in the reestablishment of any point or line without unreasonable difficulty. All monuments shall be permanently and visibly marked with the registration or license number of the registered land surveyor under whose supervision the survey was made, and a description of such monument shall be shown on the final map. The subdivider shall set monuments at street intersections and at the beginning and ending of each curve, unless the intersection of tangents of said centerline falls within the street right of way in which event the city engineer may permit the subdivider to establish a monument at such intersection in lieu of monuments at said beginning and end of curve.
- L. Lot Corner Staking: Five-eighths inch ($\frac{5}{8}$ ") reinforcing steel shall be set at all corners, angle points and points of curve for each subdivision lot prior to final acceptance of the subdivision. The cost for lot corner staking, under the direction of a professional land surveyor, shall be included as part of the public improvements and shall be a line item on the "engineer's estimate of the costs of the public improvements".
- M. Street Lighting: Street lighting shall be required on all streets within the subdivision as required in section 3-3-27 of this chapter and shall be placed at locations designated by the city engineer and to the specifications with respect to materials, design and construction as set forth by the city engineer. The subdivider will bear all costs relating to the purchase and placement of the streetlights; provided, however, if the city and the

power company can reach an agreement whereby the city is reimbursed for costs, the city may participate in the installation of the lights.

~~N. Stormwater Discharge And Land Disturbance: All construction activities that may create a land disturbance of greater than one acre shall comply with state construction site stormwater general permit requirements and the city national pollutant discharge elimination system general permit for discharges from small municipal separate storm sewer systems. This requires developers and/or contractors to obtain a state stormwater discharge permit and city grading permit for these projects. Construction site stormwater erosion protection shall be provided on all projects. Permanent stormwater erosion measures meeting the minimum requirements of the city stormwater management plan will be enforced.~~

~~O. Full Frontage: Public utility construction and installation is required across the full frontage of property at time of development. (Ord. 739, 8-9-2011)~~

3-3-44: AGREEMENT TO INSTALL IMPROVEMENTS:

~~A. Provisions Of Agreement: Prior to certification of final plat approval by the mayor, the subdivider shall have executed and filed an agreement between himself and the city providing that:~~

- ~~1. All required subdivision improvements will be completed within a specified period of time to the satisfaction of the city. The specified period of time shall not exceed two (2) years.~~
- ~~2. In the event that such improvements are not completed within the specified period, the city may, at their option, complete or cause to be completed such work and recover from the subdivider full cost and expenses therefor.~~
- ~~3. The subdivider/developer shall provide engineering plans for all improvements.~~
- ~~4. The engineering plans and all required improvements shall be approved by the city engineering department.~~

~~B. Additional Provisions: The aforesaid agreement may also provide for:~~

- ~~1. Construction of improvements in predetermined stages.~~
- ~~2. The testing of materials and the inspection of improvements to ensure these improvements meet the city construction standards. The cost of inspection testing and quality control shall be paid by the developer.~~
- ~~3. An extension of construction period under certain specified conditions.~~
- ~~4. Progress payments to the subdivider from any deposit which the subdivider may have made, or reduction in bonds, not exceeding ninety percent (90%) of the value of improvements completed and approved, as determined by the city engineer.~~

~~C. Modifications, Extensions: At the written request of the subdivider, terms, provisions and time frames associated with an executed agreement to install required subdivision improvements may be modified or extended by the city council upon demonstration of~~

~~just cause pursuant to applicable policies as adopted by resolution of the city council. The subdivider shall, at the time of filing the written request, pay a filing fee to the city in an amount established by resolution of the city council.~~

~~D. Inspection Costs: The subdivider is responsible for providing and paying the cost of inspection, testing and surveying of subdivision improvements. If it is determined that the subdivider is not providing adequate inspection and testing through a qualified engineer licensed to work in the state, then the city shall have the right to stop work and/or hire a qualified engineer or firm to provide adequate inspection and testing. The subdivider shall be responsible for reimbursing the city for these costs upon demand and prior to final acceptance of subdivision improvements.~~

~~E. As Built Drawings: The subdivider, or the subdivider's engineer, shall provide as built drawings of all subdivision improvements to the city engineering department. The as built drawings shall be in both digital and mylar form. All mylars shall be "wet stamped" by the subdivision engineer, or surveyor, prior to being submitted to the city.~~

~~F. Qualified Contractors: All public improvements shall be constructed by licensed contractors qualified to construct the work. Contractors shall be licensed in the state. (Ord. 624, 10-26-2004)~~

~~3-3-45: PERFORMANCE GUARANTEE:~~

~~A. Forms Of Guarantee: Prior to certification of final plat approval by the mayor, the subdivider shall have provided the city a financial guarantee of performance for the completion of required subdivision improvements, in one or a combination of the following forms as determined by the city:~~

~~1. Performance Bond: Performance or surety bond in an amount deemed sufficient by the city engineer to cover, but in no case be less than, the full cost of required improvements, engineering inspections, incidental expenses and replacement and repair of any existing streets and utilities or other improvements which may be damaged during construction of required improvements. Such bond shall be executed by a surety company authorized to do business in the state, must be approved by the city attorney as to form, and have a length of term not exceeding twenty four (24) months from the date of final plat recordation.~~

~~2. Deposit Of Funds: Deposit of cash, certified check or negotiable bonds, made payable to the city finance director, or to a responsible escrow agent or trust company approved by the city attorney, in the same amount and for the same purpose as heretofore provided for a performance bond.~~

~~3. Irrevocable Letter Of Credit: Irrevocable letter of credit issued by a financial institution insured under the federal deposit insurance corporation (FDIC) establishing funds for the construction of the subdivision improvements from which the city may draw. An agreement to install public improvements as required in section 3-3-44 of this chapter shall be executed by the city, the developer and the financial institution prior to the city's acceptance of an irrevocable letter of credit as a form of security. The irrevocable letter of credit shall be in the same amount and for the same purpose as heretofore provided for the performance bond.~~

~~4. Improvement District Financing: In cases where all properties abutting a public street within any given block are not under the control of the subdivider, and the street abutting such properties is not fully improved in accordance with the requirements of this chapter, the subdivider may petition the city to construct the required improvements and to assess the cost thereof against abutting properties in accordance with local practice pertaining to special assessments; provided, however, that the subdivider shall be responsible for any differences between the cost of such improvements and the amount which can be legally assessed by the city against the property to be subdivided, and shall furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement shall be in a form approved by the city attorney.~~

~~B. Penalty In Case Of Default: In the event that the subdivider fails to complete all required subdivision improvements in accordance with terms of his agreement with the city, the city may have such work completed and, in order to reimburse itself for the cost and expense thereof, may appropriate the deposit of cash, funds established by an irrevocable letter of credit or negotiable bonds, or take such steps as may be necessary to secure performance under the bond.~~

~~C. One Year Maintenance: The subdivider shall guarantee the adequacy of street and utility improvements for a period of not less than one year.~~

~~1. Payments: No job progress payments from cash, funds established by an irrevocable letter of credit or negotiable bond deposits, nor any release of performance bonds, shall be made by the city except upon certification by the city engineer and approval by the city council.~~

~~2. Amount: The subdivider shall provide the city with a maintenance bond, funds established by an irrevocable letter of credit or a deposit of funds in an amount not less than ten percent (10%) of the total cost of the required public improvements as a one year maintenance guarantee. (Ord. 745, 4-24-2012)~~

3-3-50: PARK LAND DEDICATIONS:

~~In accordance with the statutes of the state to provide for the acquisition and development of park, playground and recreational facilities as are reasonably necessary to serve the residents of new subdivisions and development within the jurisdiction of the city, the planning commission and city council may require the dedication of land, payment in lieu of dedication, or residential tax, in accordance with the recreation and open space element of the duly adopted general plan of the city. (Ord. 226, 12-9-1975)~~

3-3-60: PARCEL MAPS:

~~A. Required: A person who proposes to divide any land into four (4) or fewer lots, shall file a parcel map in the office of the county recorder, unless this requirement is waived. No survey may be required if the requirement of a parcel map is waived.~~

~~B. Lot Design: For parcel maps, the governing body may require such street grading and drainage provisions as are reasonably necessary for lot access and drainage needs. It may also require such lot design as is reasonably necessary and such off site access, street alignment, surfacing and width, water quality, water supply and sewerage provisions as are reasonably necessary and consistent with the existing use of any land zoned for similar use which is within six hundred sixty feet (660') of the proposed parcel.~~

~~If the proposed parcels are less than one acre, the governing body may require additional improvements which are reasonably necessary and consistent with the use of the land if it is developed as proposed.~~

~~C. Second Or Subsequent Parcel Maps: When considering whether to approve, conditionally approve or disapprove a second or subsequent parcel map involving land that has been divided by a parcel map which was recorded within the five (5) years immediately preceding the acceptance of the second or subsequent parcel map as a complete application, the following criteria shall be considered:~~

- ~~1. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;~~
- ~~2. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;~~
- ~~3. The availability and accessibility of utilities;~~
- ~~4. The availability and accessibility of public services, such as schools, police protection, transportation, recreation and parks;~~
- ~~5. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;~~
- ~~6. General conformity with the governing body's master plan of streets and highways;~~
- ~~7. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;~~
- ~~8. Physical characteristics of the land such as floodplain, slope and soil;~~
- ~~9. The recommendations and comments of those entities reviewing the tentative map pursuant to Nevada Revised Statutes sections 278.330 through 278.348, inclusive; and~~
- ~~10. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.~~

~~For any other second or subsequent parcel map, any reasonable public improvement may be required, but not more than would be required if the parcel were a subdivision. See section 3-3-43 of this chapter, required public improvements.~~

~~D. Review:~~

- ~~1. The city council may give the city planning personnel the authority to approve a parcel map, or waive the requirement of a parcel map or survey for a parcel map, without further action by the planning commission or city council, unless the parcel map includes an offer of dedication of street right of way to the city or is associated with the request to modify subdivision ordinance standards or regulations. The planning~~

~~personnel shall review the parcel map, if required, and within forty five (45) days after filing, shall approve, conditionally approve or disapprove such map.~~

~~2. A parcel map which includes an offer of dedication of street right of way to the city or a modification of subdivision ordinance standards or regulations shall be referred to the planning commission and the city council for review, consideration and formal acceptance of the offer of dedication and/or any modification of standards or regulations. The commission shall consider the parcel map within forty five (45) days after filing. The city council shall consider the parcel map no later than thirty (30) days after action by the planning commission.~~

~~E. Appeal: If the applicant disagrees with any decision of the planning personnel concerning the parcel map, or if the parcel map is disapproved, the applicant has thirty (30) days in which to file an appeal with the planning commission. The planning commission shall make a determination within forty five (45) days from the date the appeal was filed. If the planning commission denies the appeal, the applicant may appeal to the city council within thirty (30) days of such denial and the city council shall render its decision within forty five (45) days after the filing of this appeal with the city clerk.~~

~~F. Exceptions: A parcel map is not required when the land division is for the express purpose of:~~

- ~~1. Creation or realignment of a public right of way by a public agency;~~
- ~~2. Creation or realignment of an easement;~~
- ~~3. Adjustment of the boundary line or the transfer of land between two (2) adjacent property owners which does not result in the creation of any additional parcels;~~
- ~~4. Purchase, transfer or development of space within an apartment building or an industrial or commercial building;~~
- ~~5. An order of any court dividing land as a result of an operation of law;~~
- ~~6. Creation of a lien, mortgage, deed, trust or any other security instrument;~~
- ~~7. Creation of a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;~~
- ~~8. Convey an interest in oil, gas, minerals or building materials which are severed from surface ownership of real property;~~
- ~~9. Filing a certificate of amendment for the correction of an error or omission on a plat, survey or map, or if the correction does not change the location of a survey monument or property line.~~

~~G. Survey Not Required: If a survey is not required for the preparation of a parcel map, the map must be prepared by a registered land surveyor, but his certificate upon the map may include substantially the following:~~

~~—This map was prepared from existing information (identifying it and stating where filed or recorded), and the undersigned assumes no responsibility for the existence of~~

~~monuments or corrections of other information shown on or copied from any such prior document.~~

~~H. Fee: The applicant shall, at the time of filing the parcel map, pay a filing fee to the city in an amount established by resolution of the city council and included in the appendix to this code.~~

~~I. Information Required: The parcel map should contain the following information and meet the following requirements:~~

~~1. The parcel map shall be legibly drawn in black, waterproof India ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. The size of each sheet shall be twenty four inches by thirty two inches (24" x 32"). A marginal line shall be completely drawn around each sheet leaving an entirely blank margin of one inch (1") at the top, bottom and right edges, and of two inches (2") at the left edge along the twenty four inch (24") dimension.~~

~~2. A parcel map shall indicate the owner of any adjoining land or right of way if owned by the person dividing the land.~~

~~3. If a survey is required, the parcel map shall also show:~~

~~a. All monuments found, set, reset, replaced or removed, describing the claim, size and location and other data relating thereto;~~

~~b. Bearing or witness monuments, basis of bearings, bearing and length of line and scale of map;~~

~~c. Name and legal description of tract or grant in which the survey is located and ties to adjoining tracts;~~

~~d. Memorandum of oaths;~~

~~e. Signature of surveyor;~~

~~f. Date of survey;~~

~~g. Signature of the owner or owners of the land to be divided;~~

~~h. Any easements granted or dedications made;~~

~~i. Any other data necessary for the intelligent interpretation of various items in the location of the points, lines and areas shown; and~~

~~j. Provision and date for installation of all required improvements.~~

~~4. The following certificates shall appear on a parcel map before it can be recorded:~~

~~a. A certificate for execution by the clerk of each approving governing body stating that the body approved the map;~~

~~b. A certificate by the surveyor responsible for the parcel map giving the date of the survey on which the map is based and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey, and that the parcel map is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions at such time as agreed upon under the provisions of Nevada Revised Statutes chapter 278. The certificate shall also state that monuments are or will be sufficient to enable the survey to be retraced;~~

~~c. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utilities installations and access, as designated on the map;~~

~~d. A statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the platted parcel;~~

~~e. It shall be the responsibility of the applicant to obtain approval of serving utility companies as to the location of any utility easements which are to be shown on the parcel map.~~

~~5. The following data shall accompany a parcel map at the time it is submitted:~~

~~a. Name, address and telephone number of the persons requesting approval of the parcel map and the owner or owners of the land;~~

~~b. Name, address and telephone number of the person who prepared the map;~~

~~c. Legal description of the original parcel. It shall be sufficient to give recorder's book and page of deed and assessor's parcel number;~~

~~d. Proposed use of each parcel;~~

~~e. Source of water supply and proposed method of sewage disposal for each parcel;~~

~~f. A copy of all survey computations shall accompany the parcel map;~~

~~g. A vicinity map.~~

~~6. The subdivider shall file six (6) copies of the parcel map with the city at the time of filing. (Ord. 293, 8-26-1980)~~

~~J. Recording: A parcel map approved pursuant to this section and section 3-3-70 of this chapter, shall be recorded in the office of the county recorder within two (2) years after the date when the map was approved or deemed approved. (Ord. 624, 10-26-2004)~~

3-3-70: MODIFICATION OF STANDARDS:

~~A. Permitted: Where, in the opinion of the planning commission, there exists extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in this chapter, the city council may modify the provisions~~

~~of this chapter, or any other provision in this code, in such manner and to the minimum extent necessary to carry out the intent of this chapter.~~

- B. Complete Neighborhood Plan:** ~~In the case of a plan and program for a complete neighborhood, the city council may modify the provisions of this chapter in such manner as it deems necessary and desirable to provide adequate space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and may require such legal provisions as may be necessary to assure conformity to and achievement of such plan.~~
- C. Additional Necessary Requirements:** ~~In modifying the standards or requirements of this chapter, as outlined heretofore, the city council may make such additional requirements as are necessary in its judgment to secure substantially the objectives of the standards or requirements so modified. (Ord. 768, 1-22-2013)~~

3-3-75: REVERSIONS TO ACREAGE:

- A. Application:** ~~Except as otherwise provided in Nevada Revised Statutes section 278.4925, an owner or governing body desiring to revert any recorded subdivision map, parcel map, map of division into large parcels, or part thereof, to acreage or to revert the map or portion thereof, or to revert more than one map recorded under the same tentative map if the parcels to be reverted are contiguous, shall submit a written application accompanied by a map of the proposed reversion which contains the same survey dimensions as the recorded maps or maps to the planning department. The application must describe the requested change.~~
- B. Review:** ~~At its next meeting, or within a period of not more than thirty (30) days after the filing of the map of reversion, whichever occurs later, the city council shall review the map of reversion and approve, conditionally approve or disapprove the map.~~
- C. Applicability Of Fees:** ~~Except for the provisions of this section, Nevada Revised Statutes sections 278.4955, 278.496 and 278.4965, and any provision or local ordinance relating to the payment of fees in conjunction with filing, recordation or checking of a map of the kind offered, no other provision of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, applies to a map made solely for the purpose of reversion of a former map or for reversion of any division of land to acreage.~~
- D. Recording:** ~~Upon approval of the map of reversion, it must be recorded in the office of the county recorder. The county recorder shall make a written notation of the fact on each sheet of the previously recorded map affected by the later recording, if the county recorder does not maintain a cumulative index for such maps and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the amendment.~~
- E. Street Or Easement Included:** ~~Requirement for submitting a map of reversion and for presenting a map of reversion for recording must conform with provisions of Nevada Revised Statutes sections 278.4955, 278.496 and 278.4965. If the map included the reversion of any street or easement owned by a city, a county or the state, the provisions of Nevada Revised Statutes section 279.480 must be followed before approval of the map.~~
- F. Fee:** ~~The owner shall, at the time of filing the map of reversion, pay a filing fee to the city in an amount established by resolution of the city council. (Ord. 548, 11-28-2000)~~

3-3-80: PROHIBITION AGAINST SALE IN VIOLATION:

~~No person, firm, corporation or other legal entity shall hereafter sell or offer for sale any lot, piece or parcel of land which is within a "subdivision", as defined in this chapter, until after a plat thereof has been recorded in accordance with provisions of this chapter. (Ord. 226, 12-9-1975)~~

3-3-85: MERGERS AND RESUBDIVISION OF LAND:

~~A. Permitted: An owner or governing body that owns two (2) or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage pursuant to Nevada Revised Statutes section 278.490.~~

~~B. Recording Required: Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with Nevada Revised Statutes sections 278.320 through 278.4725, inclusive, and any applicable local ordinances. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.~~

~~C. Street Easements And Utility Easements: With respect to a merger and resubdivision of parcels pursuant to this section, the owner or governing body conducting the merger and resubdivision shall ensure that street easements and utility easements, whether public or private, that will remain in effect after the merger and resubdivision, are delineated clearly on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.~~

~~D. Security Credit: If a governing body required an owner or governing body to post security to secure the completion of improvements to two (2) or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision, conducted pursuant to this section, the governing body shall credit on a pro rata basis the security posted by the owner or governing body toward the same purposes with respect to the parcels as merged and resubdivided. (Ord. 548, 11-28-2000)~~

3-3-90: VIOLATIONS AND PENALTIES:

~~Any person, firm, corporation or other legal entity who violates any of the provisions of this chapter shall, upon conviction therefor, be punished as provided in title 1, chapter 3 of this code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such hereunder. The imposition of any sentence shall not exempt the offender from compliance with all requirements of this chapter. (Ord. 261, 6-27-1978)~~

Chapter 3 **DIVISIONS OF LAND**

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3-3-1: PURPOSE AND INTENT:

The purpose of this Chapter is to provide for the orderly growth and harmonious development of the City; to ensure adequate traffic circulation through coordinated subdivision street systems in relation to major thoroughfares, adjoining subdivisions, and public facilities to achieve individual property lots of optimum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to facilitate reservation of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose; safeguard the public health, safety and general welfare; and to ensure development in conformance with the City master plan. In its interpretation and application, this Chapter is intended to provide a common understanding and a sound and equitable working relationship between public and private interests so that both independent and mutual objectives can be achieved in the division of the land.

3-3-2: DEFINITIONS:

All terms defined in NRS Chapter 278, to include NRS 278.010 through 278.0195, are incorporated herein by this reference unless the terms are otherwise defined in this Chapter.

The following words and phrases when used in this Chapter shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this Section 3-3-2, unless their context clearly indicates that they are intended to have some other meaning.

Words used in the present tense include the future; the plural includes the singular; the word “shall” is always mandatory; the word “may” denotes a use of discretion in making a decision; and the words “used” or “occupied” shall be considered to be followed by the words “or intended, arranged, or designed to be used or occupied.”

AGREEMENT TO INSTALL IMPROVEMENTS: An agreement that satisfies the requirements of Sections 3-3-21 and other applicable provisions of this Chapter, typically requiring a subdivider to install public improvements, dedicate rights-of-way and perform other acts for the benefit and protection of the City and the public in relation to a subdivision.

ALLEY: A passage or way, open to public travel and dedicated to public use, affording generally a secondary means of vehicular access to abutting lots and not intended for the general traffic circulation.

BLOCK: A piece or parcel of land, or group of lots, entirely surrounded by natural or artificial barriers, such as public rights-of-way, streams or watercourses, railroads, parks, or a combination thereof.

BUILDING: Any structure, regardless of whether it is affixed to real property that is used or intended for supporting or sheltering any human use or occupancy.

BUILDING LINE: A line demarcating the area between a building or other structure and the street right-of-way line beyond which no building or structure or portion thereof shall be erected, constructed, or otherwise established.

CITY COUNCIL: The City Council of the City of Elko.

CODE: The Elko City Code.

COMMISSION: The City of Elko Planning Commission.

COMMUNICATION LINES: Conduit, cables, fiber and/or other apparatus for the distribution and provision of telecommunications and/or broadband communications.

COMMUNICATION SERVICE LINES: Communication lines.

CONDITIONAL APPROVAL: A decision by the Planning Commission or City Council to approve a tentative map, provided certain specified conditions are satisfied.

CONSTRUCTION PLANS: Plans, profiles, cross-sections and other drawings showing required details for the construction of subdivision improvements, prepared in conjunction with the final map, and submitted by a properly licensed engineer in compliance with standards of design and construction approved by the City.

CUL-DE-SAC: A street opening at one end and having a turnaround at the other end.

DEDICATION: The deliberate appropriation of land by its owner for any general or public use, reserving unto himself no other right than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been appropriated.

DENSITY: A number, represented in units of lots per acre, calculated by dividing the number of lots in the subdivision by the total acreage of the subdivision.

DEVELOPER: A real property owner who divides land into two or more parcels for transfer or development.

DEVELOPMENT MASTER PLAN: A comprehensive long-term strategic planning document for a subdivision prepared in accordance with Section 3-3-4 of this Chapter.

EASEMENT: An interest in land that confers a right of use for a special purpose.

ENGINEER'S ESTIMATE: An estimate of the total cost of public improvements prepared by the subdivider's engineer and provided to the City.

EXCEPTION: Any parcel of land that is located within the exterior boundaries of a subdivision but which is not included in the tentative or final map.

FINAL MAP: A map prepared in accordance with the provisions of NRS 278.325, 278.360 to 278.460, inclusive, 278.472, 278.4725 or 278.4955 and any applicable provisions of this Code, which, after approval and certification by the City, is recorded with the office of the Elko County Recorder.

FINAL MAP APPROVAL: Final or conditional authorization by the City Council to obtain final map certification; provided, all applicable requirements of this Chapter, to include City Code Sections 3-3-21 and 3-3-22, must be satisfied prior to final map certification; further provided, if final map approval is conditional, all conditions imposed by the City Council in conjunction with the approval must be satisfied prior to final map certification.

FINAL MAP CERTIFICATION: Unconditional approval of the final map by the City Council as evidenced by certification on the map by the Mayor of the City of Elko. Final map certification constitutes authorization to record the map with the Elko County Recorder.

FULL FRONTAGE: All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner lots.

GRADING: The removal of the vegetative cover from the surface of any land, and is a result of activity associated with new construction.

LED: Light-emitting diode.

LOT: A distinct part or parcel of land which has been divided, including the following:

A. Corner Lot: A lot abutting on two (2) or more intersecting streets.

B. Double Frontage Lot: A lot abutting two (2) parallel or approximately parallel streets.

C. Interior Lot: A lot having but one side abutting on a street.

D. Key Lot: An interior lot, one (1) side of which is contiguous to the rear line of a lot.

LOT DEPTH: The shortest distance, measured on a line parallel to the axis of the lot, between points on the front and rear lot lines.

LOT LINE: A line bounding a lot, including the following types of lot lines:

A. Front Lot Line: The lot line coinciding with the street line; or, in the case of a corner lot, the shorter of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines.

B. Rear Lot Line: The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

C. Side Lot Line: Any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is designated as the exterior side lot line; all other side lot lines are designated as interior side lot lines.

LOT WIDTH:

A. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines measured parallel to the street or to the street chord and measured on the street chord.

B. In the case of a lot abutting on the inside of a street curve, the distance between the side lot lines measured parallel to the street or the street chord at the rear line of the dwelling, or, where there is no dwelling, thirty feet (30') behind the minimum front setback line.

MASTER PLAN: A comprehensive, long-term general plan for the physical development of the City prepared in accordance with NRS 278.150, et seq.

OWNER: Any person who holds title to land or who is contractually obligated to purchase land.

PARCEL MAP: A map required for the division of land for transfer or development into four (4) lots or less in the manner set forth in NRS 278.461, 278.462, 278.463, 278.464 or 278.466, and this Code.

PEDESTRIANWAY: A public or private walk through a block from street to street or from a street to a school, park, recreation area or other public facility.

PERFORMANCE AGREEMENT: An agreement to install improvements.

PERFORMANCE GUARANTY: The financial security required to guarantee the construction of public improvements and other matters as set forth in Section 3-3-22 of this Chapter.

PERSON: A natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.

PUBLIC IMPROVEMENT: Street work, utilities and other improvements to be installed on land dedicated or to be dedicated for streets and easements as are necessary for local drainage, local traffic and the general use of property owners in the subdivision.

PUBLIC IMPROVEMENT STANDARDS: A set of standards adopted by the City Council regulating the design and construction of public improvements. These standards are contained in the latest edition of the "Standard Specifications For Public Works Construction" also known as the "Orange Book," which is distributed to the cities and counties of northern Nevada by the Regional Transportation Commission of Washoe County.

PUBLIC UTILITIES: Underground, aboveground or overhead facilities furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, flood control, irrigation or refuse disposal, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. The term "public utilities," as used herein, may also refer to such persons, firms, corporation, departments or boards, as the context indicates.

REQUIRED IMPROVEMENTS: Enhancements to land to make the land more usable for public and/or private purposes, as more specifically set forth in Section 3-3-20 of this Chapter.

RIGHTS-OF-WAY: All public and private rights-of-way and all areas required for public use in accordance with any master plan or parts thereof.

SETBACK LINE: Building line.

STREET: Any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access; or, a street shown in a map heretofore approved pursuant to law; or, a street in a map duly filed and recorded in the county recorder's office. A street includes all land within the street right of way, whether improved or unimproved, and includes such improvements as pavement, shoulder, curbs, gutters, sidewalks, parking space, bridges, viaducts, lawns and trees. For purposes of this Chapter, the following definitions apply to specific types of streets:

A. Alley: A public way providing secondary vehicular access and service to properties which also abut a street.

B. Arterial And Minor Arterial Streets: A general term describing large major streets, including freeways, expressways and interstate roadways, and state and/or county highways having city and regional continuity.

C. Collector Residential And Local Residential Streets: City streets serving the primary function of providing access to abutting property:

1. Cul-De-Sac Street: A short collector residential and local residential street having one end permanently terminating in and including a vehicular turning area.

2. Marginal Access Street: A collector residential and local residential street parallel to and abutting an arterial street which provides access to abutting property, intercepts other collector residential and local residential streets, and controls access to the arterial street.

D. Collector Street: A street generally with limited continuity serving the primary function of moving traffic between arterial streets and local residential streets, and the secondary function of providing access to abutting properties.

STREET, PRIVATE: A nondedicated, privately owned right-of-way or limited public way that affords the principal means of emergency and limited vehicular access and connection to and from the public street system to properties created through the division of land.

STREET, PUBLIC: A dedicated public right-of-way that is part of the public street system and which affords the principal means of emergency and general vehicular access to abutting property.

STREET LINE: A line demarcating the limits of a street right-of-way.

SUBDIVIDER: A developer who commences or is engaged in the process required by NRS Chapter 278 and this Chapter for dividing land into parcels or creating a subdivision.

SUBDIVIDER'S ENGINEER: A professional engineer, properly licensed by the State of Nevada and retained, contracted or employed by the subdivider for the purpose of satisfying the requirements of Sections 3-3-21, and to oversee and certify the subdivision in the manner required by this Chapter.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into five or more lots, parcels, sites, units or plots, for the purpose of any transfer or development, or any proposed transfer or development, unless exempted by NRS 278.320 or any other applicable statute.

SUBDIVISION IMPROVEMENT: An improvement to land that a subdivider is required to construct and complete at its own expense, pursuant to the requirements of this Chapter and an agreement to install improvements.

SUBDIVISION REVIEW COMMITTEE: A committee consisting of representatives of the City Manager's Office, the City Engineering Department, the City Utility Department, the City Planning department, the City Development Department, the City Public Works Department, the City Fire Department, and the Planning Commission Chair or Vice Chair.

TENTATIVE MAP: A map made to show the design of a proposed subdivision and the existing conditions in and around it.

TENTATIVE MAP APPROVAL: Approval of a tentative map by the City Council. Tentative map approval constitutes authorization to proceed with preparation of construction plans and the final map.

TRACT: An area of land proposed to be divided pursuant to this Chapter.

TRANSPORTATION COMPONENT OF THE MASTER PLAN: A plan adopted by the Planning Commission and City Council which provides for development of a system of major streets and highways.

3-3-3: STAGES OF SUBDIVISION PLANNING AND APPROVAL:

Any person who divides or proposes to divide land into five (5) or more lots, parcels, sites, units or plots, for the purpose of any transfer or development, or any proposed transfer or development, unless exempted under Chapter 278 of the Nevada Revised Statutes or this Code, must follow the three-stage approval process outlined in this Chapter. These stages, among other things, set forth specific requirements pertaining to the preparation, submission and review of, and official action on, maps and other documents.

