



# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto: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, December 4, 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: November 28, 2018 2:10 p.m.

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

Date/Time Posted: November 28, 2018 2:05 p.m.

ELKO POLICE DEPARTMENT – 1448 Silver Street, Elko NV 89801

Date/Time Posted: November 28, 2018 2:15 p.m.

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

Date/Time Posted: November 28, 2018 2:00 p.m.

Posted by: Shelby Archuleta, Planning Technician  
Name Title

Shelby Archuleta  
Signature

The public may contact Shelby Archuleta by phone at (775) 777-7160 or by email at [sarchuleta@elkocitynv.gov](mailto: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 28<sup>th</sup> day of November, 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  
Cathy Laughlin, City Planner

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING AGENDA**  
**5:30 P.M., P.S.T., TUESDAY, DECEMBER 4, 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**

November 6, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

**I. NEW BUSINESS**

**A. PUBLIC HEARING**

1. Review, consideration, and possible recommendation to City Council for Rezone No. 7-18, filed by Donald & Valvet Carlson, for a change in zoning from C (General Commercial) and GI (General Industrial) to R (Single-Family and Multi-Family Residential), approximately 0.287 acres of property, and matters related thereto.  
**FOR POSSIBLE ACTION**

The subject properties are located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (APNs 001-364-009, 001-364-010, 001-364-011).

2. Review, consideration, and possible action on Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5' for a residence in an R (Single-Family and Multi-Family Residential) Zoning District, in conjunction with a zone change, and matters related thereto. **FOR POSSIBLE ACTION**



The subject property is located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)

3. Review, consideration, and possible action on Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area allowed for an accessory structure in 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 corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)

4. Review, consideration, and possible action on Variance No. 13-18, filed by Velvet Carlson for a reduction of the required minimum lot area from 5,000 sq. ft. to 4,376 sq. ft. in 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 northwest side of River Street, approximately 75' northeast of 9<sup>th</sup> Street. (925 River Street - APN 001-364-011)

5. Review, consideration, and possible action of Conditional Use Permit No. 5-18, filed by MP Elko, LLC, which would allow for a Public, Quasi-Public principal permitted use within a C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally southeast of the intersection of Spruce Road and Noddle Lane. (2450 Mountain City Highway - APN 001-660-060).

6. Review, consideration, and possible recommendation to City Council for Rezone No. 8-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC for a change in zoning from R1 (Single-Family Residential) and R3 (Multi-Family Residential) to R (Single-Family and Multi-Family Residential), approximately 19.194 acres of property, and matters related thereto. **FOR POSSIBLE ACTION**

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

7. Review and consideration of Preliminary Plat No. 13-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC, for the development of a subdivision entitled Copper Trails Phase 2 involving the proposed division of approximately 19.194 acres of property into 29 lots and a remainder parcel for residential development within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

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

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

1. Review, consideration, and possible recommendation to City Council for Vacation No. 2-18, filed by A.M. Engineering, LLC, for the vacation of a portion of D Street and W. Cedar Street right-of-way abutting APN 001-143-001, consisting of an area approximately 2,467.89 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east corner of the intersection of W. Cedar and D Street. (APN 001-143-001)

2. Review and consideration of Site Plan Review No. 2-18, filed by The State of Nevada for approval of a modular building and the location 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)

3. Review, consideration and possible granting of Parking Waiver 2-18, filed by Charm Hospitality, LLC to waive fourteen (14) required off-street parking spaces in connection with a hotel expansion within the C (General Commercial) Zoning District, and matters related thereto.

The subject property is located generally on the north side of Idaho Street, approximately 595 feet east of E Jennings Way (3019 Idaho Street).

4. Review, consideration, and possible recommendation to City Council for Vacation No. 3-18, filed by Joy Global Surface Mining, Inc., for the vacation of a portion of P&H Drive right-of-way on the west end of P&H Drive, consisting of an area approximately 1.38 acres, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west end of P&H Drive.

5. Review, consideration, and possible action to set regular meeting dates as well as special meeting dates for 2019, and matters related thereto. **FOR POSSIBLE ACTION**

## **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**  
**REGULAR MEETING MINUTES**  
**5:30 P.M., P.S.T., TUESDAY, NOVEMBER 6, 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  
                 John Anderson  
                 Stefan Beck  
                 Tera Hooiman

**Excused:**      David Freistroffer

**City Staff Present:**   Scott Wilkinson, Assistant City Manager  
                         Cathy Laughlin, City Planner  
                         Bob Thibault, Civil Engineer  
                         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:** Approve the meeting minutes for September 6, 2018 Special Meeting as presented.

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

*\*Motion passed (5-0, Commissioner Evi Buell abstained).*



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

**\*\*\*Motion: Approve the minutes from the September 18, 2018 Special Joint Meeting as presented.**

**Moved by Evi Buell, Seconded by Stefan Beck.**

*\*Motion passed. (4-0, Commissioners Stefan Beck and Ian Montgomery abstained)*

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

**\*\*\*Motion: Approve the minutes from the October 2, 2018 as presented.**

**Moved by Evi Buell, Seconded by Stefan Beck.**

*\*Motion passed. (4-0, Commissioners Tera Hooiman and John Anderson abstained)*

## **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**

Cathy Laughlin, City Planner, explained that this had been a great, but lengthy process. She thought they were finally to the point where they have a good code for the City and the Developers. There has been some food cooperation between the developers and the City. She explained that she wasn't going to go over all of the changes, because she hoped everyone had time to go through it. There have been a lot of changes. A lot of ambiguity has been removed throughout the Code. The Performance Agreements and Performance Guarantee Sections have been changed. It wasn't in chronological order before, and now it is. It's clearer, in order, and it gives the City and developers more flexibility. Some of the developers are here that were part of the working group. The biggest change to the Code was that we gave the developers the option to build with their own resources, instead of bonding. By doing that they would only be required in their Performance Agreement to bond for the Quality Assurance and Quality Control. They can build out their subdivision, they can then record their map, and get building permits. Or there is the option that we've had in the past where they can bond for the subdivision, record their map, start getting building permits, and build the houses while they are building the subdivision. That flexibility has been added in to the Code. In the Performance Agreement Section a provision has been added that if a developer bonds, they can draw that down.

Scott MacRitchie, 312 Four Mile Trail, stated that he appreciated the process and that he didn't expect the cooperation that they received from Staff, Planning Commission, City Council, and the City Attorney. They allowed the developers to have a real voice in the Code. They tried hard to address the specific concerns they had about the Code and tried to come up with a framework

that they could live with, along with knowing the City had their own concerns. He stated that he couldn't be more pleased with the result.

Ms. Laughlin recommended approval and to move it towards the City Council for the first reading.

Bob Thibault, Civil Engineer, recommended approval.

John Holmes, Fire Marshal, recommended approval.

Scott Wilkinson, Assistant City Manager, recommended approval. He emphasized the comments by the City Manager, which was that that would be based on joint meetings and subsequent working group meetings to support the recommendation.

Commissioner Stefan Beck thanked Mr. MacRitchie for his comments.

Ms. Laughlin said she could answer questions about specific sections of the Code if anyone had any.

Vice-Chairman Jeff Dalling said that everyone had been pretty involved in this process, and he thought it was a pretty good process with staff and developers. He thought everyone was pretty happy with the end result.

Commissioner Tera Hooiman said it was a lot easier for her to understand, compared to the previous version.

**\*\*\*Motion: Forward a recommendation to City Council to adopt an Ordinance No. 834, entitled Divisions of Land repealing and replacing Title 3, Chapter 3 of the Elko City Code entitled Subdivisions.**

**Moved by Evi Buell, Seconded by Ian Montgomery.**

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

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**

Ms. Laughlin explained that after the meeting a few months ago, we had some questions that came up in regards to the quorum for action from the Planning Commission. Whether it was the majority of the members of the Planning Commission, or the majority of the member that are present at the meeting. Looking back at the history of the Planning Commission after that meeting, and getting legal opinion. Staff and Legal Counsel looked back at a Resolution 1-95, which was done after the Open Meeting Law went into effect. That Resolution gave the rules and order of the Planning Commission. In that Resolution it stated that official action and quorum is the majority of the members present at that meeting. You have to have a quorum at the meeting to conduct business, but the vote would be with the majority of the members at the

meeting. That Resolution conflicted with the City Code. The ruling from the City Attorney was that Resolution 1-95 would rule and over cede the section of the Code. This Ordinance is to change Section 3-4-2(C) to talk about the quorum being the majority of the present members at the meeting. She recommended approval and to forward to the City Council for a first reading.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval

Mr. Wilkinson recommended approval.

**\*\*\*Motion: Forward a recommendation to City Council to adopt an Ordinance, which approves Zoning Ordinance Amendment 3-18 of the Elko City Code specifically Section 3-4-2.**

**Moved by Evi Buell, Seconded by Tera Hooiman.**

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

## **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).

Dusty Shipp, 959 Montrose Lane, explained that this was Humboldt Hills, it is 26 lots. The lots are 8,000 to 22,000 square feet.

Ms. Laughlin went over the City of Elko Staff Report dated October 23, 2018. Staff recommended approval with the 13 conditions and the findings listed in the Staff Report.

Vice-Chairman Dalling asked Mr. Shipp and Ms. Carter if they were aware, and consented to the conditions listed. (Yes)

Mr. Thibault recommended approval with two conditions, which were listed in the Staff Report.

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Final Plat No. 12-18 with the conditions listed in the City of Elko Staff Report dated October 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 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.

Commissioner Buell's findings to support her recommendation are 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. The Final Plat is in conformance with the Preliminary Plat. 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. The proposed subdivision is in conformance with the Transportation Component of the Master Plan. 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. 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 reviewed by City Staff. Minor revisions are required as outlined in the city review letter dated October 30, 2018. 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 with the exception noted under 3-3-41. The Subdivider is required to enter into a Performance Agreement to conform to Section 3-3-44 of City Code. 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. 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 subdivision is in conformance with 3-8 Floodplain Management.

Moved by Evi Buell, Seconded by John Anderson.

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

## II. REPORTS

### A. Summary of City Council Actions.

*Ms. Laughlin reported that there were not a whole lot of items to City Council from the Planning Commission. On the 23<sup>rd</sup> the Final Plat for Great Basin Estates Phase 3 was on the agenda, and it was tabled. It will be on the agenda again next Tuesday. Their Performance Agreement will also be on that agenda, and they are also requesting a waiver and a possible variance for some additional building permits for that subdivision while they are waiting on State approval. ON the upcoming City Council agenda there will be a revision to a land sale that has been in the works for a little over a year.*

### B. Summary of Redevelopment Agency Actions.

*Ms. Laughlin reported that there will be an RDA Meeting prior to the City Council meeting on the 13<sup>th</sup>. That agenda will include the final acceptance of the Centennial Park Expansion Project and a request of funding for replacement to LED Lighting for the corridor lights from 3<sup>rd</sup> to 7<sup>th</sup> Street. The RAC had an appreciation recognition awards program on their last agenda, and they have worked through details on that. That will hopefully start in the beginning of 2019.*

### C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

*Ms. Laughlin reported that in December the Planning Commission would be discussing the 2019 meeting dates. The two ordinances that were approved tonight will go for first readings at the next City Council meeting. There will be Site Plan Review on the December agenda, as well as a Parking Waiver, and possibly a few other things.*

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**

*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. **Review, consideration and possible recommendation to City Council for Rezone No. 7-18, filed by Donald Carlson and Valvet Carlson, for a change in zoning from C-General Commercial and GI- General Industrial to R-Single Family and Multiple Family Residential, approximately .287 acres of property, FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: ***PUBLIC HEARINGS***,
4. Time Required: **15 Minutes**
5. Background Information: **The applicant would like to get the zoning consistent with the existing land use.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which conditionally approves Rezone No. 7-18 based on facts, findings and conditions as presented in Staff Report dated November 14, 2018.**
9. Findings: **See Staff Report dated November 14, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **High Desert Engineering  
640 Idaho Street  
Elko, NV 89801  
[tcballew@frontiernet.net](mailto:tcballew@frontiernet.net)**  
  
**Donald Carlson  
1076 Court Street  
Elko, NV 89801**  
  
**Valvet Carlson  
925 River Street  
Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Rezone No. 7-18  
Applicant(s): Donald + Valvet Carlson  
Site Location: 128 + 140 9th St + 925 River Street  
Current Zoning: C/G1 Date Received: 11/13 Date Public Notice: 11/20  
COMMENT: This is to rezone APNs 001-364-009, 010, + 011  
from C and G1 to R.

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

Assistant City Manager: Date: 11/26/18  
Recommend approval as presented  
by staff

SAW

Initial

City Manager: Date: 11/28/18  
No comments/concerns

CC

Initial





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

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 14, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.1</b>
<b>APPLICATION NUMBER:</b>	<b>Rezone 7-18</b>
<b>APPLICANT:</b>	<b>Donald Carlson and Valvet Carlson</b>
<b>ADDITIONAL APPLICATION:</b>	<b>Variance Application 11-18, 12-18 &amp; 12-18, PM 10-18</b>

**A change in zoning district boundary from C- General Commercial & GI- General Industrial to R- Single Family and Multiple Family Residential**



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-364-009, 001-364-010 & 001-364-011

**PARCEL SIZE:** 12,500 sq. ft. for all three parcels combined

**EXISTING ZONING:** C- General Commercial and GI – General Industrial

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

**EXISTING LAND USE:** Developed land consistent with Residential uses

**NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- )} Northwest: C- General Commercial / Developed
- )} Northeast: R- Residential / Developed as residential
- )} Southwest: GI – General Industrial / Developed as commercial/industrial
- )} Southeast: GI- General Industrial / Developed as industrial

### **PROPERTY CHARACTERISTICS:**

- )} Two of the three parcels are currently developed with residential land uses.
- )} The area is generally flat.
- )} The area is accessed from 9<sup>th</sup> Street and River Street with alley access.

### **MASTER PLAN AND CITY CODE SECTIONS:**

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

- )} City of Elko Master Plan – Land Use Component
- )} City of Elko Master Plan – Transportation Component
- )} City of Elko Redevelopment Plan
- )} City of Wellhead Protection Plan
- )} City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- )} City of Elko Zoning – Section 3-2-5 Residential Zoning District
- )} City of Elko Zoning – Section 3-2-21 Amendments
- )} City of Elko Zoning – Section 3-8 Flood Plain Management

### **BACKGROUND:**

1. APN 001-364-009 & 10 are owned by Donald Carlson.
2. APN 001-364-011 is owned by Valvet Carlson.

3. The rezone includes all three parcels.
4. The area fronts 9<sup>th</sup> Street and River Street.
5. The properties are currently being served by City of Elko water and sewer and other non-city utilities.
6. APN 001-364-009 & 10 are proposed to be merged with Parcel Map application 10-18.
7. APN 001-364-011 is not required a variance application for setbacks but is required for minimum lot area to be in conformance with R- Single Family and Multiple Family Residential Zoning District.
8. The combination of parcels APN 001-364-009 & 010 will be required a variance to be in conformance with front yard and exterior side yard setback requirements.

### **MASTER PLAN:**

#### **Land use:**

1. Land Use is shown as Mixed Use Downtown.
2. Supporting zone districts for Mixed Use Downtown are C- General Commercial. Certain residential uses are permitted under the General Commercial district with a conditional permit.
3. The existing land use of the properties is not consistent with the designated land use in the Master Plan.
4. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.
5. Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-21.

The proposed zoning amendment is not in strict conformance with the land Use Component of the Master Plan, is not required to be in strict conformance with the master plan and does not frustrate the goals and policies of the Master Plan.

#### **Transportation:**

1. The area will be accessed from River Street and 9<sup>th</sup> Street.
2. River Street is unclassified but functions as a residential collector.
3. 9<sup>th</sup> Street is classified as Commercial / Industrial Collectors.

The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure.

### **ELKO REDEVELOPMENT PLAN:**

The parcels are not located within the redevelopment area.

### **ELKO WELLHEAD PROTECTION PLAN:**

The parcels are not located within any designated capture zones for municipal wells. The properties are fully developed and connected to a programmed sanitary sewer system.

The proposed zone district is in conformance with the City of Elko Wellhead Protection Plan.

### **SECTION 3-2-4 Establishment of Zoning Districts:**

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
2. No yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title. APN 001-364-010 does not meet the setback requirements for the R-Residential zoning district. APN 001-364-011 does not meet the minimum lot area requirement for the R- Residential zoning district.

As a result of the above referenced non-conformance issues, the applicant has applied for variances for the setback requirement under Variance application 11-18 and the minimum lot area requirement under variance application 13-18.

Approval of the variance applications 11-18 and 13-18 is required for the proposed zone district to conform to section 3-2-4(B) of city code.

**SECTION 3-2-5(E) and (G) – Residential Zoning District:**

1. Parcel 001-364-010 does not meet the requirements under 3-2-5(G) for front and exterior side yard setbacks. The property was analyzed with the configuration of the two parcels combined as proposed with Parcel Map application 10-18.
2. Parcel 001-364-011 does not meet the requirement for minimum lot area.
3. The existing uses are consistent with the listed principal uses permitted.

As a result of the above referenced non-conformance issues, the applicant has applied for variances for the setback requirements under Variance application 11-18 and the minimum lot area under Variance application 13-18.

Approval of the variance applications 11-18 and 13-18 is required for the proposed zone district to conform to sections 3-2-5(E) and (G) of city code.

**SECTION 3-2-21:**

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

**SECTION 3-8:**

The parcels are not located in a designated Special Flood Hazard Area (SFHA).

**FINDINGS:**

1. The proposed zoning amendment is not in strict conformance with the Land Use Component of the Master Plan, is not required to be in strict conformance with the Master Plan and does not frustrate the goals and policies of the Master Plan.
2. The proposed rezone is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure.
3. The parcels are not located within the redevelopment area.