These stages are as follows:

- A. Stage I - Preapplication Stage. During Stage I, the subdivider provides preliminary information about the proposed subdivision to the City, some of which is provided to City staff in a conference held to discuss land use, street and lot arrangement, lot sizes, buildable lot areas, conformity with the master plan, easements, the provision of utilities, storm drainage, street improvements and other issues pertinent to the proposed development.
- B. Stage II - Tentative Map Stage: Stage II includes preparation, submission, revision, and Planning Commission and City Council action on the tentative map. During this stage, the City will review the tentative map submittal to ensure that it conforms to all applicable requirements. At the conclusion of this stage, the City Council determines whether to approve, conditionally approve or disapprove the tentative map. The City uses the tentative map submittal to evaluate the subdivision. Approval of the tentative map permits the subdivider to proceed with Stage III, but does not authorize the subdivider to commence construction activities.
- C. Stage III - Final Map Stage. Stage III includes the final design and engineering of the subdivision, official action on the construction plans, and official action on the final map. During this stage, except as otherwise permitted in this Chapter, the subdivider must post security for completion and maintenance of public improvements, and the subdivider and the City must enter into a performance agreement.

3-3-4: PREAPPLICATION STAGE (STAGE I):

- A. Overview and General Requirements: The preapplication stage of subdivision planning (Stage I) includes an investigatory period that takes place prior to submittal of the tentative map by the subdivider. During this stage, the subdivider must meet with the City to discuss and provide general information about the proposed subdivision, and the City will provide the subdivider with general information about City subdivision requirements. During this stage, the City will also determine whether a change in zoning will be required for the proposed subdivision. If the City determines that a zoning change is required for the proposed subdivision, the subdivider must initiate the necessary application for a change of zoning district boundaries. This process must be commenced prior to the submission of the tentative map (Stage II). In addition, during Stage I the subdivider and the City shall satisfy the following requirements:
- B. Conference: During Stage I, the subdivider shall schedule and attend a conference with the Subdivision Review Committee for the purpose of discussing the proposed subdivision. At least five (5) business days prior to the conference, the subdivider shall provide the City with plans, sketches and other documentation showing proposed land uses, street and lot configuration, proposed lot sizes and the proposed density of the development. At the meeting, the subdivider and/or his/her authorized representative shall present the Subdivision Review Committee with tentative proposals regarding water supply, sewage disposal, storm drainage, street improvements and any potential changes to zoning district boundaries.
- C. During the conference with the Subdivision Review Committee, the City will provide general information to the subdivider regarding the requirements of this Chapter, to include required procedures, design and improvement standards, and tentative and final map requirements, together with the following:

1. Check existing zoning of the location of the proposed subdivision and of abutting properties, and determine whether a change of zoning district boundaries is necessary or desirable.
2. Determine conformance of the proposed subdivision to the Land Use component of the Master Plan.
3. Examine the adequacy of parks and other public facilities.
4. Determine the relationship of the site to major streets, utility systems and adjacent land uses, and determine whether there are any potential problems related to topography, utilities, drainage or flooding.
5. Determine Fire Department access and suppression requirements.
6. Determine whether a Development Master Plan must be approved by the City prior to consideration of a tentative map.

D. Development Master Plan: The Planning Commission may, in its discretion, determine that the proposed subdivision has certain characteristics that necessitate the preparation of a Development Master Plan. These characteristics may include size, impact on neighborhoods, density, topography, utilities, and/or existing and potential future land uses. If a Development Master Plan is required, it must be submitted to the Planning Commission for review and possible approval at least twenty-one (21) days prior to the Planning Commission meeting at which the Development Master Plan will be reviewed.

1. Preparation: The Development Master Plan shall be prepared on a sheet twenty-four inches by thirty-six inches (24" x 36"), shall be accurate in accordance with industry standards, and shall clearly indicate:
 - a. General street patterns, with particular attention to the location and general alignment of collector streets and to the maximization of convenient circulation throughout the neighborhood.
 - b. General locations and sizes of schools, parks and other public facility sites.
 - c. Locations of shopping centers, multi-family residential units and other proposed land uses.
 - d. Methods proposed for sewage disposal, water supply and storm drainage.
2. Approval: A tentative map must be consistent with a Development Master Plan that encompasses its territorial limits. The Development Master Plan shall establish the general approach to the subdivision design in the tentative map. Accordingly, the subdivision must be compatible with and not frustrate the goals and policies set forth in the approved Master Plan. If development of a subdivision is proposed to take place in several stages, the Development Master Plan shall be submitted as supporting data for each tentative map. The Development Master Plan shall be kept up to date by the subdivider as modifications occur or become necessary.

3-3-5: TENTATIVE MAP STAGE (STAGE II):

The tentative map stage (Stage II) includes preparation, submission, review, and Planning Commission and City Council action on the tentative map. The subdivider can help expedite processing of the tentative map by submitting all information needed to determine consistency with the City Code and the Elko Master Plan.

A. Zoning Amendments: The tentative map shall be designed to meet the specific requirements of the zoning district in which it is located. However, in the event a change of zoning district boundaries is necessary, an application for a change in zoning consistent with Section 3-2-21 of the City Code shall be submitted and processed in conjunction with the tentative map. If a change in zoning district boundaries is required, the City will not continue processing the tentative map until the application for change of zoning district boundaries is submitted.

The application for change of zoning district boundaries shall be heard by the Planning Commission at the same meeting as the tentative map is considered, but shall be acted upon as a separate item. The application for change of zoning district boundaries shall be heard prior to the action item for possible approval of the tentative map. When a tentative map constitutes only one unit of a larger development intended for progressive maps, the change of zoning district boundaries may be limited to the area contained in the tentative map application. Any required change of zoning district boundaries shall have been approved by the City Council prior to tentative map approval. A change of zoning district boundaries required under this Section must, without limitation, conform to all applicable master plan(s) adopted by the City.

B. Sanitary Sewerage, Water Supply, Storm Drainage and Solid Waste Disposal: As a prerequisite to tentative map review by the Planning Commission, the subdivider shall provide adequate information to enable the City to determine whether it conforms to the City Code, to include, without limitation, all applicable requirements for public improvements, such as grading, installation of a sanitary sewer and sewerage disposal, water supply, storm drainage, solid waste disposal and the provision of other public utilities to the proposed subdivision.

C. Tentative Map Submittal: The following requirements apply to submission of the tentative map for review and filing of the tentative map:

1. Tentative Map Submittal; Application: Three (3) copies of the tentative map and any required supporting information and/or data in readable pdf format (unless otherwise requested by the City), prepared in accordance with the requirements of this Chapter, together with any required filing fee (collectively referred to as the "tentative map submittal"), shall be filed with the City planning department at least forty-two(42) calendar days prior to the Planning Commission meeting at which the recommendation to approve, conditionally approve or disapprove the tentative map will be considered. Upon receipt of the tentative map submittal, the City planning department will record the date of receipt and filing. The tentative map submittal shall be deemed the subdivider's application for approval of the tentative map.

2. Initial Review of Tentative Map Submittal for Completeness Upon Filing: Upon filing, the City will perform an initial review of the tentative map submittal to determine if it is complete and satisfies the requirements of the Nevada Revised Statutes, the Nevada Administrative Code and Section 3-3-6 of this Chapter. The tentative map submittal must be consistent with the information provided by the subdivider to the City at the preapplication stage (Stage I) meeting. The Planning Commission will

not consider the application for tentative map approval unless adequate information has been submitted to permit the City to determine that the tentative map complies with the City Code. Upon request by the City, the subdivider shall furnish additional copies of any documents required by the City to perform its review.

3. Information Required Under Nevada Administrative Code for Review of Tentative Map: In addition to any other requirements set forth in the Elko City Code, without limitation, a subdivider shall submit the following documents or other information to the City:

- a. A map showing the topographic features of the subdivision, including contours at intervals of 2 feet for slopes of 10 percent or less and intervals of 5 feet for slopes of over 10 percent.**
- b. Two copies of the map showing the tentative design of the subdivision, including the arrangement of lots, the alignment of roads and easements.**
- c. A statement of the type of water system to be used and the water source, for example, private wells or a public water system.**
- d. Unless water for the subdivision is to be supplied from an existing public water system, a report of the analyses, performed pursuant to NAC 278.390, of four samples taken in or adjacent to the subdivision from different wells. The analyses must show that the water meets the standards prescribed in NAC 445A.450 to 445A.492, inclusive.**
- e. A map of the 100-year floodplain for the applicable area. The map must have been prepared by recognized methods or by an appropriate governmental agency for those areas subject to flooding.**
- f. A description of the subdivision in terms of 40-acre parts of a designated section, township and range, or any other description which provides a positive identification of the location of the subdivision.**
- g. A map of the vicinity of the subdivision, showing the location of the proposed subdivision relative to the City of Elko or a major highway.**
- h. The names and addresses of the owners and developers of the subdivision.**
- i. A master plan showing the future development and intended use of all land under the ownership or control of the developer in the vicinity of the proposed subdivision.**

4. Filing; Acceptance or Rejection: If, following the initial review, the tentative map submittal is determined to conform to the foregoing requirements, the City will accept the tentative map submittal for filing and will assign it a file number. Otherwise, the City will reject the tentative map submittal and inform the subdivider of the deficiencies that resulted in the rejection. If the subdivider does not correct an incomplete tentative map submittal within ninety (90) calendar days from the date of filing with the City, the tentative map submittal will automatically expire and may not be re-filed without payment of a new filing fee.

5. Filing Fee: The subdivider shall, at the time of filing a tentative map submittal, pay to the City a filing fee based upon the number of lots shown on the tentative map. The filing fee shall be set by resolution by the City Council.

D. Tentative Map Review by Departments: Upon filing, the tentative map will be distributed and reviewed as follows:

1. Departmental Review of Tentative Map Submittals: Unless the tentative map submittal is rejected in accordance with Section 3-3-5(C)(2), above, following the initial review, the planning department will transmit copies of the tentative map submittal to the City engineering, utility, public works, fire and development departments for their respective reviews. In reviewing the tentative map submittal, these departments will each make a determination as to the completeness and adequacy of the tentative map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that a tentative map submittal is incomplete, inadequate or noncompliant with the City Code, the application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection.

2. Distribution of Tentative Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the tentative map submittal is complete, adequate and in conformity with the requirements of the City Code and the Stage I submittal, the City planning department will transmit copies of the tentative map submittal for review to the following, if required by NRS Chapter 278 or this Code: (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) the district board of health acting for the Division of Environmental Protection to review and certify proposed subdivisions and to conduct construction or installation inspections; (c) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; (d) the board of trustees for the Elko County School District; (e) the board of trustees for any general improvement district or irrigation district in which the subdivision is located; (f) the owner of an irrigation ditch located within the proposed subdivision to the extent required under NRS 278.3485; (g) the Nevada Department of Transportation, if the subdivision encompasses or is adjacent to any State roads, highways or rights-of-way; (h) Elko County, if the proposed subdivision is adjacent to property located outside the Elko City municipal boundaries; (i) any public utilities that are reasonably likely to provide service to the subdivision. All comments received in response to the foregoing distributions will be provided to the Planning Commission and the City Council at the respective meetings during which the application is considered.

3. Planning Commission Review: The Planning Commission shall review the tentative map submittal for compliance with applicable provisions of the Nevada Revised Statutes, the Nevada Administrative Code and the City Code, to include this Chapter and Title 3 (Zoning Regulations), and shall consider the recommendations of City departments, non-City governmental agencies and others that have reviewed the tentative map submittal pursuant to this Chapter. It shall be the responsibility of the subdivider to provide any necessary data and any other information necessary for the Planning Commission to conduct a comprehensive review of the proposed subdivision.

4. Public Hearing; Notices: Prior to taking any action to recommend approval, conditional approval or disapproval of a tentative map, the Planning Commission shall hold a public hearing to receive information about the proposed subdivision and to consider modifications to the tentative map. The public hearing shall be set not later than sixty (60) days from the date a complete tentative map submittal that satisfies the requirements of the City Code is filed with the City. At least ten (10) calendar days prior to the public hearing, notices of the public hearing shall be sent by mail to all property owners adjacent to the area proposed to be subdivided. The names and addresses of the adjacent property owners shall be determined by examining the latest assessment rolls of the Elko County Assessor. Notice by mail to the last known addresses of the real property owners as shown by the Elko County Assessor's records shall be sufficient for purposes of this Subsection. Legal notice shall be placed in a newspaper of general circulation within the City at least ten (10) calendar days prior to the date of the public hearing.

5. Modifications to Tentative Maps: In the event the Planning Commission requires modifications to the tentative map prior to making a recommendation of approval or conditional approval, the Planning Commission shall so inform the subdivider. The Planning Commission may, in its discretion, provide recommendations to the subdivider regarding the correction of any deficiencies in the tentative map submittal. The Planning Commission may, in its discretion, table or continue a public hearing on a tentative map for a period of time sufficient to permit the subdivider to make any required modifications to the tentative map submittal. Notwithstanding the foregoing, in the event the Planning Commission requests that a subdivider make modifications to a tentative map submittal, the subdivider must present to the Planning Commission a modified tentative map submittal that complies with the Planning Commission's request no more than sixty (60) calendar days from the date of the request. Notwithstanding any other provision in this Chapter, the failure of a subdivider to present a properly modified tentative map submittal to the Planning Commission in accordance with the preceding sentence shall result in the automatic expiration of the application for tentative map approval and the subdivider shall not be entitled to any refund or credit of the filing fee.

E. Action on Tentative Map by Planning Commission and City Council: Upon review by City and other agencies and entities as set forth in the preceding Subsection, the Planning Commission and City Council will take action on the tentative map as follows:

1. Planning Commission Recommendation: Unless modifications to the tentative map are required pursuant to Section 3-3-5(D), after accepting a tentative map submittal as a complete application, the Planning Commission shall, within sixty (60) days of the date the tentative map submittal is filed, recommend approval, conditional approval or disapproval of the tentative map in a written report filed with the City Council. Notwithstanding the foregoing, unless a longer time is provided in a development agreement entered into pursuant to NRS 278.0201, the time limit for acting and reporting on a tentative map may be extended by mutual consent of the subdivider and the Planning Commission; provided, if no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive (subject to any permitted extensions), a tentative map as filed shall be deemed to be approved without conditions, and the Planning Commission shall certify the tentative map as approved. If the Planning Commission recommends conditional approval or disapproval of a tentative map, the Planning Commission's report to the City Council shall either state the conditions under which the tentative map would have been approved or state that approval was withheld because the land proposed to

be subdivided is not suitable for the proposed development, stating the reasons why the land was not considered suitable.

2. Action by City Council to Approve, Conditionally Approve or Disapprove Tentative Map; Factors Considered: Except as otherwise provided in NRS Chapter 278 and this Chapter, the City Council shall approve, conditionally approve or disapprove a tentative map within sixty (60) days from the date of receipt of the Planning Commission's recommendations. Before approving a tentative map, the City Council shall make such findings as are not inconsistent with the provisions of Nevada Revised Statutes Sections 278.010 through 278.630, inclusive, or the City Code, which findings shall include consideration of the following factors:

- a. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;
- b. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;
- c. The availability and accessibility of utilities;
- d. The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;
- e. Conformity with the zoning ordinances and the City's master plan, except that if any existing zoning ordinance is inconsistent with the City's master plan, the zoning ordinance takes precedence;
- f. General conformity with the City's master plan of streets and highways;
- g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;
- h. Physical characteristics of the land, such as floodplain, slope and soil;
- i. The recommendations and comments of those entities and persons reviewing the tentative map pursuant to this Chapter and NRS 278.330 to 278.3485, inclusive;
- j. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and
- k. The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by Chapter 375 of NRS and for compliance with the disclosure and recording requirements of Subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

3. Approval of Tentative Map Without Conditions: The City Council may approve the tentative map without conditions; provided, the approval must include findings that the tentative map meets all requirements of this Chapter and the applicable requirements set forth in the Nevada Revised Statutes and Nevada Administrative Code.

4. Approval of Tentative Map With Conditions: The City Council may approve the tentative map with conditions, in which event the City Council shall, as a requisite to final approval, require the subdivider to submit proof that the conditions have been satisfied to either or both City staff and/or the City Council at a subsequent meeting. The City Council may place a deadline on the time required to satisfy the conditions, after which, unless (a) the subdivider has submitted proof to the City that the conditions have been satisfied, (b) the subdivider and the City have entered into a development agreement pursuant to NRS 278.0201 and this Chapter that extends the time for satisfying the conditions, or (c) the City has granted an extension of time to satisfy the conditions consistent with this Chapter, the tentative map will be automatically deemed disapproved.

5. Disapproval of Tentative Map: The City Council may disapprove a tentative map, in which event the City Council shall state the reasons for the disapproval. In the event a tentative map is disapproved, any new filing of a tentative map for the same property, or any part thereof, shall follow the procedure set forth in this Chapter for a new tentative map application, to include payment of a new filing fee.

F. Limited Authorization to Proceed Upon Approval With Conditions: If the City Council approves a tentative map with conditions, the subdivider may commence preparing a final map and engineering construction plans; provided, nothing in this Subsection shall be interpreted as a waiver of any conditions imposed by the City Council or a commitment that the City will approve a final map or construction plans.

G. Intent to Serve Letters: Upon approval of a tentative map with or without conditions, the City Utility Department shall provide a water and sewer "intent to serve" letter to the applicable state agencies.

H. Construction of Subdivision Improvements: Notwithstanding any other provision contained herein, approval of a tentative map, with or without conditions, does not constitute authorization to commence any construction activities associated with the subdivision to include, without limitation, public improvements.

3-3-6: CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL:

A. Form and Scale: The tentative map must be graphically depicted on one or more plan sheets with supporting data either placed directly on the tentative map or attached to the tentative map in drawings, spreadsheets or other documents that comply with the requirements of this Chapter and are consistent with industry standards. All maps accompanying the tentative map shall be drawn to the same standard engineering scale; provided, the scale shall not be more than one hundred (100) feet to one (1) inch. Whenever practicable, the plan scale shall result in an overall sheet measuring twenty-four inches by thirty-six inches (24" x 36").

B. Identification Data: The tentative map shall contain the following information:

1. Proposed subdivision name, location and section, township and range, with reference by dimension and bearing to a section corner or quarter-section corner.

2. Name, address, telephone number and email address of subdivider(s).

3. Name, address, telephone number, email address and Nevada State Board of Professional Engineers and Land Surveyors license number for each professional engineer or land surveyor who prepared the tentative map.

4. Scale.

5. North point.

6. Date of initial preparation and dates of any subsequent revisions.

7. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.

8. Legal description defining the boundaries of the proposed subdivision.

C. Physical Conditions: The tentative map shall contain following information about existing physical conditions:

1. Topography shown with contours at intervals of no more than or two (2) feet and corresponding to the coordinate system maintained by the City. Topographic information shall be adequate to show the character and drainage of the land.

2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow, and the location and extent of areas subject to frequent periodic or occasional inundation.

3. The location of flood zones designated by the Federal Emergency Management Agency (FEMA) and/or any special flood hazard areas.

4. Within or adjacent to the proposed subdivision, the locations, widths and names of all streets, railroads, utility rights-of-way of public record, public areas, permanent structures that will remain after development of the subdivision, and municipal corporate boundaries.

5. Dimensions of all subdivision boundaries.

6. Gross and net acreage of the subdivision.

D. Recorded Map Information: The tentative map shall indicate the title or description, book and page number(s) of each recorded map for property adjacent to the proposed subdivision, to include property adjacent to boundary roads, streets and rights-of-way.

E. Existing Zoning: The tentative map shall indicate the existing zoning classification of the proposed subdivision and adjacent properties.

F. Proposed Improvements and Other Features: The tentative map shall show the following planned improvements and other features within and, where indicated, adjacent to the subdivision:

- 1. Street layout, including location and width of each street, right-of-way, alley, sidewalk, pedestrianway and easement, together with access routes to adjacent existing subdivisions (including routes through parcels that are not subdivided), the proposed names of all streets, and the approximate grades of all rights-of-way.**
- 2. Lot layout with consecutively numbered lots, indicating the dimensions and area of each lot, and the total number of lots.**
- 3. Location, width and proposed use of easements.**
- 4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.**
- 5. Locations and boundaries of all proposed zoning districts.**

G. Proposed Deed Restrictions: All proposed deed restrictions shall be indicated on or appended to the tentative map.

H. Preliminary Grading Plan: The subdivider shall provide to the City a preliminary grading plan indicating areas proposed for cut-and-fill, the type and estimated quantity of material to be graded, the estimated finished grades (which must be adequate to establish the general grading trend), the proposed methods of erosion control, and the general location of and specifications for any manufactured (cut or fill) slopes.

I. NPDES Permit Compliance: The subdivider shall comply with all applicable provisions of the City's National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems, Permit No. NV040000.

J. Utility Methods and Requirements:

- 1. Sewage Disposal: The subdivider shall provide the City with a proposed design for sewage disposal that connects to the City sewer system.**
- 2. Water Supply: The subdivider shall provide the City with information sufficient to demonstrate adequate volume and quality of water from the City water system.**
- 3. Storm Drainage: The subdivider shall provide the City with preliminary drainage calculations and a proposed layout of the storm drainage system, including the locations of outlets. The proposed storm drainage system shall comply with the City's NPDES permit requirements, the City Code and all applicable Federal and state laws and regulations.**
- 4. Communication, Electrical and Natural Gas Lines: The subdivider shall provide the City with a proposed layout for the locations of Communication Lines, electrical lines and natural gas lines.**
- 5. Traffic Impact Study: The City may, in its discretion, require a traffic impact study if it determines that additional traffic in the area due to the subdivision may exceed**

existing roadway capacities, warrant traffic signal improvements, warrant the construction of additional travel lanes or impact state highways.

3-3-7: FINAL MAP STAGE (STAGE III):

A. Overview: The final map stage (Stage III) includes the final design and engineering of the subdivision, and the preparation, submission and review of and official action on the final map and construction plans.

B. Requirements for Presentation of Final Map or Series of Final Maps; Extensions of Time:

1. Unless a longer time is provided in an agreement entered into pursuant to this Chapter, or unless the time is extended by mutual agreement of the subdivider and the City Council, the subdivider shall present to the City Council within 4 years after the approval of a tentative map: (1) a final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or (2) the first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the City Council on or before the second anniversary of the date on which the subdivider recorded the first in the series of final maps: (I) a final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or (II) the next final map in the series of final maps covering a portion of the approved tentative map. If the subdivider fails to comply with the provisions of the preceding sentence, all proceedings concerning the subdivision are terminated.

2. The City Council may grant an extension of not more than 2 years for the presentation of any final map after the 2-year period for presenting a successive final map has expired.

3. Any request for an extension of time to present a final map, to include a map presented in a series of final maps, shall be submitted in writing to the City prior to the expiration of time for presenting the final map.

C. Pre-submission Requirements: Before a final map is submitted to the City for approval, the following requirements must be satisfied:

1. Zoning: The final map shall meet all requirements of the zoning district in which it is located, and any necessary changes to zoning district boundaries shall have been adopted by the City Council;

2. Preparation of Final Map: The subdivider shall prepare a final map that does not materially differ from the approved tentative map and conforms to all applicable requirements of the Nevada Revised Statutes, the Nevada Administrative Code and this Chapter.

D. Utility Easements: The subdivider shall obtain a letter or letters from all public utilities with utility easements located within the proposed subdivision indicating approval of the subdivision, which approvals shall be indicated in an affidavit on the final map.

E. Proposed Agreement to Install Improvements: The City shall provide to the subdivider a proposed agreement to install improvements prepared in accordance with the requirements of this Chapter.

F. Final Map Submittal; Filing: The final map submittal shall consist of three (3) copies and a readable electronic file in pdf format of the final map and any required supporting information and/or data, and a proposed agreement to install improvements (to include exhibits thereto), prepared in accordance with the requirements of this Chapter. The final map submittal shall be filed with the City planning department at least forty-two (42) calendar days prior to the Planning Commission meeting at which the final map will be considered.

G. Review of Final Map:

1. Upon receipt of the final map submittal, the City planning department shall record the receipt and date of filing, and shall thereafter transmit copies of the final map to the City engineering, utility, public works, fire and development departments for their respective reviews. In reviewing the final map submittal, these departments shall each make a determination as to the completeness and adequacy of the final map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that a final map submittal is incomplete, inadequate or noncompliant with the City Code, the application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection. If the subdivider does not correct an incomplete final map submittal within ninety (90) calendar days from the date of filing with the City, the final map submittal will automatically expire and may not be re-filed without payment of a new filing fee.

2. Distribution of Final Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the final map submittal is complete, adequate and in conformity with the requirements of the City Code and the Stage II submittal, the City planning department will transmit copies of the final map submittal for review to (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; and (c) the Division of Water Resources of the State Department of Conservation and Natural Resources. All comments received in response to the foregoing distributions shall be provided to the Planning Commission and the City Council at the respective meetings during which the application is under consideration.

3. Review by Planning Commission: The Planning Commission shall review the final map for conformity with the tentative map, the City Code and the approved construction plans, and shall thereafter make a recommendation to the City Council to approve, conditionally approve or disapprove the final map.

H. Final Map Approval, Certification and Recordation:

1. Upon a recommendation by the Planning Commission to approve, conditionally approve or disapprove the final map, the City shall, within sixty (60) days, place the item on the agenda for the meeting of the City Council.

2. During the meeting at which the final map is presented to the City Council, the City Council shall approve, conditionally approve or disapprove the final map.
3. If the City Council disapproves the final map, it shall state the reasons for the disapproval and the same shall be placed in the minutes and communicated to the subdivider.
4. Prior to a decision by the City Council to approve the final map, the City Council shall (a) accept or reject on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication, (b) if applicable, it shall determine that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480, (d) find that the final map substantially complies with the tentative map and all conditions have been met; and (e) approve an the agreement to install improvements that satisfies the requirements of this Chapter.
5. Following approval of the final map by the City Council, the city clerk shall place upon the final map a certificate, signed by the mayor and the city clerk, stating that (a) the City Council approved the map; (b) the City Council accepted or rejected on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication; (c) if applicable, the City Council determined that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480; (d) the final map substantially complies with the tentative map and all conditions have been met; and (e) a performance agreement is in place that satisfies the requirements of this Chapter.
6. Upon approval of a final map with or without conditions, the City Utility Department shall provide a water and sewer "intent to serve" letter to the applicable state agencies.
7. If the City Council conditionally approves a final map, the conditions shall be satisfied before the final map is certified. The City Council may, in its discretion, direct that the conditions be satisfied within a specified period of time, after which the conditional approval shall expire and the final map shall be automatically deemed disapproved.
8. The City shall not issue any building permits for a subdivision until certification and recordation of the final map.
9. Except as otherwise provided in this Subsection 3-3-7(H)(9), the City shall not issue any certificates of occupancy prior to completion, certification and acceptance by the City Council of the required improvements as shown on the construction plans and the State has authorized the City to place the subdivision utilities into service. Notwithstanding the foregoing, upon application by the subdivider, the City Council may waive or modify requirements applicable to one or more individual improvements in order to permit the earlier issuance of one or more certificates of occupancy upon a showing that completion of the improvements is delayed due to inaction on the part of a Federal or state agency and based on proof of no fault of the subdivider. Nothing herein shall be interpreted as permitting the waiver or

modification of any requirement contained in Federal statutes or regulations, the Nevada Revised Statutes or the Nevada Administrative Code.

10. Following certification, the city clerk shall cause the approved final map to be presented to the Elko County Recorder for recording.

3-3-8: CONTENT AND FORMAT OF FINAL MAP SUBMITTAL:

The final map submittal shall contain the following information and comply with the following requirements and standards:

A. Form and Content: The final map, including affidavits, certificates and acknowledgments, shall be clearly and legibly drawn with black, waterproof India ink upon Mylar of good quality. Each sheet shall be twenty-four inches by thirty-two inches (24" x 32") in size. A marginal line shall be drawn completely around each sheet showing an entirely blank margin of one inch (1") at the bottom, top and right edges, and two inches (2") on the left edge on the twenty-four inch (24") dimension. The scale of the map shall be not less than one inch to one hundred feet (1" = 100'). The sheet number and the total number of sheets comprising the map shall be so stated on each sheet, and the sheet number in relation to each adjoining sheet shall be clearly shown. The title sheet shall state the location of the property being subdivided with references to maps which have been previously recorded or by referring to the National Coordinate System or a comparable and generally recognized method of mapping managed and maintained by the National Geodetic Survey or other federal agency. Copies of the final map shall be reproduced in blue line or black line prints on a white background.

B. Identification Data and Other Information: The final map shall contain the following identifying and other information:

1. Name of subdivision and location by section, township, range and county.
2. Name, address and license number of the professional land surveyor, licensed in the State of Nevada, who prepared the final map.
3. Scale, north point and date of map preparation.

C. Survey Data: The final map shall contain the following survey information:

1. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field, with all dimensions expressed in feet and decimals thereof.
2. Any exceptions within the map boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field.
3. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the map are referenced, and a subdivision traverse tied by course and distance to a section corner or quarter-section corner.

4. Location and description of all physical encroachments upon the boundaries of the tract.

D. Descriptive Data: The final map shall contain the following descriptions:

1. Names (where applicable); right-of-way lines; courses, lengths and widths of all streets, alleys, pedestrianways and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; and radii of all rounded street line intersections.
2. All drainageways, which shall be designated as such.
3. All utility and public service easements, including designation of whether for public access or utilities.
4. Locations and dimensions of all lots, parcels and exceptions.
5. All residential lots numbered consecutively throughout blocks.
6. Locations, dimensions, bearings, radii, arcs, and central angles of boundaries of all sites to be dedicated to the public, including each designation of proposed use.
7. Location of all adjoining subdivisions with name, date, and book and page number of recordation noted, or if unrecorded, so noted, along with the names of adjoining landowners of unsubdivided property.
8. Any private deed restrictions to be imposed upon the final map, or any part hereof, written on or attached to the map and each copy thereof.

E. Dedication and Acknowledgment: The final map shall contain the following information regarding dedications:

1. Statement of dedication of all streets, alleys, sidewalks, pedestrianways, and easements for public purposes by the person holding title of record, by persons holding title as vendees under land contract, and by spouses of such persons. If lands to be dedicated are mortgaged, the mortgagee shall also sign the map. Dedication shall include a written description by section, township and range of the tract. If the map contains private streets, public utilities shall be deemed to have reserved the right to install and maintain utilities in such street rights-of-way.
2. Execution of a dedication acknowledged and certified by a notary public.

F. Additional Information: The final map shall contain the following additional information:

1. Where the centerline has been established for any street, highway, alley or public way within an adjoining subdivision, all monuments along the portion of the street, highway, alley or public way within the proposed subdivision shall be located with reference to the foregoing centerline, which centerline and monuments shall be shown on the final map.
2. The centerline of each highway, street, alley or way within the proposed subdivision and width on each side of the centerline, showing the width to be dedicated. All

centerlines shall be shown with the corresponding bearing and length of each radius, the central angle and the length of each curve within the proposed subdivision.

3. The location of monuments or other evidence formed upon the ground and used in determining the boundaries of the subdivision. If other subdivisions adjoin the tract, the map shall show corners of such adjoining subdivisions sufficiently identified in such a manner as to locate precisely the limits of the proposed subdivision.

4. The length and bearing of each block line, lot line and boundary line; the length, radius and central angle of each curve or the length of curve and that portion of the central angle lying within each lot. The foregoing data shall be shown in a manner satisfactory to the City.

5. Each City boundary line crossing or adjoining the subdivision with adequate ties to monuments set or found within the subdivision.

6. Section lines, one-quarter ($1/4$) section lines and one-sixteenth ($1/16$) section lines crossing or adjoining the subdivision boundaries.

G. City to Check: The City will independently review and check the following information in the final map submittal:

1. The City shall check the final map for accuracy of dimensions, the placing of monuments, the existence of survey records referenced on the final map, and the conformance of the final map to the tentative map. The final map shall be accompanied by:

a. A worksheet showing the closure of the exterior boundaries of the proposed subdivision and of the closure of lots and blocks therein;

b. A complete set of construction plans showing site grading, lot grading, street sections, centerline and curb grades, water infrastructure, water meters, sanitary sewer and storm drain locations and invert grades and elevations, street lighting, and other private or public improvements required by the City. The construction drawings must be stamped and dated by a licensed professional engineer, qualified to practice the discipline of civil engineering, and so registered in the State of Nevada;

c. Construction plans for manholes, catch basins and other appurtenant structures; and

d. An engineer's estimate of quantities and costs required to complete the improvements. Labor costs shall be based on prevailing wages in accordance with the requirements of Nevada Revised Statutes Chapter 338 and local rates. The City will check the engineer's estimate and shall thereupon approve or disapprove the estimate based upon its accuracy. Upon approval by the City, the engineer's estimate shall provide the basis for the calculating the performance guaranty required under Section 3-3-22 of this Chapter.

2. The City will check the final map to determine whether it satisfies the minimum allowable error of closure of one per ten thousand ($1/10,000$).

H. Required Certifications: The following certifications shall appear on the final map:

1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the final map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under deeds of trust, or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section.
2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use, except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, and for the use of their licensees, visitors, tenants and servants.
3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.
4. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the final map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the mapped parcels.
5. A certificate by the licensed professional land surveyor responsible for the survey and final map, which certificate must be in the following form:

SURVEYOR'S CERTIFICATE

I (name of licensed professional land surveyor), a Professional Land Surveyor licensed in _____ the State of Nevada, certify that:

1. This map represents the results of a survey conducted under my direct supervision at the instance of (Owner, Trustee, Etc.).

2. The lands surveyed lie within (sections, township, range, meridian, and, if required by the City Council, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less) and the survey was completed on (date):

3. This map complies with the applicable state statutes and any local ordinances in effect on the date that the governing body gave its final approval.

4. The monuments depicted on the map are of the character shown, occupy the positions indicated and are of sufficient number and durability.

(OR)

4. The monuments depicted on the map will be of the character shown and occupy the positions indicated by (a day certain) and an appropriate financial guaranty will be posted with the governing body before recordation to ensure the installation of the monuments.

(Date, name of surveyor, license number and stamp)

6. A certificate by the appropriate City official stating that he or she has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all applicable provisions of Nevada Revised Statutes Chapter 278, inclusive, and of any requirements of the City Code applicable at the time of approval of the tentative map have been complied with, that he or she is satisfied that the final map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance guaranty has been deposited guaranteeing their setting on or before a day certain. The foregoing certificate shall be dated, signed and certified by a licensed professional land surveyor or a licensed professional engineer qualified by the State of Nevada to practice the discipline of civil engineering.

7. A certificate by the Division of Environmental Protection of the State Department of Conservation and Natural Resources stating as follows:

This final map is approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources and is approved concerning sewage disposal, water pollution, water quality and water supply facilities in accordance with the Nevada Revised Statutes. This approval predicates (community, individual) water supply and (community, individual) sewage disposal.

8. A copy of the review by the Division of Environmental Protection of the State Department of Conservation and Natural Resources required by Subsection H.7 of this Section shall be furnished to the subdivider who, in turn, shall provide a copy of such review to each purchaser of land prior to the time the sale is completed. No statement of approval or review as required in Subsection H.7 of this Section shall be deemed a warranty or representation by the City in favor of any person as to the safety or quantity of such water.

9. A certificate by the Division of Water Resources of the State Department of Conservation and Natural Resources as follows:

Division of Water Resource Certificate: This final map is approved by the Division of Water Resources of the Department of Conservation and Natural Resources concerning water quantity subject to the review of approval on file in this office.

10. The City Council shall not approve any final map for a subdivision served by the City municipal water system unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure the quantity of water delivered to each water user in the subdivision.

3-3-9: GENERAL REQUIREMENTS FOR SUBDIVISION DESIGN:

- A. Conformance With Master Plan and Other Requirements: Every subdivision shall conform to the requirements and objectives of the City master plan, the City zoning ordinance, and all other applicable ordinances and regulations of the City, together with all other applicable planning documents or plans approved or adopted by the City Council (to include, without limitation, the Airport Master Plan, Wellhead Protection Plan, Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure and Annexation Report) and together with the statutes and regulations of the State of Nevada, except as otherwise provided in this Chapter.**
- B. Provision of Public Facility Sites: Whenever the statutes of the state permit the dedication of school sites or parks, the City Council may require the subdivider to dedicate such sites.**
- C. Land Unsuitability: No land shall be subdivided which is determined by the Planning Commission to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health, safety and general welfare of the community or the future property owners. The Planning Commission, in applying the provisions of this Section, shall state the particular facts upon which its conclusions are based, and shall also define any conditions under which the land may, in its opinion, become suitable for the proposed development. Land located within any floodway as designated on the City flood insurance rate maps shall be deemed unsuitable for development. Any subdivider proposing development of land that is deemed unsuitable for development shall have the right to present evidence to the City Council contesting such determination of unsuitability, whereupon the City Council may affirm, modify or withdraw the restriction.**

3-3-10: STREET LOCATION AND ARRANGEMENT:

- A. Conformance With Plan: Whenever a tract to be subdivided embraces part of a street designated in a street and highway plan adopted by the City, such street shall be mapped in conformance therewith.**
- B. Layout: Street layout shall provide for the continuation of such streets as necessary to provide traffic and pedestrian access throughout the community and as the Planning Commission may designate.**
- C. Extensions: Certain proposed streets, as designated by the Planning Commission, shall be extended to the tract boundary to provide future connection with adjoining unmapped lands. Such extensions shall generally not be farther apart than the maximum permitted length of a block, as hereinafter provided.**
- D. Arrangement of Residential Streets: Residential streets shall be so arranged as to discourage their use by traffic originating outside the immediate neighborhood.**
- E. Protection of Residential Properties: Lots intended for single-family residential use shall not front or have access from arterial streets, except as otherwise permitted by the City due to site-specific conditions. Where a proposed subdivision abuts an existing or proposed arterial street, the Planning Commission may require marginal access streets or reverse property frontage with nonaccess easements abutting the arterial street, or such**

other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and for protection of the traffic function of the arterial street.

F. Parallel Streets: Where a residential subdivision abuts the right-of-way of a railroad, a limited access highway, or a commercial or industrial land use, the Planning Commission may require the design and construction of a street approximately parallel to such right-of-way or use at a location and configured in such a manner as to take into account approach grades, drainage, bridges and future grade separation.

G. Topography: Streets shall be so arranged in relation to topography as to produce desirable lots, provide for maximum utility and streets of reasonable gradient, and facilitate adequate surface drainage.

H. Alleys: Alleys, if any, shall be aligned and arranged in a manner that minimizes backtracking and single-tier service by trash collection forces, and that avoids the facing of residences directly into alley openings.

I. Half-Streets: Half-streets are prohibited unless approved by the Planning Commission where necessary to provide a right-of-way in the manner indicated on the official street and highway plan, to complete a street pattern already begun, or to ensure reasonable development of an adjoining unmapped parcel. Where a mapped half-street exists in a location abutting to residential lots, the remaining half-street shall be mapped within the subdivision.

J. Dead End Streets: Dead end streets in excess of six hundred eighty feet (680') in length are prohibited unless a modification is granted by the Planning Commission in locations necessary for future street connection to adjacent unmapped lands. This foregoing qualified prohibition shall also apply to cul-de-sacs.

K. Intersection Design: Whenever any proposed street or highway requires a separation of grades or any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be designed to conform to any plan adopted by the City for the intersection design and all lots within the subdivision shall, when necessary, be provided with suitable access from another public way. Any street or highway intersecting another street or highway shall intersect it at any angle as close to a right angle as is practicable.

3-3-11: STREET DESIGN:

A. Right-of-Way Widths: Right-of-way widths for streets and roads are as follows:

1. Arterial Streets: One hundred feet (100').

2. Minor Arterial Streets: Eighty feet (80').

3. Collector Streets: Seventy feet (70').

4. Collector Residential Streets: Sixty feet (60').

5. Local Residential Streets: Fifty feet (50').

6. Collector Rural Residential Streets: Seventy feet (70').

7. Local Rural Residential Streets: Sixty feet (60').

B. Rural Roads: All rural roads shall conform to the following requirements and standards:

1. All infrastructure associated with a rural road shall be constructed at the time of road development; including but not limited to culvert installation and pedestrian way, sidewalk or pathway construction.

2. All rural roads shall include a minimum ten foot (10') wide public utility and slope easement located on one or both sides of the road right-of-way; provided, the City may, in its discretion, increase the required width of the foregoing easement if warranted under the circumstances.

3. Rural roads which are projected through a traffic study or similar analysis to serve more than six hundred (600) average daily vehicle trips shall satisfy the collector rural residential street design standard.

4. Pedestrian ways, sidewalks or pathways associated with rural roads shall be constructed of concrete or asphalt. Sidewalks or pathways shall be constructed on both sides of the road and outside of the public utility and slope easement(s).

5. On-street parking on rural roads, except for temporary or emergency parking, is prohibited, and the subdivider shall install appropriate signage to notify the public of this prohibition.

6. To minimize excessive culvert installation and associated maintenance, access approaches for rural roads shall be limited to either (a) one driveway, not to exceed thirty feet (30') in width or (b) two (2) separated driveways, each of which shall not exceed twenty feet (20') in width. Culvert installation is required at the time of roadway construction and, without limitation, shall not be deferred.

7. Rural roads are prohibited in subdivisions not meeting the criteria set forth in Section 3-2-5(A)(5)(b).

8. Rural roads are prohibited in areas within capture zones as delineated in the City's Wellhead Protection Plan.

9. Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units; provided, under no circumstance shall such cul-de-sacs exceed a length of one thousand, three hundred sixty feet (1,360').

C. Private Streets: Private streets within a subdivision shall satisfy the requirements and standards applicable to streets with local street classifications, functions and characteristics. Private streets shall only serve an area contained entirely within the exterior boundaries of the subdivision and shall provide access the public street system at an intersection, the design of which shall be subject to the review and approval by the City. All private streets shall conform to the following requirements and standards:

1. Minimum total width for private streets accessing five (5) or more lots: Fifty feet (50').
2. Minimum total width for private streets accessing four (4) or fewer lots: Thirty-two feet (32').
3. Minimum paved section for private streets accessing five (5) or more lots: Forty feet (40').
4. Minimum paved section for private streets accessing four (4) or fewer lots: Twenty-six feet (26').
5. All residential private streets accessing twenty (20) or fewer lots shall have a four foot (4') wide sidewalk on at least one side of the street.
6. All residential private streets accessing more than twenty (20) lots shall have four-foot (4') wide sidewalks on both sides of the street.
7. All commercial and industrial private streets accessing four (4) or fewer lots shall have a five foot (5') wide sidewalk on at least one side of the street, or as otherwise determined as part of an approved concept development plan.
8. All commercial and industrial private streets accessing more than four (4) lots shall have five foot (5') wide sidewalks on both sides of the street, unless otherwise provided in a development plan entered into between the subdivider and the City.
9. All private streets shall provide for adequate storm drainage and employ the use of curb and gutter sections to convey runoff, the design of which shall be subject to the review and approval of the City.
10. Parking spaces, inclusive of back up areas as required by Section 3-2-17 of this Title, shall not be located within a private street, unless otherwise provided in a development plan entered into between the subdivider and the City.
11. All infrastructure associated with private streets shall be constructed at the time of street development.

D. Cul-De-Sacs: Cul-de-sac streets shall terminate in a circular right-of-way not less than fifty feet (50') in radius with an improved turning circle with a radius of at least forty-five feet (45'). The Planning Commission may approve a functionally equivalent form of turning space if justified by unusual conditions. The maximum length of cul-de-sac streets, as measured along the centerline of the street and between the centerline of the intersecting street and the center point of the cul-de-sac, shall not exceed six hundred eighty feet (680').

E. Marginal Access Streets: Marginal access streets shall conform to all applicable requirements and standards set forth in the City Code.

F. Alleys: Where permitted or required, alleys shall have a minimum of twenty feet (20') and shall conform to the following requirements and standards:

1. Alley intersections and sharp changes in alignment should be avoided; provided, where such features are necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.

2. Dead end alleys are prohibited.

3. "Half" alleys are prohibited.

G. Dead End Streets: Dead end streets are only permitted with the approval of the City, which approval, if given, may contain conditions applicable to the subsequent development of the street; provided, if a dead end street is approved by the City, the street shall include easements permitting the subsequent construction of a temporary turning circle with a fifty foot (50') radius or a functionally equivalent design.

H. All Streets: The design and construction of all streets within the City, including both public and private streets, shall conform to the public improvement standards set forth in Section 3-3-17 of this Chapter.

I. Model Code Standards: All streets shall conform to any model codes adopted by reference in the City Code, to include the Uniform Fire Code.

J. Street Grades: Streets shall be designed and constructed subject to the following grade requirements and standards:

1. Maximum Grades:

a. Arterial and minor arterial streets: Maximum grades will be determined by the City based on site-specific conditions.

b. Collector streets: No more than seven percent (7%).

c. Collector residential and local residential streets: No more than nine percent (9%).

2. Minimum Grades: New asphalt streets with concrete gutters shall have a minimum longitudinal slope of 0.50%. Minimum grades for the rehabilitation of existing streets will be determined by the City based on site-specific conditions.

3. Exceptions: The Planning Commission may, in its discretion, grant an exception to the minimum and maximum grade requirements contained in this subsection if the cost to the subdivider substantially outweighs the public benefit.

K. Vertical Curves: Streets shall be designed and constructed subject to the following vertical curve requirements and standards:

1. Arterial and minor arterial streets: Vertical curves standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.

2. Collection and local streets: Collector and local streets will be designed and constructed with minimum k values of 30 for crests and 40 for sag curves. Vertical curves are not required when the algebraic difference between the two slopes is less than 2%.

L. Horizontal Alignment: Streets shall be designed and constructed subject to the following horizontal alignment requirements and standards:

- 1. Horizontal alignment standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.**
- 2. When tangent centerlines deflect from each other by more than ten degrees (10°) and less than ninety degrees (90°), they shall be connected by a curve having a minimum centerline radius of two hundred feet (200') for collector streets, or one hundred feet (100') for collector residential and local residential streets.**
- 3. Between reverse curves, there shall be a tangent section of centerline not less than one hundred feet (100') long.**
- 4. Streets shall intersect arterial streets at ninety degree (90°) angles. Intersecting collector streets, collector residential streets and local residential streets typically intersect at ninety degree (90°) angles, but in no case shall such an angle of intersection be less than seventy five degrees (75°).**
- 5. Street jogs are prohibited unless the City grants an exception based on site-specific conditions.**
- 6. Local residential streets or collector residential streets intersecting a collector street or arterial street shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right of way line of the more major street, except that no such tangent shall be required when the local residential or collector residential street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the more major street right of way line.**
- 7. Street intersections with more than four (4) legs and Y-type intersections with legs meeting at acute angles are prohibited.**
- 8. Intersections of street lines shall be rounded by a circular arc having a minimum tangent length of fifteen feet (15').**

3-3-12: BLOCK DESIGN:

- A. Maximum Length of Blocks: Within the following maximums, blocks shall be as long as reasonably possible to achieve the greatest possible street economy, and to reduce the expense and increased safety hazard arising from excessive street intersections. Maximum block length, measured along the centerline of the street and between intersecting street centerlines, shall not exceed one thousand, three hundred sixty feet (1,360').**
- B. Sidewalks or Pedestrianways: Sidewalks or pedestrianways with a right-of-way width of eight feet (8') are required if the Planning Commission determines they are essential for pedestrian circulation within the subdivision or will enhance access to schools, playgrounds or other community facilities. Rights-of-way for sidewalks and pedestrianways may be used for utility purposes so long as those purposes do not unreasonably interfere with pedestrian traffic.**

C. Hillside Areas: Subdivisions or portions of subdivisions with hillside areas must satisfy the applicable requirements set forth in City Code Section 3-2-28.

3-3-13: LOT PLANNING:

A. Lot Width, Depth and Area: Except as otherwise provided in this subsection, lot width, depth and area shall comply with all applicable zoning requirements, shall be appropriate for the location and character of the proposed subdivision, shall comply the provisions of any development agreement entered into pursuant to City Code Section 3-2-26, and shall be appropriate for the type and extent of public improvements being installed. Notwithstanding the foregoing sentence, where steep topography, unusual soil conditions or drainage problems render the cost of complying with these requirements excessive in light of the benefit to the public, the Planning Commission may, in its discretion, permit a greater lot width, depth and/or area than is otherwise allowed for the zoning district or which would otherwise be required under this Subsection.

B. Lot Depth and Width: Lot depths shall be at least one hundred feet (100') and widths at least sixty feet (60'); provided, the Planning Commission may, in its discretion, permit narrower lot widths on cul-de-sacs upon a showing of good cause by the subdivider.

C. Building Setback: Minimum building setbacks shall conform to all applicable requirements set forth in the City Code.

D. Side Lot Lines: Side lot lines shall be at or near right angles or radial to street lines, unless the Planning Commission, in its discretion, permits a different alignment upon a showing of good cause by the subdivider.

E. Accessibility: Every lot shall abut a public street or private street that is connected to the public street system.

F. Prohibitions: Single-family residences are not permitted on double frontage lots, except that, subject to the approval of the Planning Commission for good cause shown, such lots may be permitted in locations abutting an arterial street so long as all dwellings front on local or collector streets and there is no access from the arterial street.

3-3-14: EASEMENT PLANNING:

Utilities shall be placed underground unless the Planning Commission approves a modification to permit overhead utilities based on unique site conditions, in which event the Planning Commission may impose conditions on the modification.

The following easement requirements shall apply to all new subdivisions:

A. Utility Easements:

1. Where alleys are shown on a final map, utility easements four feet (4') wide on each side of each alley shall be dedicated for aerial overhang. Where alleys are not shown on the final map, utility easements six feet (6') wide on each side of rear lot lines shall be delineated on the final map and offered for dedication. In addition, guy and anchor easements one foot (1') wide on each side of a side lot line and thirty five feet (35') in length measured from the rear lot line, in locations selected

by the City, or as required by the serving utility, shall be shown on the final map and dedicated.

2. Utility easements five feet (5') wide adjacent to each side of side lot lines, and where service to street lighting is required, one foot (1'), on each side of such lot lines, or as required by the serving utilities, shall be shown on the final map and dedicated.

B. Underground Utilities: Where all utilities are underground:

1. Rear Lot Lines: Where alleys are shown on the final map, corresponding easements required by the serving utilities shall be shown on the final map and dedicated. Where alleys are not shown on the final map, utility easements five feet (5') wide along each side of rear lot lines shall be shown on the final map and dedicated.
2. Side Lot Lines: Easements for utilities and lot drainage on all side lot lines shall be shown on the final map and dedicated. All utility service lines, including service lines for gas, electricity, telephone, communications, and street lighting shall be channeled in easements five feet (5') wide on each side of the lot line separating pairs of lots to the extent required by the serving utilities.
3. Street Rights-of-way: Easements for utilities and lot drainage on lot lines abutting street rights-of-ways shall be shown on the final map and dedicated. All such easements shall be a minimum of seven and one-half feet (7 1/2') wide.

C. Lots Facing Curvilinear Streets: For lots with fronts facing curvilinear streets and alleys, easements for overhead utilities shall consist of either:

1. A series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, such points of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; or
2. A curvilinear easement, provided the minimum radius of the centerline shall be not less than eight hundred feet (800').

D. Public Drainage Easement: Where a stream or major surface drainage course abuts or crosses the subdivision, the subdivider shall show on the final map and dedicate a public drainage easement sufficient to permit widening, deepening, relocating or protecting the drainage course. The subdivider's engineer shall provide the City with sufficient information about the drainage to evaluate the adequacy of the easement.

E. Easement Land Not Considered and Considered in Minimum Lot Area Calculation: Land within a public street or drainage easement, or land within a utility easement for major power transmission lines or pipelines, shall not be included in the calculation of the minimum required lot area. However, land included in utility easements to be used for distribution or service purposes within the subdivision, and land included in the five foot (5') wide and seven and one-half foot (7 1/2') wide drainage easements along lot lines and street rights-of-way, shall be included the calculation of the minimum required lot area.

F. Lots Backing Onto Arterial Streets: Lots arranged to back of arterial streets, railroads, canals or commercial or industrial districts, as provided in this Chapter, shall have a minimum depth of one hundred ten feet (110'), the rear one foot (1') of which shall be recorded as a nonaccess private easement.

G. Water And Sewer Utility Lines: Municipal water and sewer utility lines shall be installed within the City street rights-of-way, unless otherwise approved by the Planning Commission and/or the City Council based on special circumstances.

3-3-15: STREET NAMING:

At the tentative map stage (Stage II), the subdivider shall propose names for all streets in the subdivision. A street name may be disapproved by the Planning Commission, in which event the subdivider must receive approval from the Planning Commission for a new street name.

3-3-16: STREET LIGHT DESIGN STANDARDS:

A. Requirements: Street lighting shall be installed in a subdivision in accordance with the following requirements:

1. The subdivider shall install street lights, shall make all necessary arrangements with the appropriate utility company for the installation of street lights, and shall bear all costs relating to the purchase and placement of street lights. Street lights shall be installed by a properly licensed contractor possessing a valid City business license.
2. Street lighting plans are prepared by the utility company providing electricity to the subdivision. Once prepared, the subdivider shall submit the street lighting plans to the City for review. Street lighting plans must show the location of each street light, the corresponding power source and the size of luminaries measured in watts or lumens.
3. The City will not accept any public improvements or issue a certificate of occupancy for any part of a subdivision until all street lighting within each construction phase is complete and fully operational.
4. Requests for street lighting in previously developed areas must be approved by the city for location and installation prior to being submitted to the utility company for design engineering.
5. Once the street lighting has been installed and operational, approval by the city will constitute acceptance of the street lighting and the city will then be responsible for the energy costs and maintenance thereafter.

B. Design Standards: All street light installations shall be designed in accordance with the following minimum design standards:

1. All luminaries shall be LED luminaires with a minimum of one hundred (100) watt equivalent LED for residential areas and a minimum of two hundred (200) watt equivalent LED for commercial/industrial areas or approved equal.
2. A street light shall be placed at each street intersection and shall be situated to properly illuminate the intersection.
3. A street light shall be placed at each proposed U.S. Postal Service gang box location.

4. Street lights shall be placed between intersections at midblock locations with a minimum spacing of three hundred fifty feet (350') and maximum of five hundred feet (500') between all lights.

5. A street light shall be placed at the end of each cul-de-sac.

3-3-17: RESPONSIBILITY FOR PUBLIC IMPROVEMENTS:

The design, construction and financing of all public improvements, such as but not limited to, grading, sidewalks, curbs, streetlights, gutters, pavements, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures and monuments shall be the responsibility of the subdivider and shall conform to public improvement standards established by the City; provided, however, that the subdivider may satisfy such requirements by participating in an improvement district approved by the City.

3-3-18: CONSTRUCTION PLANS:

The subdivider shall contract with or otherwise utilize a properly licensed professional engineer to prepare a complete set of construction plans for the construction of all required subdivision improvements. The construction plans shall include (unless otherwise waived if permitted under this Chapter) all infrastructure necessary for the construction of the subdivision including, but not limited to: streets, curbs, gutters, sidewalks, drainage, water, wastewater and protection of important environmental features. The construction plans shall be based on, consistent with and prepared in conjunction with the final map. Construction plans shall not be prepared until Stage III of the subdivision planning and approval process, and must be approved by the City and all State and Federal agencies with approval authority, prior to certification and recordation of the final map.

3-3-19: CONSTRUCTION AND INSPECTION:

A. Inspections; Performance Agreement; Permits Required: The following requirements apply to improvements constructed in public rights-of-way:

1. All improvements constructed in public rights-of-way shall be subject to inspection by the City and must be approved by the City prior to certification and recordation of the final map.
2. Construction of improvements in public rights-of-way shall not commence until the subdivider has entered into a performance agreement with the City in accordance with City Code Sections 3-3-21 and 3-3-22.
3. Construction of improvements in public rights-of-way shall not commence until all federal, state, and local approvals and/permits have been issued for such construction.

B. Underground Utilities: All underground utilities to be placed in streets shall be constructed prior to the surfacing of such streets. Service stubs for underground utilities to be connected to lots shown on the final map shall be installed with sufficient length to avoid disturbing street improvements at the time service connections are made.

3-3-20: REQUIRED IMPROVEMENTS:

- A. Streets and Alleys:** All streets and alleys within the subdivision shall be graded, drained and surfaced to cross sections, grades, standards, and profile approved by the City. If there are existing streets adjacent to the subdivision, proposed streets within the subdivision shall be fully improved to the intercepting paving line of the existing streets. Temporary dead end streets serving more than four (4) lots shall be designed and constructed with a graded all-weather, temporary turning circle, subject to any additional requirements imposed by the City based upon site conditions. The subdivider shall construct adequate permanent culverts and bridges at all points within the subdivision where watercourses are crossed by streets or alleys. Culverts and bridges shall, without limitation, conform to all applicable requirements of the City Code and be constructed to the full width of the dedicated street or alley.
- B. Curbs:** Curbs shall be constructed of Portland cement concrete. The construction of curbs, gutters and valley gutters shall subject to any additional standards required by the City, which standards may be imposed based on site conditions.
- C. Sidewalks:** Sidewalks shall be four feet (4') wide in all locations adjacent to residential or local streets, and five feet (5') wide in all locations adjacent to streets classified as collector, minor arterial, arterial, or major arterial. Sidewalks shall be constructed on both sides of all streets unless the requirement is waived pursuant to a specific provision of this Code permitting such a waiver.
- D. Pedestrianways:** Pedestrianways shall be constructed of Portland cement concrete or asphalt. All pedestrianways shall be constructed to a width, line and grade approved by the City based on site conditions.
- E. Street Name Signs:** The subdivider shall install street name signs at all street intersections before the time the street pavement is ready for use. Design, construction, location and installation of street name signs shall conform to all applicable standards adopted by the City.
- F. Stormwater Drainage:** The design and construction of public streets and alleys, and the grading of private properties, shall provide for adequate disposal of stormwater. Existing major drainage courses shall be maintained and dedicated as public drainageways. The type, extent, location and capacity of drainage facilities shall be designed by the subdivider's engineer and approved by the City. The subdivider shall install stormwater drainage facilities to the grade, in the locations, to the depths and of the materials shown on plans and specifications approved by the City. Storm and surface water drain pipes and mains, together with catch basins, shall be designed and constructed to provide discharge in a manner and at a place approved by the City. The design and construction of stormwater drainage facilities shall conform to all applicable requirements of this Code, to include the requirements of Title 9, Chapter 8, entitled "Postconstruction Runoff Control and Water Quality Management."
- G. Sanitary Sewerage:**
- 1. The subdivider shall install public sanitary sewers in the subdivision. Sanitary sewers shall be connected to a public sewer system. Sewers, connections and related apparatus shall be constructed in accordance with plans, profiles, and specifications approved by the Nevada Division of Environmental Protection and the City, and in accordance with approved City standards and State of Nevada requirements. The subdivider shall install sanitary sewers to the grade, in the locations, to the depth and of the material shown on plans and specifications**

approved by the City. The subdivider shall connect each lot in the subdivision to sanitary sewer mains at locations specified by the City.

2. The subdivider shall install manholes in conjunction with the installation of sanitary sewer mains at the points, in the manner and according to specifications approved or provided by the City.

H. Water Supply:

1. The subdivider shall design and construct the water supply system in such a manner as to ensure that each lot is supplied with safe, pure and potable water in sufficient volume and pressure for domestic use and fire protection, and that conforms to all applicable State and City standards and requirements. The subdivider shall install, to grade, all water mains and lines with the materials that are shown on plans and specifications approved by the City. Connections from said mains and lines shall be installed to each lot in said subdivision. The construction plans shall show the locations of shutoff valves to each block and lot. All proposed water systems shall connect to the City municipal water system.

2. Water meter boxes and water meters shall be installed on all lots. Water meter boxes shall conform to all applicable standards and specifications set by the City, and shall be subject to approval by the City.