4. The proposed zone district is consistent with City of Elko Wellhead Protection Plan.
5. Approval of the variance applications 11-18 and 13-18 is required for the proposed zone district to conform to section 3-2-4(B) of city code.
6. Approval of the variance applications 11-18 and 13-18 is required for the proposed zone district to conform to sections 3-2-5(E) and (G) of city code.
7. The proposed zone district is consistent with surrounding land uses.
8. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

**STAFF RECOMMENDATION:**

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

**Planning Department:**

1. Variance applications 11-18, 12-18 and 13-18 are approved and all the conditions are satisfied.
2. Parcel Map 10-18 be approved and recorded with Elko County Recorder.
3. All conditions for the rezone are satisfied prior to the Mayor signing the resolution to rezone the property



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Donald Carlson  
1076 Court Street  
Elko, NV 89801

Re: Rezone No. 7-18, Variance No. 11-18, Variance No. 12-18, Variance No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: High Desert Engineering, Attn: Tom Ballew, 640 Idaho Street, Elko, NV 89801  
Valvet Carlson, 925 River Street, Elko, NV 89801

Rez 7-18 Carlson + Var 11-18 + 12-18 Carlson  
+ 13-18

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001356004	BEAR, ALLIE T TR		PO BOX 1856	ELKO NV	89803-1856
001356005	BLAIR, WADE L		892 SILVER ST	ELKO NV	89801-3838
001359017	COLLIN, LESLEY		3120 S BREEZE DR	MAGNA UT	84044-1804
001364001	DAYTON, BRUCE & CINDYTR		PO BOX 995	ELKO NV	89803-0995
001365013	DURAN, YOLANDA		1037 RIVER ST	ELKO NV	89801-3930
001356006	ELKO CO ASSOC FOR RETARDED CHIL	} 1 p.c. D C/O COUNTY SHOPS C/O PUBLIC WORKS BUILDING	PO BOX 1708	ELKO NV	89803-1708
001356007	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001358004	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001367001	ELKO, COUNTY OF	} 1 p.c.	540 COURT ST	ELKO NV	89801-3515
001367002	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3715
001359013	FELIX, RAUL PRADO & MARIA		813 DOUGLAS ST	ELKO NV	89801-3865
001359010	FLORES, ANTONIO M & GUADALUPE		809 DOUGLAS ST	ELKO NV	89801-3865
001359014	FLORES, RAMON & SOCORRO TR	} 1 p.c.	821 DOUGLAS ST # 6	ELKO NV	89801-3865
001359016	FLORES, RAMON & SOCORRO TR		821 DOUGLAS ST # 6	ELKO NV	89801-3865
001364005	HEIMER, YOHON		993 RIVER ST	ELKO NV	89801-3940
001365001	JUEDEN, EVERETT H & PATTY A		168 10TH ST	ELKO NV	89801-3958
001364007	LARA, FRANCISCO J		955 RIVER ST	ELKO NV	89801-3940
001364006	MYRICK, MARY C		PO BOX 993	ELKO NV	89803 0993
001356002	NERI, EDUARDO		830 SILVER ST	ELKO NV	89801-3838
001364003	NEW DEAL PROPERTIES LLC	C/O MICHAEL VERNON	9310 SW 26TH AVE	PORTLAND OR	97219-5502
001359006	NICHOLS, GARY G TR ET AL		886 RIVER ST	ELKO NV	89801-3842
001359015	ROBLES, RAMIRO & MARINA		823 DOUGLAS ST	ELKO NV	89801-3865
001364004	RUBY MOUNTAIN PAWN		185 10TH ST	ELKO NV	89801-3902
001356008	RUBY MOUNTAIN RESOURCE CENTER		829 RIVER ST	ELKO NV	89801-3841
001364002	RUIZ, PEDRO & EVANGELINA		327 W FIR ST	ELKO NV	89801-2930
001353007	SIERRA PACIFIC POWER CO		PO BOX 10100	RENO NV	89520-0024
001368006	TELLERIA, JOSE		220 RIVER ST	ELKO NV	89801-3647
001361010	TIERRA GROUP HOLDINGS LLC		1746 COLE BLVD STE 130	LAKEWOOD CO	80401-3208
001361007	URIARTE FAMILY INVESTMENTS LLC		245 10TH ST	ELKO NV	89801-3904
001356003	VELAZQUEZ, AMANDA		840 SILVER ST	ELKO NV	89801-3838
001365011	WENSVEEN, FRANK		114 7TH AVE W	JEROME ID	83338-1802
001361012	WESTWOOD, GARY		1940 IDAHO ST	ELKO NV	89801-2629

20

Mailed 11/21/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone 7-18, filed by Donald and Valvet Carlson for a change in zoning from C (General Commercial) and GI (General Industrial) to R (Single-Family and Multi-Family Residential), approximately 0.287 acres of property, specifically APN 001-364-009, 001-364-010, and 001-364-011, located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street, more particularly described as:  
Lots 13-17 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, recorded in the office of the Elko County Recorder, Elko, Nevada, at File No. 2. The intent of the zone change is to match the zone to the use of the parcels.
- Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5' for a residence in an R (Single-Family and Multi-Family Residential) Zoning District, in conjunction with a zone change, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9th Street and River Street. (128 9th Street & 140 9th Street - APN 001-364-009 & 001-364-010)
- Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area allowed for an accessory structure in an in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9th Street and River Street. (128 9th Street & 140 9th Street - APN 001-364-009 & 001-364-010)
- Variance No. 13-18, filed by Valvet Carlson for a reduction of the required minimum lot area from 5,000 sq. ft. to 4,376 sq. ft. in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the northwest side of River Street, approximately 75' northeast of 9<sup>th</sup> Street. (925 River Street - APN 001-364-011)

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

### APPLICATION FOR ZONE CHANGE

APPLICANT(s): Donald Carlson & Valvet Carlson  
MAILING ADDRESS: 1076 Court Street, Elko, NV 89801  
PHONE NO (Home) (775) 340-1702 (Business) \_\_\_\_\_  
NAME OF PROPERTY OWNER (If different): Same as applicant  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: Same as applicant  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-364-009, 010 & 011 Address 128 & 140 9<sup>th</sup>, 925 River  
Lot(s), Block(s), & Subdivision Lots 13-17, Block 12, Ballou's Addition to the Town  
Of Elko, Nevada, Elko County Recorder Document Number 2

#### 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 1<sup>st</sup> Tuesday of every month).

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

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

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

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

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

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

1. Identify the existing zoning classification of the property: C-Commercial and  
GI – General Industrial

2. Identify the zoning Classification being proposed/requested: \_\_\_\_\_  
R – Single Family and Multiple Family Residential

3. Explain in detail the type and nature of the use anticipated on the property: \_\_\_\_\_

The property is currently being used for residential purposes. The anticipated use will  
remain the same.

4. Explain how the proposed zoning classification relates with other zoning classifications in the area: \_\_\_\_\_

Existing zoning in the area varies from Commercial to General Industrial to  
Residential.

The use of most of the properties in the area is Residential.

5. Identify any unique physical features or characteristics associated with the property: \_\_\_\_\_

There are none.

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

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent** DONALD CARLSON  
(Please print or type)

**Mailing Address** 1076 COURT STREET  
Street Address or P.O. Box  
ELKO, NV 89801  
City, State, Zip Code

Phone Number: (775) 340-1702

Email address: triplehinc@gmail.com

**SIGNATURE:** Donald Carlson

---

**FOR OFFICE USE ONLY**

**File No.:** 7-18 **Date Filed:** 11/13/18 **Fee Paid:** CK # 2453 \$500

---



**By My Signature below:**

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

**Applicant / Agent** VALVET CARLSON  
(Please print or type)

**Mailing Address** 925 RIVER STREET  
Street Address or P.O. Box

ELKO, NV 89801  
City, State, Zip Code

Phone Number: (775) 340-1702

Email address: \_\_\_\_\_

**SIGNATURE:** Valvet A Carlson

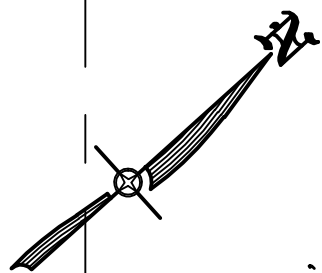
---

**FOR OFFICE USE ONLY**

**File No.:** 7-18 **Date Filed:** 11/13/18 **Fee Paid:** \$500 CK# 2453

---





CENTERLINE OF 9TH STREET

40.00'  
N 41°58'33" E

100.00'  
48.00'  
N 48° 01'34" W  
52.00'  
40.00'  
N 48°01'34" W

N 41°58'33" E

125.00'

APN 001-364-009  
"C" TO "R"

88.00'  
75.00'

APN 001-364-010  
"C" TO "R"

APN 001-364-011  
"G" TO "R"

LOT 13  
25.00'

LOT 14  
25.00'

LOT 15  
25.00'

LOT 16  
25.00'

LOT 17  
25.00'

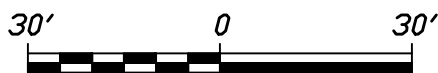
S 41°58'33" W

125.00'

S 48°01'34" E  
100.00'

BLOCK 12  
BALLOU'S ADDITION

CENTERLINE OF RIVER STREET



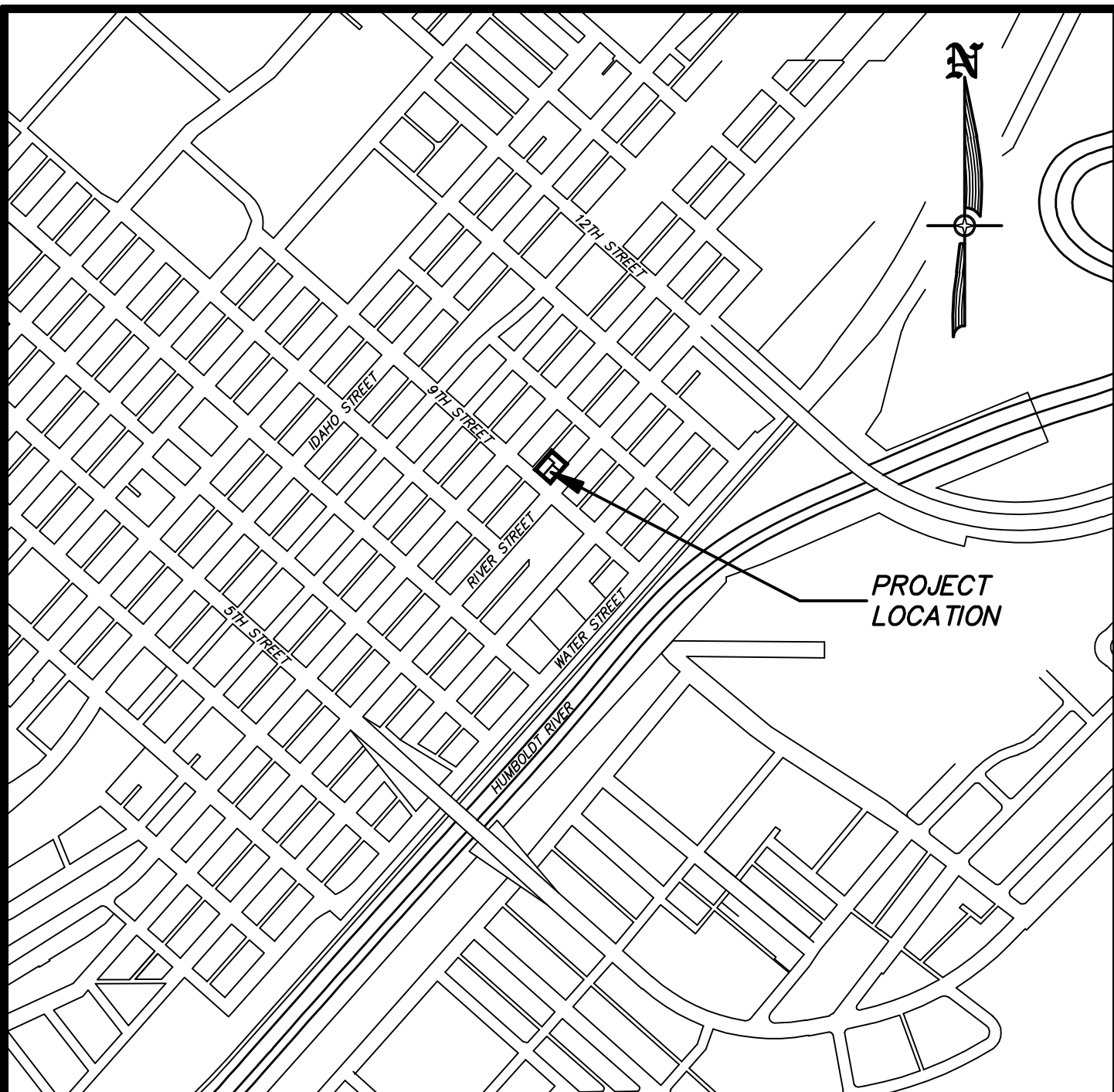
SCALE: 1"=30'



MAP TO ACCOMPANY  
LEGAL DESCRIPTION FOR ZONE CHANGE

BY

DON CARLSON



**AREA MAP TO ACCOMPANY  
APPLICATION FOR ZONE CHANGE**

**C-COMMERCIAL & GI-GENERAL INDUSTRIAL  
TO R-SINGLE & MULTI-FAMILY RESIDENTIAL**  
BY

**CONALD CARLSON & VALVET CARLSON**

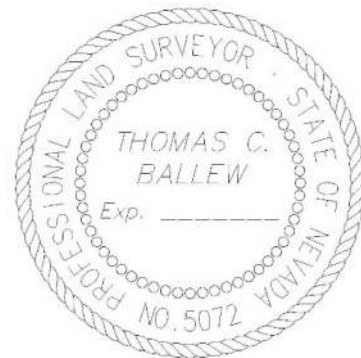
**EXHIBIT “A”**

**Donald & Valvet Carlson**

**Application for Zone Change**

November 9, 2018

Lots 13-17 of Block 12 as shown on the map of Ballou’s Addition to the Town of Elko, Nevada,  
recorded in the office of the Elko County Recorder, Elko, Nevada, at file number 2.



**Elko City Planning Commission**  
**Agenda Action Sheet**

1. **Review, consideration, and possible action on Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5', within a R (Single Family and Multiple Family Residential) Zoning District, in conjunction with a zone change application, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant is requesting a variance for the required front yard setback and exterior side yard setback for an existing structure in conjunction with a rezone to R- Single Family and Multiple Family Residential.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve with the findings, facts and conditions listed in Staff Report dated November 15, 2018**
9. Findings: **See Staff Report dated November 15, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **High Desert Engineering**  
**640 Idaho Street**  
**Elko, NV 89801**  
[tcballew@frontiernet.net](mailto:tcballew@frontiernet.net)  
  
**Donald Carlson**  
**1076 Court Street**  
**Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Variance No. 11-18

Applicant(s): Donald Carlson

Site Location: 128 + 140 9<sup>th</sup> Street

Current Zoning: C Date Received: 11/13/18 Date Public Notice: 11/20/18

COMMENT: This is to allow for a reduction of the required  
Exterior side yard setback from 12' to 11.3' and the required  
front yard setback from 15' to 8.5'.

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

Assistant City Manager: Date: 11/27/18

Recommend approval as presented by  
Staff

SAW

Initial

City Manager: Date: 11/28/18

No comments/Concerns.

CU

Initial

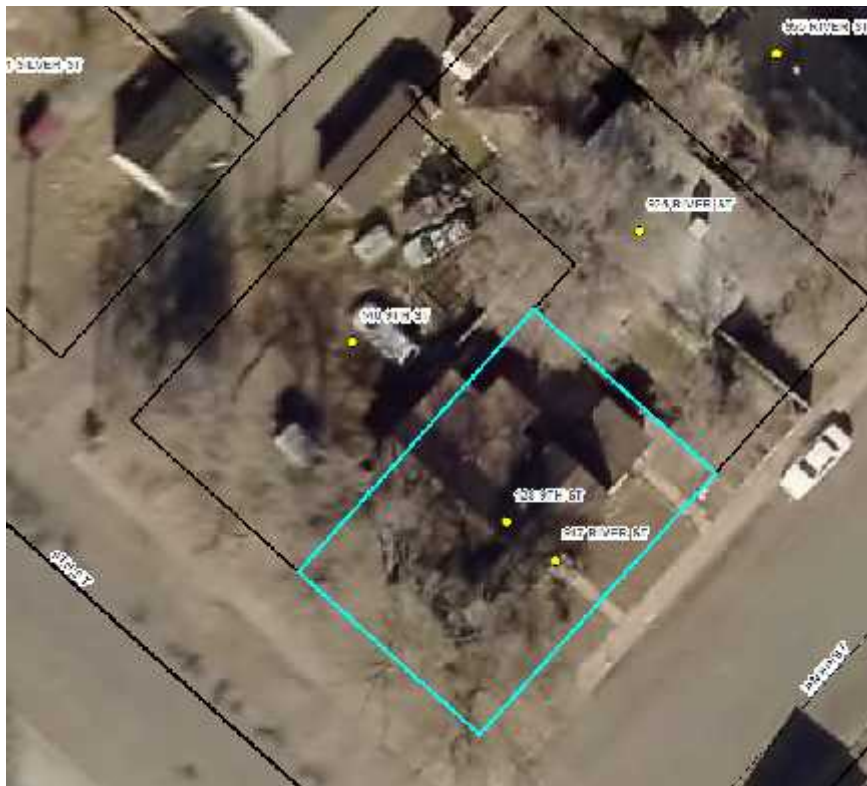


City of Elko  
1751 College Avenue  
Elko, NV 89801  
(775) 777-7160  
FAX (775) 777-7219

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 15, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.2</b>
<b>APPLICATION NUMBER:</b>	<b>Variance 11-18</b>
<b>APPLICANT:</b>	<b>Donald Carlson</b>
<b>PROJECT DESCRIPTION:</b>	<b>128 9<sup>th</sup> Street</b>
<b>RELATED APPLICATIONS:</b>	<b>Rez 7-18, PM 10-18, &amp; Var 12-18</b>

A variance request from provisions under Section 3-2-5, requiring minimum front yard and exterior yard setbacks in a R- Single Family Multiple Family Residential Zoning District.



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-364-010

**PARCEL SIZE:** 3,900 sq. ft., 8,124 sq. ft. after combined with approval of PM 10-18

**EXISTING ZONING:** C- General Commercial; applied for a rezone to R-Residential with REZ 7-18

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

**EXISTING LAND USE:** Developed land consistent with Residential uses

**NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- } Northwest: C- General Commercial / Developed
- } Northeast: R- Residential / Developed as residential
- } Southwest: GI – General Industrial / Developed as commercial/industrial
- } Southeast: GI- General Industrial / Developed as industrial

### **PROPERTY CHARACTERISTICS:**

- } The parcel is currently developed as a residential land use.
- } The area is generally flat.
- } The area is accessed from 9<sup>th</sup> Street and River Street.

### **MASTER PLAN AND CITY CODE SECTIONS:**

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

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

### **BACKGROUND:**

1. APN 001-364-009 & 10 are owned by Donald Carlson.
2. The variance for front and exterior side yard setback requirements relates to the existing residence on APN 001-364-010. APN 001-364-009 currently is developed with a storage accessory structure which is proposed to be demolished.
3. The area fronts 9<sup>th</sup> Street and River Street with alley access.
4. The properties are currently being served by City of Elko water and sewer and other non-city utilities.

### **MASTER PLAN - Land Use:**

1. Land Use is shown as Mixed Use Downtown.
2. Supporting zone districts for Mixed Use Downtown are C- General Commercial.

3. The existing land use of the property is not consistent with the designated land use in the Master Plan.
4. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.

Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.

### **ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area and consideration of the plan is not required.

### **SECTION 3-2-5 RESIDENTIAL ZONING DISTRICT:**

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

The property combined with the approval of Parcel Map 10-18 meets the minimum lot area requirement, therefore, the application has been evaluated as one parcel and conditioned with the approval of the parcel map.

Approval of Variance 11-18 in conjunction with approval of Rezone 7-18 and Parcel Map 10-18 will bring the property into conformance with Section 3-2-5 of City Code.