- I. Fire Hydrants: Fire hydrants shall conform to all applicable standards and specifications set by the City (to include, without limitation, the Fire Code, Title 6, Chapter 1, Section 1), and shall be subject to approval by the City.

- J. Power, Communications and Gas Utilities: The subdivider shall install or arrange for the installation of the following utilities: electric power, natural gas, telephone and communication lines. These utilities shall be installed in all subdivisions. All electric distribution facilities shall be installed underground, except in unusual situations involving short extensions of overhead facilities existing on abutting subdivisions, which extensions are only permitted if approved by the City Council. All underground electric distribution lines and telephone lines shall be installed in accordance with General Order No. 9 issued by the Public Utilities Commission of Nevada.

- K. Survey Monuments: Permanent monuments shall be installed in accordance with standards set by the City at all corners, angle points, points of curve and street intersections. After all improvements in the subdivision have been installed, the subdivider shall have a registered land surveyor check the locations of monuments and certify their accuracy. Monuments shall be at or near boundary corners. Monuments shall be set at intermediate points of approximately one thousand feet (1,000') or at such lesser distances as may be necessary by reason of topography or culture to ensure accuracy in the reestablishment of any point or line without unreasonable difficulty. All monuments shall be permanently and visibly marked with the license number of the registered land surveyor under whose supervision the survey was made, and a description of such monument shall be shown on the final map. The subdivider shall set monuments at street intersections and at the beginning and ending of each curve, unless the intersection of tangents of said centerline falls within the street right of way, in which event the City may permit the subdivider to establish a monument at the intersection in lieu of monuments at the beginning and end of the curve.

L. Lot Corner Staking: Five-eighths inch ($\frac{5}{8}$ ") reinforcing steel with a cap having a mark for the exact point and stamped "PLS" followed by the number of the professional land surveyor's license shall be set at all corners, angle points and points of curve for each subdivision lot prior to final acceptance of the subdivision. The cost for lot corner staking, under the direction of a professional land surveyor, shall be included as part of the public improvements and shall be a line item on the "engineer's estimate of the costs of the public improvements."

M. Street Lighting: Street lighting shall be installed on all streets and at all locations designated by the City within the subdivision in conformity with Section 3-3-16 of this Chapter, to include City standards for materials, design and construction. The subdivider will bear all costs for the design and installation of street lights.

N. Stormwater Discharge and Land Disturbance: All construction activities that have the potential to create a land disturbance of greater than one (1) acre shall comply with state construction site stormwater general permit requirements and the City's National Pollutant Discharge Elimination System General Permit for discharges from small municipal separate storm sewer systems. This requires developers and/or contractors to obtain a state stormwater discharge permit and City grading permit for these projects. The subdivider shall provide construction site stormwater erosion protection for all construction. Permanent stormwater erosion measures meeting the minimum requirements of the city stormwater management plan will be enforced.

O. Full Frontage: The subdivider must construct and install all required public utilities across the full frontage of property at the time of development of the subdivision.

P. Site Grading: The subdivider shall:

1. Ensure that the subdivision is constructed with sufficient site grading for the required improvements;
2. Ensure that each lot area is buildable; and
3. Ensure that there is adequate site drainage control.

3-3-21: AGREEMENTS TO INSTALL IMPROVEMENTS:

A. Provisions and Requirements of Agreement to Install Improvements: Except as otherwise provided in this Section 3-3-21, no more than thirty (30) calendar days after the later of the approval of the final map or the approval of a proposed agreement to install improvements by the City Council, prior to the commencement of construction of subdivision improvements, and prior to certification of the final map, the subdivider shall enter into and have on file with the City an agreement to install improvements, fully executed by the subdivider and the City, containing the following provisions:

1. That the engineer's estimate must be approved by the City;
2. That the total engineer's estimate must be an amount no less than the full cost of the following improvements:
 - a. Improvements required under Section 3-3-20 of this Code;
 - b. Improvements shown on the construction plans prepared and approved in

accordance with Section 3-3-18 of this Code;

c. The cost of required inspection and testing by a properly licensed engineer to oversee the quality assurance and quality control necessary to ensure certification for the construction of the approved construction plans;

d. The cost to replace any existing streets, utilities or other improvements that are included in the required improvements as shown on the construction plans;;

e. The cost to prepare the as-built drawings and any associated documents; and

f. Incidental expenses associated with the foregoing work.

3. One of the following two provisions, at the election of the subdivider:

a. That the subdivider will complete the subdivision improvements with its own resources, subject to terms and conditions approved by the City in the agreement to install improvements; provided, during the construction of subdivision improvements, the subdivider may, at its option, guarantee performance of the remaining subdivision improvements with a performance guaranty that conforms to City Code Sections 3-3-21(A)(3)(b) and 3-3-22; or

b. That the subdivider will guarantee the completion of the subdivision improvements by providing to the City a performance guaranty that satisfies the requirements of City Code Section 3-3-22, and that a performance guaranty given in the form of a bond or irrevocable letter of credit shall not expire or be released by the issuer prior to completion of all required subdivision improvements and written authorization by the City permitting the performance guaranty to expire or be released.

4. That all subdivision improvements identified in the agreement to install improvements shall be completed within a specified period, not to exceed two (2) years, to the satisfaction of the City.

5. That in the event the required subdivision improvements are not completed within the specified period to the satisfaction of the City, the City may, with City Council approval, complete or cause to be completed the improvements and thereafter recover from the subdivider the full cost and expenses therefor.

6. That approved construction plans are appended to the agreement to install improvements as an exhibit.

7. That the construction plans and all required improvements shall be approved by the City, applicable State and Federal agencies prior to the commencement of construction.

8. That the subdivider shall, at its own expense, use the services of a licensed professional engineer to (a) oversee the construction of the subdivision, (b) provide to the City copies of all test results required under the specifications for the project and (c) provide the City with a stamped certification that the subdivision was

constructed in conformity with the approved construction plans.

9. That the subdivider shall pay the cost of inspection, testing and surveying all subdivision improvements and, further, that if the City determines the subdivider is not performing adequate surveying, inspection and/or testing through the use of a properly licensed professional engineer or land surveyor (as appropriate), the City may then, in its discretion, order the subdivider to immediate stop work; and that the City may thereafter hire a properly licensed professional engineer and/or land surveyor to perform the remaining surveying, inspection and/or testing, the cost of which shall be reimbursed to the City by the subdivider upon demand and prior to final acceptance of the subdivision improvements by the City.
10. That the subdivider's engineer shall provide to the City as-built drawings of all subdivision improvements, and further, that the as-built drawings shall be submitted both in digital format and on paper, the paper version to be wet-stamped by the subdivider's engineer prior to submittal to the City.
11. That the subdivider shall use qualified and properly licensed contractors for the construction of all required improvements, to include all subdivision improvements shown on the construction plans.
12. That the parties acknowledge the City Council will only accept the subdivision improvements if (a) the subdivider's engineer certifies that the subdivision improvements are complete and (b) the City independently confirms that the subdivision improvements are complete.
13. That the subdivider shall provide the City with a maintenance guaranty that satisfies the requirements of City Code Section 3-3-22, and that the one (1) year maintenance period shall commence on the date the City Council accepts the subdivision improvements.
14. That the subdivider's breach of the agreement to install improvements shall constitute a default, including, without limitation, the following:

 - a. Subdivider's failure to complete construction of subdivision improvements within time stated in the agreement to install improvements;
 - b. Subdivider's failure to timely cure any defect in the subdivision improvements;
 - c. Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which subdivider fails to discharge within thirty (30) days; or
 - d. Subdivider fails to perform any other obligation under the agreement to install improvements.
15. That in the event of a default by the subdivider (a) the City may thereafter draw upon any performance guaranty provided to the City to complete the subdivision improvements and mitigate the City's damages (if applicable), in addition to any other remedies available to the City; (b) the subdivider shall promptly, but in no case more than thirty (30) days after written notice from the City, dedicate all remaining undedicated and required rights-of-way for the continuation of existing streets into the subdivision; and (c) the City may record all deeds of dedication for rights-of-way for the continuation of existing streets into the subdivision.

16. That in the event of a default by the subdivider, the City reserves all remedies available to it at law and in equity.

17. That upon a determination by the City that specific improvements have been satisfactorily constructed and completed, funds may be released from the performance guaranty (if applicable) either by refunding a portion of a cash deposit to the subdivider or by authorizing a reduction of a bond or other form of non-cash guaranty, so long as the foregoing release of funds does not exceed ninety percent (90%) of the value of the completed improvements that have been certified by the subdivider's engineer and approved by the City. The foregoing determination by the City shall be subject to the appeal rights set forth in Section 3-3-31.

B. Additional Provisions: Notwithstanding any other requirements set forth in Subsection 3-3-21, the agreement to install improvements may, also contain any of the following provisions and/or requirements:

1. That the construction of improvements shall take place in specified stages.

2. That the time to complete construction may be extended by the City, in its discretion, subject to specified conditions.

C. Modifications, Extensions: At the written request of the subdivider, the terms and conditions, to include time frames and deadlines, contained in an executed agreement to install improvements may be modified by the City Council upon a demonstration of good cause by the subdivider, so long as the modification does not frustrate the purposes of the City Code or relieve the subdivider of the requirement to construct or compensate the City for constructing the required subdivision improvements. The subdivider shall, at the time of filing the written request for modification of the agreement to install improvements, pay a filing fee to the City in an amount established by resolution of the City Council.

3-3-22: PERFORMANCE AND MAINTENANCE GUARANTEES:

A. To ensure that subdivision improvements are properly completed at the subdivider's expense, the subdivider shall either (1) complete the subdivision improvements with its own resources according to the agreement to install improvements and other terms and conditions approved by the City, in which event the subdivision improvements must be certified by the City as complete prior to certification of the final map; or (2) provide the City with a performance guaranty.

B. Performance Guarantees: In the event the subdivider does not complete the subdivision improvements with the subdivider's own resources, the subdivider shall provide a performance guaranty to the City, subject to the following requirements:

1. Prior to execution of an agreement to install improvements pursuant to Section 3-3-21 and prior to approval of the final map by the City Council, the subdivider shall provide the City with a performance guaranty, subject to approval by the City, in an amount deemed sufficient by the City to cover the full cost of: (i) remaining improvements required under Section 3-3-20 of this Code in the construction plans prepared and approved in accordance with Section 3-3-18 of this Code; (ii) remaining improvements identified in engineering inspections; (iii) the cost to replace any existing streets, utilities or other improvements that may be damaged during construction of the required subdivision improvements; (iv) the cost to prepare the as-built drawings and

any associated documents; (v) the cost for the services of a licensed professional engineer to oversee the construction of the subdivision and (vi) identified incidental expenses associated with the foregoing work. The performance guaranty shall be in one of the following forms:

a. Performance Bond: A performance or surety bond executed by a surety company authorized to do business in the State of Nevada, approved by the City Attorney as to form, and having a length of term not exceeding twenty-four (24) months from the date of final map recordation.

b. Deposit of Funds: A deposit of cash with the City, or a certified check or negotiable bonds made payable to and deposited with the City or an escrow agent or trust company approved by the City Attorney; provided, any decision by the City Attorney not to approve an escrow agent or trust company is subject to review by the City Council.

c. Irrevocable Letter of Credit: An irrevocable letter of credit in favor of the City issued by a financial institution insured by the Federal Deposit Insurance Corporation (FDIC).

d. Combinations: Upon approval by the City based on a showing of good cause by the subdivider, a combination of the forms of performance guaranty listed in this subsection, so long as the combination provides the City with at least the same level of protection against default as any single one of the listed forms of guaranty.

2. Penalty in Case of Default: In the event the subdivider fails to complete all required subdivision improvements in accordance with terms of the agreement to install improvements, the City may, in its sole discretion, complete the work at its own expense and thereafter reimburse itself for the cost and expense thereof from the performance guaranty.

3. Maintenance Guaranty: The subdivider shall provide the City with a maintenance guaranty to ensure the maintenance, adequacy and condition of all improvements required by the agreement to install improvements for a period of not less than one (1) year after the improvements are accepted by the City. The maintenance guaranty may be in any form permitted in Section 3-3-22(A) for a performance guaranty and shall be in an amount equal to ten percent (10%) of the total cost of the required subdivision improvements. The City shall not accept the subdivision improvements until the subdivider provides the maintenance guaranty.

4. Reduction of Maintenance Guaranty: Once a maintenance guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the maintenance guaranty except upon written certification by the City that all required maintenance has been performed in conformance with the agreement to install improvements; provided, in no event shall the release of funds exceed the amount of the maintenance guaranty.

5. Improvement District Financing Through Special Assessments: If not all of the properties abutting a public street within any given block are under the control of the subdivider, and the street abutting those properties is not fully improved in accordance with the requirements of this Chapter, the subdivider may petition the City Council for the creation of an improvement district for the construction of the required improvements and for the special assessment of the cost thereof against abutting

properties in accordance with Chapter 268 of the Nevada Revised Statutes; provided, however, that the subdivider shall thereupon enter into an agreement with the City pursuant to which it agrees to be responsible for any difference between the cost of such improvements and the maximum amount which the City can specially assess against the property to be subdivided, and to furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement pursuant to the preceding sentence shall be in a form approved by the City Attorney.

3-3-23: PARK LAND DEDICATIONS:

The City may require the dedication of land for the development of park, playground and recreational facilities, payment in lieu of dedication, or residential tax (to the extent permitted under Nevada law), in accordance with the recreation and open space element of the Elko Master Plan.

3-3-24: PARCEL MAPS:

- A. Required: A person who proposes to divide any land into four (4) or fewer lots shall file a parcel map application with the City and, upon approval by the City, the applicant shall thereafter file the parcel map with the office of the county recorder, unless such recordation is not required under Nevada law.**
- B. Public Improvements: Public improvements may be required by the City as a condition of approval of a parcel map, but such requirements shall not exceed those that would be required under City Code Section 3-3-20 if the proposed division of land were a subdivision.**
- C. Public Improvements: For parcel maps, the City Council shall require, as a condition of approval of a parcel map, the design and construction of all improvements (to include off-site improvements) that are consistent with the uses of the existing property and surrounding land, and that are reasonably necessary to ensure the adequacy of site grading; parcel ingress/egress; street alignment, surfacing and width; water quality; water drainage; water supply; sewerage; and the protection of public health and safety.**
- D. Dedications: If the proposed parcels are located in areas where public improvements do not exist, the City Council shall require the dedication of rights-of-ways and/or easements to the extent necessary to serve the best interests of the public.**
- E. Parcel or Lot Design: Lot width, depth and area shall comply with the zoning requirements appropriate for the location and character of development proposed, including the requirements set forth in City Code Section 3-2-26 and Section 3-2-28, and appropriate for the type and extent of public improvements being installed. However, where steep topography, unusual soil conditions or drainage problems exist or prevail, the City may require increased lot width, depth and/or area that exceeds the minimum requirements of the particular zoning district.**
- F. Construction Plans: The subdivider shall use a licensed professional engineer to prepare a complete set of construction plans for all required public improvements. The construction plans shall be based on and prepared in conjunction with the parcel map. The foregoing construction plans must be approved by the City prior to recordation of the parcel map.**
- G. Second or Subsequent Parcel Maps: When considering whether to approve, conditionally approve or disapprove a second or subsequent parcel map involving land that has been**

divided by a parcel map which was recorded within the five (5) years immediately preceding the acceptance of the second or subsequent parcel map as a complete application, the following criteria shall be considered:

1. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;
2. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the property being divided into parcels;
3. The availability and accessibility of utilities;
4. The availability and accessibility of public services, such as schools, police protection, transportation, recreation and parks;
5. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance shall apply;
6. General conformity with the City's master plan of streets and highways;
7. The effect of the proposed division of land into parcels on existing public streets and the need for new streets or highways to serve the land being divided;
8. Physical characteristics of the land, such as floodplain, slope and soil;
9. The recommendations and comments of those entities reviewing the tentative map pursuant to Nevada Revised Statutes Sections 278.330 through 278.348, inclusive; and
10. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.
11. For any other second or subsequent parcel map, any reasonable public improvement shall be required, but not more than would be required under City Code Section 3-3-20 if the parcel were a subdivision.

H. Review and Approval of Parcel Map:

1. Upon the filing of an application by a person proposing to divide land into parcels, except as otherwise provided in this Section, the City planning department shall approve the parcel map, or waive the requirement of a parcel map or survey for a parcel map, without further action by the Planning Commission or City Council, unless the parcel map includes an offer of dedication of a street right-of-way to the City or is associated with a request to modify subdivision ordinance standards or regulations. Except as otherwise provided in the preceding sentence, the City planning department shall review the parcel map and within sixty (60) days after filing shall approve, conditionally approve or disapprove the parcel map.

2. A parcel map which includes an offer of dedication of a street right-of-way to the City or a modification of ordinance standards or regulations respecting the division of land shall be referred to the Planning Commission and the City Council for review and consideration, and formal acceptance of the offer of dedication and/or any modification of standards or regulations. The Planning Commission shall consider the parcel map within sixty (60) days after filing and shall thereupon make a recommendation to the City Council to approve, conditionally approve or disapprove the formal acceptance of the offer of dedication and/or any modification of standards or regulations. The City Council shall then consider and take action upon the formal acceptance of the offer of dedication and/or any modification of standards or regulations no later than thirty (30) days after action by the Planning Commission, taking into account the recommendation of the Planning Commission.

I. Exceptions:

1. A parcel map is not required when the division of land into parcels is for the express purpose of:

- a. Creation or realignment of a public right-of-way by a public agency;
- b. Creation or realignment of an easement;
- c. An adjustment of the boundary line between two abutting parcels or the transfer of land between two (2) owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.
- d. The purchase, transfer or development of space within an apartment building or an industrial or commercial building;
- e. Carrying out an order of any court or dividing land as a result of an operation of law.

2. A parcel map is not required for any of the following transactions involving land:

- a. The creation of a lien, mortgage, deed of trust or any other security instrument;
- b. The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
- c. Conveying an interest in oil, gas, minerals or building materials, which is severed from surface ownership of real property;
- d. Conveying an interest in land acquired by the Department of Transportation pursuant to Chapter 408 of the Nevada Revised Statutes.
- e. Filing a certificate of amendment pursuant to NRS 278.473.

J. Survey Not Required: If a survey is not required for the preparation of a parcel map, the map must be prepared by a registered land surveyor, but the certificate upon the map may include substantially the following:

This map was prepared from existing information (identifying it and stating where filed or recorded), and the undersigned assumes no responsibility for the existence of monuments or corrections of other information shown on or copied from any such prior document.

K. Fee: The applicant shall, at the time of filing the parcel map, pay a filing fee to the City in an amount established by resolution of the City Council.

L. Information Required: The parcel map shall contain the following information and meet the following requirements:

1. The parcel map shall be legibly drawn in black, waterproof India ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. The size of each sheet shall be twenty-four inches by thirty-two inches (24" x 32"). A marginal line shall be completely drawn around each sheet leaving an entirely blank margin of one inch (1") at the top, bottom and right edges, and of two inches (2") at the left edge along the twenty four inch (24") dimension.

2. A parcel map must indicate the owner of any adjoining land or right-of-way if owned by the person dividing the land.

3. If a survey is required, the parcel map shall also show:

a. All monuments found, set, reset, replaced or removed, describing the claim, size and location and other data relating thereto;

b. Bearing or witness monuments, basis of bearings, bearing and length of line and scale of map;

c. Name and legal description of tract or grant in which the survey is located and ties to adjoined tracts;

d. Memorandum of oaths;

e. Signature of surveyor;

f. Date of survey;

g. Signature of the owner or owners of the land to be divided;

h. Any easements granted or dedications made;

i. Any other data necessary for the intelligent interpretation of various items in the location of the points, lines and areas shown; and

j. Provision and date for installation of all required improvements.

4. The following certificates shall appear on a parcel map before it can be recorded:

- a. A certificate for execution by the clerk of each approving governing body stating that the body approved the map;**
- b. A certificate by the surveyor responsible for the parcel map giving the date of the survey on which the map is based and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey, and that the parcel map is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions at such time as agreed upon under the provisions of Nevada Revised Statutes Chapter 278. The certificate shall also state that monuments are or will be sufficient to enable the survey to be retraced;**
- c. A certificate signed and acknowledged by all parties having any record title in the land to be divided into parcels evidencing their grant of permanent easements for utilities installations and access, as designated on the parcel map;**
- d. A statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the mapped parcel; and**
- e. A statement that it shall be the responsibility of the applicant to obtain the approvals of all serving utility companies as to the location of any utility easements shown on the parcel map.**

5. The following data shall accompany a parcel map at the time it is submitted:

- a. Name, address and telephone number of the persons requesting approval of the parcel map and the owner or owners of the land;**
- b. Name, address and telephone number of the person who prepared the map;**
- c. Legal description of the original parcel. It shall be sufficient to give the Recorder's book and page number of the deed and the assessor's parcel number;**
- d. Proposed use of each parcel;**
- e. Source of water supply and proposed method of sewage disposal for each parcel;**
- f. A copy of all survey computations shall accompany the parcel map; and**
- g. A vicinity map.**

6. The subdivider shall file the following copies of the parcel map with the City at the time of filing:

- a. One (1) hard copy that is 24"x36" in size;**

b. One (1) reproducible hard copy that is 8 ½"x11" in size; and

c. A legible electronic copy in PDF format.

M. Recording: A parcel map approved pursuant to this Section and Section 3-3-70 of this Chapter, shall be recorded in the Office of the Elko County Recorder within two (2) years after the date when the map was approved or deemed approved by the City.

N. Prohibitions of Parcels: Parcel maps that are determined by the City to fall into one or more of the following categories shall not be approved by the City:

1. One or more of the proposed parcels are not reasonably capable of being developed due to site conditions.

2. The parcels are proposed in an attempt to eliminate frontage or required public improvements.

3. The proposed parcels are detrimental to the health, safety and/or welfare of the public.

3-3-25: MODIFICATION OF STANDARDS:

A. Permitted: Upon the recommendation of the Planning Commission that there exist extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in this Chapter, that prevent or unreasonably restrict the ability of a person to develop land, the City Council may thereafter modify the provisions of this Chapter, or any other provision in the City Code, in such manner and to the minimum extent necessary to carry out the intent of this Chapter; provided, this paragraph shall not permit the modification of the process for satisfying the substantive requirements of this Chapter.

B. Complete Neighborhood Plan: In the case of a plan and program for a complete neighborhood development, the City Council may modify the provisions of this Chapter in such manner as it deems necessary and desirable to provide for adequate space and the development of improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated. The City Council may further require such restrictions on the neighborhood development, through the use of deed restrictions, restrictive covenants and conditions and the like, as may be necessary to assure conformity to and the achievement of the plan and program.

C. Additional Requirements: In modifying a standard or requirement pursuant to this Section 3-3-25, the City Council may impose such additional requirements as it determines are necessary to best achieve the purpose of the standard or requirement being modified.

3-3-26: REVERSIONS TO ACREAGE:

A. Application: Except as otherwise provided in Nevada Revised Statutes Section 278.4925, an owner or governing body desiring to revert any recorded subdivision map, parcel map, map of division into large parcels, or part thereof, to acreage or to revert the map or portion thereof, or to revert more than one map recorded under the same tentative map if the parcels to be reverted are contiguous, shall submit a written application accompanied by a map of the proposed reversion which contains the same survey dimensions as the

recorded maps or maps filed with the City planning department. The application must specifically describe the requested change.

B. Review: At its next regular meeting, or within a period of not more than thirty (30) days after the filing of the map of reversion, whichever occurs later, the City Council shall review the map of reversion and approve, conditionally approve or disapprove the map.

C. Applicability Of Fees: Except for the provisions of this Section, Nevada Revised Statutes Sections 278.4955, 278.496 and 278.4965, and any provision of the City Code relating to the payment of fees in conjunction with filing, recordation or checking of a map of the kind offered, no other provision of Nevada Revised Statutes Section 278.010 through 278.630, inclusive, applies to a map made solely for the purpose of reversion of a former map or for reversion of any division of land to acreage.

D. Recording: Upon approval of the map of reversion, it must be recorded in the Office of the Elko County Recorder.

E. Street or Easement Included: At the time a map of reversion is submitted and presented for recording, it must conform with provisions of Nevada Revised Statutes Section 278.4955, 278.496 and 278.4965. If the map includes the reversion of any street or easement owned by a city, a county or the state, the provisions of Nevada Revised Statutes Section 279.480 must be followed and satisfied before the map of reversion is approved by the City.

F. Fee: The owner shall, at the time of filing the map of reversion, pay a filing fee to the City in an amount established by resolution of the City Council.

3-3-27: PROHIBITION AGAINST SALE IN VIOLATION:

No person, firm, corporation or other legal entity shall hereafter sell or offer for sale any lot, or piece or parcel of land which is within a tract of land proposed to be divided into two (2) or more lots, or pieces or parcels of land, until after a final map thereof has been approved and certified by the City, and recorded with the Elko County Recorder in accordance with provisions of the Nevada Revised States and this Chapter.

3-3-28: MERGERS AND RESUBDIVISION OF LAND:

A. Permitted: An owner of two (2) or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage.

B. Recording Required: Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with Nevada Revised Statutes Sections 278.320 through 278.4725, inclusive, and the City Code. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.

C. Street Easements and Utility Easements: With respect to a merger and resubdivision of parcels pursuant to this Section, the owner of land conducting the merger and resubdivision shall ensure that street easements and utility easements, whether public or private, that will remain in effect after the merger and resubdivision, are delineated clearly

on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.

D. Security Credit: If the City Council requires an owner of land to post security to secure the completion of improvements to two (2) or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision conducted pursuant to this Section, the City Council shall credit on a pro rata basis the security posted by the owner of land toward the same purposes with respect to the parcels as merged and resubdivided.

3-3-29: VIOLATIONS AND PENALTIES:

Any person, firm, corporation or other legal entity who violates any of the provisions of this Chapter shall, upon conviction therefor, be punished as provided in Title 1, Chapter 3 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such hereunder. The imposition of any sentence shall not exempt the offender from compliance with all requirements of this Chapter.

3-3-30 APPEALS OF CERTAIN DECISIONS REGARDING USE OF LAND:

A. Notice of Appeal: Notwithstanding any other provision contained in this Chapter, any person who is aggrieved by (a) a decision of a person appointed or employed by the City who is authorized to make administrative decisions regarding the use of land or (b) a decision of the Planning Commission, may appeal the decision to the City Council by filing a notice of appeal with the City Clerk within thirty (30) days of receiving notice of the decision. The notice of appeal shall contain the following information: the name of the appellant, the location of the property to which the decision relates, the date on which the appellant was notified of the decision, a summary of the decision being appealed and a statement of reason why the decision is being appealed. The failure of the aggrieved person to file a notice of appeal in the manner stated in this section shall result in a waiver of the aggrieved person's right to appeal. The filing of a notice of appeal shall not stay the action of the City pending the outcome of the appeal. The City Council may by resolution establish a fee for the filing of an appeal.

B. Investigation By City Council: Following the filing of a notice of appeal, the City Council may, in its discretion, appoint a committee of the City Council or an independent hearing officer to investigate the notice of appeal, report findings of fact and make a recommendation for disposition to the City Council.

C. Hearing Before City Council: The City Council shall conduct a hearing on the appeal within forty-five (45) days from the date the notice of appeal is filed with the City Clerk. The hearing shall be open to the public and shall be conducted in accordance with the procedures set forth in this section.

D. Purposes: In reviewing the decision, the City Council will be guided by the following purposes:

1. That, for the purpose of promoting health, safety, morals, or the general welfare of the community, the City Council is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.

2. That regulations, restrictions and controls pertaining to the improvement of land, and the control of the location and soundness of structures, must take into account:

a. The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

b. The availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.

E. Hearing Procedures: The procedures pursuant to which the City Council shall hear an appeal pursuant to this section are as follows:

1. The appellant shall first describe the decision being challenged, state the grounds for the appeal and present a summary of the appellant's argument.

2. The appellant may then testify, submit documents and/or call witnesses in support of the appeal.

3. The City shall then state the grounds for opposing the appeal.

4. The City may submit documents and/or call witnesses in opposition to the appeal.

5. The appellant may then present a rebuttal argument, witnesses and/or documents. The failure of an appellant to provide argument, witnesses and/or documents on rebuttal shall not be considered by the City Council in deciding the appeal.

6. The appellant and the City, respectively, may present closing arguments.

7. Appellant and the City are entitled to be represented by counsel, and present testimony, evidence and argument on all issues raised on appeal.

8. The City Council may, if it appears helpful to a clear understanding of the issues, consider matters not raised at the hearing.

9. All testimony by the appellant and the parties' witnesses shall be under oath.

10. The rules of evidence shall not apply.

11. The Mayor or Mayor Pro Tem may limit testimony or other proffered evidence that is duplicative, unnecessarily argumentative or not reasonably related to the matter being appealed.

12. The Mayor or Mayor Pro Tem may terminate the hearing upon finding that sufficient testimony, documents and arguments have been presented to enable the City Council to fully deliberate and decide the appeal; provided, the Mayor or Mayor Pro Tem shall first request from the appellant a summary of all remaining matters he or she intends to present at the hearing.

F. Decision By City Council: At the conclusion of the hearing, the City Council shall make a final decision that is consistent with the requirements of this title to affirm, modify or reverse the decision appealed from and shall within sixty (60) days thereafter file a notice of decision with the City Clerk stating the decision. The foregoing decision of the City Council shall be a final decision for the purpose of judicial review.

G. Judicial Review: Any person who has appealed a decision to the City Council in accordance with this section and is aggrieved by the decision of the City Council may appeal that decision to the Fourth Judicial District Court in and for the County of Elko,

State of Nevada, by filing with that court a petition for judicial review within twenty-five (25) days after the date the notice of decision is filed with the City Clerk.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict

Section 3: If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, the invalidity, unenforceability or provision shall not affect any remaining provisions of this ordinance.

Section 4: Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilman voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

Section 5: This Ordinance shall be effective upon the publication mentioned in Section 4.

PASSED AND ADOPTED this __nd day of _____, 2018 by the following vote of the Elko City Council.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED this __nd day of _____, 2018.