### **SECTION 3-2-22 VARIANCES:**

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

#### **Application Requirements**

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
  - } The property is improperly zoned for the developed use of the property.
  - } The existing property is a unique shape and appears to have a portion of the property gained at one time by boundary line adjustment with the neighboring property.
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of



the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.

- ) The property is improperly zoned for the developed use of the property.
  - ) As currently developed there are encroachments into setbacks.
  - ) The applicant has applied for a zone change of the property to conform to the Master Plan and existing use of the property.
  - ) The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.
- 3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
  - ) The special circumstances do apply to the other properties in the immediate vicinity. The purpose of the rezone on all the properties is to bring them into closer conformance with the existing land use.
  - ) The special circumstance does not apply to other properties not located in the immediate vicinity which are properly zoned residential with residential land uses.
- 4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
  - ) The granting of the variance will not result in material damage or prejudice to other properties in the vicinity and will allow the continued historical use of the property.
- 5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
  - ) The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
- 6. The granting of the variance will not substantially impair affected natural resources.
  - ) The property is fully developed as a residential use and the granting of the variance will not impair natural resources.

## **FINDINGS**

1. Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.
2. The property is not located within the Redevelopment Area and consideration of the plan is not required.
3. Approval of Variance 11-18 in conjunction with approval of Rezone 7-18 will bring the property into conformance with Section 3-2-5 of City Code.

4. The special circumstance is directly related to the property being improperly zoned for the developed use of the property.
5. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.
6. The special circumstance does not generally apply to other properties to other properties which are within a properly zoned residential district with residential land uses.
7. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with the use of the property as a residential use.
8. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
9. The property is fully developed and the granting of the variance will not impair natural resources.

**STAFF RECOMMENDATION:**

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

1. Approval of rezone application 7-18.
2. Parcel map 10-18 is to be approved, recorded and all related conditions satisfied.



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Donald Carlson  
1076 Court Street  
Elko, NV 89801

Re: Rezone No. 7-18, Variance No. 11-18, Variance No. 12-18, Variance No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: High Desert Engineering, Attn: Tom Ballew, 640 Idaho Street, Elko, NV 89801  
Valvet Carlson, 925 River Street, Elko, NV 89801

Rez 7-18 Carlson + Var 11-18 + 12-18 Carlson  
+ 13-18

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001356004	BEAR, ALLIE T TR		PO BOX 1856	ELKO NV	89803-1856
001356005	BLAIR, WADE L		892 SILVER ST	ELKO NV	89801-3838
001359017	COLLIN, LESLEY		3120 S BREEZE DR	MAGNA UT	84044-1804
001364001	DAYTON, BRUCE & CINDYTR		PO BOX 995	ELKO NV	89803-0995
001365013	DURAN, YOLANDA		1037 RIVER ST	ELKO NV	89801-3930
001356006	ELKO CO ASSOC FOR RETARDED CHIL	} 1 p.c. D C/O COUNTY SHOPS C/O PUBLIC WORKS BUILDING	PO BOX 1708	ELKO NV	89803-1708
001356007	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001358004	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001367001	ELKO, COUNTY OF	} 1 p.c.	540 COURT ST	ELKO NV	89801-3515
001367002	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3715
001359013	FELIX, RAUL PRADO & MARIA		813 DOUGLAS ST	ELKO NV	89801-3865
001359010	FLORES, ANTONIO M & GUADALUPE		809 DOUGLAS ST	ELKO NV	89801-3865
001359014	FLORES, RAMON & SOCORRO TR	} 1 p.c.	821 DOUGLAS ST # 6	ELKO NV	89801-3865
001359016	FLORES, RAMON & SOCORRO TR		821 DOUGLAS ST # 6	ELKO NV	89801-3865
001364005	HEIMER, YOHON		993 RIVER ST	ELKO NV	89801-3940
001365001	JUEDEN, EVERETT H & PATTY A		168 10TH ST	ELKO NV	89801-3958
001364007	LARA, FRANCISCO J		955 RIVER ST	ELKO NV	89801-3940
001364006	MYRICK, MARY C		PO BOX 993	ELKO NV	89803 0993
001356002	NERI, EDUARDO		830 SILVER ST	ELKO NV	89801-3838
001364003	NEW DEAL PROPERTIES LLC	C/O MICHAEL VERNON	9310 SW 26TH AVE	PORTLAND OR	97219-5502
001359006	NICHOLS, GARY G TR ET AL		886 RIVER ST	ELKO NV	89801-3842
001359015	ROBLES, RAMIRO & MARINA		823 DOUGLAS ST	ELKO NV	89801-3865
001364004	RUBY MOUNTAIN PAWN		185 10TH ST	ELKO NV	89801-3902
001356008	RUBY MOUNTAIN RESOURCE CENTER		829 RIVER ST	ELKO NV	89801-3841
001364002	RUIZ, PEDRO & EVANGELINA		327 W FIR ST	ELKO NV	89801-2930
001353007	SIERRA PACIFIC POWER CO		PO BOX 10100	RENO NV	89520-0024
001368006	TELLERIA, JOSE		220 RIVER ST	ELKO NV	89801-3647
001361010	TIERRA GROUP HOLDINGS LLC		1746 COLE BLVD STE 130	LAKEWOOD CO	80401-3208
001361007	URIARTE FAMILY INVESTMENTS LLC		245 10TH ST	ELKO NV	89801-3904
001356003	VELAZQUEZ, AMANDA		840 SILVER ST	ELKO NV	89801-3838
001365011	WENSVEEN, FRANK		114 7TH AVE W	JEROME ID	83338-1802
001361012	WESTWOOD, GARY		1940 IDAHO ST	ELKO NV	89801-2629

20

Mailed 11/21/18

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone 7-18, filed by Donald and Valvet Carlson for a change in zoning from C (General Commercial) and GI (General Industrial) to R (Single-Family and Multi-Family Residential), approximately 0.287 acres of property, specifically APN 001-364-009, 001-364-010, and 001-364-011, located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street, more particularly described as:  
Lots 13-17 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, recorded in the office of the Elko County Recorder, Elko, Nevada, at File No. 2. The intent of the zone change is to match the zone to the use of the parcels.
- Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5' for a residence in an R (Single-Family and Multi-Family Residential) Zoning District, in conjunction with a zone change, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)
- Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area allowed for an accessory structure in an in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)
- Variance No. 13-18, filed by Valvet Carlson for a reduction of the required minimum lot area from 5,000 sq. ft. to 4,376 sq. ft. in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the northwest side of River Street, approximately 75' northeast of 9<sup>th</sup> Street. (925 River Street - APN 001-364-011)

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

RECEIVED

### APPLICATION FOR VARIANCE

NOV 13 2018

APPLICANT(s): Donald Carlson  
MAILING ADDRESS: 1076 Court Street, Elko, NV 89801  
PHONE NO (Home) (775) 340-1702 (Business) \_\_\_\_\_  
NAME OF PROPERTY OWNER (If different): same  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: same  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-364-009 & 010 Address 128 & 140 9<sup>th</sup> Street  
Elko, NV 89801  
Lot(s), Block(s), & Subdivision See attached legal description  
Or Parcel(s) & File No. \_\_\_\_\_

#### 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 1<sup>st</sup> Tuesday of every month).

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

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

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

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

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

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

3-2-5 (E) 8-a: Lots of Record front yard setback.

3-2-5 (G) 1 Note 5: Exterior side yard setback.

1. The existing zoning classification of the property Existing Zoning: C – Commercial

Proposed Zoning: R – Single Family & Multiple Family Residential

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

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

The existing property is a unique shape as can be seen on the attached drawing.

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

The existing residential structure has been in place for many years. Removal

of a portion of the home to meet the setback requirement would create an undue

hardship.

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

The variance will allow the continued historical use of the property.

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

The circumstances do apply to the other properties in the immediate vicinity.

The purpose of the rezone on all these properties is to bring them into closer

conformance with City of Elko codes.



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

Granting the variance will allow the continued historical use of the property.

---

---

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

The granting of the variance will cause the property to be in better conformance  
with City of Elko codes.

---

---

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

The change of zoning of the property and the granting of the variance will cause  
the property to be in better conformance with City of Elko codes.

---

---

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

No change in the use of the property will be made due to the variance.

---

---

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

---

---

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

**This area intentionally left blank**



## This area intentionally left blank

### By My Signature below:

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

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

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

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

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

**Applicant / Agent**

Donald Carlson

(Please print or type)

**Mailing Address**

1076 Court Street

Street Address or P.O. Box

Elko, NV 89801

City, State, Zip Code

Phone Number: (775) 340-1702

Email address: triplehinc@gmail.com

**SIGNATURE:**



---

**FOR OFFICE USE ONLY**

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent** \_\_\_\_\_  
(Please print or type)

**Mailing Address** \_\_\_\_\_  
Street Address or P.O. Box

\_\_\_\_\_  
City, State, Zip Code

Phone Number: \_\_\_\_\_

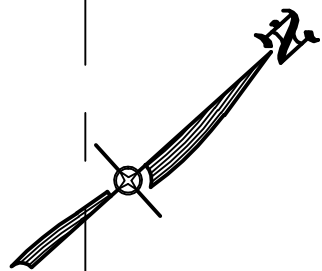
Email address: \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

---

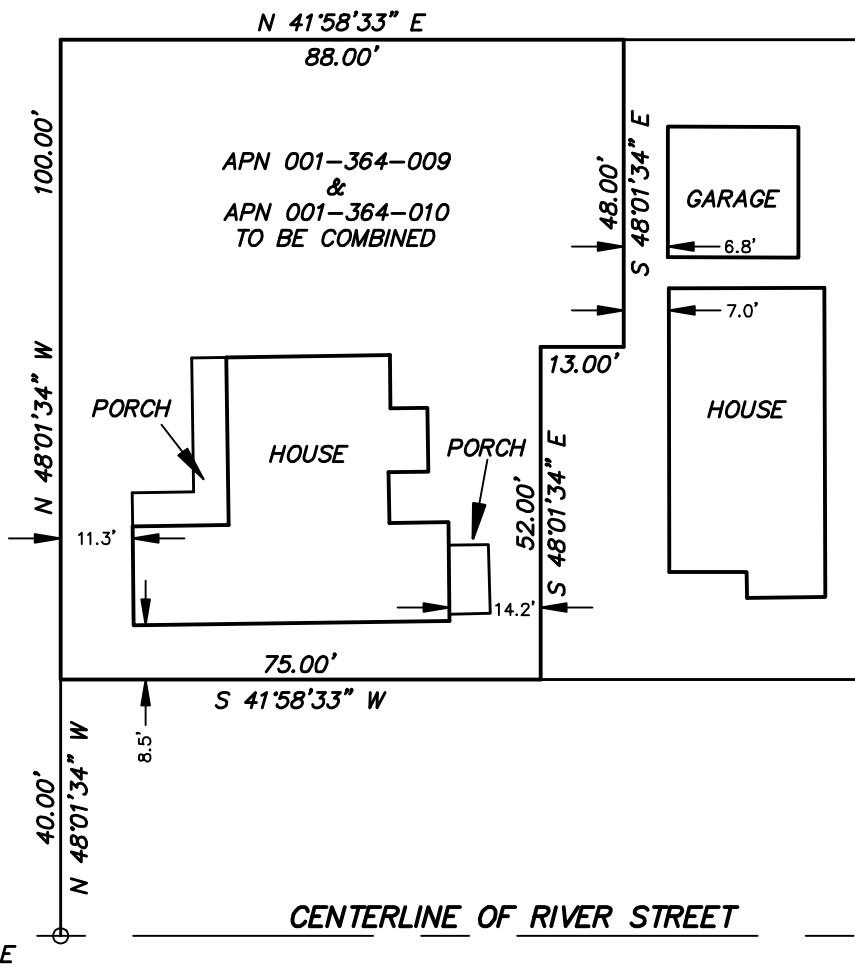
**FOR OFFICE USE ONLY**

**File No.:** 11-18 **Date Filed:** 11/13/18 **Fee Paid:** \$250 CK#2454



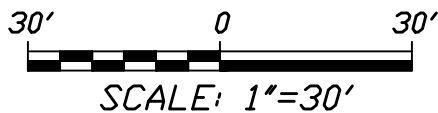
CENTERLINE OF 9TH STREET

40.00'  
N 41°58'33" E



BLOCK 12  
BALLOU'S ADDITION

CENTERLINE OF RIVER STREET



PLOT PLAN TO ACCOMPANY  
APPLICATION FOR SETBACK VARIANCE

BY

DONALD CARLSON

**EXHIBIT "A"**

**Donald L. Carlson**

**Application for Variance**

November 5, 2018

A parcel of land located in Section 14, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, more particularly described as follows:

Commencing at the most southerly corner of Lot 13 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, filed in the office of the Elko County Recorder, Elko, Nevada, as document number 2, being Corner No. 1, the True Point of Beginning;

thence North 48°01'34" West, along the southwesterly boundary of said Lot 13, a distance of 100.00 feet to Corner No. 2, being the most westerly corner of said Lot 13;

thence North 41°58'33" East, along the northwesterly boundary of said Lot 13 and the northwesterly boundary of Lots 14, 15 and 16 as shown on said map of Ballou's Addition to the Town of Elko, a distance of 88.00 feet to Corner No. 3;

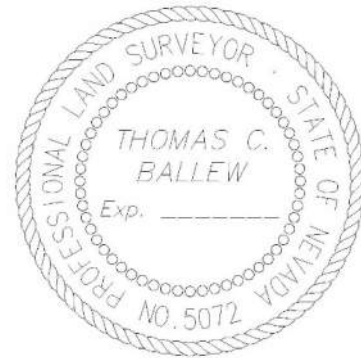
thence South 48°01'27" East, a distance of 48.00 feet to Corner No. 4;

thence South 41°58'33" West, a distance of 13.00 feet to Corner No. 5, a point on the northeasterly boundary of said Lot 15;

thence South 48°01'27" East, along the northeasterly boundary of said Lot 15, a distance of 52.00 feet to Corner No. 6, being the most easterly corner of said Lot 15;

thence South 41°58'33" West, along the southeasterly boundary of said Lots 15, 14 & 13, a distance of 75.00' to Corner No. 1, the Point of Beginning.

Said parcel contains an area of 8,124 square feet, more or less.



**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review, consideration, and possible action on Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area for an accessory structure, within an R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: ***NEW BUSINESS, PUBLIC HEARINGS***
4. Time Required: **15 Minutes**
5. Background Information: **The applicant is requesting a variance for an increase in the maximum building area of an accessory structure from 1,000 sq. ft. to 1,200 sq. ft. in an R- Single Family and Multiple Family Residential zoning district.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve with the findings, facts and conditions listed in Staff Report dated November 19, 2018**
9. Findings: **See Staff Report dated November 19, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **High Desert Engineering  
640 Idaho Street  
Elko, NV 89801  
[tcballew@frontiernet.net](mailto:tcballew@frontiernet.net)**  
  
**Donald Carlson  
1076 Court Street  
Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Variance No. 12-18  
Applicant(s): Donald Carlson  
Site Location: 128 + 140 9th Street  
Current Zoning: C Date Received: 11/13/18 Date Public Notice: 11/20/18  
COMMENT: This is to allow for an accessory structure  
in excess of 1,000 sq.ft.

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

Assistant City Manager: Date: 11/27/18  
Recommend approval as presented by  
staff

SAU

Initial

City Manager: Date: 11/28/18

No comments/concerns.

cc

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 19, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.3</b>
<b>APPLICATION NUMBER:</b>	<b>Variance 12-18</b>
<b>APPLICANT:</b>	<b>Donald Carlson</b>
<b>PROJECT DESCRIPTION:</b>	<b>128 9<sup>th</sup> Street</b>
<b>RELATED APPLICATIONS:</b>	<b>Rez 7-18, PM 10-18, &amp; Var 11-18</b>

A variance request from provisions under Section 3-2-5(E)(7), requiring a detached accessory building shall be limited to a maximum area of 1,000 sq. ft. or ten percent of lot area, whichever is greater, but not to exceed one thousand two hundred square feet (1,200 sq. ft.) in a R- Single Family Multiple Family Residential Zoning District.



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-364-009 & 010

**PARCEL SIZE:** 4,224 sq. ft., 8,124 sq. ft. after combined with approval of PM 10-18

**EXISTING ZONING:** C- General Commercial; applied for a rezone to R-Residential with REZ 7-18

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

**EXISTING LAND USE:** Developed land consistent with Residential uses

**NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- } Northwest: C- General Commercial / Developed
- } Northeast: R- Residential / Developed as residential
- } Southwest: GI – General Industrial / Developed as commercial/industrial
- } Southeast: GI- General Industrial / Developed as industrial

### **PROPERTY CHARACTERISTICS:**

- } The parcel is currently only developed with an accessory structure which projects into the City of Elko right-of-way.
- } The area is generally flat.
- } The area is accessed from 9<sup>th</sup> Street and River Street as well as alley access.

### **MASTER PLAN AND CITY CODE SECTIONS:**

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

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

### **BACKGROUND:**

1. APN 001-364-009 & 10 are owned by Donald Carlson.
2. The applicant has applied for a parcel map to combine the two parcels.
3. The applicant has applied for a variance to address the front yard and exterior side yard setbacks for the existing residence on the property.
4. The applicant is proposing to demolish the existing accessory structure on the property with approval of this variance.
5. The area fronts 9<sup>th</sup> Street and River Street with alley access.
6. The properties are currently being served by City of Elko water and sewer and other non-city utilities.



**MASTER PLAN - Land Use:**

1. Land Use is shown as Mixed Use Downtown.
2. Supporting zone districts for Mixed Use Downtown are C- General Commercial.
3. The existing land use of the property is not consistent with the designated land use in the Master Plan.
4. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.

Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area and consideration of the plan is not required.

**SECTION 3-2-5 RESIDENTIAL ZONING DISTRICT:**

1. Under the property development standards for accessory uses:
  - a. Building Height: The maximum building height shall not exceed twenty five feet (25'), or requirements contained within the city airport master plan, whichever is the most restrictive.
  - b. Building Setbacks: Any detached accessory building that is erected shall conform to front and side yard setback requirements. A minimum rear yard setback of ten feet (10') shall be required, which may be reduced to zero feet (0') if the rear lot line abuts a public alley.
  - c. Building Area: A detached accessory building shall be limited to a maximum area of one thousand (1,000) square feet or ten percent (10%) of the lot area, whichever is greater, but not to exceed one thousand two hundred (1,200) square feet.

The property currently has a detached accessory building which is 248 square feet. The code doesn't state that the maximum allowed is a combination of all accessory structures, only per structure. Under current code, they would be allowed to have the existing 248 sq. ft. structure plus permit a 1,000 sq. ft. structure. Due to the fact that the existing 248 sq. ft. structure is partially in the City of Elko right-of-way, they are proposing to demolish it if the variance is approved to gain that square footage within the new structure.