CITY OF ELKO

BY: _____
CHRIS JOHNSON, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

**Elko City Planning Commission
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Zoning Ordinance Amendment 3-18, Ordinance No. 836, specifically an amendment to Title 3, Chapter 4, Section 2 of the Elko City Code entitled "Planning Commission" and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **November 6, 2018**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **20 Minutes**
5. Background Information: **After the September 6, 2018 Planning Commission meeting, it was discovered that the existing Elko City Code 3-4-2 and Resolution 1-95 had conflicting information regarding the quorum for official action. This change will bring the Elko City Code into conformance with Resolution 1-95.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Ordinance 836**
8. Recommended Motion: **Forward a recommendation to City Council to adopt an ordinance which approves Zoning Ordinance Amendment No. 3-18 of the Elko City Code specifically Section 3-4-2**
9. Findings:
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution:

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 11/16

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Title: Zoning Ordinance Amendment 3-18

Applicant(s): City of Elko

Site Location: N/A

Current Zoning: N/A Date Received: N/A Date Public Notice: 10/23

COMMENT: This is for an amendment of 3-4-2 Meetings, Records, Quorum, and Voting.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 10/29/18

Recommend approval

SAW

Initial

City Manager: Date: 10/25/18

Housekeeping item. Recommend approval.

ce

Initial

**CITY OF ELKO
ORDINANCE NO. 836**

**AN ORDINANCE AMENDING TITLE 3 ZONING REGULATIONS, CHAPTER 4
PLANNING COMMISSION SECTION 2 MEETINGS, RECORD, QUORUM AND
VOTING TO MEET REQUIREMENTS PURSUANT TO THE PROVISIONS OF N.R.S.
241 OPEN MEETING LAW AS WELL AS TO COMPLY WITH CITY OF ELKO
RESOLUTION 1-95 ESTABLISHING RULES AND PROCEDURE GOVERNING THE
CONDUCT AND TRANSACTION OF BUSINESS BEFORE THE ELKO CITY
PLANNING COMMISSION.**

WHEREAS, the City of Elko desires to amend the City Code to provide clarification regarding a quorum and voting requirements;

WHEREAS, the definition of a quorum for the Elko City Planning Commission must comply with N.R.S. 241 Open Meeting Law;

WHEREAS, the City of Elko passed Resolution 1-95 on August 15, 1995 adopting rules and procedures governing the conduct and transaction of business before the Elko City Planning Commission;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA

For amendment purposes, words which are in blue, bold and underlined are additions to the Ordinance, and words which ~~are lined through~~ are deleted from the Ordinance.

3-4-2: MEETINGS, RECORDS, QUORUM AND VOTING:

- A. Meetings: The planning commission shall hold at least one regular meeting in each month. Other meetings may be provided for in its rules.
- B. Rules: It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Rules may be amended from time to time.
- C. Quorum: ~~Except as otherwise provided in this chapter, a majority of the members of the planning commission shall constitute a quorum for holding of a meeting and the transaction of business, and a majority vote of the members of the commission shall be necessary for official action. (Ord. 210, 11-13-1973)~~ A majority of the appointed planning commission members shall constitute a quorum for all meetings, to include public hearings.

D. Voting Requirements:

- 1. A majority vote of the appointed planning commission members present and participating in any agenda item shall be required to approve the corresponding

action for that item. To be present and participating at a meeting, a planning commission member must be either (a) physically present at the meeting or (b) participating by means of electronic communication with access to all written materials for that agenda item that are available to the other planning commission members.

2. An abstention from voting by a planning commission member shall not be counted in the determination of the motion as a vote in favor of any action but shall be noted on the record.

3. In the event of a tie vote, the motion shall not pass.

PASSED AND ADOPTED this _____ day of _____, 2018 by the following vote of the Elko City Council.

AYES:

NAYS:

ABSENT:

ABSTAIN: None

APPROVED this _____ day of _____, 2018.

CITY OF ELKO

BY: _____
CHRIS JOHNSON, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

**Elko City Planning Commission
Agenda Action Sheet**

1. **Review and consideration of Final Plat No. 12-18, filed by DDS Properties LLC., for the development of a subdivision entitled Humboldt Hills involving the proposed division of approximately 9.443 acres of property into 26 lots for residential development within the R1 (Single Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **November 6, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: 15 Minutes
5. Background Information: **Subject property is located east of Jennings Way approximately 120' north of Cortney Drive. (APN 001-01H-001)**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Recommend to City Council to conditionally approve Final Plat 12-18 based on facts, findings and conditions as presented in Staff Report dated October 23, 2018.**
9. Findings: **See Staff Report dated October 23, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **DDS Properties, LLC
930 Idaho Street
Elko, NV 89801**

**Carter Engineering
P.O. Box 794
Elko, NV 89803**

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

City Manager: Date: 10/25/18

No comments/concerns. Recommend approval.

cy

Initial

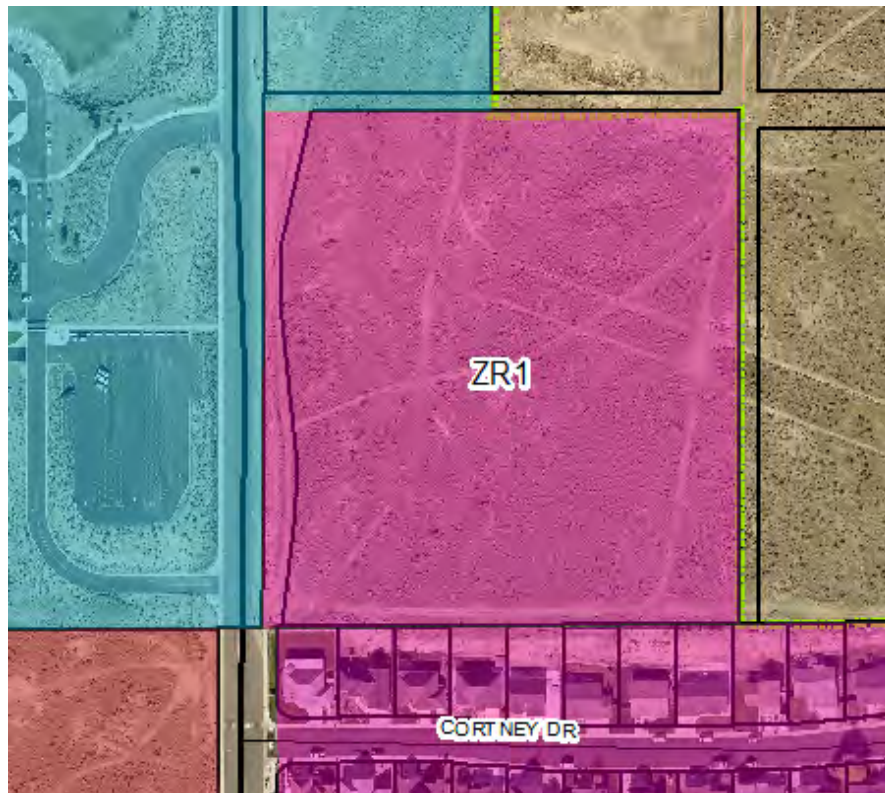


City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

DATE: October 23, 2018
PLANNING COMMISSION DATE: November 6, 2018
AGENDA ITEM NUMBER: I.B.1
APPLICATION NUMBER: Final Plat 12-18
APPLICANT: DDS Properties, LLC
PROJECT DESCRIPTION:

A Final Map for the division of approximately 9.443 acres into 26 lots for single family residential development within an R1 (Single Family Residential) Zoning District.



STAFF RECOMMENDATION:

RECOMMEND to APPROVE this item subject to findings of fact and conditions stated in this report.

PROJECT INFORMATION

PARCEL NUMBER: 001-01H-001
PARCEL SIZE: 9.443 Acres (26 lots)
EXISTING ZONING: (R1) Single Family Residential
MASTER PLAN DESIGNATION: (RM) Residential Medium Density
EXISTING LAND USE: Vacant

NEIGHBORHOOD CHARACTERISTICS:

The property is bordered by:

- North: Public, Quasi-Public (PQP) Developed and Property in Elko County/ BLM/ Undeveloped
- East: Property located in Elko County/ Private and BLM/ Undeveloped
- South: Residential (R1) / Developed
- West: Public, Quasi-Public (PQP) / Developed

PROPERTY CHARACTERISTICS:

- The property is currently undeveloped and moderately sloping throughout the area.
- The property is located adjacent to Jennings Way.

MASTER PLAN, COORDINATING PLANS, 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 Master Plan – Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Zoning – Chapter 3 Subdivisions
- City of Elko Zoning – Section 3-2-3 General Provisions
- City of Elko Zoning – Section 3-2-4 Zoning Districts
- City of Elko Zoning – Section 3-2-5(B) Single-Family Residential District
- City of Elko Zoning – Section 3-2-5(G) Residential Zoning Districts Area, Setback And Height Schedule For Principal Buildings
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Section 3-8 Flood Plain Management

BACKGROUND INFORMATION

1. The applicant owns the property.
2. The area proposed for subdivision is identified as APN 001-01H-001.
3. The area is undeveloped.
4. The area is located east of Jennings Way, approximately 120' north of Cortney Drive.

5. The area is a not a continuation of any other subdivision.
6. A Stage 1 meeting for the proposed subdivision was held on March 8, 2018. The initial subdivision proposal included a total 29 lots. The applicant elected to modify the proposed subdivision from the proposed 29 to 26 lots. A second Stage 1 meeting was held on April 17, 2018 to elevate the revised subdivision.
7. The area is zoned R1-Single Family Residential.
8. The area is approximately 9.443 acres in size. The Final Plat includes the entire area approved under the Preliminary Plat.
9. The proposed density is approximately 2.75 units per acre.
10. Phasing of the subdivision is not proposed.
11. Approximately 1.865 acres are being offered for dedication. The dedication includes streets and drainage areas.
12. A grading permit for this property was issued on January 16, 2018.
13. The Planning Commission reviewed and recommended a conditional approval to the City Council on the Preliminary Plat on July 9, 2018.
14. The City Council conditionally approved the Preliminary Plat at its meeting on July 24, 2018.
15. The Preliminary Plat approval included two modifications from standards as follows:
 - o Master Plan – density approved at 2.75 units per acre vs. the minimum density of 4 units per acre
 - o 3-3-24(F) – lots 16 through 20 approved as double front lots with access restricted to Eagle Loop Road

MASTER PLAN:

Land Use

1. Conformance with the Land Use component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat and the Master Plan based on a modification of standards.

The proposed subdivision is in conformance with the Land Use Component of the Master Plan based on a modification of standards granted under the preliminary plat application for 2.75 units per acre versus the minimum density of 4 units per acre stipulated in the Master Plan.

Transportation

1. Conformance with the Transportation component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat.

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

ELKO REDEVELOPMENT PLAN:

1. The property is not located within the Redevelopment Area.

ELKO WELLHEAD PROTECTION PLAN:

1. The property is not located within a capture zone for any City of Elko wells.

The proposed subdivision is in conformance with the Wellhead Protection Program. The sanitary sewer will be connected to a programmed sewer system and all street drainage will report to a storm sewer system.

SECTION 3-3-6 FINAL PLAT STAGE (STAGE III)

Pre-submission Requirements (A)(1) – The Final Plat is in conformance with the zone requirements.

Pre-submission Requirements (A)(2) – The proposed final plat conforms to the preliminary plat.

Pre-submission Requirements (A)(3) – The Title Sheet includes an affidavit for public utilities and no objections were received from public utilities upon notification for the Preliminary Plat.

SECTION 3-3-8 INFORMATION REQUIRED FOR FINAL PLAT SUBMITTAL

- A. Form and Content-The final plat conforms to the required size specifications and provides the appropriate affidavits and certifications.
- B. Identification Data
 - 1. The subdivision map identified the subdivision, and provides its location by section, township, range and county.
 - 2. The subdivision map was prepared by a properly licensed surveyor.
 - 3. The subdivision map provides a scale, north point, and date of preparation.
- C. Survey Data
 - 1. The boundaries of the tract are fully balanced and closed.
 - 2. All exceptions are noted on the plat.
 - 3. The location and description of cardinal points are tied to a section corner.
 - 4. The location and description of any physical encroachments upon the boundary of the tract are noted on the plat.
- D. Descriptive Data
 - 1. The name, right of way lines, courses, lengths and widths of all streets and easements are noted on the plat.
 - 2. All drainage ways are noted on the plan.
 - 3. All utility and public service easements are noted on the plat.
 - 4. The location and dimensions of all lots, parcels and exceptions are shown on the plat.
 - 5. All residential lots are numbered consecutively on the plat.
 - 6. There is a public drainage dedicated to the public shown on the plat.
 - 7. The location of adjoining subdivisions are noted on the plat with required information.
 - 8. There are no deed restrictions proposed.
- E. Dedication and Acknowledgment
 - 1. The owner's certificate has the required dedication information for all easements and right of ways.
 - 2. The execution of dedication is acknowledged and certified by a notary public.
- F. Additional Information
 - 1. All centerline monuments for streets are noted as being set on the plat.
 - 2. The centerline and width of each right of way is noted on the plat.
 - 3. The plat indicates the location of monuments that will be set to determine the boundaries of the subdivision.
 - 4. The length and bearing of each lot line is identified on the plat.
 - 5. The city boundary adjoining the subdivision is identified on the plat.

6. The plat identifies the location of the section lines.
- G. City Engineer to Check
 1. The Engineer shall check the final map for accuracy of dimensions, placement of monuments, the establishment of survey records, and conformance with the preliminary map.
 - a) Closure calculations have been provided.
 - b) Civil improvement plans have been provided.
 - c) Civil improvement plans for drainage have been submitted.
 - d) An engineer's estimate has been provided.
 2. It appears the lot closures are within the required tolerances.
- H. Required certifications
 1. The Owner's Certificate is shown on the final plat.
 2. The Owner's Certificate offers for dedication all right of ways shown on the plat.
 3. A Clerk Certificate is shown on the final plat, certifying the signature of the City Council.
 4. The Owner's Certificate offers for dedication all easements shown on the plat.
 5. A Surveyor's Certificate is shown on the plat and provides the required language.
 6. The City Engineer's Certificate is listed on the plat.
 7. A certificate from the Nevada Division of Environmental Protection is provided with the required language.
 8. A copy of review by the state engineer is not available at this time.
 9. A certificate from the Division of Water Resources is provided on the plat with the required language.
 10. The civil improvement plans identify the required water meters for the subdivision.

SECTIONS 3-3-20 through 3-3-27 (inclusive)

1. The proposed subdivision was evaluated for conformance to the referenced sections of code during the preliminary plat process.

The proposed development conforms to Sections 3-3-20 through 3-3-27 (inclusive) with the exception of 3-3-24(F). A modification of standard was approved for lots 16 through 20 as double front lots with access restricted to Eagle Loop Road.

SECTION 3-3-40-RESPONSIBILITY FOR IMPROVEMENTS

The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-40 of city code.

SECTION 3-3-41-ENGINEERING PLANS

The Subdivider has submitted civil improvement plans in conformance with section 3-3-41 of City code. The plans have been reviewed by city staff. Minor revisions are required as outlined in the city review letter dated October 30, 2018.

SECTION 3-3-42-CONSTRUCTION AND INSPECTION

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 3-3-42 of city code.

SECTION 3-3-43-REQUIRED IMPROVEMENTS

The Subdivider has submitted civil improvement plans which are in conformance with Section 3-3-43 of city code with the exception noted under 3-3-41

Civil improvements include curb, gutter and sidewalk, paving and utilities within the Eagle Ridge Loop right of way and improvements within the Jennings Way right-of-way.

SECTION 3-3-44-AGREEMENT TO INSTALL IMPROVEMENTS

The Subdivider is required to enter into a Performance Agreement to conform to Section 3-3-44 of city code.

SECTION 3-3-45-PERFORMANCE GUARANTEE

The Subdivider is required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-45 of city code.

SECTIONS 3-2-3, 3-2-4, 3-2-5(E), 3-2-5(G) and 3-2-17

1. The proposed subdivision was evaluated for conformance to the referenced sections of code during the preliminary plat process.

Based on the modification of standards for lot design for lots 16 through 20 as double frontage lots, granted under the preliminary plat application, the proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(B), 3-2-5(G) and 3-2-17 of city code.

SECTION 3-8-FLOODPLAIN MANAGEMENT

The proposed development is in conformance with Section 3-8 of city code.

FINDINGS

1. The Final Plat for Humboldt Hills has been presented before expiration of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City code.
2. The Final Plat is in conformance with the Preliminary Plat.
3. The proposed subdivision is in conformance with the Land Use Component of the Master Plan based on a modification of standards granted under the preliminary plat application for 2.75 units per acre versus the minimum density of 4 units per acre stipulated in the Master Plan.
4. The proposed subdivision is in conformance with Transportation Component of the Master Plan.
5. The proposed development conforms to Sections 3-3-20 through 3-3-27 (inclusive) with the exception of 3-3-24(F). A modification of standard was approved for lots 16 through 20 as double front lots with access restricted Eagle Loop Road.
6. The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-40 of city code.

7. The Subdivider has submitted civil improvement plans in conformance with section 3-3-41 of City code. The plans have been reviewed by city staff. Minor revisions are required as outlined in the city review letter dated October 30, 2018.
8. 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 3-3-42 of city code.
9. The Subdivider has submitted civil improvement plans which are in conformance with Section 3-3-43 of city code with the exception noted under 3-3-41.
10. The Subdivider is required to enter into a Performance Agreement to conform to Section 3-3-44 of city code.
11. The Subdivider is required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-45 of city code.
12. 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.
13. The subdivision is in conformance with 3-8 Floodplain Management.

RECOMMENDATION

Staff recommends **approval** of the subdivision based on the following conditions:

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-45 of city code. In conformance with Section 3-3-44 of city code, the public improvements shall be completed within a time of no later than two (2) years of the date of Final Plat approval by the City Council unless extended as stipulated in city code.
2. The Performance Agreement shall be approved by the City Council at the time of Final Plat approval by the City Council.
3. The Developer shall enter into the Performance Agreement within 30 days of approval of the Final Plat by the City Council.
4. The Final Plat is approved for 26 single family residential lots.
5. The Utility Department will issue a Will Serve Letter for the subdivision after the performance agreement has been executed by the city and the developer and the civil improvement plans have been approved by the City staff.
6. State approval of the civil improvements and final plat is required.
7. Conformance with Preliminary Plat conditions are required.
8. Civil improvements are to comply with Chapter 3-3 of City code.
9. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko.

The Engineer of Record is to ensure all materials meet the latest edition Standard Specifications for Public Works. All Right-of-Way and utility improvements are to be certified by the Engineer of Record for the project.

10. Add a reference to the vacation of Jennings Way Document No. 746054 to the plat. This condition shall be satisfied prior to consideration of the Final Plat by the City Council.
11. Show a survey monument location at the intersecting center lines of Jennings Way and Eagle Loop Road. This condition shall be satisfied prior to consideration of the Final Plat by the City Council.
12. The civil improvement plans are to be revised in accordance with the city review letter dated October 30, 2018 for review and possible approval. This condition shall be satisfied prior to consideration of the Final Plat by the City Council.
13. Construction, with the exception of grading, shall not commence prior to Final plat approval by the City Council, issuance of a will serve letter by the city and approval of the civil improvement plans by the State.



City of Elko – Assistant City Manager
1755 College Avenue
Elko, NV 89801
Telephone: 775.777.7210
Facsimile: 775.777.7219

October 30, 2018

Ms. Lana Carter, P.E.
Carter Engineering
POB 794
Elko, NV 89803

Re: Humboldt Hills – Final Plat and Civil Improvement Plans

Dear Ms. Carter,

The City of Elko has reviewed the above referenced plat and civil improvement plans and has the following comment:

FINAL PLAT

1. Show a survey monument at the intersecting lines of Jennings Way and Eagle Loop Road.
2. Reference the recently recorded vacation document for Jennings Way.
3. Verify that there are no $\frac{1}{4}$ section lines or $\frac{1}{16}$ section lines crossing or adjoining the boundaries of the subdivision. If so show accordingly.

GENERAL COMMENT

1. Show a USPS gang box located on the near the side lot line of Lot 5 and Lot 6. Include a street light over the gang box.
2. Provide an updated hydrology report.
3. All lots are to have graded and defined swales reporting to street right-of-way or dedicated drainage areas.
4. Show patch back on Jennings Way.
5. Add street lighting meeting the maximum distance not exceeding 500 feet between lights. A street light is required at the intersection of Eagle Loop and Jennings Way. If possible consider street light placement at the 90 degree change of direction in Eagle Loop Road (knuckles). Reference General Comment 1 in street light layout.

SHEET C2 of 17

1. Show ADA ramps parallel with Jennings Way. Revise plan set accordingly.

SHEET C3 of 17

1. Revise grading plan to address General Comments 3 and 4.

SHEET C4 of 17

1. Revise grading plan to address General Comment 4.

SHEET C8 of 17

1. Resolve the conflict with water and storm drain near station 0+42. Ensure special construction for separation, if required, is clearly identified.

The following permits will be required for the project:

1. Storm water general permit (Construction Stormwater Permit from the Nevada Department of Environmental Protection), if the disturbed area is equal to or greater than one acre. Required submittals to the City of Elko are a plan view showing the storm water controls, a copy of the Storm Water Pollution Prevention Plan (SWPPP) and a copy of the certified confirmation letter.
2. A Surface Area Disturbance (SAD) permit is required if the disturbed area is equal to or greater than five acres. The permit may be obtained from the Nevada Division of Environmental Protection. A copy of the SAD permit is required to be submitted to the City of Elko.
3. A street cut permit from the City of Elko.
4. The required grading permit has already been issued.

The Owner will be required to enter into a Performance Agreement with the City of Elko in accordance with City code.

The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition Standard Specifications for Public Works. All Right-of-Way and utility improvements are to be certified by the Engineer of Record for the project.

The City of Elko looks forward to receiving a revised drawing set for review and possible approval. Please update the Engineer's estimate in accordance with any plan revisions.

Please contact me at 775.777.7211 if you have any questions.

Sincerely,



Scott A. Wilkinson
City of Elko – Assistant City Manager

CC: City of Elko - File



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

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

SEP 11 2018

APPLICATION FOR FINAL PLAT APPROVAL

APPLICANT(s):	DDS Properties, LLC		
MAILING ADDRESS:	930 Idaho Street		
PHONE NO (Home):		(Business):	775-777-2949
NAME OF PROPERTY OWNER (If different):			
	<i>(Property owner consent in writing must be provided)</i>		
MAILING ADDRESS:			
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-01H-001	Address	Not Addressed
Lot(s), Block(s), & Subdivision			
Or Parcel(s) & File No.	Parcel 1 File No. 727682		
PROJECT DESCRIPTION OR PURPOSE:	Humboldt Hills Subdivision		
APPLICANT'S REPRESENTATIVE OR ENGINEER:	Dusty Shipp Owner & Lana L Carter, Engineer		

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), and must include the following:

1. One .pdf of the entire application, and ten (10) 24" x 36" copies of the final plat folded to a size not to exceed 9"x12" provided by a properly licensed surveyor, as well as one (1) set of reproducible plans 8 1/2" x 11" in size and any required supporting data, prepared in accordance with Section 3-3-8 of Elko City Code (see attached checklist).
2. Pre-Submission Requirements:
 - a. The final plat shall meet all requirements of the zoning district in which located, and any necessary zoning amendment shall have been adopted by the Elko City Council prior to filing of the final plat.
 - b. The final plat shall conform closely to the approved preliminary plat and be prepared in accordance with the provisions of the City Subdivision Ordinance.
 - c. The final plat submittal shall include a letter signifying approval of utility easements by all public utilities involved, and shall be so indicated by an affidavit on the map.
 - d. A complete set of construction plans for all public improvements associated with the final plat shall have been approved or substantially approved by the City Engineer.

Fee: \$750.00 + \$25.00 per lot including remainder parcels; non-refundable.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

Final Plat Checklist as per Elko City Code 3-3-8

Identification Data	
✓	Subdivision Name
✓	Location and Section, Township and Range
✓	Name, address and phone number of subdivider
✓	Name, address and phone number of engineer/surveyor
✓	Scale, North Point and Date of Preparation
✓	Location maps
Survey Data (Required)	
✓	Boundaries of the Tract fully balanced and closed
✓	Any exception within the plat boundaries
✓	The subdivision is to be tied to a section corner
✓	Location and description of all physical encroachments NONE
Descriptive Data	
✓	Street Layout, location, widths, easements
✓	All drainageways, designated as such
✓	All utility and public service easements
✓	Location and dimensions of all lots, parcels
✓	Residential Lots shall be numbered consecutively
✓	All sites to be dedicated to the public and proposed use
✓	Location of all adjoining subdivisions with name date, book and page
✓	Any private deed restrictions to be imposed upon the plat NONE
Dedication and Acknowledgment	
✓	Statement of dedication for items to be dedicated
✓	Execution of dedication acknowledged by a notary public
Additional Information	
✓	Street CL, and Monuments identified
✓	Street CL and width shown on map
✓	Location of mounuments used to determine boudaries
✓	Each city boundary line crossing or adjoining the subdivision
✓	Section lines crossing the subdivision boundaries
City Engineer to Check	
✓	Closure report for each of the lots
✓	Civil Improvement plans
✓	Estimate of quantities required to complete the improvements
Required Certifications	
✓	All parties having record title in the land to be subdivided
✓	Offering for dedication
✓	Clerk of each approving governing body
✓	Easements
✓	Surveyor's Certificate
✓	City Engineer
✓	State Health division
✓	State Engineer NOT REQUIRED
✓	Division of Water Resources
✓	City Council

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 acknowledge that, if approved, I must provide an AutoCAD file containing the final subdivision layout on NAD 83 NV East Zone Coordinate System to the City Engineering Department when requesting final map signatures for recording.

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

Applicant / Agent Dusty Shipp
(Please print or type)

Mailing Address 930 Idaho Street
Street Address or P.O. Box

Elko, Nevada 89801
City, State, Zip Code

Phone Number: 775-777-2949

Email address: dustyshipp@gmail.com

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 12-18 Date Filed: 9/11/18 Fee Paid: \$1,400 CV# 2175 \$25 x 26 Lots = \$650
+ \$750
\$1,400

Engineer's Estimate for Humboldt Hills
 September 10, 2018
 26 Lots
 Prevailing Wage

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ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
1	Unclassified Excavation	CY	90,375	\$ 6.00	\$ 542,250.00
2	Unclassified Embankment	CY	19,124	\$ 10.00	\$ 191,240.00
3	Saw Cut	LF	730	\$ 6.50	\$ 4,745.00
4	Type 1 Curb & Gutter	LF	3,300	\$ 50.00	\$ 165,000.00
5	Sidewalk	SF	13,740	\$ 12.00	\$ 164,880.00
6	ADA Curb Ramp Domes	EA	10	\$ 500.00	\$ 5,000.00
7	Barrier Curb behind Curb Ramp	LF	226	\$ 40.00	\$ 9,040.00
8	6' Wide Valley Gutter	SF	444	\$ 20.00	\$ 8,880.00
9	Valley Gutter Apron	SF	320	\$ 20.00	\$ 6,400.00
10	Sidewalk Cross Drain	EA	2	\$ 1,000.00	\$ 2,000.00
11	3-inch A.C.	SF	52,100	\$ 3.00	\$ 156,300.00
12	9-Inch Type 2, Class B Agg. Base	SF	52,100	\$ 2.50	\$ 130,250.00
13	4-inch A.C.	SF	12,640	\$ 4.00	\$ 50,560.00
14	12-Inch Type 2, Class B Agg. Base	SF	12,640	\$ 3.25	\$ 41,080.00
15	Seal Coat	SY	7,200	\$ 0.75	\$ 5,400.00
16	Rip Rap	CY	250	\$ 50.00	\$ 12,500.00
17	1" Water Service	EA	26	\$ 1,000.00	\$ 26,000.00
18	1" Water Service Connection	EA	26	\$ 500.00	\$ 13,000.00
19	1" Water Service Meter	EA	26	\$ 2,100.00	\$ 54,600.00
20	18"x10" Hot Tap Sleeve and Valve	EA	1	\$ 2,500.00	\$ 2,500.00
21	10" Water Line	LF	1,365	\$ 85.00	\$ 116,025.00
22	10" Valve	EA	4	\$ 4,000.00	\$ 16,000.00
23	10" Tee	EA	1	\$ 2,000.00	\$ 2,000.00
24	10" 90° Bend	EA	3	\$ 800.00	\$ 2,400.00
25	Sample Tap	EA	1	\$ 1,000.00	\$ 1,000.00
26	Fire Hydrant Assembly	EA	2	\$ 8,000.00	\$ 16,000.00
27	8" SDR-35 Sanitary Sewer	LF	1,500	\$ 60.00	\$ 90,000.00
28	Sanitary Sewer Manholes	EA	5	\$ 6,000.00	\$ 30,000.00
29	Sanitary Sewer Services	EA	26	\$ 1,300.00	\$ 33,800.00
30	36" ADS N-12 Storm Drain	LF	30	\$ 390.00	\$ 11,700.00
31	12" ADS N-12 Storm Drain	LF	65	\$ 130.00	\$ 8,450.00
32	10" ADS N-12 Storm Drain	LF	25	\$ 100.00	\$ 2,500.00
33	Storm Drain Manholes	EA	2	\$ 6,500.00	\$ 13,000.00
34	Type R-4 Drop Inlet	EA	3	\$ 7,200.00	\$ 21,600.00
35	Striping	LS	1	\$ 5,200.00	\$ 5,200.00
36	Street and Stop Signs	EA	2	\$ 975.00	\$ 1,950.00
37	Street Monuments	EA	5	\$ 1,300.00	\$ 6,500.00
				Sub Total	\$ 1,969,750.00

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Humboldt Hills Lot Closures

Parcel name: 20' ROW

North: 28475554.3479 East : 596449.1962
Line Course: S 00-02-17 W Length: 20.00
North: 28475534.3479 East : 596449.1829
Line Course: N 89-37-27 E Length: 629.54
North: 28475538.4774 East : 597078.7093
Line Course: N 00-02-48 E Length: 20.00
North: 28475558.4774 East : 597078.7256
Line Course: S 89-37-27 W Length: 212.79
North: 28475557.0816 East : 596865.9402
Line Course: S 89-37-27 W Length: 82.00
North: 28475556.5437 East : 596783.9420
Line Course: S 89-37-27 W Length: 82.00
North: 28475556.0058 East : 596701.9437
Line Course: S 89-37-27 W Length: 82.00
North: 28475555.4680 East : 596619.9455
Line Course: S 89-37-27 W Length: 85.00
North: 28475554.9104 East : 596534.9473
Line Course: S 89-37-27 W Length: 85.76
North: 28475554.3479 East : 596449.1892

Perimeter: 1299.09 Area: 12,591 S.F. 0.289 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0070 Course: S 89-26-40 W
Error North: -0.00007 East : -0.00699
Precision 1: 185,584.29

Parcel name: Lot 1

North: 28475644.4586 East : 596449.2560
Line Course: S 00-02-17 W Length: 90.11
North: 28475554.3486 East : 596449.1962
Line Course: N 89-37-27 E Length: 85.76
North: 28475554.9112 East : 596534.9543
Line Course: N 00-22-33 W Length: 105.00
North: 28475659.9089 East : 596534.2656
Line Course: S 89-37-27 W Length: 70.11
North: 28475659.4490 East : 596464.1571
Curve Length: 23.45 Radius: 15.00

Humboldt Hills Lot Closures

Delta: 89-35-10 Tangent: 14.89
Chord: 21.14 Course: S 44-49-52 W
Course In: S 00-22-33 E Course Out: N 89-57-43 W
RP North: 28475644.4494 East : 596464.2555
End North: 28475644.4593 East : 596449.2555

Perimeter: 374.43 Area: 8,917 S.F. 0.205 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0009 Course: N 37-24-51 W
Error North: 0.00070 East : -0.00054
Precision 1: 416,033.33

Parcel name: Lot 2

North: 28475659.9083 East : 596534.2641
Line Course: S 00-22-33 E Length: 105.00
North: 28475554.9105 East : 596534.9528
Line Course: N 89-37-27 E Length: 85.00
North: 28475555.4681 East : 596619.9510
Line Course: N 00-22-33 W Length: 105.00
North: 28475660.4658 East : 596619.2622
Line Course: S 89-37-27 W Length: 85.00
North: 28475659.9083 East : 596534.2641

Perimeter: 380.00 Area: 8,925 S.F. 0.205 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E
Error North: 0.00000 East : 0.00000
Precision 1: 380,000,000.00

Parcel name: Lot 3

North: 28475660.4659 East : 596619.2622
Line Course: S 00-22-33 E Length: 105.00
North: 28475555.4681 East : 596619.9510
Line Course: N 89-37-27 E Length: 82.00
North: 28475556.0060 East : 596701.9492
Line Course: N 00-22-33 W Length: 105.00
North: 28475661.0037 East : 596701.2605
Line Course: S 89-37-27 W Length: 82.00

Humboldt Hills Lot Closures

North: 28475660.4659

East : 596619.2622

Perimeter: 374.00 Area: 8,610 S.F. 0.198 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000

Course: S 90-00-00 E

Error North: 0.00000

East : 0.00000

Precision 1: 374,000,000.00

Parcel name: Lot 4

North: 28475661.0038

East : 596701.2605

Line Course: S 00-22-33 E Length: 105.00

North: 28475556.0061

East : 596701.9492

Line Course: N 89-37-27 E Length: 82.00

North: 28475556.5439

East : 596783.9475

Line Course: N 00-22-33 W Length: 105.00

North: 28475661.5417

East : 596783.2587

Line Course: S 89-37-27 W Length: 82.00

North: 28475661.0038

East : 596701.2605

Perimeter: 374.00 Area: 8,610 S.F. 0.198 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000

Course: S 90-00-00 E

Error North: 0.00000

East : 0.00000

Precision 1: 374,000,000.00

Parcel name: Lot 5

North: 28475661.5417

East : 596783.2587

Line Course: S 00-22-33 E Length: 105.00

North: 28475556.5440

East : 596783.9475

Line Course: N 89-37-27 E Length: 82.00

North: 28475557.0819

East : 596865.9457

Line Course: N 00-22-33 W Length: 100.01

North: 28475657.0897

East : 596865.2897

Curve Length: 20.85

Radius: 50.00

Delta: 23-53-46

Tangent: 10.58

Chord: 20.70

Course: N 79-42-15 W

Course In: N 01-39-08 W

Course Out: S 22-14-38 W

RP North: 28475707.0689

East : 596863.8480

Humboldt Hills Lot Closures

End North: 28475660.7899 East : 596844.9205
Curve Length: 5.92 Radius: 15.00
Delta: 22-37-11 Tangent: 3.00
Chord: 5.88 Course: N 79-03-57 W
Course In: S 22-14-38 W Course Out: N 00-22-33 W
RP North: 28475646.9062 East : 596839.2423
End North: 28475661.9058 East : 596839.1439
Line Course: S 89-37-27 W Length: 55.89
North: 28475661.5392 East : 596783.2551

Perimeter: 369.67 Area: 8,530 S.F. 0.196 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0044 Course: S 55-19-01 W
Error North: -0.00249 East : -0.00360
Precision 1: 84,015.91

Parcel name: Lot 6

North: 28475657.0922 East : 596865.2897
Line Course: S 00-22-33 E Length: 100.01
North: 28475557.0843 East : 596865.9457
Line Course: N 89-37-27 E Length: 212.79
North: 28475558.4801 East : 597078.7311
Line Course: N 00-02-48 E Length: 20.00
North: 28475578.4801 East : 597078.7474
Line Course: N 55-08-27 W Length: 202.92
North: 28475694.4613 East : 596912.2395
Curve Length: 64.35 Radius: 50.00
Delta: 73-44-24 Tangent: 37.50
Chord: 60.00 Course: S 51-28-40 W
Course In: N 75-23-32 W Course Out: S 01-39-08 E
RP North: 28475707.0713 East : 596863.8557
End North: 28475657.0921 East : 596865.2974

Perimeter: 600.07 Area: 18,200 S.F. 0.418 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0077 Course: S 89-44-09 E
Error North: -0.00004 East : 0.00770
Precision 1: 77,931.17

Humboldt Hills Lot Closures

Parcel name: Lot 7

North: 28475694.4612 East : 596912.2317
Line Course: S 55-08-27 E Length: 202.92
North: 28475578.4800 East : 597078.7396
Line Course: N 00-02-48 E Length: 180.75
North: 28475759.2300 East : 597078.8868
Line Course: N 89-57-12 W Length: 170.00
North: 28475759.3684 East : 596908.8869
Line Course: S 00-02-48 W Length: 27.33
North: 28475732.0384 East : 596908.8646
Curve Length: 5.92 Radius: 15.00
Delta: 22-37-11 Tangent: 3.00
Chord: 5.88 Course: S 11-15-47 E
Course In: S 89-57-12 E Course Out: S 67-25-37 W
RP North: 28475732.0262 East : 596923.8646
End North: 28475726.2683 East : 596910.0137
Curve Length: 32.45 Radius: 50.00
Delta: 37-10-51 Tangent: 16.82
Chord: 31.88 Course: S 03-58-57 E
Course In: S 67-25-37 W Course Out: S 75-23-32 E
RP North: 28475707.0753 East : 596863.8442
End North: 28475694.4652 East : 596912.2280

Perimeter: 619.38 Area: 20,554 S.F. 0.472 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0055 Course: N 43-07-31 W
Error North: 0.00398 East : -0.00373
Precision 1: 112,612.73

Parcel name: Lot 8

North: 28475759.3679 East : 596908.8907
Line Course: S 89-57-12 E Length: 170.00
North: 28475759.2294 East : 597078.8906
Line Course: N 00-02-48 E Length: 90.00
North: 28475849.2294 East : 597078.9639
Line Course: N 89-57-12 W Length: 170.00
North: 28475849.3679 East : 596908.9640
Line Course: S 00-02-48 W Length: 90.00
North: 28475759.3679 East : 596908.8907

Perimeter: 520.00 Area: 15,300 S.F. 0.351 ACRES

Humboldt Hills Lot Closures

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E

Error North: 0.00000 East : 0.00000

Precision 1: 520,000,000.00

Parcel name: Lot 9

North: 28475849.3679 East : 596908.9642

Line Course: S 89-57-12 E Length: 170.00

North: 28475849.2294 East : 597078.9641

Line Course: N 00-02-48 E Length: 90.00

North: 28475939.2294 East : 597079.0374

Line Course: N 89-57-12 W Length: 170.00

North: 28475939.3679 East : 596909.0375

Line Course: S 00-02-48 W Length: 90.00

North: 28475849.3679 East : 596908.9642

Line Course: S 90-00-00 E Length: 0.00

North: 28475849.3679 East : 596908.9642

Perimeter: 520.00 Area: 15,300 S.F. 0.351 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E

Error North: 0.00000 East : 0.00000

Precision 1: 520,000,000.00

Parcel name: Lot 10

North: 28475939.3679 East : 596909.0377

Line Course: S 89-57-12 E Length: 170.00

North: 28475939.2294 East : 597079.0376

Line Course: N 00-02-48 E Length: 132.77

North: 28476071.9993 East : 597079.1457

Line Course: S 72-00-29 W Length: 174.91

North: 28476017.9726 East : 596912.7889

Curve Length: 31.22 Radius: 50.00

Delta: 35-46-52 Tangent: 16.14

Chord: 30.72 Course: S 04-46-34 W

Course In: S 76-53-08 W Course Out: S 67-20-00 E

RP North: 28476006.6277 East : 596864.0929

End North: 28475987.3593 East : 596910.2310

Curve Length: 5.92 Radius: 15.00

Humboldt Hills Lot Closures

Delta: 22-37-12 Tangent: 3.00
Chord: 5.88 Course: S 11-21-24 W
Course In: S 67-20-00 E Course Out: N 89-57-12 W
RP North: 28475981.5787 East : 596924.0725
End North: 28475981.5909 East : 596909.0725
Line Course: S 00-02-48 W Length: 42.22
North: 28475939.3710 East : 596909.0381
Line Course: S 90-00-00 E Length: 0.00
North: 28475939.3710 East : 596909.0381

Perimeter: 557.05 Area: 17,741 S.F. 0.407 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0031 Course: N 07-49-10 E
Error North: 0.00311 East : 0.00043
Precision 1: 179,690.32

Parcel name: Lot 11

North: 28476017.9728 East : 596912.7885
Line Course: N 72-00-29 E Length: 174.91
North: 28476071.9996 East : 597079.1454
Line Course: N 00-02-48 E Length: 131.05
North: 28476203.0495 East : 597079.2521
Line Course: S 89-37-24 W Length: 157.10
North: 28476202.0168 East : 596922.1555
Line Course: S 19-50-19 W Length: 154.88
North: 28476056.3285 East : 596869.5936
Curve Length: 61.59 Radius: 50.00
Delta: 70-34-18 Tangent: 35.38
Chord: 57.77 Course: S 48-24-01 E
Course In: S 06-18-50 W Course Out: N 76-53-08 E
RP North: 28476006.6318 East : 596864.0948
End North: 28476017.9767 East : 596912.7908

Perimeter: 679.53 Area: 29,143 S.F. 0.669 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0045 Course: N 30-40-32 E
Error North: 0.00385 East : 0.00228
Precision 1: 151,006.67

Humboldt Hills Lot Closures

Parcel name: Lot 12

North: 28476056.3246 East : 596869.5913
Line Course: N 19-50-19 E Length: 154.88
 North: 28476202.0129 East : 596922.1532
Line Course: S 89-37-24 W Length: 123.30
 North: 28476201.2023 East : 596798.8559
Line Course: S 00-22-36 E Length: 150.00
 North: 28476051.2055 East : 596799.8420
Line Course: N 89-37-24 E Length: 38.96
 North: 28476051.4616 East : 596838.8011
Curve Length: 5.92 Radius: 15.00
 Delta: 22-37-12 Tangent: 3.00
 Chord: 5.88 Course: N 78-18-48 E
 Course In: N 00-22-36 W Course Out: S 22-59-48 E
 RP North: 28476066.4613 East : 596838.7025
 End North: 28476052.6534 East : 596844.5627
Curve Length: 25.58 Radius: 50.00
 Delta: 29-18-38 Tangent: 13.08
 Chord: 25.30 Course: N 81-39-31 E
 Course In: S 22-59-48 E Course Out: N 06-18-50 E
 RP North: 28476006.6270 East : 596864.0966
 End North: 28476056.3237 East : 596869.5953

Perimeter: 498.64 Area: 14,254 S.F. 0.327 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0041 Course: S 77-36-51 E
 Error North: -0.00089 East : 0.00404
Precision 1: 121,619.51

Parcel name: Lot 13

North: 28476051.2064 East : 596799.8386
Line Course: N 00-22-36 W Length: 150.00
 North: 28476201.2032 East : 596798.8525
Line Course: S 89-37-24 W Length: 75.00
 North: 28476200.7101 East : 596723.8541
Line Course: S 00-22-36 E Length: 150.00
 North: 28476050.7134 East : 596724.8402
Line Course: N 89-37-24 E Length: 75.00
 North: 28476051.2064 East : 596799.8386

Perimeter: 450.00 Area: 11,250 S.F. 0.258 ACRES

Humboldt Hills Lot Closures

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E

Error North: 0.00000 East : 0.00000

Precision 1: 450,000,000.00

Parcel name: Lot 14

North: 28476050.7134 East : 596724.8402

Line Course: N 00-22-36 W Length: 150.00

North: 28476200.7101 East : 596723.8541

Line Course: S 89-37-24 W Length: 75.00

North: 28476200.2171 East : 596648.8557

Line Course: S 00-22-36 E Length: 150.00

North: 28476050.2203 East : 596649.8418

Line Course: N 89-37-24 E Length: 75.00

North: 28476050.7134 East : 596724.8402

Perimeter: 450.00 Area: 11,250 S.F. 0.258 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E

Error North: 0.00000 East : 0.00000

Precision 1: 450,000,000.00

Parcel name: Lot 15

North: 28476050.2203 East : 596649.8418

Line Course: N 00-22-36 W Length: 150.00

North: 28476200.2170 East : 596648.8557

Line Course: S 89-37-24 W Length: 159.18

North: 28476199.1706 East : 596489.6791

Line Course: S 34-52-30 E Length: 181.43

North: 28476050.3251 East : 596593.4186

Curve Length: 41.17 Radius: 50.00

Delta: 47-10-26 Tangent: 21.83

Chord: 40.01 Course: N 88-39-22 E

Course In: S 24-55-51 E Course Out: N 22-14-35 E

RP North: 28476004.9843 East : 596614.4948

End North: 28476051.2636 East : 596633.4217

Curve Length: 5.92 Radius: 15.00

Delta: 22-37-11 Tangent: 3.00

Chord: 5.88 Course: S 79-04-00 E

Humboldt Hills Lot Closures

Course In: N 22-14-35 E Course Out: S 00-22-36 E
RP North: 28476065.1474 East : 596639.0997
End North: 28476050.1477 East : 596639.1983
Line Course: N 89-37-24 E Length: 10.64
North: 28476050.2177 East : 596649.8381

Perimeter: 548.34 Area: 15,998 S.F. 0.367 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0046 Course: S 55-03-59 W
Error North: -0.00261 East : -0.00373
Precision 1: 119,204.35

Parcel name: Lot 16

North: 28476050.3277 East : 596593.4192
Line Course: N 34-52-30 W Length: 181.43
North: 28476199.1732 East : 596489.6797
Line Course: S 89-37-24 W Length: 40.06
North: 28476198.9098 East : 596449.6206
Line Course: S 00-02-17 W Length: 151.06
North: 28476047.8498 East : 596449.5203
Line Course: S 71-47-55 E Length: 121.29
North: 28476009.9639 East : 596564.7415
Curve Length: 51.80 Radius: 50.00
Delta: 59-21-40 Tangent: 28.50
Chord: 49.52 Course: N 35-23-19 E
Course In: S 84-17-31 E Course Out: N 24-55-51 W
RP North: 28476004.9910 East : 596614.4935
End North: 28476050.3318 East : 596593.4173

Perimeter: 545.64 Area: 16,512 S.F. 0.379 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0045 Course: N 24-37-42 W
Error North: 0.00410 East : -0.00188
Precision 1: 121,253.33

Parcel name: Lot 17

North: 28476009.9598 East : 596564.7434
Line Course: N 71-47-55 W Length: 121.29

Humboldt Hills Lot Closures

North: 28476047.8457 East : 596449.5222
Line Course: S 00-02-17 W Length: 98.49
North: 28475949.3557 East : 596449.4568
Line Course: N 89-37-27 E Length: 120.00
North: 28475950.1428 East : 596569.4542
Line Course: N 00-02-17 E Length: 29.87
North: 28475980.0128 East : 596569.4741
Curve Length: 5.92 Radius: 15.00
Delta: 22-37-12 Tangent: 3.00
Chord: 5.88 Course: N 11-16-19 W
Course In: N 89-57-43 W Course Out: N 67-25-05 E
RP North: 28475980.0228 East : 596554.4741
End North: 28475985.7829 East : 596568.3240
Curve Length: 24.69 Radius: 50.00
Delta: 28-17-24 Tangent: 12.60
Chord: 24.44 Course: N 08-26-13 W
Course In: N 67-25-05 E Course Out: N 84-17-31 W
RP North: 28476004.9831 East : 596614.4906
End North: 28476009.9561 East : 596564.7385

Perimeter: 400.26 Area: 9,310 S.F. 0.214 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0061 Course: S 52-44-49 W
Error North: -0.00372 East : -0.00489
Precision 1: 65,616.39

Parcel name: Lot 18

North: 28475950.1454 East : 596569.4591
Line Course: S 89-37-27 W Length: 120.00
North: 28475949.3582 East : 596449.4616
Line Course: S 00-02-17 W Length: 80.00
North: 28475869.3583 East : 596449.4085
Line Course: N 89-37-27 E Length: 120.00
North: 28475870.1454 East : 596569.4059
Line Course: N 00-02-17 E Length: 80.00
North: 28475950.1454 East : 596569.4591

Perimeter: 400.01 Area: 9,600 S.F. 0.220 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E
Error North: 0.00000 East : 0.00000
Precision 1: 400,000,000.00

Humboldt Hills Lot Closures

Parcel name: Lot 19

North: 28475870.1433 East : 596569.4059
Line Course: S 89-37-27 W Length: 120.00
North: 28475869.3562 East : 596449.4085
Line Course: S 00-02-17 W Length: 80.00
North: 28475789.3562 East : 596449.3554
Line Course: N 89-37-27 E Length: 120.00
North: 28475790.1433 East : 596569.3528
Line Course: N 00-02-17 E Length: 80.00
North: 28475870.1433 East : 596569.4059

Perimeter: 400.01 Area: 9,600 S.F. 0.220 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E

Error North: 0.00000 East : 0.00000

Precision 1: 400,000,000.00

Parcel name: Lot 20

North: 28475789.3540 East : 596449.3522
Line Course: N 89-37-27 E Length: 120.00
North: 28475790.1411 East : 596569.3497
Line Course: S 00-02-17 W Length: 65.11
North: 28475725.0312 East : 596569.3064
Curve Length: 23.45 Radius: 15.00
Delta: 89-35-10 Tangent: 14.89
Chord: 21.14 Course: S 44-49-52 W
Course In: N 89-57-43 W Course Out: S 00-22-33 E
RP North: 28475725.0411 East : 596554.3064
End North: 28475710.0414 East : 596554.4048
Line Course: S 89-37-27 W Length: 90.00
North: 28475709.4511 East : 596464.4067
Curve Length: 23.67 Radius: 15.00
Delta: 90-24-50 Tangent: 15.11
Chord: 21.29 Course: N 45-10-08 W
Course In: N 00-22-33 W Course Out: N 89-57-43 W
RP North: 28475724.4508 East : 596464.3084
End North: 28475724.4607 East : 596449.3084
Line Course: N 00-02-17 E Length: 64.89

Humboldt Hills Lot Closures

North: 28475789.3507

East : 596449.3515

Perimeter: 387.13 Area: 9,504 S.F. 0.218 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0034

Course: S 13-25-12 W

Error North: -0.00329

East : -0.00078

Precision 1: 113,858.82

Parcel name: Lot 21

North: 28475811.3986

East : 596619.3669

Line Course: S 00-02-17 W Length: 85.82

North: 28475725.5786

East : 596619.3099

Curve Length: 23.67

Radius: 15.00

Delta: 90-24-50

Tangent: 15.11

Chord: 21.29

Course: S 45-10-08 E

Course In: S 89-57-43 E

Course Out: S 00-22-33 E

RP North: 28475725.5686

East : 596634.3099

End North: 28475710.5690

East : 596634.4083

Line Course: N 89-37-27 E Length: 113.45

North: 28475711.3131

East : 596747.8559

Line Course: N 00-02-48 E Length: 100.00

North: 28475811.3131

East : 596747.9373

Line Course: N 89-57-43 W Length: 128.57

North: 28475811.3985

East : 596619.3673

Perimeter: 451.51 Area: 12,867 S.F. 0.295 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0004

Course: S 78-34-27 E

Error North: -0.00009

East : 0.00042

Precision 1: 1,128,775.00

Parcel name: Lot 22

North: 28475811.3986

East : 596619.3669

Line Course: S 89-57-43 E Length: 128.57

North: 28475811.3132

East : 596747.9369

Line Course: N 00-02-48 E Length: 90.00

North: 28475901.3132

East : 596748.0102

Line Course: N 89-57-43 W Length: 128.58

Humboldt Hills Lot Closures

North: 28475901.3986 East : 596619.4302
Line Course: S 00-02-17 W Length: 90.00
North: 28475811.3986 East : 596619.3704

Perimeter: 437.15 Area: 11,572 S.F. 0.266 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0035 Course: S 89-56-44 E
Error North: -0.00000 East : 0.00353
Precision 1: 124,900.00

Parcel name: Lot23

North: 28475901.4010 East : 596619.4267
Line Course: S 89-57-43 E Length: 128.58
North: 28475901.3156 East : 596748.0067
Line Course: N 00-02-48 E Length: 99.55
North: 28476000.8656 East : 596748.0877
Line Course: S 89-37-24 W Length: 113.71
North: 28476000.1181 East : 596634.3802
Curve Length: 23.45 Radius: 15.00
Delta: 89-35-07 Tangent: 14.89
Chord: 21.14 Course: S 44-49-50 W
Course In: S 00-22-36 E Course Out: N 89-57-43 W
RP North: 28475985.1184 East : 596634.4788
End North: 28475985.1283 East : 596619.4788
Line Course: S 00-02-17 W Length: 83.73
North: 28475901.3984 East : 596619.4232

Perimeter: 449.02 Area: 12,693 S.F. 0.291 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0044 Course: S 52-39-02 W
Error North: -0.00266 East : -0.00349
Precision 1: 102,050.00

Parcel name: Lot 24

North: 28475901.3156 East : 596748.0065
Line Course: N 00-02-48 E Length: 99.55
North: 28476000.8656 East : 596748.0876
Line Course: N 89-37-24 E Length: 95.89

Humboldt Hills Lot Closures

North: 28476001.4960 East : 596843.9756
Curve Length: 23.67 Radius: 15.00
Delta: 90-25-24 Tangent: 15.11
Chord: 21.29 Course: S 45-09-54 E
Course In: S 00-22-36 E Course Out: S 89-57-12 E
RP North: 28475986.4963 East : 596844.0742
End North: 28475986.4841 East : 596859.0742
Line Course: S 00-02-48 W Length: 85.26
North: 28475901.2241 East : 596859.0047
Line Course: N 89-57-12 W Length: 111.00
North: 28475901.3145 East : 596748.0047

Perimeter: 415.37 Area: 11,046 S.F. 0.254 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0021 Course: S 58-17-23 W
Error North: -0.00111 East : -0.00179
Precision 1: 197,795.24

Parcel name: Lot 25

North: 28475901.2250 East : 596859.0065
Line Course: N 89-57-12 W Length: 111.00
North: 28475901.3154 East : 596748.0065
Line Course: S 00-02-48 W Length: 90.00
North: 28475811.3154 East : 596747.9332
Line Course: S 89-57-12 E Length: 111.00
North: 28475811.2250 East : 596858.9332
Line Course: N 00-02-48 E Length: 90.00
North: 28475901.2250 East : 596859.0065

Perimeter: 402.00 Area: 9,990 S.F. 0.229 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0000 Course: S 90-00-00 E
Error North: 0.00000 East : 0.00000
Precision 1: 402,000,000.00

Parcel name: Lot 26

North: 28475811.2226 East : 596858.9330
Line Course: N 89-57-12 W Length: 111.00

Humboldt Hills Lot Closures

North: 28475811.3130 East : 596747.9330
Line Course: S 00-02-48 W Length: 100.00
North: 28475711.3130 East : 596747.8516
Line Course: N 89-37-27 E Length: 96.11
North: 28475711.9434 East : 596843.9595
Curve Length: 23.45 Radius: 15.00
Delta: 89-34-39 Tangent: 14.89
Chord: 21.13 Course: N 44-50-08 E
Course In: N 00-22-33 W Course Out: S 89-57-12 E
RP North: 28475726.9431 East : 596843.8611
End North: 28475726.9309 East : 596858.8611
Line Course: N 00-02-48 E Length: 84.29
North: 28475811.2209 East : 596858.9298
Line Course: N 90-00-00 W Length: 0.00
North: 28475811.2209 East : 596858.9298

Perimeter: 414.86 Area: 11,007 S.F. 0.253 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0036 Course: S 62-15-56 W
Error North: -0.00169 East : -0.00322
Precision 1: 115,236.11

Parcel name: Total

North: 28476047.8449 East : 596449.5239
Line Course: N 00-02-17 E Length: 151.06
North: 28476198.9049 East : 596449.6243
Line Course: N 89-37-24 E Length: 40.06
North: 28476199.1683 East : 596489.6834
Line Course: N 89-37-24 E Length: 159.18
North: 28476200.2147 East : 596648.8599
Line Course: N 89-37-24 E Length: 75.00
North: 28476200.7078 East : 596723.8583
Line Course: N 89-37-24 E Length: 75.00
North: 28476201.2008 East : 596798.8567
Line Course: N 89-37-24 E Length: 123.30
North: 28476202.0114 East : 596922.1540
Line Course: N 89-37-24 E Length: 157.10
North: 28476203.0442 East : 597079.2506
Line Course: S 00-02-48 W Length: 131.05
North: 28476071.9942 East : 597079.1439
Line Course: S 00-02-48 W Length: 132.77
North: 28475939.2243 East : 597079.0358
Line Course: S 00-02-48 W Length: 90.00

Humboldt Hills Lot Closures

	North: 28475849.2243	East : 597078.9625
Line	Course: S 00-02-48 W Length: 90.00	
	North: 28475759.2243	East : 597078.8892
Line	Course: S 00-02-48 W Length: 180.75	
	North: 28475578.4744	East : 597078.7419
Line	Course: S 00-02-48 W Length: 20.00	
	North: 28475558.4744	East : 597078.7257
Line	Course: S 00-02-48 W Length: 20.00	
	North: 28475538.4744	East : 597078.7094
Line	Course: S 89-37-27 W Length: 629.54	
	North: 28475534.3449	East : 596449.1829
Line	Course: N 00-02-17 E Length: 20.00	
	North: 28475554.3449	East : 596449.1962
Line	Course: N 00-02-17 E Length: 90.11	
	North: 28475644.4549	East : 596449.2560
Line	Course: N 00-02-17 E Length: 39.89	
	North: 28475684.3449	East : 596449.2825
Line	Course: N 00-02-17 E Length: 40.11	
	North: 28475724.4549	East : 596449.3092
Line	Course: N 00-02-17 E Length: 64.89	
	North: 28475789.3449	East : 596449.3523
Line	Course: N 00-02-17 E Length: 80.00	
	North: 28475869.3449	East : 596449.4054
Line	Course: N 00-02-17 E Length: 80.00	
	North: 28475949.3448	East : 596449.4585
Line	Course: N 00-02-17 E Length: 98.49	
	North: 28476047.8348	East : 596449.5240

Perimeter: 2588.31 Area: 418,393 S.F. 9.605 ACRES

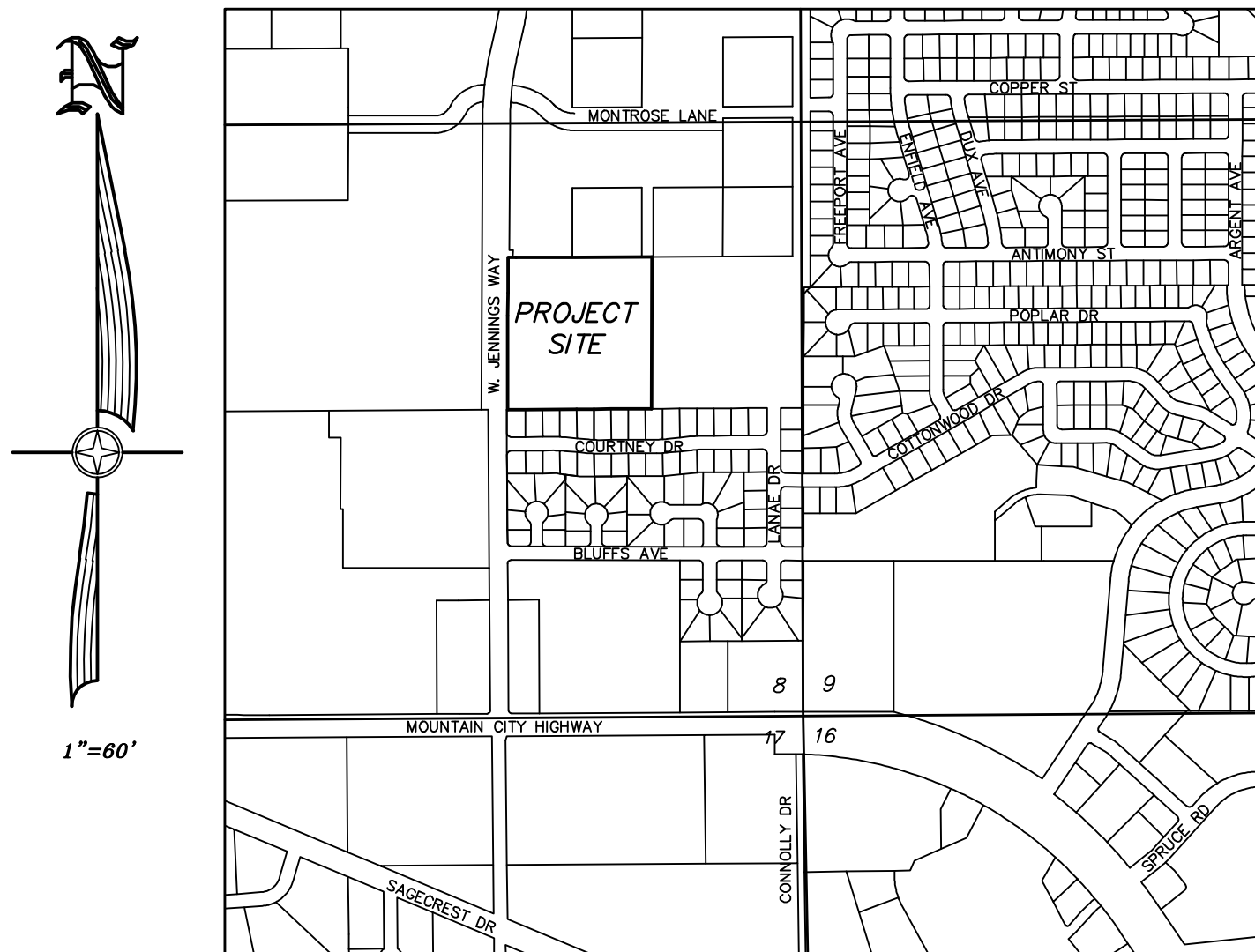
Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0101 Course: S 00-15-13 E

Error North: -0.01011 East : 0.00004

Precision 1: 256,267.33

HUMBOLDT HILLS SUBDIVISION CITY OF ELKO, NEVADA



VICINITY MAP
NOT TO SCALE

APPROVAL – NEVADA DIVISION OF WATER RESOURCES

THIS FINAL PLAT IS APPROVED BY THE DIVISION OF WATER RESOURCES OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES CONCERNING WATER QUANTITY, SUBJECT TO REVIEW OF APPROVAL ON FILE IN THIS OFFICE.