Approval of Variance 12-18 in conjunction with approval of Rezone 7-18 and Parcel Map 10-18 would be required in order for the property to be in conformance with Section 3-2-5 of City Code.

**SECTION 3-2-22 VARIANCES:**

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

**Application Requirements**

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.

- ) The applicant is in the process of rezoning the property to correct the conflict between the improper existing zone and the existing land use. During that process it was discovered that the existing 248 sq. ft. storage shed encroaches onto city right-of-way approximately one half foot (0.5). The shed will have to be removed or a vacation approved to bring the property in compliance with proposed zone change. Generally, vacation of alley ways are replaced in full area with an easement for utilities and public access making the vacation process unlikely to be approved. As currently provided for under the proposed zone amendment from General Commercial to Residential, the owner would like to add an additional 1,000 sq. ft. of storage. The proposed district does not prohibit multiple accessory building provided setback and separation requirements are met. Recognizing the applicant's efforts to address the existing legal non-conforming issues associated with property, the applicant is requesting a variance to construct a 1,200 sq. ft. in lieu of the allowed construction of a 1,000 sq. ft. garage. The single unit would replace the loss of the existing storage.
- 2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
  - ) The extraordinary condition is related the existing land use conflicting with the existing zoning, the applicant's efforts to address the issue ensuring the property is a legal conforming use and as a result will be required to remove an existing structure.
  - ) The applicant has stated the code allows the construction of an additional 1,000 square foot garage and allows multiple detached structures. Other properties in the area do not have the issue of having an existing shed which is partially located in the alley right-of-way.
  - ) The applicant stated that granting of the variance will allow the owner to develop the property in accordance with the code while also correcting the situation of having a portion of the existing improvements being within the alley right-of-way.
- 3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
  - ) The applicant has stated that other properties in the area do not have the issue of having an existing shed which is partially located in the alley right-of-way.
- 4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
  - ) The applicant has stated that granting the variance will allow the elimination of a structure which partially occupies the alley right-of-way and will allow use as prescribed by code. Public safety will be increased by providing increased distances between structures.
- 5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
  - ) The applicant stated that the zone change has been applied for to bring the zone into conformance with the existing land use.

6. The granting of the variance will not substantially impair affected natural resources.  
    ) The applicant stated that no existing natural resources will be substantially affected.

## **FINDINGS**

1. Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.
2. The property is not located within the Redevelopment Area and consideration of the plan is not required.
3. Approval of Variance 11-18 in conjunction with approval of Rezone 7-18 and Parcel Map 10-18 will bring the property into conformance with Section 3-2-5 of City Code.
4. The special circumstance is directly related to the property having an existing accessory structure located partially within the City of Elko right-of-way and the requirement for the removal of the structure associated with rezoning the property to address conflicting zoning and existing land use.
5. The special circumstance or extraordinary condition is related the existing land use conflicting with the existing zoning, the applicant's efforts to address the issue ensuring the property is a legal conforming use and as a result will be required to remove an existing structure.
6. The special circumstance of structure encroachment into right-of-way does not generally apply to other properties within the proposed zone district.
7. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public interest, health, safety and general welfare.
8. Granting of the variance will not impair natural resources.

## **STAFF RECOMMENDATION:**

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

1. Approval of rezone application 7-18 and all conditions to be satisfied.
2. Parcel map 10-18 is to be approved, recorded and all related conditions satisfied.
3. Approval of variance 11-18 and all conditions to be satisfied.
4. Commencement within one year and completion within eighteen (18) months from the date of approval.
5. Plans to be submitted to the City of Elko Building Department for the accessory structure and obtain all required permits.

6. A demolition permit be obtained for the existing storage shed. Demolition commencement within one year and completion within eighteen (18) months from the date of approval of variance 12-18.
7. All walls within 5 feet of property line are required to have a fire-resistance rating. This shall be a 1 hour rating tested in accordance with ASTM E 119 or UL 263 with exposure from both sides. The projection or roof overhang shall have a fire-resistance rating of 1 hour on the underside if located greater than 2 feet or less than 5 feet from the property line. Roof projections or overhangs are not allowed within 2 feet of a property line. Openings less than 3 feet to property line are not allowed. Openings up to 25% maximum of wall area from 3 feet to 5 feet of property line are allowed. These requirements are as per Table R302.1(1) 2009 International Residential Code. And table R302.1 of Elko city amended building codes.



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Donald Carlson  
1076 Court Street  
Elko, NV 89801

Re: Rezone No. 7-18, Variance No. 11-18, Variance No. 12-18, Variance No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: High Desert Engineering, Attn: Tom Ballew, 640 Idaho Street, Elko, NV 89801  
Valvet Carlson, 925 River Street, Elko, NV 89801

Rez 7-18 Carlson + Var 11-18 + 12-18 Carlson  
+ 13-18

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001356004	BEAR, ALLIE T TR		PO BOX 1856	ELKO NV	89803-1856
001356005	BLAIR, WADE L		892 SILVER ST	ELKO NV	89801-3838
001359017	COLLIN, LESLEY		3120 S BREEZE DR	MAGNA UT	84044-1804
001364001	DAYTON, BRUCE & CINDYTR		PO BOX 995	ELKO NV	89803-0995
001365013	DURAN, YOLANDA		1037 RIVER ST	ELKO NV	89801-3930
001356006	ELKO CO ASSOC FOR RETARDED CHIL	} 1 p.c. D	PO BOX 1708	ELKO NV	89803-1708
001356007	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001358004	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001367001	ELKO, COUNTY OF	} 1 p.c. C/O COUNTY SHOPS	540 COURT ST	ELKO NV	89801-3515
001367002	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3715
001359013	FELIX, RAUL PRADO & MARIA		813 DOUGLAS ST	ELKO NV	89801-3865
001359010	FLORES, ANTONIO M & GUADALUPE		809 DOUGLAS ST	ELKO NV	89801-3865
001359014	FLORES, RAMON & SOCORRO TR	} 1 p.c.	821 DOUGLAS ST # 6	ELKO NV	89801-3865
001359016	FLORES, RAMON & SOCORRO TR		821 DOUGLAS ST # 6	ELKO NV	89801-3865
001364005	HEIMER, YOHON		993 RIVER ST	ELKO NV	89801-3940
001365001	JUEDEN, EVERETT H & PATTY A		168 10TH ST	ELKO NV	89801-3958
001364007	LARA, FRANCISCO J		955 RIVER ST	ELKO NV	89801-3940
001364006	MYRICK, MARY C		PO BOX 993	ELKO NV	89803 0993
001356002	NERI, EDUARDO		830 SILVER ST	ELKO NV	89801-3838
001364003	NEW DEAL PROPERTIES LLC	C/O MICHAEL VERNON	9310 SW 26TH AVE	PORTLAND OR	97219-5502
001359006	NICHOLS, GARY G TR ET AL		886 RIVER ST	ELKO NV	89801-3842
001359015	ROBLES, RAMIRO & MARINA		823 DOUGLAS ST	ELKO NV	89801-3865
001364004	RUBY MOUNTAIN PAWN		185 10TH ST	ELKO NV	89801-3902
001356008	RUBY MOUNTAIN RESOURCE CENTER		829 RIVER ST	ELKO NV	89801-3841
001364002	RUIZ, PEDRO & EVANGELINA		327 W FIR ST	ELKO NV	89801-2930
001353007	SIERRA PACIFIC POWER CO		PO BOX 10100	RENO NV	89520-0024
001368006	TELLERIA, JOSE		220 RIVER ST	ELKO NV	89801-3647
001361010	TIERRA GROUP HOLDINGS LLC		1746 COLE BLVD STE 130	LAKEWOOD CO	80401-3208
001361007	URIARTE FAMILY INVESTMENTS LLC		245 10TH ST	ELKO NV	89801-3904
001356003	VELAZQUEZ, AMANDA		840 SILVER ST	ELKO NV	89801-3838
001365011	WENSVEEN, FRANK		114 7TH AVE W	JEROME ID	83338-1802
001361012	WESTWOOD, GARY		1940 IDAHO ST	ELKO NV	89801-2629

28

mailed 11/21/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone 7-18, filed by Donald and Valvet Carlson for a change in zoning from C (General Commercial) and GI (General Industrial) to R (Single-Family and Multi-Family Residential), approximately 0.287 acres of property, specifically APN 001-364-009, 001-364-010, and 001-364-011, located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street, more particularly described as:  
Lots 13-17 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, recorded in the office of the Elko County Recorder, Elko, Nevada, at File No. 2. The intent of the zone change is to match the zone to the use of the parcels.
- Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5' for a residence in an R (Single-Family and Multi-Family Residential) Zoning District, in conjunction with a zone change, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)
- Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area allowed for an accessory structure in an in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street. (128 9<sup>th</sup> Street & 140 9<sup>th</sup> Street - APN 001-364-009 & 001-364-010)
- Variance No. 13-18, filed by Valvet Carlson for a reduction of the required minimum lot area from 5,000 sq. ft. to 4,376 sq. ft. in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the northwest side of River Street, approximately 75' northeast of 9<sup>th</sup> Street. (925 River Street - APN 001-364-011)

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

RECEIVED

### APPLICATION FOR VARIANCE

NOV 13 2018

APPLICANT(s): Donald Carlson  
MAILING ADDRESS: 1076 Court Street, Elko, NV 89801  
PHONE NO (Home) (775) 340-1702 (Business) \_\_\_\_\_  
NAME OF PROPERTY OWNER (If different): same  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: same  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-364-009 & 010 Address 128 & 140 9th Street  
Elko, NV 89801  
Lot(s), Block(s), & Subdivision See attached legal description  
Or Parcel(s) & File No. \_\_\_\_\_

#### 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 1<sup>st</sup> Tuesday of every month).

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

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

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

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

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



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

3-2-5 (E) 7-c: Building Area: This code limits the size of a detached accessory building to a maximum of 1,000 square feet.

1. The existing zoning classification of the property C – Commercial

Proposed Zoning: R – Single Family & Multiple Family Residential

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

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

The property currently contains a 248 square foot storage shed which extends

approximately 0.5 feet onto the alley. The owner would like to add an additional

1,000 square feet of storage. In lieu of construction a 1,000 square foot garage,

applicant would like to construct a 1,200 square foot garage and will agree to

remove the existing 248 square foot storage shed.

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

The code allows the construction of an additional 1,000 square foot garage and

allows multiple detached structures. Other properties in the area do not have

the issue of having an existing shed which is partially located in the alley right-

of-way.

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

The granting of the variance will allow the owner to develop the property in

accordance with the code while also correcting the situation of having a portion

of the existing improvements being within the alley right-of-way.

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

Other properties in the area do not have the issue of having an existing shed  
which is partially located in the alley right-of-way.

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

Granting the variance will allow the elimination a structure which partially  
occupies the alley right-of-way and will allow use as prescribed by code. Public  
safety will be increased by providing increased distances between structures.

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

The granting of the variance will meet the purpose and intent of the code  
while improving safety and eliminating an issue with the existing shed being  
constructed on the alley right-of-way

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

The zoning of the property is being changed to be in better conformance with  
City of Elko codes under a separate application.

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

No existing natural resources will be substantially affected.

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

Applicant has sufficient funds to complete the work.

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

**This area intentionally left blank**

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent**

Donald Carlson  
(Please print or type)

**Mailing Address**


1076 Court Street  
Street Address or P.O. Box

Elko, NV 89801  
City, State, Zip Code

Phone Number: (775) 340-1702

Email address: triplehinc@gmail.com

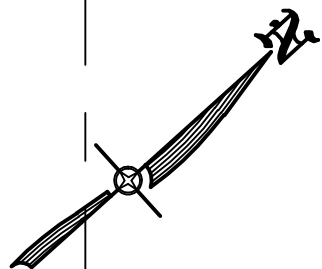
**SIGNATURE:**



---

**FOR OFFICE USE ONLY**

File No.: 12-18 Date Filed: 11/13/18 Fee Paid: \$250 CK# 2455



CENTERLINE OF 9TH STREET

40.00'  
N 41°58'33" E

100.00'

N 48°01'34" W

40.00'  
N 48°01'34" W

N 41°58'33" E  
88.00'

PROPOSED 30'x40'  
PRIVATE GARAGE  
(1,200 S.F.)

PORCH

HOUSE

PORCH

13.00'

S 48°01'34" E

APN 001-364-009 &  
APN 001-364-010  
TO BE COMBINED

75.00'  
S 41°58'33" W

EXISTING 248 S.F. SHED  
TO BE REMOVED

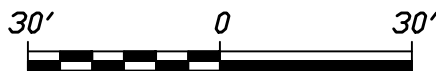
48.00'  
S 48°01'34" E

GARAGE

HOUSE

BLOCK 12  
BALLOU'S ADDITION

CENTERLINE OF RIVER STREET



SCALE: 1"=30'



PLOT PLAN TO ACCOMPANY  
APPLICATION FOR GARAGE SIZE VARIANCE

BY

DONALD CARLSON

**EXHIBIT "A"**

**Donald L. Carlson**

**Application for Variance**

November 5, 2018

A parcel of land located in Section 14, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, more particularly described as follows:

Commencing at the most southerly corner of Lot 13 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, filed in the office of the Elko County Recorder, Elko, Nevada, as document number 2, being Corner No. 1, the True Point of Beginning;

thence North 48°01'34" West, along the southwesterly boundary of said Lot 13, a distance of 100.00 feet to Corner No. 2, being the most westerly corner of said Lot 13;

thence North 41°58'33" East, along the northwesterly boundary of said Lot 13 and the northwesterly boundary of Lots 14, 15 and 16 as shown on said map of Ballou's Addition to the Town of Elko, a distance of 88.00 feet to Corner No. 3;

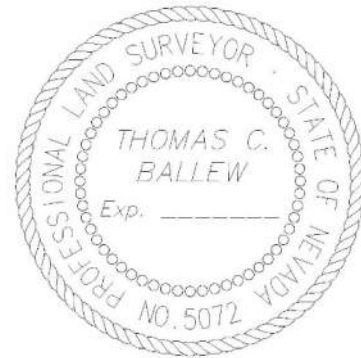
thence South 48°01'27" East, a distance of 48.00 feet to Corner No. 4;

thence South 41°58'33" West, a distance of 13.00 feet to Corner No. 5, a point on the northeasterly boundary of said Lot 15;

thence South 48°01'27" East, along the northeasterly boundary of said Lot 15, a distance of 52.00 feet to Corner No. 6, being the most easterly corner of said Lot 15;

thence South 41°58'33" West, along the southeasterly boundary of said Lots 15, 14 & 13, a distance of 75.00' to Corner No. 1, the Point of Beginning.

Said parcel contains an area of 8,124 square feet, more or less.



**Elko City Planning Commission**  
**Agenda Action Sheet**

1. **Review, consideration, and possible action on Variance No. 13-18, filed by Valvet Carlson for a reduction of the required lot area from 5,000 sq. ft. to 4,376 sq. ft. in a R (Single Family and Multiple Family Residential) Zoning District, in conjunction with a zone change application, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **NEW BUSINESS, PUBLIC HEARINGS**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant is requesting a variance for the required minimum lot area for an existing parcel in conjunction with a rezone to R- Single Family and Multiple Family Residential.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve with the findings, facts and conditions listed in Staff Report dated November 19, 2018**
9. Findings: **See Staff Report dated November 19, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **High Desert Engineering**  
**640 Idaho Street**  
**Elko, NV 89801**  
[tcballew@frontiernet.net](mailto:tcballew@frontiernet.net)  
  
**Valvet Carlson**  
**925 River Street**  
**Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Variance No. 13-18

Applicant(s): Valvet Carlson

Site Location: 925 River Street - APN 001-364-011

Current Zoning: GI Date Received: 11/13/18 Date Public Notice: 11/20/18

COMMENT: This is to allow for a reduction of the required lot  
area from 5,000 sq.ft. to 4,376 sq.ft. in an R Zoning  
District.

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

Assistant City Manager: Date: 11/27/18

Recommend approval as presented  
by staff

SAW

Initial

City Manager: Date: 11/28/18

No comments/concerns.

CC

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 19, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.4</b>
<b>APPLICATION NUMBER:</b>	<b>Variance 13-18</b>
<b>APPLICANT:</b>	<b>Valvet Carlson</b>
<b>PROJECT DESCRIPTION:</b>	<b>925 River Street</b>
<b>RELATED APPLICATIONS:</b>	<b>Rez 7-18</b>

A variance request from provisions under Section 3-2-5, requiring minimum lot area of 5,000 sq. ft. in an R- Single Family Multiple Family Residential Zoning District for an existing platted subdivision characterized by twenty five foot (25') wide lots.



### **STAFF RECOMMENDATION:**

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



## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-364-011

**PARCEL SIZE:** 4,376 sq. ft.

**EXISTING ZONING:** GI- General Industrial; applied for a rezone to R- Residential with REZ 7-18

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

**EXISTING LAND USE:** Developed land consistent with Residential uses

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- } Northwest: C- General Commercial / Developed
- } Northeast: R- Residential / Developed as residential
- } Southwest: GI – General Industrial / Developed as commercial/industrial
- } Southeast: GI- General Industrial / Developed as industrial

### **PROPERTY CHARACTERISTICS:**

- } The parcel is currently developed as a residential land use.
- } The area is generally flat.
- } The area is accessed from River Street.

### **MASTER PLAN AND CITY CODE SECTIONS:**

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

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

### **BACKGROUND:**

1. APN 001-364-011 is owned by Valvet Carlson.
2. The variance for minimum lot area requirements relates to the existing residence on APN 001-364-011.
3. The area fronts River Street.
4. The property is currently being served by City of Elko water and sewer and other non-city utilities.

### **MASTER PLAN - Land Use:**

1. Land Use is shown as Mixed Use Downtown.
2. Supporting zone districts for Mixed Use Downtown are C- General Commercial.
3. The existing land use of the property is not consistent with the designated land use in the Master Plan.
4. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of

lifestyles, incomes, and age groups.

Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area and consideration of the plan is not required.

**SECTION 3-2-5 RESIDENTIAL ZONING DISTRICT:**

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

Approval of Variance 13-18 in conjunction with approval of Rezone 7-18 will bring the property into conformance with Section 3-2-5 of City Code.

**SECTION 3-2-22 VARIANCES:**

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

Application Requirements

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
  - } The property is improperly zoned for the developed use of the property.
  - } The existing property is a unique shape and appears to have a portion of the property lost at one time by boundary line adjustment with the neighboring property
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
  - } The property is improperly zoned for the developed use of the property.
  - } As currently developed there are no encroachments into setbacks.
  - } The applicant has requested to rezone the property to conform to the Master Plan and existing use of the property.

- ) The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.
- 3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
  - ) The special circumstances do apply to the other properties in the immediate vicinity. The purpose of the rezone on all the properties is to bring them into closer conformance with the existing land use.
  - ) The special circumstance does not generally apply to other properties not located in the immediate vicinity which are properly zoned residential with residential land uses.
- 4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
  - ) The granting of the variance will not result in material damage or prejudice to other properties in the vicinity and will allow the continued historical use of the property.
- 5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
  - ) The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
- 6. The granting of the variance will not substantially impair affected natural resources.
  - ) The property is fully developed as a residential use and the granting of the variance will not impair natural resources.