NEVADA DIVISION OF WATER RESOURCES DATE

APPROVAL – NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

THIS FINAL PLAT IS APPROVED BY THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES. THIS APPROVAL CONCERNS SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY AND WATER SUPPLY FACILITIES AND IS PREDICATED UPON PLANS FOR A PUBLIC WATER SUPPLY AND A COMMUNITY SYSTEM FOR DISPOSAL OF SEWAGE.

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION, BUREAU OF WATER POLLUTION CONTROL DATE

FEMA NOTE

THE LOTS WITHIN HUMBOLDT HILLS SUBDIVISION AS SHOWN HEREON ARE LOCATED IN ZONE X (AREA OF MINIMAL FLOOD HAZARD) PER FLOOD INSURANCE RATE MAPS 320027C5606E AND 32007C5608E EFFECTIVE DATE OF SEPTEMBER 4, 2013.

APPROVAL – PUBLIC UTILITIES

THE PUBLIC UTILITY EASEMENTS, AS DESIGNATED HEREON, ARE APPROVED BY THE RESPECTIVE UTILITIES EXECUTING BELOW.

FRONTIER COMMUNICATIONS DATE

SIERRA PACIFIC POWER COMPANY, D/B/A NV ENERGY DATE

SATVIEW BROADBAND DATE

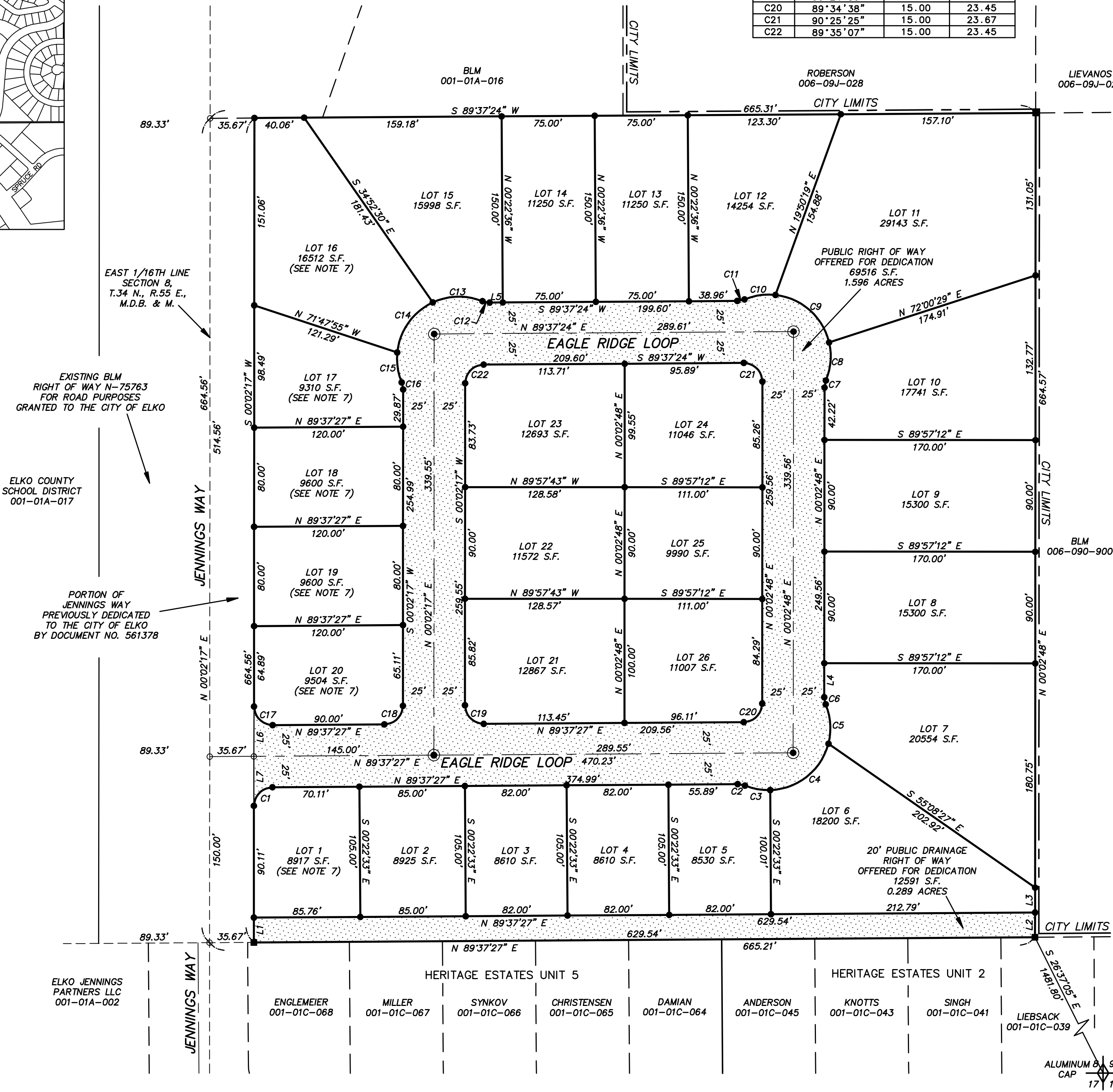
SOUTHWEST GAS CORPORATION DATE

NOTES:

- THE TOTAL SUBDIVIDED AREA OF THIS MAP EQUALS 9.605 ACRES.
- BASIS OF BEARINGS: THE FOUND CORNERS AS SHOWN ON THE RECORD OF SURVEY FOR ELKO COUNTY SCHOOL DISTRICT, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AS FILE NO. 471047.
- A PUBLIC UTILITY EASEMENT IS HEREBY GRANTED SPECIFICALLY TO NV ENERGY WITHIN EACH PARCEL FOR THE EXCLUSIVE PURPOSE OF INSTALLING AND MAINTAINING UTILITY SERVICE FACILITIES TO THAT PARCEL, WITH THE RIGHT TO EXIT THAT PARCEL WITH SAID UTILITY FACILITIES FOR THE PURPOSE OF SERVING ADJACENT PARCELS. AT LOCATIONS MUTUALLY AGREED UPON BY THE OWNER OF RECORD AT THE TIME OF INSTALLATION AND THE UTILITY COMPANY.
- A PUBLIC UTILITY EASEMENT IS HEREBY GRANTED SPECIFICALLY TO SOUTHWEST GAS CORP. WITHIN EACH PARCEL FOR THE EXCLUSIVE PURPOSE OF INGRESS/EGRESS, INSTALLING, MAINTAINING, INSPECTING AND REPAIRING UTILITY FACILITIES WHICH PROVIDE SERVICE TO THAT PARCEL, WITH THE RIGHT TO EXIT THAT PARCEL WITH SAID UTILITY FACILITIES FOR THE PURPOSE OF SERVING ADJACENT PARCELS. RIGHTS ARE ALSO GRANTED TO USE EXISTING PUBLIC RIGHTS-OF-WAY FOR THE PURPOSE OF MAINTAINING, INSTALLING, INSPECTING AND REPAIRING SAID UTILITY FACILITIES.
- IN ADDITION TO ANY EASEMENTS SHOWN, THE LOTS SHOWN ARE SUBJECT TO 7.50 FT. PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG ALL STREET FRONTAGE LINES AND 5.00 FT. PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG ALL SIDE AND REAR BOUNDARY LINES.
- THIS MAP SUBDIVIDES PARCEL NO. 1, AS SHOWN ON THE PARCEL MAP FOR DDS PROPERTIES, LLC, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, FILE NO. 727682.
- PER THE CITY OF ELKO, ACCESS FOR LOTS 1, 16, 17, 18, 19 AND 20 IS TO BE LIMITED TO EAGLE RIDGE LOOP AND THE DRIVEWAY ACCESS FOR LOT 20 SHALL BE RESTRICTED TO THE EAST PROPERTY LINE OR THE FRONT YARD AS DEFINED BY ELKO CITY CODE 3-3-2.

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N 00°02'17" E	20.00
L2	N 00°02'48" E	20.00
L3	N 00°02'48" E	20.00
L4	N 00°02'48" E	27.33
L5	N 89°37'24" E	10.64
L6	N 00°02'17" E	40.11
L7	N 00°02'17" E	39.89

CURVE TABLE		
CURVE	DELTA	RADIUS
C1	89°35'10"	15.00
C2	22°37'12"	15.00
C3	23°53'47"	50.00
C4	73°44'23"	50.00
C5	37°10'52"	50.00
C6	22°37'12"	15.00
C7	22°37'12"	15.00
C8	35°46'52"	50.00
C9	70°34'18"	50.00
C10	29°18'37"	50.00
C11	22°37'12"	15.00
C12	22°37'12"	15.00
C13	47°10'27"	50.00
C14	59°21'40"	50.00
C15	28°17'23"	50.00
C16	22°37'12"	15.00
C17	90°24'50"	15.00
C18	89°35'10"	15.00
C19	90°24'50"	15.00
C20	89°34'38"	15.00
C21	90°25'23"	15.00
C22	89°35'07"	15.00



LEGEND

- SECTION CORNER AS NOTED.
- SET CENTERLINE STREET MONUMENT.
- SET 5/8" REBAR WITH CAP MARKED PLS 6203 UNLESS OTHERWISE NOTED.
- FOUND 5/8" REBAR WITH CAP MARKED PLS 6203.
- CALCULATED POINT ONLY, NOTHING FOUND OR SET
- PUBLIC RIGHT OF WAY TO BE OFFERED FOR DEDICATED BY THIS MAP. TOTAL AREA = 1.858 ACRES 82,107 S.F.

COUNTY ASSESSOR'S CERTIFICATE

I, KATRINKA S. RUSSELL, CERTIFY THAT THE ASSESSOR'S PARCEL NUMBERS SHOWN ON THIS PLAT ARE CORRECT AND THAT THE PROPOSED PARCELS ARE A DIVISION OF SAID ASSESSOR'S PARCEL NO. 001-01H-001.

ELKO COUNTY TREASURER DATE

COUNTY TREASURER'S CERTIFICATE

I, REBECCA ERICKSON, CERTIFY THAT ALL PROPERTY TAXES ON PARCEL NO. 001-01H-001 HAVE BEEN PAID FOR THIS FISCAL YEAR.

ELKO COUNTY TREASURER DATE

FILING DATA

FILE NO. _____

FILED AT THE REQUEST OF HIGH DESERT ENGINEERING.

DATE _____, 2018

TIME _____ M.

D. MIKE SMALES
ELKO COUNTY RECORDER

OWNERS CERTIFICATE

KNOWN OF ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, DDS PROPERTIES, LLC, A NEVADA LIMITED LIABILITY COMPANY, BEING THE OWNER OF THOSE PARCELS AS SHOWN ON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP AND OFFER FOR DEDICATION ALL OF THE RIGHTS OF WAY AND EASEMENTS FOR PUBLIC ACCESS, PUBLIC UTILITY AND DRAINAGE PURPOSES AS DESIGNATED HEREON. IN WITNESS I, DUSTY SHIPP, SET MY HAND ON THE DATE SHOWN.

DDS PROPERTIES, LLC

BY: DUSTY SHIPP, MANAGER

DATE

STATE OF NEVADA COUNTY OF ELKO

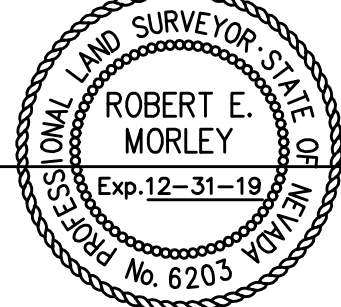
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE _____ DAY OF _____, 2018, BY DUSTY SHIPP, MANAGER OF DDS PROPERTIES, LLC.

NOTARY PUBLIC

SURVEYOR'S CERTIFICATE

I, ROBERT E. MORLEY, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF NEVADA, CERTIFY THAT:

- THIS PLAT REPRESENTS THE RESULTS OF A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION AT THE INSTANCE OF DUSTY SHIPP, MANAGER OF DDS PROPERTIES, LLC.
- THE LANDS SURVEYED LIE WITHIN SECTION 8, T.34 N., R.55 E., MDB& M., AND THE SURVEY WAS COMPLETED ON _____.
- THIS PLAT COMPLIES WITH THE APPLICABLE STATE STATUTES AND ANY LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL.
- THE MONUMENTS DEPICTED ON THE PLAT ARE OF THE CHARACTER SHOWN, OCCUPY THE POSITIONS INDICATED AND ARE OF SUFFICIENT NUMBER AND DURABILITY.



ROBERT E. MORLEY, P.L.S. 6203

CITY ENGINEER'S REPRESENTATIVE CERTIFICATE

I, _____, REPRESENTATIVE FOR THE CITY ENGINEER OF THE CITY OF ELKO, NEVADA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND FIND IT SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, WITH ALL APPROVED ALTERATIONS; THAT ALL PROVISIONS OF N.R.S. 278.010 THROUGH 278.630, INCLUSIVE, AND ALL LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH; THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT; AND THAT THE MONUMENTS AS SHOWN ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED.

CITY ENGINEER OR ENGINEERING REPRESENTATIVE DATE

APPROVAL – CITY OF ELKO PLANNING COMMISSION

AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, PLANNING COMMISSION HELD ON THE 9TH DAY OF JULY, 2018, A TENTATIVE MAP OF THIS SUBDIVISION WAS DULY AND REGULARLY APPROVED PURSUANT TO N.R.S. 278.330. THIS FINAL MAP SUBSTANTIALLY COMPLIES WITH SAID TENTATIVE MAP AND ALL CONDITIONS PURSUANT THERETO HAVE BEEN MET.

CHAIRMAN, CITY OF ELKO PLANNING COMMISSION DATE

APPROVAL – CITY OF ELKO CITY COUNCIL

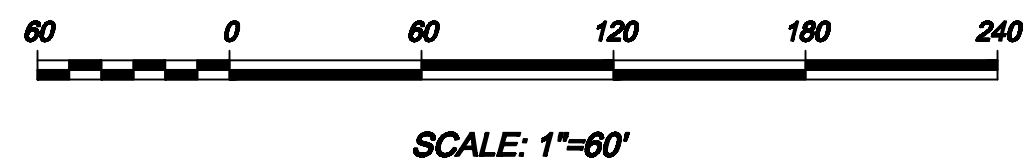
AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, CITY COUNCIL HELD ON THE _____ DAY OF _____, 2018, THIS MAP WAS APPROVED FOR SUBDIVISION PURPOSES PURSUANT TO N.R.S. 278.461 THROUGH 278.469, INCLUSIVE, AND ALL APPLICABLE LOCAL ORDINANCES. ALL OFFERS OF DEDICATION, AS SHOWN HEREON, WERE ACCEPTED FOR PUBLIC USE.

MAYOR, CITY OF ELKO, NEVADA

DATE

ATTEST: CITY CLERK, CITY OF ELKO, NEVADA

DATE



FINAL MAP
OF
HUMBOLDT HILLS SUBDIVISION
IN
SECTION 8, T.34 N., R.55 E., M.D.B.& M.
CITY OF ELKO, NEVADA

HIGH DESERT
ENGINEERING, LLC
640 IDAHO STREET
ELKO, NEVADA 89801
(775) 738-4053

218053

Zoning Bulletin

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Proceedings—Court issues order to remove garage that violates town's zoning ordinance

Garage owner argues order must be vacated because it was sought by the town under improper processes

Citation: *McLaughlin v. Zoning Board of Review of Town of Tiverton*, 186 A.3d 597 (R.I. 2018)

RHODE ISLAND (06/20/18)—This case addressed the issue of whether a zoning board's "motion for an order to comply" was a "due proceeding," as

Contributors

Corey E. Burnham-Howard

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required by the state statute that vested the trial court with power to assist towns in the enforcement of zoning ordinances, and, if not, whether that presented a “manifest injustice” justifying relief from a court order to remove a garage that violated zoning setback requirements.

The Background/Facts: In 2007, William C. McLaughlin (“McLaughlin”) applied for and received a permit from the Building Inspector for the Town of Tiverton (the “Town”). The permit was for the construction of a 40-by-60-foot garage. Later it came to light that the permit was based on an erroneous site plan that inaccurately described the property boundaries. Ultimately, McLaughlin constructed a garage that was built 27 feet short of the side yard setback required by the Town Zoning Ordinance.

In 2010, after receiving a notice of zoning violation related to the garage setback, McLaughlin applied for a zoning variance from the Town’s Zoning Board of Review (the “Board”). The Board denied the variance request.

McLaughlin then appealed his variance denial to the superior court. The superior court affirmed the Board’s denial of the variance request. The court concluded that the only hardship McLaughlin faced was a self-created financial hardship, which was not a sufficient ground justifying a variance.

McLaughlin then appealed that judgment to the Supreme Court of Rhode Island. That appeal was dismissed as procedurally improper. Subsequently, however, the Board filed a motion with the superior court, under the original zoning appeal case. That motion was entitled “Motion for Order to Comply.” Under that motion, the Board asked the superior court to order McLaughlin to “either move or remove the [garage] to comply with local zoning in accordance with the decision of the [Board], affirmed by the [superior court].” The Board suggested a penalty of a daily fine for each day, after 90 days, that McLaughlin failed to remove the garage. In its request, the Board specifically asked the superior court to invoke its equitable powers under state statutory law, G.L., 1956, § 8-2-13, and order McLaughlin to comply with the Town Zoning Ordinance by moving or removing his garage. That statute vests the superior court with “exclusive original jurisdiction of suits and proceedings of an equitable character and of statutory proceedings following the course of equity.”

In April 2014, the superior court granted the Board’s motion and entered the requested order (the “April 2014 Order”).

When, nearly three years later, McLaughlin had still not removed the non-compliant garage, the Board filed a motion to enforce with the superior court. The Board asked the court to allow the Town to remove the garage. Unlike with the Board’s early “Motion for Order to Comply [.]” which pointed to the Superior Court’s equity jurisdiction under § 8-2-13, this motion to enforce invoked G.L. 1956 §§ 45-24-62(3) and (4). That statute vests the superior court with jurisdiction to aid towns and cities in their enforcement of their zoning ordinances, “upon due proceedings in the name of the city or town, instituted by its city or town solicitor” That statute also authorizes the superior court to, among other things, “order the removal by the property owner of any building, structure . . . in violation of any zoning ordinance . . . and to authorize some official of the city or town, in the default of the removal by the owner, to remove it at the expense of the owner”

In November 2015, the trial justice entered an order granting the Board's motion to enforce. When, by March 2016, McLaughlin still had not removed the garage, the Town removed it. The Town also placed a lien on McLaughlin's property for the \$69,300 in fines imposed by an August 2015 contempt order related to McLaughlin's failure to remove the garage as court ordered in the April 2014 Order.

In May 2016, McLaughlin filed a motion to vacate the April 2014 Order. Among other things, McLaughlin argued that because the Superior Court lacked the subject matter jurisdiction to order him to remove the garage, the April 2014 Order was void under Superior Court Rules of Civil Procedure Rule 60(b)(4). That rule allows relief from judgment or order when the judgment is void. McLaughlin rested his argument on the fact that, pursuant to § 45-24-62, the Town had not filed a separate action to obtain a removal order and thus the Superior Court did not have jurisdiction when it acted. McLaughlin also argued in the alternative that the April 2014 Order should be vacated under Superior Court Rules of Civil Procedure Rule 60(b)(6), because the lack of a separate action brought by the Town and the interests of justice justified relief from the operation of the order. Rule 60(b)(6) allows for relief from final judgment or order for "[a]ny other reason justifying relief from the operation of the judgment." In summary, McLaughlin contended that: (1) the Superior Court lacked the authority to entertain the zoning board's request that he be ordered to remove his garage; and (2) in order for the Town to have properly obtained an order requiring him to remove the garage, the Town should have filed a separate action in the Superior Court, not a motion for an order to comply filed by the Board in a zoning appeal.

The superior court rejected McLaughlin's arguments.

McLaughlin appealed.

THE COURT'S DECISION: Order denying motion to vacate reversed.

The Supreme Court of Rhode Island agreed with McLaughlin that the April 2014 Order should be vacated under Rule 60(b)(6) of the Superior Court Rules of Civil Procedure, in the interests of justice "given the unique circumstances of this case."

In so holding, the court first disagreed with McLaughlin that the Board lacked subject matter jurisdiction to order the removal of McLaughlin's garage and was thus void under Rule 60(b)(4). The court instead found that, pursuant to § 45-24-62(3), the superior court possessed the jurisdiction to order the removal of McLaughlin's garage.

Again, § 45-24-62 vests the superior court with jurisdiction to aid towns and cities in their enforcement of their zoning ordinances, "upon due proceedings in the name of the city or town, instituted by its city or town solicitor" That statute also authorizes the superior court to, among other things, "order the removal by the property owner of any building, structure . . . in violation of any zoning ordinance . . . and to authorize some official of the city or town, in the default of the removal by the owner, to remove it at the expense of the owner"

Looking at the language of the statute, the court concluded that it was "constrained to conclude that the Superior Court was vested with the subject

matter jurisdiction to order McLaughlin to remove the garage.” The court concluded that “[b]ecause the Superior Court possessed the subject matter jurisdiction to order McLaughlin to remove his garage, and because the granting of the April 7, 2014 [O]rder did not mark a ‘plain usurpation of power constituting a violation of due process[,]’ the [April 2014 Order] was and is not void.”

The court, however, did agree with McLaughlin that, given “[t]he unique and narrow facts of this case,” enforcing the April 2014 Order “would constitute a manifest injustice,” thus warranting the April 2014 Order be vacated under Rule 60(b)(6). The court emphasized that “[p]rocess is important.” The court found that, contrary to the requirements of § 45-24-62(3)—which gave the superior court jurisdiction to issue the April 2014 Order, this was not a case brought by the Town solicitor via a separate complaint on behalf of the Town setting forth McLaughlin’s alleged noncompliance with the Town Zoning Ordinance. Rather, the court found that this was a case that involved an appeal of a denied variance, where the Town was the defendant. As such, the court concluded that it was not the required “due proceeding[] in the name of [the Town of Tiverton], instituted by its . . . town solicitor . . .,” as required by the clear language of § 45-24-62. Furthermore, the court noted that, at the time the Board filed its “Motion for Order to Comply” (which resulted in the April 2014 Order), final judgment had entered. “In other words, the controversy before the Superior Court—revolving around whether there were grounds justifying reversal of the zoning board’s denial of McLaughlin’s variance request under § 45-24-69(d)—had been resolved to a finality.” Thus, the court concluded that the Board’s filing of the “Motion for Order to Comply” was “an effort to transform the case from a closed-out zoning appeal to a request for permanent injunctive relief”—relief to which the Board was not entitled, found the court. Accordingly, the court opined that, given the facts of the case, the April 2014 Order should have been vacated under Rule 60(b)(6).

See also: *Zeilstra v. Barrington Zoning Bd. of Review*, 417 A.2d 303 (R.I. 1980).

Use/Nonconforming Use—Property owners operate a commercial kennel and pet store in a residential zoning district that prohibits such uses

Property owners argue their use is a “permitted agricultural use” exempt from regulation under Massachusetts statutory law

Citation: *Fink v. LeDuc*, 2018 WL 3340766 (Mass. Land Ct. 2018)

MASSACHUSETTS (07/06/18)—This case addressed the issue of whether a commercial kennel and pet store, operating in a residential zoning district that prohibited such uses, qualified as an “agricultural use,” exempt from zoning regulation under state statutory law. It also addressed whether such uses were, under the facts of the case, protected preexisting, nonconforming uses.

The Background/Facts: Robert and Bridgette Fink (the “Finks”) operated a commercial kennel and pet store out of their residentially-zoned property in the Town of Oxford (the “Town”). The Finks did not live at the property, but used the house as an office and pet store for the sale of puppies, open to the public every day. The Finks’ employees, puppy delivery trucks, and potential customers for the puppies regularly came and went from the property. At any given time, there were over 150 dogs and puppies on the premises. Nearly all of the puppies sold by the Finks were purchased by the Finks from out-of-state breeders. In 2018, the Finks were “on track to sell more than 1,000 puppies from this location, and perhaps as many as 1600.”

After neighbors complained to the Town about activities on the Finks’ property, the Town’s zoning enforcement officer (the “ZEO”) ordered the Finks to cease and desist their kennel and pet store operations as such activities were prohibited in the Finks’ residential zone under the Town’s zoning by-law. The Finks appealed that order to the Town’s Zoning Board of Appeals (the “ZBA”). The ZBA upheld the cease and desist order.

The Finks then appealed the ZBA’s decision to the Massachusetts Land Court. The Finks maintained that the ZBA improperly upheld the cease and desist order. The Finks first argued that their business was a “permitted agricultural use” allowed as of right in their zoning district and exempt from regulation under Massachusetts statutory law—G.L. c. 40A, § 3. General Law c. 40A, § 3 provides, in part: “No zoning ordinance or by-law shall . . . prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture.” The Finks also argued that, in any case, their commercial kennel and pet store was a grandfathered use (i.e., a permitted, preexisting nonconforming use) because there had been a kennel on the property since the 1950s before the Town had zoning by-laws.

DECISION: Decision of ZBA affirmed, with exceptions.

Addressing the Finks’ arguments, the Massachusetts Land Court first held that the Finks’ commercial kennel and pet store was not, as the Finks had claimed, an agricultural use that was allowed as of right in their zoning district and exempt from regulation under Massachusetts statutory law—G.L. c. 40A, § 3. Citing Massachusetts appellate court precedent, the court found that “the boarding, grooming, and training of dogs not owned or kept as breeding stock by [the property owner] [were] not agricultural uses, because [those] activities [were] not an integral part of the breeding or raising of dogs.” Here, the court found that the Finks bought puppies and pet supplies from others, sold them to paying customers, and stored them on the property before resale. None of that was an agricultural use, concluded the court. Instead, the court found those activities were “an entirely commercial operation that [could] not lawfully take place on the property,” under the Town’s zoning by-laws. In other words, the court concluded that, pursuant to the Town’s by-laws, prohibiting commercial kennels and pet stores in the zoning district in which the Finks’ prop-

erty was located, the Finks could not lawfully sell any dogs that were not bred at the property and could not sell any pet supplies—because those were not agricultural activities exempted from regulation under Massachusetts statutory law, G.L. c. 40A, § 3.

Notably, however, the court did find that the breeding and raising and training of dogs owned by a property owner on the land was an “agricultural pursuit,” allowed under G.L. c. 40A, § 3. Thus, the court concluded that the Finks could, “as a matter of zoning, breed and raise dogs that they permanently own at the property since that is a protected agricultural use.”

The Finks had also argued that, whether or not exempted as agricultural activities, their commercial kennel and pet store were protected from regulation as a preexisting nonconforming use because there had been a kennel on the property since the 1950s—before the Town had zoning by-laws. The court disagreed with the Finks’ argument.

The court explained that “[a] prior nonconforming use is one that is lawfully carried on at the time a zoning ordinance or by-law is adopted that prohibits that use.” The court further explained that, under Massachusetts statutory law—G.L. c. 40A, § 6, “a preexisting nonconforming use is not subject to a subsequently enacted zoning by-law.” However, emphasized the court, “any change or substantial extension of such use” has no such protection. (See G.L. c. 40A, § 6.)

The court acknowledged that the Town first adopted zoning in 1956 and a zoning by-law in 1968. (Since adoption of the zoning by-law, and with each subsequent version of the by-law, commercial kennels and pet store uses were prohibited in the zoning district in which the Finks’ property was located.) The court further acknowledged that at the time the Town first enacted zoning, the then-owners of the Finks’ property boarded and bred dogs. The court found, however, that the Finks’ current use was “substantially different in scope and in kind” from the original owners’ vacation boarding and small breeding operation. While the original owners’ small operation focused on vacation dog breeding, the Finks’ operation was year-round, involving the purchasing and selling of as many as 1600 puppies per year to hundreds of customers, and including a pet store with employees, retail customers, and large delivery trucks coming and going on the property. Accordingly, the court concluded that given the substantial difference in scope and kind of use, the Finks’ commercial kennel and pet store were not protected preexisting, nonconforming uses.

See also: *Town of Sturbridge v. McDowell*, 35 Mass. App. Ct. 924, 624 N.E.2d 114 (1993).

See also: *Almeida v. Arruda*, 89 Mass. App. Ct. 241, 46 N.E.3d 1036 (2016).

Enforcement—Ten years after constructing some accessory structures, property owners are issued enforcement notices stating those structures violate the township's zoning ordinance

Property owners argue enforcement notices are barred due to the township's delay in enforcing the zoning ordinance

Citation: *DiPaolo v. Zoning Hearing Board of Bensalem Township*, 2018 WL 3447525 (Pa. Commw. Ct. 2018)

PENNSYLVANIA (07/18/18)—This case addressed the issue of whether a township's enforcement notices against landowners for unpermitted accessory structures in a floodplain, which came nearly a decade after the accessory structures were constructed, were barred by laches, estoppel, vested rights or justifiable reliance doctrines.

The Background/Facts: In June 2004, Gregory DiPaolo and Kathleen DiPaolo (the "DiPaolos") purchased vacant property (the "Property") in Bensalem Township (the "Township"). The DiPaolos' Property was partially within the 100-year floodplain of a creek. In 2004, the Township's Zoning Ordinance prohibited the construction and development of property located within the floodplain without zoning, land development and building permits. The DiPaolos applied for, and were granted, a variance from the Township's floodplain regulations to construct a 2,035 square-foot single-family dwelling partially within the 100-year floodplain of a nearby creek.

In 2005, the Township's Engineering Inspector examined the DiPaolos' constructed dwelling for use and occupancy. At that time, the inspector observed a rear deck and additional stone areas not included in the DiPaolos' construction plan. The inspector issued a report related to work the DiPaolos needed to "complete and/or correct in order to have the remainder of the Property comply with the Zoning Ordinance." Specifically, the inspector referenced a need for an as-built plan reflecting the rear deck and additional stone areas not include in the DiPaolos' construction plan. The Township issued a use and occupancy permit for the DiPaolos in July 2005.

In March 2014, the Township's Engineering Inspector again inspected the DiPaolos' Property at the request of the Township's Director of Building and Planning/Zoning Officer. Upon this inspection, the inspector specifically outlined in a report violations of the Township's Zoning Ordinance—namely a deck, sheds, paving/stone, and a screened gazebo that were all constructed within the floodway without permits or the approval of the Township's Zoning Hearing Board (the "ZHB").

Based on the inspector's report, in April 2014, the Township issued two Enforcement Notices to the DiPaolos. The first Enforcement Notice cited the DiPaolos for failing to obtain permits for the sheds on their Property. The second Enforcement Notice asserted violations of the Township's Zoning Ordinance, noting the deck, sheds, paving/stone, and a screened gazebo that were all constructed within the floodway without permits or the approval of the ZHB. The Township instructed the DiPaolos that to abate these violations, the DiPaolos had to remove the structures within the floodplain and floodway and obtain approval from the ZHB for construction/improvements within the floodplain and floodway.

The DiPaolos appealed from the Enforcement Notices. The ZHB voted to deny the DiPaolos' appeals and uphold the Enforcement Notices.

The DiPaolos then appealed from the ZHB decision to the trial court. The trial court denied their appeal and affirmed the ZHB's decision.

The DiPaolos again appealed. On appeal, among other things, the DiPaolos argued that, due to the Township's delay in enforcing the Code and the Zoning Ordinance, the Enforcement Notices were barred by "laches, estoppel, vested rights and justifiable reliance doctrines." Specifically, the DiPaolos argued that: "the Township did not issue violation notices for nearly a decade despite its full knowledge of the DiPaolos' additions to their Property; allowed the DiPaolos to pay for, erect and furnish the deck with the Township's knowledge; and knew or should have known that the DiPaolos would rely on the Township's acquiescence."

DECISION: Judgment of Common Pleas Court affirmed.

The Commonwealth Court of Pennsylvania held that the Township's Enforcement Notices against the DiPaolos were not barred by laches, estoppel, vested rights or justifiable reliance doctrines.

The court explained that, under Pennsylvania law, for the DiPaolos to prevail on the defenses of laches, they must "prove both inordinate delay and prejudice from that delay." In other words, they would need to show that the Township "stood by and permitted large expenditures to be made upon the faith of municipal consent informally or tacitly given." To obtain the equitable remedy of a variance by estoppel, the DiPaolos would have to show "municipal inaction amounting to active acquiescence in an illegal use." For equitable estoppel, they'd have to show that "the municipality intentionally or negligently misrepresented its position with reason to know that the landowner would rely upon that misrepresentation." For a vested right, they'd have to show "the municipality has taken some affirmative action such as the issuance of a permit." "Except for the characterization of the municipal act that induces reliance," the court explained that, "all three theories share common elements of good faith action on the part of the landowner: 1) that he relies to his detriment, such as making substantial expenditures, 2) based upon an innocent belief that the use is permitted, and 3) that enforcement of the ordinance would result in hardship, ordinarily that the value of the expenditures would be lost."

The court further explained that "[t]here are five factors relevant to whether a ZHB should grant a variance by estoppel"—all of which must be proven by "clear, precise and unequivocal evidence." The court said "[s]uch variances

are appropriate when a use does not conform to the zoning ordinance and the property owner establishes all of the following: (1) a long period of municipal failure to enforce the law, when the municipality knew or should have known of the violation, in conjunction with some form of active acquiescence in the illegal use; (2) the landowner acted in good faith and relied innocently upon the validity of the use throughout the proceeding; (3) the landowner has made substantial expenditures in reliance upon his belief that his use was permitted; and (4) denial of the variance would impose an unnecessary hardship on the applicant.”

Here, the court acknowledged that the Township issued the use and occupancy permit to the DiPaolos despite the fact that the inspector had observed that the deck violated the Township’s floodplain regulations. However, the court noted that, on its face, the use and occupancy permit was issued for the “single family dwelling” at the Property only, and upon the inspector’s 2005 inspection, the DiPaolos were notified that the deck required a permit or variance. Moreover, the court found the evidence showed that the sheds, the paved/stoned areas and the gazebo were not on the Property in 2005 when the use and occupancy permit was issued. Thus, the court concluded that the issuance of that permit was not an affirmative action by the Township that created vested rights for the DiPaolos.

With regard to the DiPaolos claim that the Enforcement Notices were barred based on laches, estoppel or justifiable reliance because the Township failed to enforce the Code and the Zoning Ordinance, when it should have known of the violation, the Court acknowledged that the Township did not enforce the DiPaolos’ deck violation for nearly 10 years. The court further acknowledged that the Township “may have allowed significant time to pass before issuing the Enforcement Notices.” However, the court found that the DiPaolos failed to offer any basis for the court to rule “that ten years was an inordinate delay, or that they were prejudiced thereby.” Moreover, the court stated that the “mere knowledge of a violation of a zoning ordinance does not in and of itself prove that a municipality actively acquiesced in the use of the property.” Further, the court noted that the law (of estoppel) required passage of time “in conjunction with some form of active acquiescence in the illegal use[,]” which the DiPaolos did not prove in this case.

Additionally, the court concluded that there was “no justifiable reliance” by the DiPaolos under the circumstances. The court found that “the DiPaolos clearly did not act in good faith when they purchased the Property that was located in the floodplain and, for those same ten years, . . . disregarded the Township’s notice about the deck violation and continued to add unpermitted sheds, paved/stoned areas and a gazebo to the Property in open disregard to the floodplain regulations.” Moreover, the court found no evidence to support the DiPaolos’ claim “that they made large expenditures or were otherwise prejudiced due to their reliance on the Township’s purported acquiescence.” Nor, found the court “did they prove that they would suffer any hardship, let alone unnecessary hardship, if the variance [was] denied.”

In summary, the court found that the DiPaolos were essentially “asking that they be permitted to continue their zoning violations regardless of the public safety concerns related to the floodplain and floodway,” and without their

engineer providing the technical evidence and documentation “demonstrating that the increase in the 100-year flood elevation that will be caused by the proposed construction, development, use or activity will have no adverse effect on downstream properties,” as required by the Township Zoning Ordinance.

Finding that the DiPaolos failed to prove the necessary criteria, the court concluded that the Enforcement Notices were not barred by laches, estoppel, vested rights or justifiable reliance doctrines.

See also: *Springfield Tp. v. Kim*, 792 A.2d 717 (Pa. Commw. Ct. 2002).

See also: *In re Kreider*, 808 A.2d 340 (Pa. Commw. Ct. 2002).

See also: *Borough of Dormont v. Zoning Hearing Bd. of Borough of Dormont*, 850 A.2d 826 (Pa. Commw. Ct. 2004).

Zoning News from Around the Nation

INDIANA

A zoning applicant has filed a federal lawsuit challenging the City of Fort Wayne’s decision to allow a downtown strip club to reopen. Specifically, the lawsuit argues that denial violated the applicant’s right to free speech and equal protection, and also seeks to void city codes governing adult businesses. The applicant claims its strip club use was grandfathered as a preexisting, nonconforming use, but the city maintains the use had been abandoned for more than one year.

Source: *News-Sentinel*; www.news-sentinel.com

NEW JERSEY

Jersey City’s Zoning Board recently ruled in favor of a neighborhood association. The association had argued that the “so-called mezzanines on the ground and top floors of the new building [were] so large they should be considered additional stories,”—two more stories than allowable by city zoning ordinances. The city’s zoning laws “do not allow mezzanines to constitute more than 33.3 percent of the total floor area in the room or story in which the mezzanine floor occurs.” Otherwise, if they exceed that size, they are considered additional stories. While opposing sides in this case agreed on the square footage of the mezzanines, they disagreed about what they should be compared to. The neighborhood association had argued that the Zoning Board must compare each mezzanine to the room they are in, and that therefore, in this case, the residential units’ mezzanines were anywhere from 48% to 62% of the total area.

Source: *NJ.com*; www.nj.com

PENNSYLVANIA

The Harrisburg-based Independence Law Center filed a federal lawsuit

Wednesday on behalf of Scott and Theresa Fetterolf, alleging that the Borough of Sewickley Heights violated their civil rights. In October 2017, the Borough served a notice of violation and cease and desist order on the Fetterolfs that said activities including a Bible study, worship night, religious retreats and fundraisers were not permitted in the Borough's historical rural and residential zone without a variance. The Fetterolfs' federal lawsuit reportedly seeks a permanent injunction prohibiting the Borough from enforcing the ordinance it says the Fetterolfs are violating "because the ordinance violates the federal Religious Land Use and Institutionalized Persons Act, along with the Fetterolfs' constitutional rights to freely exercise their religion, speech and assembly."

Source: *Sewickley Herald-Trib*, <https://sewickleytriblive.com>

Zoning Bulletin

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Government and related entities/ Immunity—In seeking to construct an egress, state entity claims immunity from local land use control

Local government argues that such immunity
should not allow avoidance of public safety

Contributors

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Citation: *Montclair State University v. County of Passaic*, 2018 WL 3716020 (N.J. 2018)

NEW JERSEY (08/06/18)—This case addressed the issue of what factors must be met for a state entity to receive immunity from local land use controls. Specifically, the case addressed whether a state entity must reasonably address public safety concerns, if raised, in order to receive such immunity.

The Background/Facts: Since 2004, Montclair State University (“MSU”) had attempted to create a third egress from its Passaic County Campus. Specifically, MSU wanted to convert a campus road on state property that intersected with Valley Road (a county road) from an ingress-only road to an ingress/egress road. MSU consulted with Passaic County (the “County”) and the City of Clifton (the “City”) about the project for almost six years. After conferring with those parties, MSU was able to satisfy most of the public entities’ concerns about the project. In April 2014, MSU submitted to the County permit applications for the new egress. However, believing that MSU’s roadway design failed to meet applicable safety standards, the County refused to issue the requested permits to MSU.

MSU then filed a legal action against the County. MSU asked the trial court to declare that no permit or other local approval was required for its proposed egress project. Alternatively, MSU asked the court to order the County to issue all the necessary permits. (The court allowed the City to intervene in the case.)

The trial court ordered MSU to return to the local planning boards, and when MSU failed to do so, the trial court dismissed MSU’s complaint.

MSU appealed. MSU pointed to New Jersey case law that has recognized that a state higher educational institution, like MSU, is: statutorily vested with control over its property (see N.J.S.A. 18A:64-7); and has a form of immunity, or exemption, from local land use controls when it comes to the use and development of its own property. MSU argued that it had met its obligations under New Jersey case law to achieve that immunity, and that, therefore, the court should declare it immune from needing County permits to proceed with its project. More specifically, MSU pointed to the case of *Rutgers, State University v. Piluso*, 60 N.J. 142, 286 A.2d 697 (1972) (“*Rutgers*”). In *Rutgers*, the Supreme Court of New Jersey held that a state agency can have qualified immunity from local land use controls if “it is able to demonstrate both that the planned action is reasonable and that the agency reasonably consulted with local authorities and took into consideration legitimate local concerns.”

On appeal, MSU argued that it was an abuse of discretion by the trial court to dismiss MSU's complaint without determining whether MSU met its obligations under *Rutgers*.

The Appellate Division agreed with MSU and remanded the matter "for reinstatement of [MSU's] complaint and a trial, if necessary for the judge to determine whether MSU satisfied its obligation under *Rutgers*."

The City petitioned for certification, and the Supreme Court of New Jersey granted that petition. The City argued that in remanding the matter, the Appellate Division had "ignored the prong [of the *Rutgers*' test] that addresses the reasonableness of the action by focusing solely on the act of consultation with local agencies and not considering reasonableness as a distinct query to the proposed project and its affect." In other words, according to the City, a state agency should not be allowed to move ahead with a project so long as the agency itself is satisfied with the reasonableness of its own proposal, "without regard to a dispute between state and local entities as to the project's safety."

DECISION: Judgment of Appellate Division affirmed as modified.

The Supreme Court of New Jersey agreed with the City's argument. The court held, as a matter of first impression (i.e., addressing the issue for the first time), that, in addition to the two-fold analysis set forth in *Rutgers* for state agencies to achieve immunity from land use controls, a state agency must also reasonably address public safety concerns, if raised, in order to achieve such immunity.

More specifically, the court held that "when the otherwise immune state agency's improvement directly affects off-site property and implicates a safety concern raised by a local governmental entity responsible to protect public safety with respect to that off-site property, special judicial review and action is required." The court made clear in its decision that, in such cases, "the state entity may not be compelled to submit to review before a planning board." "However, in circumstances such as are presented here, a judicial finding that the cited public safety concern has been reasonably addressed through the planning for the state agency's improvement shall be a necessary additional requirement before a court may either compel local regulatory action or grant declaratory relief that the planned action is exempt from land use regulation." In regard to implementing this additional requirement, the court said it is the trial court that should determine, "on a case-by-case basis, whether it could make such a finding via a summary proceeding or whether a more fulsome proceeding is necessary."

Applying that holding to the immediate case, the court made several conclusions. It first concluded that "MSU is a state entity that enjoys the qualified immunity from local land use controls with respect to

management of its own land and property that was recognized in *Rutgers*.” Next, turning to the review of the exercise of that immunity, the court said that, in order for the trial court (on remand) to grant MSU the relief it seeks, the trial court must: (1) first assess “the inherent reasonableness of the MSU roadway plan in its entirety, including review of the off-site impact”; and (2) also assess whether MSU “reasonably consulted and took into consideration the legitimate concerns of local governmental entities”; and (3) third, assess whether “MSU’s proposed action reasonably satisfie[d] public safety concerns”—because there was “a facially legitimate public safety concern raised” by the County and City with regard to MSU’s proposed egress (namely, the speed limit to be posted on the egress and the planned project as it affected public safety regarding the intersection with the county road), “which would have a direct impact on non-state-owned property.”

Accordingly, on the remand of this matter, the Supreme Court of New Jersey added that “in circumstances such as these, a judicial finding shall be required on the reasonableness of the planned MSU project, specifically as it affects public safety regarding the intersection with the county road.”

See also: *Rutgers, State University v. Piluso*, 60 N.J. 142, 286 A.2d 697 (1972).

Case Note:

In its decision, the Supreme Court of New Jersey made clear that “an immune entity is not to be subjected to a requirement of submission to planning board review or the like.” Rather, the court here was holding “only that a public entity must show that its planning has reasonably addressed public safety concerns identified by local governments as having a direct impact on non-state public property and that a judicial finding as to the reasonableness of the public entity’s action with respect to public safety shall be required.”

Signs—City’s zoning enforcement officer says signs erected on residential property that disparage a commercial vendor violate municipal zoning regulations with regard to height, size, and location

Residential property owner contends city lacks authority to regulate her signs under Connecticut statutory law because they are not “advertising signs“

Citation: *Kuchta v. Arisian*, 329 Conn. 530, 187 A.3d 408 (2018)

CONNECTICUT (07/24/18)—This case addressed the issue of whether Connecticut General Statutes § 8-2, which authorizes a municipality’s zoning commission to regulate the height, size, and location of “advertising signs and billboards,” permits a municipality to regulate signs erected on residential property that disparage a commercial vendor. In essence, the case addressed the issue of what constitutes an “advertising sign,” for which municipal zoning commissions have statutory authority to regulate the height, size, and location.

The Background/Facts: Eileen R. Arisian (“Arisian“) contracted with a commercial vendor for certain home improvements. Apparently disappointed with the vendor’s performance, Arisian erected three signs on her property that disparaged the vendor. At some point, the zoning enforcement officer (“ZEO“) for the City of Milford (the “City“) issued an order notifying Arisian that her signs violated City zoning regulations “limiting the size, height, and number of signs per street line.” The ZEO ordered Arisian to remove her signs.

When Arisian failed to comply with the ZEO’s order, the ZEO brought a legal action. In that action, the ZEO asked the court to order Arisian to remove her signs because they were not in compliance with the City zoning regulations.

Arisian responded by asserting the defense that the City lacked the authority to regulate her signs under Connecticut statutory law—Connecticut General Statutes § 8-2. Section 8-2 authorizes municipality’s zoning commissions to regulate the height, size, and location of “advertising signs and billboards.” Here, Arisian maintained that since

her sign was not an “advertising sign,” the City had no authority to regulate it.

The trial court found that Arisian’s signs violated the City’s zoning restrictions on the size, height, and number of signs. However, the court nonetheless concluded that, as Arisian had argued, the City lacked the authority to regulate Arisian’s signs under § 8-2 because her signs were not “advertising signs” in that they did not promote the sale of goods or services.

The ZEO appealed. On appeal, the ZEO argued that an “advertising” sign, “as that term is used in § 8-2 and as that term is commonly defined, means any sign that makes a public announcement.”

DECISION: Judgment of Superior Court affirmed.

Rejecting the ZEO’s argument for a broader meaning to be applied to “advertising signs,” and agreeing with Arisian, the Supreme Court of Connecticut held that Arisian’s signs, which disparaged a commercial vendor, were not “advertising signs,” as regulated by Conn. Gen. Stat. § 8-2. Accordingly, the court concluded that the City’s regulation of such signs was outside the scope of the authority granted to the City under § 8-2.

In reaching its conclusion, the court analyzed the meaning of the term “advertising signs,” as used in § 8-2. Finding no definition of “advertising signs” or “advertise” “anywhere in the General Statutes that provides guidance in the present case,” the court looked to the common meaning of “advertising” as defined in dictionaries contemporaneous with the time of the legislative grant of municipal zoning authority to regulate “advertising signs and billboards”—in 1931. The court found that in dictionaries of that time, “advertising” was defined as “[a]ny form of public announcement intended to aid directly or indirectly in the sale of a commodity, etc., in the promulgation of a doctrine or idea, in securing attendance, as at a meeting, or the like.” In general, the court found that according to contemporaneous dictionaries, around 1931, “advertising” referred to “the promotion of many subjects, of which commercial goods and services were perhaps the most common.” The court found that because the announcement was “intended to aid” the proponent (i.e., the person advertising), the definition “implied that some benefit inured to the proponent through such promotion.”

Again, the ZEO had argued that a broader meaning of “advertise” should be applied here—namely a meaning that encompasses any sign that makes a public announcement. The court disagreed. Linking the contemporaneous dictionary definition it had found of “advertising” to the contemporaneous dictionary definition of “sign” (i.e., a lettered board or notice placed to advertise a business), the court found “further evidence” to support its conclusion that the legislature, in enacting

§ 8-2, did not intend to “cast such a broad net” as proposed by the ZEO. If the legislature had so intended, noted the court, the legislature would have simply granted a municipality the authority to regulate “signs.”

Accordingly, the court concluded that although signs like Arisian’s made a “public announcement” and “could be a distraction to drivers and could raise safety concerns if . . . too big, too tall, or placed in certain locations,” the court was “hard pressed to characterize such signs as advertising.” Moreover, the court noted that, “[t]o the extent that such signs may give rise to similar aesthetic and safety concerns as advertising signs,” it was not up to the court to give the statute a broader meaning than the contemporaneous, common meaning intended by the enacting legislature.

See also: *Burns v. Barrett*, 212 Conn. 176, 189, 561 A.2d 1378 (1989).

Standing—Tax lienholder of property challenges local planning board approval of land use application for neighboring property

Land use applicant argues tax lienholder is not an “interested party” and therefore lacks standing under state statute to bring the challenge

Citation: *Cherokee LCP Land, LLC v. City of Linden Planning Board*, 2018 WL 3650226 (N.J. 2018)

NEW JERSEY (08/02/18)—This case addressed the issue of whether a tax lienholder has standing to challenge a planning board’s approval of a land use application for a neighboring property.

The Background/Facts: A predecessor of GAF Corporation (“GAF”) acquired and subsequently subdivided a property in the City of Linden (the “City”) into two parcels of land. GAF retained ownership of one parcel (the “Property”), and sold the other parcel (the “Neighboring Property”) to Linden Chlorine Products, Inc. GAF then transferred the Property to Linden Property Holding, LLC (“LPH”), which entered into a purchase and sale agreement with Goodman North American Partnership Holdings, LLC (“Goodman”). The purchase and

sale agreement was contingent upon Goodman getting City approval to redevelop the Property.

In the meantime, ownership of the Neighboring Property transferred to Cherokee LCP Land, LLC (“Cherokee”). In 2013, Cherokee Equities, LLC purchased three tax sale certificates on the Neighboring Property from the City, initiated tax foreclosure proceedings, and assigned the tax sale certificates to Linden 587, LLC (“Linden 587”).

In May 2014, Goodman submitted a site plan application for development of industrial, warehouse and distribution space on the Property to the City’s Planning Board (the “Board”). The Board approved the application.

Thereafter, Cherokee and Linden 587 challenged the Board’s approval of Goodman’s application. They alleged that Goodman’s proposed project would “eliminate certain points of access to the Neighboring Property, interfere with an existing easement on the Property, and substantially modify storm water management on the Property.”

In response to the legal challenge, Goodman and LPH argued that Cherokee and Linden 587 lacked standing (i.e., the legal right to bring the action). The Board joined in their argument.

With regard to standing, New Jersey’s Municipal Land Use Law (“MLUL”) provides that “[a]ny interested party may appeal to the governing body any final decision of a board of adjustment approving an application for development.” (N.J.S.A. 40:55D-17(a).) The MLUL defines “interested party” broadly to include “any person . . . whose right to use, acquire, or enjoy property is or may be affected by any action taken under [the MLUL].” (N.J.S.A. 40:55D-4.)

Goodman, LPH, and the Board argued that Cherokee and Linden 587 lacked standing to challenge the Board’s approval of Goodman’s application because they were not “interested” parties under the MLUL. They maintained that Cherokee was not the titled owner of the Neighboring Property, and therefore was not an “interested party.” And, they argued that Linden 587 was not an “interested party” because it did not hold title to or a possessory interest in the Neighboring Property.

The trial court agreed that Cherokee and Linden 587 lacked standing to challenge the Board’s approval. The trial court found that Cherokee was not the titled owner of the Neighboring Property and therefore did not have an interest in the Neighboring Property. The trial court concluded that “Linden 587 does not have a present interest in the Neighboring Property as its ownership rights, which include the use and enjoyment of the property, are conditioned upon its right of redemption which it has failed to exercise.” The trial court found “that until redemption and entry of foreclosure, the holder of a tax sale cer-

tificate”—like Linden 587 here—“does not have any vested ownership or present possessory interest in a property that is subject to the tax sale certificate.” As a result, the trial court determined that Linden 587 “cannot be deemed an interested party” based on its status as a tax lienholder and that, as a consequence, dismissal of the legal challenge was warranted.

Cherokee and Linden 587 appealed. They did not challenge the conclusion that Cherokee was not the titled owner of the Neighboring Property. But they did challenge the conclusion that Linden 587 was not an “interested party,” and therefore did not have standing.

The Appellate Division affirmed the dismissal of their complaint.

Cherokee and Linden 587 then petitioned for certification, which the Supreme Court of New Jersey granted. Cherokee and Linden 587 argued that Linden 587, as the holder of tax sale certificates and as a plaintiff in the foreclosure proceedings upon the Neighboring Property, had standing as an “interested party” pursuant to the MLUL (N.J.S.A. 40:55D-4) “because its right to acquire or use the [Neighboring Property] ha[d] been destroyed by the Board’s approval of the Goodman plan.”

DECISION: Judgment of Superior Court, Appellate Division, reversed, and matter remanded.

The Supreme Court of New Jersey concluded that Linden 587 did have standing as an “interested party” under the MLUL to challenge the Board’s approval of Goodman’s application.

In so holding, the court analyzed the MLUL’s definition of “interested party.” Again, the MLUL authorized with standing to appeal a decision of a board of adjustment approving an application for development, “[a]ny interested party . . .” (N.J.S.A. 40:55D-17(a).) And, again, the MLUL defined “interested party” as including anyone “whose right to use, acquire, or enjoy property is or may be affected” by a land use application. (N.J.S.A. 40:55D-4.) The court emphasized that to have standing to bring a land use challenge, a party must not only meet the definition of “interested party” but must establish that right “is or may be affected.” (N.J.S.A. 40:55D-4.)

Analyzing whether Linden 587, as a tax lienholder on the Neighboring Property, met the requirements for standing, the court first explained that “the absence of title or possession is not determinative of standing.” The court emphasized that the MLUL “clearly and unambiguously provides that standing may be afforded to those with a ‘right to use, acquire, or enjoy property.’” (N.J.S.A. 40:55D-4.) The court then noted that a purchaser of the tax sale certificate, such as Linden 587 here, has the “right to acquire title” to the property, and “the right to use” the property in a limited manner “in order to make repairs, or abate, remove or correct any condition harmful to the public health, safety and

welfare, or any condition that is materially reducing the value of the property.” (N.J.S.A. 54:5-86(c).) Thus, the court concluded that Linden 587 met the MLUL’s definition of “interested party.”

That conclusion, however, noted the court, was not in and of itself determinative of standing. Not every tax lienholder automatically has standing to challenge a land use application, said the court. Rather, again, the court emphasized that to have standing pursuant to the MLUL, an “interested party,” including a tax lienholder like Linden 587, must show that its “right to use, acquire, or enjoy property is or may be affected” by the action. (N.J.S.A. 40:55D-4.) Here, the court found that Cherokee and Linden 587 had alleged that Goodman’s proposed project would affect their right to enter onto the property to address certain conditions because of the project’s elimination of certain points of access to the Neighboring Property, the interference with an existing easement on the Property, and the modification of storm water management on the Property.

Thus, the court concluded that Linden 587 “may have standing as the holder of tax sale certificates for the Neighboring Property whose ‘right to use . . . [the] property . . . may be affected’ if [Goodman’s] application is granted.”

Zoning News from Around the Nation

CALIFORNIA

The state Legislature is considering Assembly Bill 2923, which, as introduced, would authorize the Bay Area Rapid Transit (“BART”) “to ignore local zoning rules, create its own building standards and require that cities conform to BART’s development plans for any of its properties within a half-mile of a station.” Reportedly, the bill is aimed at increasing opportunities for high density “transit villages” near BART stations.

Source: KPIX; <https://sanfrancisco.cbslocal.com>

MASSACHUSETTS

Boston City Councilors have filed legislation “to remove as-of-right designations for chain stores in Boston’s neighborhood business districts.” The proposal would reportedly amend the City of Boston’s Zoning Code “to regulate formula retail uses, also known as chain stores, and require a conditional use permit for any such business to open and operate in a neighborhood business district.” Under the pro-

posals, “chain stores” would be defined as “retail or service establishments that have 11 or more locations worldwide, and two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.” The amendment would not prohibit chain stores in any location, but is intended to “give residents and community members the opportunity to weigh in through the public process of obtaining a conditional use permit.” The proposal is aimed at preserving “the cultural fabric of the business district and the ability for locally-owned small businesses to survive and thrive.” If the proposal is approved by the Council, it would then be formally submitted to the Boston Zoning Commission for approval.

Source: *Charlestown Patriot-Bridge*; <http://charlestownbridge.com>

MISSOURI

In an effort to “combat ‘advertising clutter,’ “ the Jefferson City Council will soon vote on an amended bill that would limit non-commercial temporary signage in the city.

“Non-commercial” signs include election, real estate, political or non-political signs. Under the original bill, “a residential property could have two 5-square-foot, non-commercial signs and an additional two 5-square-foot signs per street frontage during election season.” The Planning and Zoning Commission has approved the bill, but has reportedly recommended there not be a limit on the number of temporary signs on residential properties and that setback requirements for temporary signs be removed. Also under the bill, temporary signs would not be allowed on public rights-of-way unless with prior permission.

Source: *News Tribune*; www.newstribune.com

NEW YORK

The New York City Council has approved a plan to rezone a large portion of the Inwood neighborhood. The rezoning will reportedly “create and preserve 4,100 units of affordable housing, including 925 units on city-owned land and 675 units that will be established in market-rate buildings under housing rules that require developers to build affordable housing in projects made possible by rezoning.”

Source: *The New York Times*; www.nytimes.com