## **FINDINGS**

1. Strict conformance with the Land Use Component of the Master Plan is not required under Elko City Code 3-2-22. The proposed variance does not frustrate the goals and policies of the Master Plan.
2. The property is not located within the Redevelopment Area and consideration of the plan is not required.
3. Approval of Variance 13-18 in conjunction with approval of Rezone 7-18 will bring the property into conformance with Section 3-2-5 of City Code.
4. The special circumstance is directly related to the property being improperly zoned for the developed use of the property.
5. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property restricting the applicants ability to improve upon and/or transfer the property.

6. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with the use of the property as a residential use.
7. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
8. The property is fully developed and the granting of the variance will not impair natural resources.

**STAFF RECOMMENDATION:**

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

1. Approval of rezone application 7-18.

NOV 13 2018

## EXHIBIT "A"

Valvet A. Carlson

## Application for Variance

November 5, 2018

A parcel of land located in Section 14, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, more particularly described as follows:

Commencing at the most southerly corner of Lot 16 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, filed in the office of the Elko County Recorder, Elko, Nevada, as document number 2, being Corner No. 1, the True Point of Beginning;

thence North 48°01'34" West, along the southwesterly boundary of said Lot 16, a distance of 52.00 feet to Corner No. 2;

thence North 41°58'33" East, a distance of 13.00 feet to Corner No. 3;

thence North 48°01'27" West, a distance of 48.00 feet to Corner No. 4, being a point on the northwesterly boundary of said Lot 16;

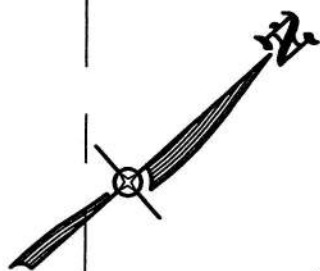
thence North 41°58'33" East, along the northwesterly boundary of said Lot 16 and the northwesterly boundary of Lot 17 as shown on said map of Ballou's Addition to the town of Elko, a distance of 37.00 feet to Corner No. 5, being the most northerly corner of said Lot 17;

thence South 48°01'27" East, along the northeasterly boundary of said Lot 17, a distance of 100.00 feet to Corner No. 6, being the most easterly corner of said Lot 17;

thence South 41°58'33" West, along the southeasterly boundary of said Lots 17 and 16, a distance of 50.00' to Corner No. 1, the Point of Beginning.

Said parcel contains an area of 4,376 square feet, more or less.





CENTERLINE OF 9TH STREET

N 48°01'34" W 100.00'

N 48°01'34" W 40.00'

40.00' N 41°58'33" E

N 41°58'33" E 88.00'

EXISTING 248 S.F. SHED TO BE REMOVED

N 41°58'33" E 37.00'

13.6'

GARAGE  
6.8'

HOUSE  
7.0'

APN 001-364-011  
50.00'

S 41°58'33" W 75.00'

S 41°58'33" W 12.8'

CENTERLINE OF RIVER STREET

S 48°01'34" E 100.00'

BLOCK 12  
BALLOU'S ADDITION

5.5'

RECEIVED

NOV 13 2018



SCALE: 1"=30'

HIGH  
DESERT  
ENGINEERING  
LLC

PLOT PLAN TO ACCOMPANY  
APPLICATION FOR LOT SIZE VARIANCE

BY

VALVET CARLSON



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Donald Carlson  
1076 Court Street  
Elko, NV 89801

Re: Rezone No. 7-18, Variance No. 11-18, Variance No. 12-18, Variance No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: High Desert Engineering, Attn: Tom Ballew, 640 Idaho Street, Elko, NV 89801  
Valvet Carlson, 925 River Street, Elko, NV 89801

Rez 7-18 Carlson + Var 11-18 + 12-18 Carlson  
+ 13-18

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001356004	BEAR, ALLIE T TR		PO BOX 1856	ELKO NV	89803-1856
001356005	BLAIR, WADE L		892 SILVER ST	ELKO NV	89801-3838
001359017	COLLIN, LESLEY		3120 S BREEZE DR	MAGNA UT	84044-1804
001364001	DAYTON, BRUCE & CINDYTR		PO BOX 995	ELKO NV	89803-0995
001365013	DURAN, YOLANDA		1037 RIVER ST	ELKO NV	89801-3930
001356006	ELKO CO ASSOC FOR RETARDED CHIL	} 1 p.c. D	PO BOX 1708	ELKO NV	89803-1708
001356007	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001358004	ELKO CO ASSOC FOR RETARDED CHIL		PO BOX 1708	ELKO NV	89803-1708
001367001	ELKO, COUNTY OF	} 1 p.c. C/O COUNTY SHOPS	540 COURT ST	ELKO NV	89801-3515
001367002	ELKO, COUNTY OF		540 COURT ST	ELKO NV	89801-3715
001359013	FELIX, RAUL PRADO & MARIA		813 DOUGLAS ST	ELKO NV	89801-3865
001359010	FLORES, ANTONIO M & GUADALUPE		809 DOUGLAS ST	ELKO NV	89801-3865
001359014	FLORES, RAMON & SOCORRO TR	} 1 p.c.	821 DOUGLAS ST # 6	ELKO NV	89801-3865
001359016	FLORES, RAMON & SOCORRO TR		821 DOUGLAS ST # 6	ELKO NV	89801-3865
001364005	HEIMER, YOHON		993 RIVER ST	ELKO NV	89801-3940
001365001	JUEDEN, EVERETT H & PATTY A		168 10TH ST	ELKO NV	89801-3958
001364007	LARA, FRANCISCO J		955 RIVER ST	ELKO NV	89801-3940
001364006	MYRICK, MARY C		PO BOX 993	ELKO NV	89803 0993
001356002	NERI, EDUARDO		830 SILVER ST	ELKO NV	89801-3838
001364003	NEW DEAL PROPERTIES LLC	C/O MICHAEL VERNON	9310 SW 26TH AVE	PORTLAND OR	97219-5502
001359006	NICHOLS, GARY G TR ET AL		886 RIVER ST	ELKO NV	89801-3842
001359015	ROBLES, RAMIRO & MARINA		823 DOUGLAS ST	ELKO NV	89801-3865
001364004	RUBY MOUNTAIN PAWN		185 10TH ST	ELKO NV	89801-3902
001356008	RUBY MOUNTAIN RESOURCE CENTER		829 RIVER ST	ELKO NV	89801-3841
001364002	RUIZ, PEDRO & EVANGELINA		327 W FIR ST	ELKO NV	89801-2930
001353007	SIERRA PACIFIC POWER CO		PO BOX 10100	RENO NV	89520-0024
001368006	TELLERIA, JOSE		220 RIVER ST	ELKO NV	89801-3647
001361010	TIERRA GROUP HOLDINGS LLC		1746 COLE BLVD STE 130	LAKEWOOD CO	80401-3208
001361007	URIARTE FAMILY INVESTMENTS LLC		245 10TH ST	ELKO NV	89801-3904
001356003	VELAZQUEZ, AMANDA		840 SILVER ST	ELKO NV	89801-3838
001365011	WENSVEEN, FRANK		114 7TH AVE W	JEROME ID	83338-1802
001361012	WESTWOOD, GARY		1940 IDAHO ST	ELKO NV	89801-2629

20

Mailed 11/21/18



## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone 7-18, filed by Donald and Valvet Carlson for a change in zoning from C (General Commercial) and GI (General Industrial) to R (Single-Family and Multi-Family Residential), approximately 0.287 acres of property, specifically APN 001-364-009, 001-364-010, and 001-364-011, located generally on the north corner of the intersection of 9<sup>th</sup> Street and River Street, more particularly described as:  
Lots 13-17 of Block 12 as shown on the map of Ballou's Addition to the Town of Elko, Nevada, recorded in the office of the Elko County Recorder, Elko, Nevada, at File No. 2. The intent of the zone change is to match the zone to the use of the parcels.
- Variance No. 11-18, filed by Donald Carlson for a reduction of the required exterior side yard setback from 12' to 11.3' and the required front yard setback from 15' to 8.5' for a residence in an R (Single-Family and Multi-Family Residential) Zoning District, in conjunction with a zone change, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9th Street and River Street. (128 9th Street & 140 9th Street - APN 001-364-009 & 001-364-010)
- Variance No. 12-18, filed by Donald Carlson to allow for an increase in maximum building area allowed for an accessory structure in an in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the north corner of the intersection of 9th Street and River Street. (128 9th Street & 140 9th Street - APN 001-364-009 & 001-364-010)
- Variance No. 13-18, filed by Valvet Carlson for a reduction of the required minimum lot area from 5,000 sq. ft. to 4,376 sq. ft. in an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. The subject property is located generally on the northwest side of River Street, approximately 75' northeast of 9<sup>th</sup> Street. (925 River Street - APN 001-364-011)

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

RECEIVED

### APPLICATION FOR VARIANCE

NOV 13 2018

APPLICANT(s): Valvet Carlson  
MAILING ADDRESS: 925 River Street, Elko, NV 89801  
PHONE NO (Home) (775) 340-9558 (Business) \_\_\_\_\_  
NAME OF PROPERTY OWNER (If different): same  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: same  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-364-011 Address 925 River Street  
Elko, NV 89801  
Lot(s), Block(s), & Subdivision See attached legal description  
Or Parcel(s) & File No. \_\_\_\_\_

#### 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 1<sup>st</sup> Tuesday of every month).

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

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

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

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

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

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

3-2-4 (B) 4: Minimum lot size.

3-2-5 (G) 1: Area Requirements

1. The existing zoning classification of the property Existing Zoning: C – Commercial

Proposed Zoning: R – Single Family & Multiple Family Residential

2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:

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

The existing property is a unique shape as can be seen on the attached drawing.

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

The existing lot size and residential use have been in place for many years.

The property needs to be rezoned to residential in order to conform to the use

of the property.

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

The variance will allow the continued historical use of the property.

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

The circumstances do apply to the other properties in the immediate vicinity.

The purpose of the rezone on this property is to bring it into closer conformance

with City of Elko codes.

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

Granting the variance will allow the continued historical use of the property.

\_\_\_\_\_

\_\_\_\_\_

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

The granting of the variance will cause the property to be in better conformance  
with City of Elko codes.

\_\_\_\_\_

\_\_\_\_\_

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

The change of zoning of the property and the granting of the variance will cause  
the property to be in better conformance with City of Elko codes.

\_\_\_\_\_

\_\_\_\_\_

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

No change in the use of the property will be made due to the variance.

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

**This area intentionally left blank**

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent**

Valvet Carlson  
(Please print or type)

**Mailing Address**

925 River Street  
Street Address or P.O. Box

Elko, NV 89801  
City, State, Zip Code

Phone Number: (775) 340-9558

Email address: triplehinc@gmail.com

**SIGNATURE:**

*Valvet A. Carlson*

---

**FOR OFFICE USE ONLY**

File No.: 13-18 Date Filed: 11/13/18 Fee Paid: \$250 CK# 2457

**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review, consideration, and possible action of Conditional Use Permit No. 5-18, filed by MP Elko, LLC, which would allow for a Public, Quasi-Public principal permitted use within a C (General Commercial) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: ***NEW BUSINESS, PUBLIC HEARINGS***
4. Time Required: **15 Minutes**
5. Background Information: **Within the C- General Commercial zoning district, all uses identified as principal permitted used in the public, quasi-public (PQP) district shall be required to first obtain a conditional use permit.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 5-18 based on the facts, findings and conditions presented in Staff Report dated November 20, 2018.**
9. Findings: **See staff report dated November 20, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **MP Elko LLC.  
1801 Tiburon Blvd. Suite 800  
Tiburon, CA 94920  
[dffinancial@sbcglobal.net](mailto:dffinancial@sbcglobal.net)  
  
Lana Carter  
[lanalcarter@live.com](mailto:lanalcarter@live.com)**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Conditional Use Permit No. 5-18  
Applicant(s): MP EKO, LLC  
Site Location: 2645 Mountain City Highway  
Current Zoning: C Date Received: 11/13/18 Date Public Notice: 11/20/18  
COMMENT: This is to allow a school within a  
General Commercial Zoning District.

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

Assistant City Manager: Date: 11/26/18  
Recommend approval as presented by  
staff

SAW

Initial

City Manager: Date: 11/28/18  
No comments/concerns.

CC

Initial





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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	<b>November 20, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I. A. 5</b>
<b>APPLICATION NUMBER:</b>	<b>Conditional Use Permit 5-18</b>
<b>APPLICANT:</b>	<b>MP Elko, LLC.</b>
<b>PROJECT DESCRIPTION:</b>	<b>PQP use within a C- General Commercial</b>

Within the C general commercial zoning district, all uses identified as principal permitted uses in the public, quasi-public (PQP) district shall be required to first obtain a conditional use permit



### **STAFF RECOMMENDATION:**

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



## **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-660-60  
**PROPERTY SIZE:** 8.59 acres  
**EXISTING ZONING:** C –General Commercial  
**MASTER PLAN DESIGNATION:** (COMM-HWY) Commercial Highway  
**EXISTING LAND USE:** Developed as the previous Kmart

### **NEIGHBORHOOD CHARACTERISTICS:**

) The property is surrounded by Commercial zoned, developed and undeveloped land to the north, east and west. It is frontage along I-80 corridor to the south.

### **PROPERTY CHARACTERISTICS:**

- ) The property is currently developed.
- ) The property is fairly flat.
- ) The property is accessed from Spruce Road and has frontage along I-80 corridor.
- ) The property is not in a flood zone.

### **APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:**

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

## **BACKGROUND INFORMATION**

- ) The application for the Conditional Use Permit was filed as required under City Code 3-2-10(B)(6).
- ) There are no other conditional uses on the property.
- ) The property recently became vacant and MP Elko, LLC is in the process of purchasing the property.
- ) The property is not located in the Redevelopment Area.

## **MASTER PLAN**

### **Land Use**

1. The Master Plan Land Use Atlas shows the area as Commercial Highway.
2. C- General Commercial is listed as a corresponding zoning district for Commercial

Highway in the Master Plan Land Use.

3. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.
4. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

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

### **Transportation**

1. The Master Plan identifies Spruce Road as Minor Arterial.
2. The site has pedestrian access along Mountain City Highway as well as Spruce Road. Sidewalks are a necessary safety feature, particularly where children walk to and from the facility.
3. The existing facility meets the goals listed in the Master Plan Transportation document as Best Practice Objective 1; Provide a balanced transportation system that accommodates vehicle, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.

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

### **ELKO WELLHEAD PROTECTION PLAN**

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

The conditional use is in conformance with the Wellhead Protection Plan.

### **SECTION 3-2-3 GENERAL PROVISIONS**

Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.

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

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

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

right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

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

#### **SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS**

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

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

#### **SECTION 3-2-10 COMMERCIAL DISTRICTS**

1. Section 3-2-10(B)(1) Public and quasi-public uses are listed as principal uses permitted.
2. Section 3-2-10(B)(6) Public, Quasi-Public: Within the C general commercial zoning district, all uses identified as principal permitted uses in the public, quasi-public (PQP) district shall be required to first obtain a conditional use permit pursuant to section [3-2-18](#) of this chapter.
3. Height Restrictions: All structures within the C general commercial zoning district must comply with the height and other requirements of the current city airport master plan, to the extent the plan applies to that location.
4. The property doesn't abut a residential zone so therefore is not required to comply with screen wall requirements set forth in subsection 3-2-3(J).
5. Development of the property is required to be in conformance with City code and conditions for the CUP.

The proposed use is in conformance with the development standards of this section of code.

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

1. The applicant has stated in the application that 32 parking spaces are required based on 1 parking space for 6 students for Elementary Schools. A total of 40 standard parking spaces and two van accessible parking spaces will be provided.
2. The applicant has stated in the application that a drop off pick up zone will be provided independent of two way drive aisles. Two times a day they have 192 students that will need to be dropped off and picked up. They estimate a 150 vehicle trips two times a day with approximately 30 vehicles for staff each day.
3. Conformance with this section is required. The current facility is in conformance and will be evaluated with plan submittal for the different proposed uses.

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

#### **SECTION 3-2-18 CONDITIONAL USE PERMITS**

General Regulations:

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

### **3-8 FLOOD PLAIN MANAGEMENT**

The parcel is not located within a designated flood plain.

### **FINDINGS**

1. The conditional use is in conformance with the Land Use Component of the Master Plan.
2. The conditional use is in conformance with the Transportation Component of the Master Plan and existing transportation infrastructure.
3. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan
4. The conditional use is in conformance with the Wellhead Protection Plan.
5. Approval of the Conditional Use Permit is required for the proposed use to be in conformance to section 3-2-10 of the Elko city code.
6. Approval of the Conditional Use Permit is required for the proposed use to be in conformance with sections 3-2-3, 3-2-4, 3-2-17, and 3-2-18 of the Elko city code.
7. The proposed use conforms to section 3-8 of Elko city code.

### **STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of CUP 5-18 with the following conditions:

1. The permit is granted to the applicant MP Elko, LLC.

2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. The CUP 5-18 be approved for the building layout as shown in the provided site plan Exhibit A.
4. CUP 5-18 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
5. All landscaping required by Elko City Code shall be maintained in a manner acceptable to the City of Elko at all times by the property owner.
6. Signage will require a separate application with the Building Department and be subject to Elko City Code 3-9.
7. Vehicular parking, of any type, including temporary parking for drop-off and pick-up shall be prohibited along the Spruce Road frontage. The applicant shall be responsible for installation of signs and curb face demarcation to fulfill the intent of this condition.
8. Install proper school zone speed limit signage and crosswalk markings as required.
9. NDOT approval of changes to the parking lot layout may be required.
10. Auto turn diagrams are required showing there are no conflicts between freight deliveries and the school drop off and parking areas.
11. Student access to and from Spruce Road is prohibited at the south east access point to Spruce Road. Student drop off and pick up is encouraged to ensure there are no pedestrian/vehicle conflicts near the south east ingress/egress to the property. Students not dropped off or picked up must utilize the pedestrian crossing at the Spruce Road and Noddle Lane intersection.



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

MP Elko, LLC  
1801 Tiburon Blvd. Suite 800  
Tiburon, CA 94920

Re: Conditional Use Permit No. 5-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: Lana Carter; [lanacarter@live.com](mailto:lanacarter@live.com)

# CUP 5-18 MP ELKO, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
0016600AC	CAMBRIA-ADARA PROPERTIES LLC	HENDY WAGGENER	PO BOX 8154	CORPUS CHRISTI TX	78468-8154
001983004	GAZOUSKIS, BROCK JASON ET AL		2085 COLONIAL DR	ELKO NV	89801-8448
001660087	GOLDEN ARCH LIMITED PARTNERSHIP	C/O KASSITY, CHRISTOPHER	4010 TECHNOLOGY WAY STE E	CARSON CITY NV	89706-2012
001660059	III KINGS DEVELOPMENT LLC		10238 WEEPING WILLOW DR	SANDY UT	84070-4248
0016600AB	LODGING PROPERTIES LLC	C/O TR LODGING ENTERPRISES INC	8080 E CENTRAL AVE STE 180	WICHITA KS	67206-2371
001660136	MAVERIK, INC	ATTN: REAL ESTATE DEPT	185 S STATE ST STE 800	SALT LAKE CITY UT	84111-1549
001660038	MOUNTAIN CITY PROPERTIES HOLDIN		6140 CARRIAGE HOUSE WAY	RENO NV	89519-7341
001660045	MP ELKO LLC	ATTN: GARY PINKSTON/MP FINANCI	1801 TIBURON BLVD STE 800	TIBURON CA	94920-2574
001660036	MP ELKO LLC	ATTN: GARY PINKSTON/MP FINANCI	1801 TIBURON BLVD STE 800	TIBURON CA	94920-2574
001660062	N & K INVESTMENT CO	C/O NODDLE COMPANIES	2285 S 67TH ST STE 250	OMAHA NE	68106-2809
001660096	N & K INVESTMENT CO	C/O NODDLE COMPANIES	2285 S 67TH ST STE 250	OMAHA NE	68106-2809
001660061	N & K INVESTMENT CO	C/O NODDLE COMPANIES	2285 S 67TH ST STE 250	OMAHA NE	68106-2809
0016600AA	NNE CONSTRUCTION INC		163 OSINO UNIT 5	ELKO NV	89801-9402
001983003	QUINTERO, REFUGIO U & ESTELA P		2089 COLONIAL DR	ELKO NV	89801-8448
001660044	STELLING, ANITA BERTHA TR	C/O BIG 5 CORPORATION	2525 E EL SEGUNDO BLVD	EL SEGUNDO CA	90245-4632
001983002	WILMOT, PAUL D & KARIN N		2093 COLONIAL DR	ELKO NV	89801-8448

13

Mailed 11/21/18

## **NOTICE OF PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under hearing is:

**Conditional Use Permit No. 5-18, filed by MP Elko, LLC, which would allow for a Public, Quasi-Public permitted use within a C (General Commercial) Zoning District, and matters related thereto. The subject property is located generally on the southeast of the intersection of Spruce Road and Noddle Lane. (2450 Mountain City Highway - APN 001-660-060).**

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

**ELKO CITY PLANNING COMMISSION**





## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

### APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL

**APPLICANT(s):** MP ELKO LLC

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

**MAILING ADDRESS:** 1801 Tiburon blvd Suite 800 Elko, NV 89801

**PHONE NO. (Home)**  **(Business)** 775.318.0011

**NAME OF PROPERTY OWNER (If different):** Norris Properties

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

**MAILING ADDRESS:** 19835 NW NESTUCA DR. PORTLAND OR 97229-2833

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

**ASSESSOR'S PARCEL NO.:** 001-660-060 **Address:** 2645 MTN CITY HWY Elko, NV 89801

**Lot(s), Block(s), & Subdivision** N/A

**Or Parcel(s) & File No.** Parcel 5 File 747144

#### 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 1<sup>st</sup> Tuesday of every month).

**Fee:** A \$750.00 non-refundable fee.

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

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

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

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

RECEIVED

1. Current zoning of the property: Commercial
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:  
Elko City Code 3-2-10 (B) 6; Public, Quasi-Public: Within the C general commercial zoning all uses identified as principal permitted uses in the public, quasi-public.
3. Explain in detail the type and nature of the use proposed on the property:  
The Existing building is a 96,000 sf former Kmart building. We are proposing that 20,000 sf of the Building be Renovated to accommodate the Elko Institute of Academic achievement. The 20,000 sf space set aside for the Charter school currently provides education for roughly 200 students k - 8th Grade and employees around 30 staff members. This facility will also have a nice fenced in drop off area and a very safe fenced in playground area with access directly in and out of the school. Meaning once the students are in the school they will never have to leave a contained area to get in & out of the playground This Location will give the Charter school and opportunity to expand and provide a better educational experience for our children. The School Staff is also committed to student safety, staff will be present during drop off and pick up times to ensure a safe transition for the students.
4. Explain how the use relates with other properties and uses in the immediate area:  
The current building is zoned general commercial and sits nicely off of I-80, it has great visibility, a large parking field , great access off of spruce road and is located strategically close to Multi-Family and single family dwellings. Mtn View elementary is located 1/2 mile north of us, and north side 3/4 of mile west of us with great retail shopping, dining and entertainment within a 2 mile radius. We feel that this mix of retail/school provides ample opportunity to support both the school and retail. We are concerned about the safety of the children, we have provided a fenced in loading and unloading zone, we will have signs posted to designate delivery routes and time frames to maximize student safety.
5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property: This is an Existing site, with no special features that affect the use of the property.  

---

---

---

---

---

---

---

---
6. Describe the general suitability and adequacy of the property to accommodate the proposed use: Great access, Great lighting, ample parking for school staff, parents and visitors as well as the retail staff and customers of the adjacent tenants.  

---

---

---

---

---

---

---

---

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: This is an existing site, all Grading and drainage is currently in and working.

---

---

---

---

---

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

2 Times a day we have 192 students that will need to be dropped off and picked up, the drop off
Zone is separate from the drive lane, those dropping off can enter and exit on the north side of
spruce road. We estimate a 150 vehicle trips two times a day. With approximately 30 vehicles for staff
each day.

---

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: 32 parking spaces are required per 3-2-17 F. This is based on 1 parking space

for 6 students for Elementary Schools. A total of 40 standard parking spaces and two Van
accessible parking spaces will be provided. A drop off pick up zone will be provided independent of
two way drive aisles.

---

---

---

---

---

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

An Electronic Monument sign is proposed and will meet City Code, Monument to be roughly
12'L x 2'W x 6' Tall.

---

---

---

---

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

We will have zero outside storage goods for this property.
--

---

---

---

---

12. Identify any accessory buildings or structures associated with the proposed use on the property: We do not have accessory building or structures on this property.

---

---

---

---

---

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

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent**

MP ELKO LLC / DAVID B. FONUA

(Please print or type)

**Mailing Address**

1801 Tiburon Blvd Suite 800

Street Address or P.O. Box

Tiburon, CA, 94920

City, State, Zip Code

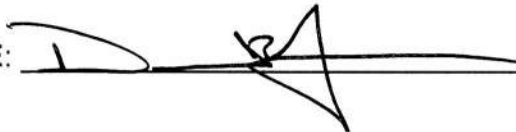
Phone Number:

775.318.0011

Email address:

dffinancial@sbcglobal.net

**SIGNATURE:**



---

**FOR OFFICE USE ONLY**

**File No.:** 5-18 **Date Filed:** 11/13/18 **Fee Paid:** \$750 **CC#** 3200

---

From: Norris Properties LLC, Et Al  
19835 NW Nestucca Dr  
Portland OR 97229

**RECEIVED**

NOV 14 2018

---

To: City of Elko  
Planning Department  
1751 College Avenue  
Elko, NV 89801

November 14<sup>th</sup> 2018

Greetings,

As manager for the current owners of the property formerly Kmart, I consent for MP Elko II to apply for a Conditional Use Permit.

The property is located at 2450 Mountain City Highway, Elko NV 89801. The APN number is 001-660-060.

Thank you very much.

A handwritten signature in cursive script that reads "David Norris".

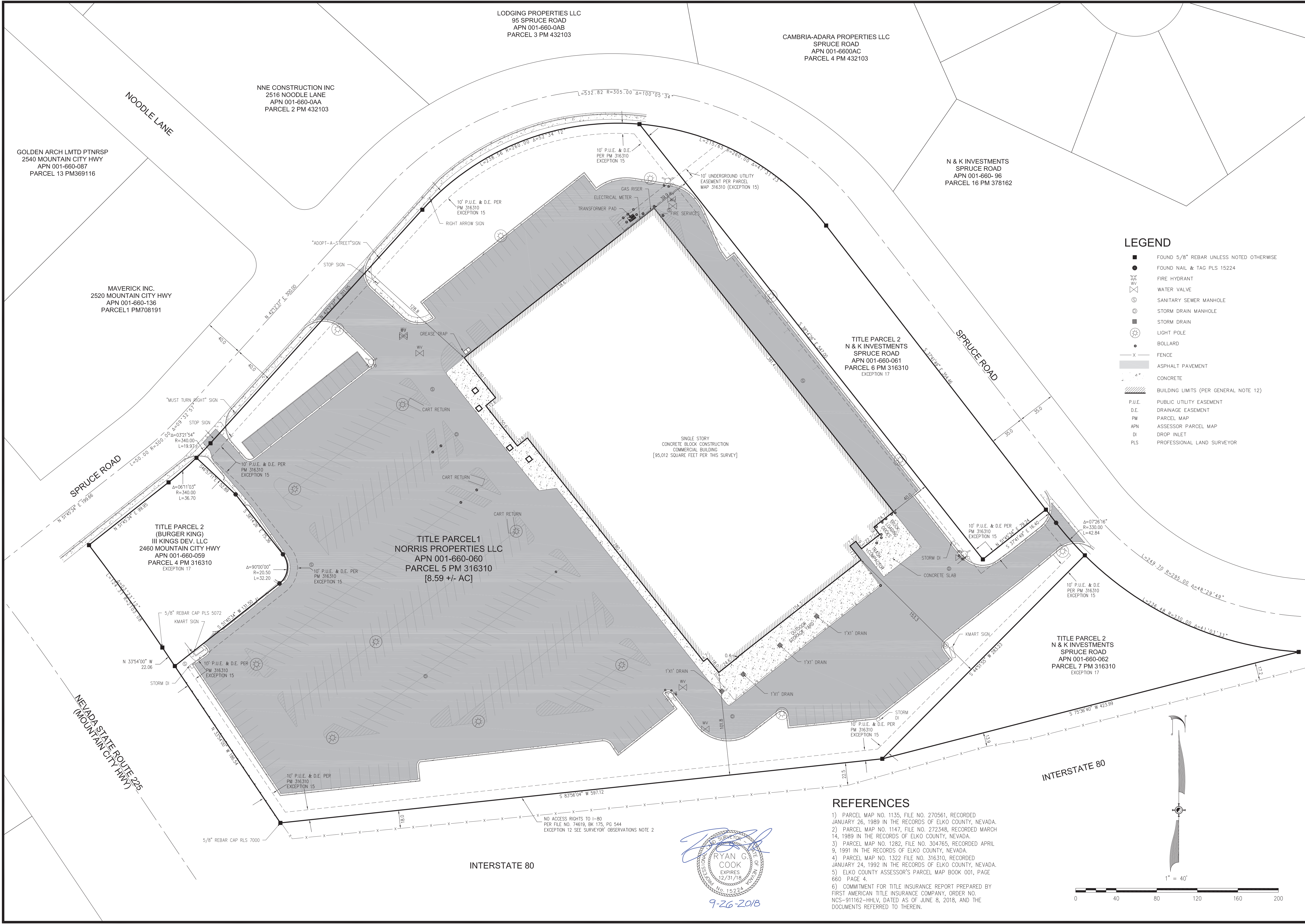
David Norris  
(503) 989 9945 cell



ALTA/NSPS LAND TITLE SURVEY OF  
2450 MOUNTAIN CITY HWY., ELKO, NEVADA  
ELKO COUNTY APN 001-660-060

SHEET	SCALE	REV.	DATE	DESCRIPTION	BY	APPD
1	HORIZ: 1"=200'					
OF						
2	VERT: N/A					
JOB NO: J82351						
NOTES: SEE 8/23/80 KENNEDY FARM TAKAKART A1 TA 2018 DWG - 8:10 AM - 26-SEP-2018						





- LEGEND**
- FOUND 5/8" REBAR UNLESS NOTED OTHERWISE
  - FOUND NAIL & TAG PLS 15224
  - ⊗ FIRE HYDRANT
  - ⊗ WATER VALVE
  - ⊗ SANITARY SEWER MANHOLE
  - ⊗ STORM DRAIN MANHOLE
  - ⊗ STORM DRAIN
  - ⊗ LIGHT POLE
  - BOLLARD
  - X- FENCE
  - ▨ ASPHALT PAVEMENT
  - ▨ CONCRETE
  - ▨ BUILDING LIMITS (PER GENERAL NOTE 12)
  - P.U.E. PUBLIC UTILITY EASEMENT
  - D.E. DRAINAGE EASEMENT
  - PM PARCEL MAP
  - APN ASSESSOR PARCEL MAP
  - DI DROP INLET
  - PLS PROFESSIONAL LAND SURVEYOR

**REFERENCES**

- 1) PARCEL MAP NO. 1135, FILE NO. 270561, RECORDED JANUARY 26, 1989 IN THE RECORDS OF ELKO COUNTY, NEVADA.
- 2) PARCEL MAP NO. 1147, FILE NO. 272348, RECORDED MARCH 14, 1989 IN THE RECORDS OF ELKO COUNTY, NEVADA.
- 3) PARCEL MAP NO. 1282, FILE NO. 304765, RECORDED APRIL 9, 1991 IN THE RECORDS OF ELKO COUNTY, NEVADA.
- 4) PARCEL MAP NO. 1322, FILE NO. 316310, RECORDED JANUARY 24, 1992 IN THE RECORDS OF ELKO COUNTY, NEVADA.
- 5) ELKO COUNTY ASSESSOR'S PARCEL MAP BOOK 001, PAGE 660 PAGE 4.
- 6) COMMITMENT FOR TITLE INSURANCE REPORT PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, ORDER NO. NCS-911162-HHLV, DATED AS OF JUNE 8, 2018, AND THE DOCUMENTS REFERRED TO THEREIN.





SUMMIT ENGINEERING CORPORATION  
540 MAE AVENUE, RENO, NV 89503 PH (775) 747-8550 FAX (775) 747-8559

DESIGNED BY:	RGC
DRAWN BY:	cook
CHECKED BY:	RGC

ALTANSPS LAND TITLE SURVEY OF  
2450 MOUNTAIN CITY HWY, ELKO, NEVADA  
ELKO COUNTY APN 001-660-060

NEVADA  
ELKO COUNTY

REV.	DATE	DESCRIPTION	BY	APPD

SCALE

HORIZ: 1"=40'

VERT: 1"=10'

JOB NO: J82351

NVDWSJ82351, KmartAltanTAKMART\_ALTA\_2018.DWG - 11:59 AM \*26-SEP-2018

SHEET	2	OF	2
-------	---	----	---









FRONT RENDERING  
N.T.S.



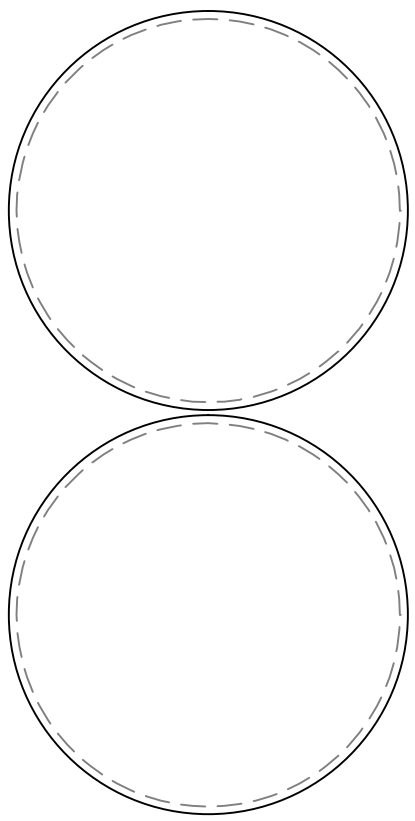
SIDE 1 RENDERING  
N.T.S.



SIDE 2 RENDERING  
N.T.S.



VICINITY MAP  
N.T.S.



J.D. Long, Architect

NCARB

960 Idaho Street, Elko, Nevada 89801  
ph. (775) - 738-4735 fax. (775) - 738-7319

OLD KMART BUILDING  
SHOPPING CENTER  
MOUNTAIN CITY HIGHWAY  
ELKO, NV 89801

revised
date 8/30/2018
drawn SPS
checked
proj. no.
sheet *



**Elko City Planning Commission**  
**Agenda Action Sheet**

1. **Review, consideration and possible recommendation to City Council for Rezone No. 8-18, filed by Koinonia Construction LLC, for a change in zoning from R1- Single Family Residential and R3- Multi Family Residential to R-Single Family and Multiple Family Residential, approximately 19.194 acres of property, FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **PUBLIC HEARINGS,**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant would like to the zoning classification to be in conformance with the Master Plan for Copper Trails Phases 2-5.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which approves Rezone No. 8-18 based on facts, findings and conditions as presented in Staff Report dated November 20, 2018.**
9. Findings: **See Staff Report dated November 20, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Koinonia Construction LLC  
207 Brookwood Dr.  
Elko, NV 89801**

**Carter Engineering**  
[lanacarter@live.com](mailto:lanacarter@live.com)

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Rezone No. 8-18

Applicant(s): Koinonia Construction, Inc.

Site Location: NW of Copper St. 127' NE of Copper Trl - APN 001-610-114

Current Zoning: R1 Date Received: 11/13/18 Date Public Notice: 11/20/18

COMMENT: This is to Rezone APN 001-610-114 from R1 to R.

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

Assistant City Manager: Date: 11/26/18

Recommend approval as presented  
by staff

SAW

Initial

City Manager: Date: 11/28/18

No comments/concerns.

CC

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	November 20, 2018
<b>PLANNING COMMISSION DATE:</b>	December 4, 2018
<b>APPLICATION NUMBER:</b>	REZONE 8-18
<b>APPLICANT:</b>	Koinonia Construction LLC on behalf of Copper Trails LLC
<b>PROJECT DESCRIPTION:</b>	Zone amendment associated with the subdivision of property and development under an Agreement to Develop Land.
<b>ADDITIONAL APPLICATIONS:</b>	Preliminary Plat 13-18 and Ordinance 838 – An Amendment to Development Agreement



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBER:** 001-610-114

**PARCEL SIZE:** 19.194 acres

**EXISTING ZONING:** Approximately 7.91 acres as R3 and approximately 11.284 as R1

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

**EXISTING LAND USE:** Undeveloped

### **NEIGHBORHOOD CHARACTERISTICS:**

- ) The property is surrounded by:
  - ) North: General Agriculture (AG) / Undeveloped
  - ) West: General Agriculture (AG) and Residential (R) / Undeveloped
  - ) South: Single Family Residential (R1) / Developed
  - ) East: General Agriculture (AG) and Residential (R) / Undeveloped

### **PROPERTY CHARACTERISTICS:**

- ) The area is currently undeveloped.
- ) The area is generally flat to moderately sloping.
- ) The area is accessed from the intersection of Copper Street and Mittry Avenue.

### **MASTER PLAN AND CITY CODE SECTIONS:**

Applicable Master Plans and City Code Sections are:

- ) City of Elko Master Plan – Land Use Component
- ) City of Elko Master Plan – Transportation Component
- ) City of Elko Redevelopment Plan
- ) City of Wellhead Protection Plan
- ) City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- ) City of Elko Zoning – Section 3-2-5 Residential Zoning Districts
- ) City of Elko Zoning – Section 3-2-21 Amendments
- ) City of Elko Zoning – Chapter 3 Subdivisions
- ) City of Elko Zoning – Section 3-8 Flood Plain Management

### **BACKGROUND:**

1. The property is owned by Copper Trails LLC.
2. The application has been filed by Koinonia Construction LLC on behalf of Copper Trails LLC. A letter of authorization for the filing is on file with the planning department.
3. The rezone includes all of APN 001-610-114.
4. The area fronts Copper Street.

5. City utilities are located in the immediate vicinity.
6. Other non-city utilities are located in the immediate area.
7. The application for rezone is based on an application for subdivision of property and the amendment of an agreement to develop land. As such the rezone application must comply with section 3-3-5(A) – Zoning Amendments.

### **MASTER PLAN:**

#### **Land use:**

1. Land Use is shown as Medium Density Residential.
2. Supporting zone districts for Medium Density Residential are Single Family/Multi Family (R), Single Family (R1), Two Family (R2), Planned Unit Development (PUD), Residential Office (RO), Residential Business (RB), Mobile Home Subdivision (RMH-2), and Manufactured Home Subdivision (RMH-3).
3. Zone classification of the properties are required to conform to the Master Plan.
4. Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to promote economic sustainability and strengthen the community's image.
5. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The proposed zone district is in conformance with the Land Use Component of the Master Plan.

#### **Transportation:**

1. The area will be accessed from the intersection of Copper Street and Mittry Avenue.
2. Both streets are classified as Residential Collectors.

The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure.

### **ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area.

### **ELKO WELLHEAD PROTECTION PLAN:**

1. A small portion located in the south corner of the property is located within the 30 year capture zones for several municipal wells. Residential development under the proposed zone district will require complete street development including storm water control, require connection to a programmed sewer system and therefore will not pose a hazard to municipal wells.

The proposed zone district and resultant land use is in conformance with wellhead protection plan.

### **SECTION 3-2-4 Establishment of Zoning Districts:**

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally

altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.

2. No building or other structure shall hereafter be erected or altered:
  - a. To exceed the heights required by the current City Airport Master Plan;
  - b. To accommodate or house a greater number of families than as permitted in this chapter;
  - c. To occupy a greater percentage of lot area; or
  - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.
3. No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
4. No yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title. The property meets the area requirements for the proposed zone district.

The proposed zone district is in conformance with Elko City Code Section 3-2-4(B).

**SECTION 3-2-5 – Single Family / Multi-Family Residential**

1. The existing development meets the requirements under 3-2-5 for minimum area, minimum lot width, front and rear yard setbacks, side yard setback and maximum building height.
2. The existing development is consistent with the listed principal uses permitted.

The proposed zone district is in conformance with Elko City Code Section 3-2-5 (E) and (G).

**SECTION 3-2-21:**

The application is in conformance with Elko City Code 3-2-21.

**SECTION 3-3-5**

1. Zone amendments submitted and processed in conjunction with a preliminary plat are usually limited to the area proposed for subdivision. In this case the proposed zone district is not only related to the proposed subdivision but is related to a proposed amendment of an agreement to develop land established by ordinance and the master plan for the area contained in the agreement.

The proposed zone district is in conformance with Elko City Code Section 3-3-5(A).

**SECTION 3-8:**

The proposed zone district is not located in a designated in a Special Flood Hazard Area (SFHA).

**FINDINGS:**

1. The proposed zone district is in conformance with the Land Use Component of the Master Plan.
2. The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure.
3. The property is not located within the Redevelopment Area.
4. The proposed zone district and resultant land use is in conformance with City Wellhead Protection Plan.
5. The proposed zone district is in conformance with Elko City Code Section 3-2-4(B).
6. The proposed zone district is in conformance with Elko City Code Section 3-2-5 (E) and (G).
7. The application is in conformance with Elko City Code 3-2-21.
8. The proposed zone district is in conformance with Elko City Code Section 3-3-5(A).
9. The proposed zone district is not located in a designated in a Special Flood Hazard Area (SFHA).
10. The proposed zone district is consistent with surrounding land uses.
11. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

**STAFF RECOMMENDATION:**

Staff recommends this item be approved as presented.





# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Koinonia Construction, LLC  
207 Brookwood Drive  
Elko, NV 89801

Re: Rezone No. 8-18 and Preliminary Plat No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: Carter Engineering, [lanacarter@live.com](mailto:lanacarter@live.com)

# Rez 8-18 Koinonia Construction, Inc.

# PP 13-18 Copper Trails Ph 2

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
00161J004	AZCUE, PROCORO & ISABEL		2648 COPPER TRL	ELKO NV	89801-4512
00161J002	BANDA, FANUEL K & KARA L		2632 COPPER TRL	ELKO NV	89801-4512
00161J001	BENCH, WILLIAM R ET AL		2624 COPPER TRL	ELKO NV	89801
001610093	BLACK, ROBERT D & SUSAN J TR		1453 FOSTER DR	RENO NV	89509-1209
00161J008	COPPER TRAILS LLC	} 1 p.c.	PO BOX 8070	RENO NV	89507-8070
00161J028	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J019	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J018	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J017	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J016	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J012	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J009	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J014	CRESS, MICHAEL ET AL		2856 COPPER TRL	ELKO NV	89801
001610108	ELKO DEVELOPMENT PARTNERS LLC	} 1 p.c.	1520 TAOS LN	RENO NV	89511-6655
001610106	ELKO DEVELOPMENT PARTNERS LLC		1520 TAOS LN	RENO NV	89511-6655
001610103	ELKO, CITY OF NO P.C.		1755 COLLEGE AVE	ELKO NV	89801-3401
001610117	FISCUS, DELMER		2612 COPPER TRL	ELKO NV	89801
001610112	GRACE BAPTIST CHURCH	} 1 p.c.	3030 5TH ST	ELKO NV	89801-4472
001610113	GRACE BAPTIST CHURCH		3030 5TH ST	ELKO NV	89801-4472
00161J011	HAWKINS, KYLE J		2778 COPPER TRL	ELKO NV	89801
00161J021	KOINONIA CONSTRUCTION INC	} 1 p.c.	461 4TH ST	ELKO NV	89801-3133
00161J022	KOINONIA CONSTRUCTION INC		461 4TH ST	ELKO NV	89801-3133
00161J023	KOINONIA CONSTRUCTION INC	} 1 p.c.	207 BROOKWOOD DR	ELKO NV	89801-2301
00161J024	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J025	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J026	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J027	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J015	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J020	KOOPMAN, JENNIFER M		2975 COPPER TRL	ELKO NV	89801
00161J005	MARTINEZ, OSCAR JR & BRENDA L		2656 COPPER TRL	ELKO NV	89801-4512
001610116	MEZA, JUAN & ASHLEY N		2616 COPPER TRAIL	ELKO NV	89801
001610041	MONTE CARLO ASSOCIATES LLC	C/O ABEL, STEVEN F	2980 S RAINBOW BLVD # 110N	LAS VEGAS NV	89146-6531
00161J013	SAGEMAN, ERIC LANAKI SR		2830 COPPER TRL	ELKO NV	89801

00161J003 SIERRA, PAUL & CRISTINA  
00161J010 TEMPLETON, RICHARD A & JANA R

2640 COPPER TRL  
2752 COPPER TRL

ELKO NV  
ELKO NV

89801-4512  
89801-4513

18

Mailed 11/21/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone No. 8-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC, for a change in zoning from R1 (Single-Family Residential) and R3 (Multi-Family Residential) to R (Single-Family and Multi-Family Residential), approximately 19.194 acres of property, specifically APN 001-610-114, located generally northwest of the intersection of Copper Street and Mittry Avenue, more particularly described as:  
A parcel of land located in Section 9, Township 34 North, Range 55 East, M.D.B.&M., City of Elko, Nevada, more particularly described as follows:  
All of Parcel G as shown on the Parcel Map for Copper Trails, LLC, on file in the Office of the Elko County Recorder, Elko, Nevada, as File No. 748288, containing 19.194 acres, more or less.  
Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for Copper Trails, LLC attached hereto and made a part hereof.  
The intent of the zone change is to allow for single-family and multiple-family development.
- Preliminary Plat No. 13-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC, for the development of a subdivision entitled Copper Trails Phase 2 involving the proposed division of approximately 19.194 acres of property into 29 lots and a remainder parcel for residential development within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto. The subject property is located generally northwest of the intersection of Copper Street and Mittry Avenue. (APNs 001-610-114)

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

RECEIVED

### APPLICATION FOR ZONE CHANGE

NOV 13 2018

APPLICANT(s):	Koinonia Contruction LLC		
MAILING ADDRESS:	207 Brookwood Drive		
PHONE NO (Home):		(Business)	775-303-8492
NAME OF PROPERTY OWNER (If different):	Copper Trails LLC		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:	207 Brookwood Drive		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-610-114	Address	Not Addressed
Lot(s), Block(s), & Subdivision	Not Subdivided		
Or Parcel(s) & File No.	Parcel G of File No 748288		

#### **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 1<sup>st</sup> Tuesday of every month).

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

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

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

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

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

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

1. Identify the existing zoning classification of the property:

R1 - Single Family Residential and R3 - Multi Family Residential

2. Identify the zoning Classification being proposed/requested:

R - Residential

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

The proposed use of the development is to provide a residential development within the requirements of R - Residential Zoning and to have the property zoned with one zone.

4. Explain how the proposed zoning classification relates with other zoning classifications in the area:

The adjacent property to the north and east is zoned A - Agricultural. The properties to the southwest are zoned R1- Single Family Residential and R - Residential. The properties to the south are zoned R - Residential. The requested zone classification of R - Residential is cohesive with the existing zone classifications

5. Identify any unique physical features or characteristics associated with the property:

There are no unique physical features or characteristic associated with the property that would limit development.

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

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent** \_\_\_\_\_

(Please print or type)

**Mailing Address** \_\_\_\_\_

207 Brookwood Dr

Street Address or P.O. Box

Elko NV 89801

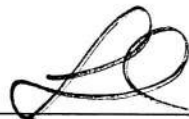
City, State, Zip Code

Phone Number: 775 303 8492

Email address: \_\_\_\_\_

elko@lke@gmail.com

**SIGNATURE:** \_\_\_\_\_



---

**FOR OFFICE USE ONLY**

File No.: 8-18 Date Filed: 11/13/18 Fee Paid: \$500 CK# 1470

---



Robert Fitzgerald,  
Manager  
Copper Trail LLC

PO Box 8070, Reno, NV 89507  
775-303-8492  
Rob.fitz@earthlink.net

11/22/2018

City of Elko  
Planning Department

Dear City of Elko,

Copper Trails, LLC would like to extend permission to Koinonia Construction to apply for the rezoning and preliminary plat on behalf of our company Copper Trails, LLC. If you need further information to get this completed, please let me know.



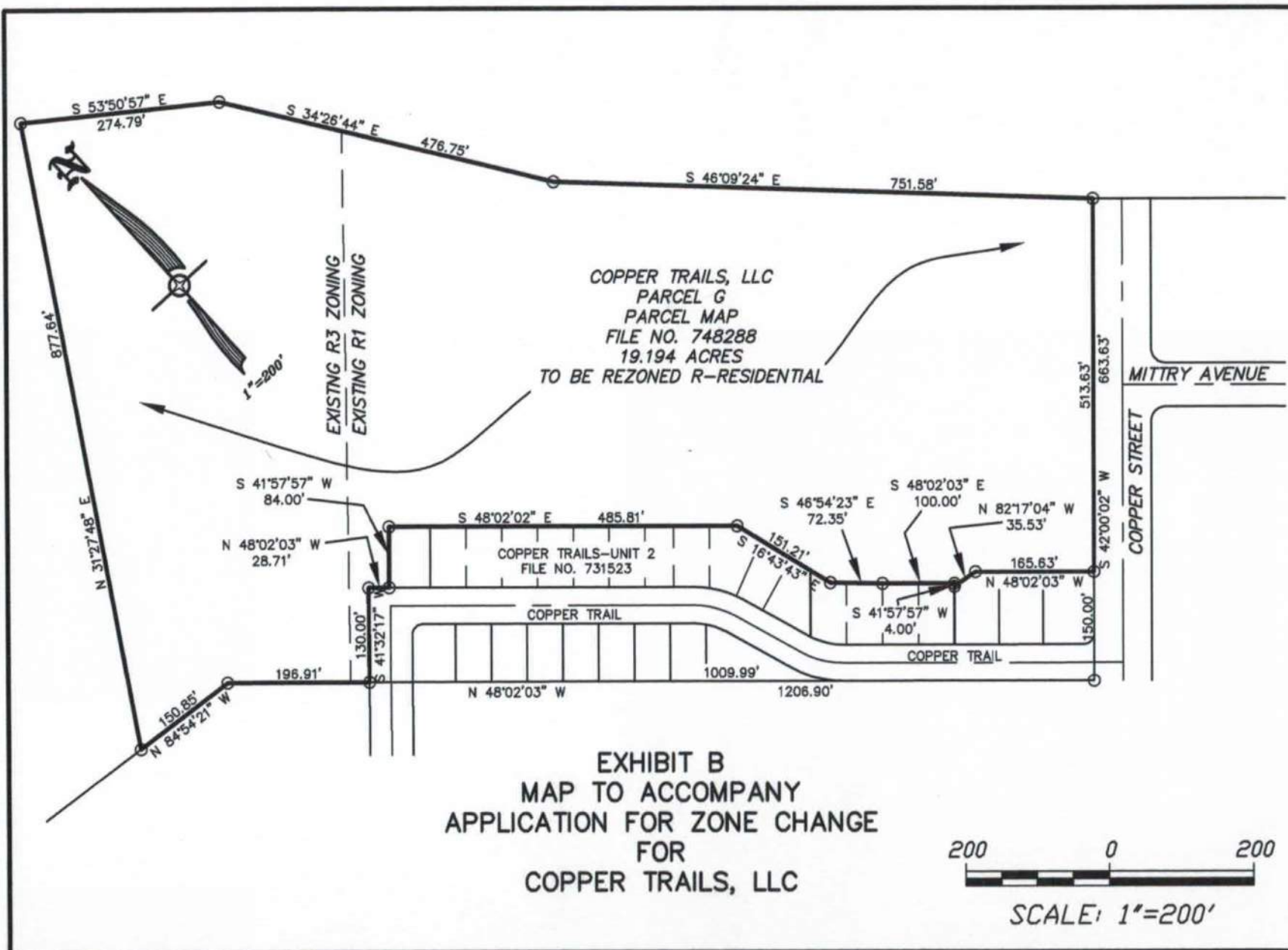
Warm regards,  
Robert Fitzgerald, Manager  
Copper Trail LLC

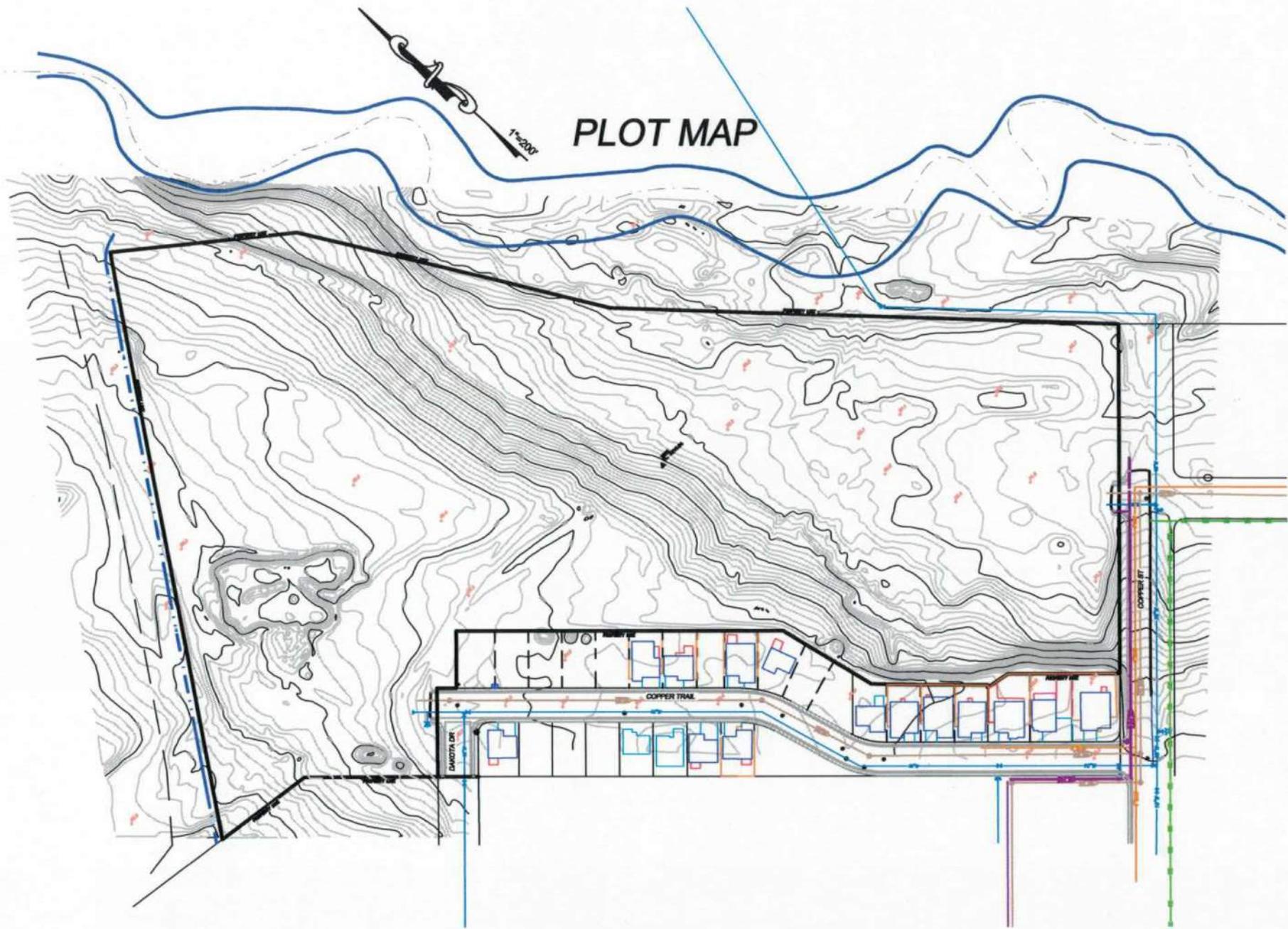
**RECEIVED**

NOV 26 2018







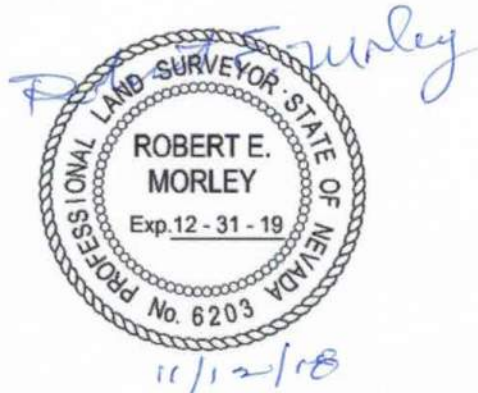


**EXHIBIT A**  
**ZONING CHANGE FOR COPPER TRAILS, LLC**  
November 12, 2018

A parcel of land located in Section 9, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, more particularly described as follows:

All of Parcel G as shown on the Parcel Map for Copper Trails, LLC, on file in the Office of the Elko County Recorder, Elko, Nevada, as File No. 748288, containing 19.194 acres, more or less.

Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for Copper Trails, LLC attached hereto and made a part hereof.



**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review and consideration of Preliminary Plat No. 13-18, filed by Koinonia Construction LLC., for the development of a subdivision entitled Copper Trails Phase 2 involving the proposed division of approximately 19.194 acres of property into 29 lots and a remainder parcel for residential development within the R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: ***PUBLIC HEARINGS, NEW BUSINESS***
4. Time Required: **15 Minutes**
5. Background Information: **Subject property is located northwest of the intersection of Copper Street and Mittry Avenue. (APN 001-610-114)**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Recommend to City Council to conditionally approve Preliminary Plat 13-18 based on facts, findings and conditions as presented in Staff Report dated November 21, 2018.**
9. Findings: **See Staff Report dated November 21, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Koinonia Construction LLC  
207 Brookwood Dr.  
Elko, NV 89801  
  
Carter Engineering  
P.O. Box 794  
Elko, NV 89803**



**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Preliminary Plat No. 13-18  
Applicant(s): Koinonia Construction, Inc.  
Site Location: NW Ext. of Mitty onto Quartz + Platinum Drive  
Current Zoning: R1 Date Received: 11/13/18 Date Public Notice: 11/20/18  
COMMENT: This is for 19.194 acres to be divided into 29 lots and a remainder parcel for residential development.

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

Assistant City Manager: Date: 10/28/18  
Recommend approval as presented by Staff

SAW

Initial

City Manager: Date: 11/28/18  
No comments/concerns.

CC

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 21, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.7</b>
<b>APPLICATION NUMBER:</b>	<b>Tentative Map 13-18</b>
<b>APPLICANT:</b>	<b>Koinonia Construction, LLC</b>
<b>RELATED APPLICATIONS:</b>	<b>Rezone 8-18</b>

**A Tentative Map for the proposed division of approximately 19.194 acres of property into 29 lots and one remainder parcel for residential development within an R1 (Single Family Residential) Zoning District**



### **STAFF RECOMMENDATION:**

**RECOMMEND to CONDITIONALLY APPROVE** subject to findings of fact and conditions stated in this report.

## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-610-114

**PARCEL SIZE:** 19.194 Acres

**EXISTING ZONING:** (R1) Single Family Residential & (R3) Multiple Family Residential pending approval of Rezone application 8-18 to (R) Single Family and Multiple Family Residential

**MASTER PLAN DESIGNATION:** (RM) Residential Medium Density

**EXISTING LAND USE:** Vacant

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is bordered by:

- } Northwest: Agriculture (AG) / Undeveloped
- } Northeast: Agriculture (AG) / Undeveloped
- } Southwest: Residential (R) / Developed
- } Southeast: Residential (R) / Undeveloped

### **PROPERTY CHARACTERISTICS:**

- } The property is currently undeveloped and moderately sloping throughout the area.
- } The property can be accessed from Copper Street.

### **MASTER PLAN:**

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 Airport Master Plan
- } City of Elko Development Feasibility, Land use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report - November 2012
- } City of Elko Redevelopment Plan
- } City of Elko Wellhead Protection Plan
- } City of Elko Zoning – Chapter 3-3 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, Residential Zoning Districts
- } 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 property owner is Copper Trails LLC. Koinonia Construction has written authorization from the owner to file the application on its behalf.
2. The area proposed for subdivision is identified as APN 001-610-114.
3. The area is undeveloped.
4. The area is located east of Copper Street and the intersection of Mittry Avenue.
5. The area proposed for subdivision is a continuation of the Copper Trails subdivision.
6. A Stage 1 meeting for the proposed subdivision was on March 1, 2018. A second Stage 1 meeting was held on March 19, 2018 where a revised subdivision was proposed.
7. The area proposed for subdivision and additional area is incorporated into an Agreement to Develop Land (Ordinance 755). The agreement was amended by Ordinance 769. The agreement contains stipulations providing for additional amendments to include the area proposed for subdivision and provide for development under the provisions included in the agreement. The layout of the subdivision is based on development standards stipulated in the agreement (i.e. lot widths are 50 feet vs. 60 feet).
8. The area proposed for subdivision is located within the R1-Single Family Residential zone district and R3 – Multi-Family Residential.
9. The applicant has applied for a zone amendment to R- Single Family and Multiple Family Residential which will presented to Planning Commission on December 4, 2018.
10. The total area is approximately 19.194 acres in size. The Tentative Map includes 5.139 acres to be subdivided into lots. A remainder lot of 14.055 acres will remain for future development.
11. The Tentative Map shows a total of 29 lots with one remainder. The proposed density is approximately 5.64 units per acre.
12. Phasing of the subdivision is proposed with three phases. Unit 1 will consist of nine lots. Unit two will consist of ten lots. Unit 3 will consist of ten lots.
13. Approximately 1.117 acres are being offered for dedication. The dedication includes Mittry Avenue, Platinum Drive and Quartz Drive.
14. Copper Street was developed on the north side to a point beyond the Mittry Avenue and Copper Street intersection as a condition of Copper Trails Phase 1 development. The termination of the improvements was based on the intent to develop the remainder of the right-of-way as a parking area to support a future linear park in the 8 Mile drainage.
15. The proposed subdivision is located down gradient of the 8 mile dam spill way. There are no local nor state restrictions on the development of the area under this circumstance.
16. The applicant has applied for a grading permit for this property.

## **MASTER PLAN**

### **Land use:**

1. The land use is shown as Medium Density Residential. Medium Density is identified as having a density of 5 - 8 units per acre.
2. The proposed change in zoning classification to R-Single Family and Multiple Family Residential is listed as a corresponding district for the Medium Density Designation in the Master Plan.
3. The listed Goal of the Land Use component states “Promote orderly, sustainable growth and efficient land use to improve quality of life and ensure new development meets the needs of all residents and visitors”.



4. Objective 1 under the Land Use component of the Master Plan states “Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.”
  - Best Practice 1.1 – Single Family – The proposed subdivision meets several of the methods described to achieve a diverse mix of single family homes in the community.
  - Best Practice 1.3 – The location of the proposed subdivision appears to support the City striving for a blended community by providing a mix of housing types in the neighborhood and is supported by existing infrastructure.
5. Objective 8 of the Land use component of the Master Plan states “Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.” Staff believes there will be no negative impacts to natural systems and no issue with regard to human health and safety.

The proposed subdivision and development is in conformance with the Land Use component of the Master Plan.

Transportation:

1. The area will be accessed from Copper Street and Mittry Avenue (when developed).
2. Copper Street and Mittry Avenue are classified as Residential Collector roadways.
3. The Master Plan recommends a right of way width of 60 feet for a Residential Collector and 50 feet for a Residential Local.
4. The proposed streets, Platinum Drive and Quartz Drive, will function as local residential streets.
5. Upon full build out of Phase 2, the proposed subdivision is expected to generate approximately 277.53 Average Daily Trips based on 9.57 trips/townhome (Source ITE trip Generation, 8th Edition). Ingress/Egress to the subdivision will be Mittry Avenue to Copper Street.

The proposed subdivision and development is in conformance with the Transportation Component of the Master Plan.

**ELKO AIRPORT MASTER PLAN**

The proposed subdivision and development does not conflict with the Airport Master Plan.

**CITY OF ELKO DEVELOPMENT FEASIBILITY, LANDUSE, WATER  
INFRASTRUCTURE, SANITARY SEWER INFRASTRUCTURE, TRANSPORTATION  
INFRASTRUCTURE AND ANNEXATION POTENTIAL REPORT - NOVEMBER 2102**

The proposed subdivision does not conflict with the City of Elko Development Feasibility, Land use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report - November 2012.

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area.

**ELKO WELLHEAD PROTECTION PLAN:**

1. A small portion of the property is located within the 30 year capture zone for City of Elko wells.
2. The sanitary sewer will be connected to a programmed sewer system and all street drainage will report to a storm sewer system.

The proposed subdivision and development are in conformance with the Wellhead Protection Program.

**SECTION 3-3-5 TENTATIVE MAP STAGE (STAGE II)**

**Tentative Map 3-3-5(A)** –A zoning amendment is required due to the amendment to the development agreement to include the remainder lot. The remainder lot has dual zoning of R1 and R3. The proposed zoning of R from R1 doesn't change the design or requirements of the subdivision. As mentioned above, development standards are also addressed in the Agreement to Develop Land.

**Tentative Map Approval 3-3-5(E)(2)(a)-(k)** – Requires the following findings:

- 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.
  - ) The City of Engineering Department is required to model the anticipated water consumption of the subdivision. The City of Elko Utility Department will be required to submit a "Tentative Will Serve Letter" to the State of Nevada. The water modeling requires an update to reflect the increased number of lots. The required commitment for water service for the proposed subdivision is approximately 32.48 acre feet of water per year. The required peak hour commitment for water service for the proposed subdivision is approximately 37.7 gpm. Current City wide annual water usage is approximately 50% of the total allocated amount.
  - ) Sufficient infrastructure and pumping capacity exists to provide the required water volume to serve the proposed subdivision and development.
  - ) The Developer will extend properly sized infrastructure as required for development of the property.
  - ) The proposed subdivision and development will not create an unreasonable burden on the exiting water supply.
- c. The availability and accessibility of utilities.

- ) Utilities are available in the immediate area and can be extended for the proposed development.
- d. The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks.
  - ) Schools, Fire and Police and Recreational Services are available throughout the community.
- 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.
  - ) The Master Plan Land Use Map shows the area as Medium Density Residential. The proposed subdivision and development have been designed in accordance with the existing zoning although a zoning amendment has been requested to change the zoning to R- Single Family and Multiple Family Residential.
  - ) The result is a density of 5.6 units per acre which meets the minimum density 4 units per acre specified in the Master Plan.
  - ) The proposed subdivision is in conformance with the City's Master Plan as well as Zoning Ordinance.
- f. General conformity with the City's master plan of streets and highways.
  - ) The proposed subdivision is in conformance with the Transportation Component of the Master Plan.
- g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision.
  - ) The proposed subdivision and development will add approximately 278 Average Daily Trips to Copper Street. Based on the threshold of 1000 ADT referenced in the Master Plan, a traffic study is not required with this subdivision.
  - ) The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets.
- h. Physical characteristics of the land, such as floodplain, slope and soil
  - ) The proposed subdivision and subsequent development of the property is expected to reduce the potential for erosion in the immediate area. Development of the property will not cause unreasonable soil erosion.
  - ) A hydrology report dated November 12, 2018 was submitted with the application in support of the storm drain design.
  - ) The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in in the water holding capacity of the land thereby creating a dangerous or unhealthy condition.
- 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.

- 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.

There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable provisions.

### **SECTION 3-3-6 CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL**

**Identification Data (B)(1)** – The subdivision name, location and section, township and range, with reference by dimension and bearing to a section corner or quarter-section corner, is shown on Sheet 1.

**Identification Data (B)(2)** – The name, address, and telephone number of the subdivider is shown on Sheet 1. The email address is not shown.

**Identification Data (B)(3)** – The engineer's name, address and telephone number is shown on Sheet 1. The email address is not shown.

**Identification Data (B)(4)** – The scale is shown on Sheet 1.

**Identification Data (B)(5)** – The north point is shown on Sheet 1.

**Identification Data (B)(6)** – The date of initial preparation and dates of any subsequent revisions are shown on Sheet 1.

**Identification Data (B)(7)** – A location map is shown on Sheet 1.

**Identification Data (B)(8)** – A legal description is provided on Sheet 1.

**Physical Conditions Data (C)(1)** – A topographic map is shown on Sheet 6. The proposed grading plan shows 12 to 15' slopes along the rear lot line of Lots 4-6, 10-14, and 20-24.

**Physical Conditions Data (C)(2)** – There are no streams, ditches or washes directing storm water onto the property.

**Physical Conditions Data (C)(3)** – There are no Special Flood Hazards within the proposed subdivision. The regulatory floodway for 8 Mile Creek, adjacent to the subdivision, is shown on Sheet 2.

**Physical Conditions Data (C)(4)** – Sheet 1 of the Map identifies all the roadways, easements and corporate limits within and adjacent to the tract.

**Physical Conditions Data (C)(5)** – Dimensions of all subdivision boundaries are shown on the map.

**Physical Conditions Data (C)(6)** – Gross and net acreage of subdivision is shown on Sheet 1.

**Proposed Improvements and Other Features Data (F)(1)** – The proposed street layout is shown. All the streets are named and proposed for dedication. The grades of the proposed streets

are shown on the grading plan. The continuation of roadways is not required of the proposed subdivision.

**Proposed Improvements and Other Features Data (F)(2)** – The lot layout with consecutively numbered lots is shown. The area and dimensions for each lot are shown and the total number of lots.

**Proposed Improvements and Other Features Data (F)(3)** – Typical easements will be required along all lot lines. A description of the easements are shown on Sheet 1. An easement for the extension of the Eight Mile spillway is required.

**Proposed Improvements and Other Features Data (F)(4)** – The required information for street dedication is on Sheet 1.

**Proposed Improvements and Other Features Data (F)(5)** – A zone change is proposed for the entire parcel. Application 8-18 will be heard by the Planning Commission on December 4, 2018 for the zoning amendment.

**Proposed Deed Restrictions (G)** – There are no CC & R's proposed for the subdivision.

**Preliminary Grading Plan (H)** – A grading plan with estimated quantities is shown on Sheet 4. A permit for mass grading of the property has been initiated.

**NPDES Permit Compliance (I)** – The subdivider will be required to comply with the City of Elko's storm water regulations.

**Proposed Utility Methods and Requirements (J)(1)** – Sheet 3 shows the proposed sewage disposal infrastructure connecting to the City's infrastructure.

**Proposed Utility Methods and Requirements (J)(2)** – Sheet 3 shows the proposed water supply infrastructure connecting to the City's infrastructure.

**Proposed Utility Methods and Requirements (J)(3)** – The Tentative Map shows storm water infrastructure. The design was based on a hydrology report dated November 12, 2018.

**Proposed Utility Methods and Requirements (J)(4)** – Utilities in addition to City utilities must be provided with civil improvements plans required for final Map submittal.

**Proposed Utility Methods and Requirements (J)(5)** – The City will not require a traffic impact study for the proposed subdivision.

### **SECTION 3-3-9 GENERAL REQUIREMENTS FOR SUBDIVISION DESIGN:**

- A. Conformance with Master Plan: The proposed subdivision is in conformance with the Master Plan objectives for density and applicable zoning.
- B. Public Facility Sites: No public facility sites are proposed for dedication.
- C. Land suitability: The area proposed for subdivision is suitable for the proposed development based on the findings in this report.

The proposed subdivision is in general conformance with Section 3-3-9 of City code.

**SECTION 3-3-10 STREET LOCATION AND ARRANGEMENT:**

- A. Conformance with Plan: The proposed subdivision embraces portions of Copper Street. No other streets require Mapping to conform to any traffic plans.
- B. Layout: Street continuation through the proposed subdivision is required.
- C. Extensions: The extension of Copper Street to the intersection of Mittry Ave. is required as part of the proposed subdivision.
- D. Arrangement of Residential Streets: The arrangement of streets prevents outside traffic from utilizing the neighborhood for cut through traffic.
- E. Protection of Residential Properties: There are lots abutting Copper Street which is classified as a Residential Collector. The lots will be restricted with no access to Copper Street.
- F. Parallel Streets: Consideration of street location is not required.
- G. Topography: The residential streets have been designed to address the topography of the area.
- H. Alleys: No alleys are proposed.
- I. Half Streets: Copper Street is proposed to be a half street until development occurs on the East side.
- J. Dead End Streets: There are no dead end streets proposed.
- K. Intersection Design: The proposed intersection with Copper Street and Mittry Ave. is code compliant.

The proposed subdivision is in conformance with Section 3-3-10 of City code.

**SECTION 3-3-11 STREET DESIGN:**

- A. Required Right of Way Widths:
  - a. Mittry Avenue; Residential Street – 50 feet. The proposed right-of-way width for Mittry Avenue is 50 feet.
  - b. Platinum Drive; Residential Street: 50 feet. The proposed right-of-way width for Platinum Drive is 50 feet.
  - c. Quartz Drive; Residential Street: 50 feet. The proposed right-of-way width for Quartz Drive is 50 feet.
  - d. Copper Street; Residential Collector: 60 feet. The proposed right-of-way width for Copper Street is 80 feet.
- B. Street Grades: The proposed street grades are code compliant.
- C. Vertical Curves: The vertical curves are code compliant.
- D. Horizontal Alignment: The horizontal alignment of the streets and intersection

The proposed subdivision is in conformance with Section 3-3-11 of City code.

**SECTION 3-3-12 BLOCK DESIGN:**

- A. Maximum Length of Blocks: The block design does not exceed the maximum length of a block and maximizes block length.
- B. Sidewalks or Pedestrian ways: Pedestrian ways are not proposed.

The proposed subdivision is in conformance with Section 3-3-12 of City code.

**SECTION 3-3-13 LOT PLANNING:**

- A. Lot Width, Depth and Area: The lots are in conformance with the specifications stipulated for the zoning and reductions allowed with the approved development agreement. All lots will have improved frontage.
- B. Lot Depth: The lots are in conformance with the stipulated lot depth allowed under Exhibit D in the approved Development Agreement. All lots have fronts at least 40 feet in width.
- C. Building Setback: The proposed subdivision, when developed, can meet setback requirements as stipulated in Exhibit D of the approved Development Agreement.
- D. Side Lot Lines: The side lot lines are substantially at right angles to the street lines. Deviations occur on inside curves and are appropriate.
- E. Accessibility: Every lot abuts a proposed public street.
- F. Prohibitions: Lots 1, 2 & 3 are double frontage lots. Those lots access will be limited to the proposed local street.

The proposed subdivision is in conformance with Section 3-3-13 of City code with the approval of Lots 1, 2, & 3 as double front lots abutting Copper Street and access restricted to Platinum Drive and Quartz Drive.

**SECTION 3-3-14 EASEMENT PLANNING:**

- A. Utility Easements: Note 13 on the Tentative Map specifies side and rear lot line easements of 5 feet. This equates to a total easement width of 10 feet. Overhead utilities are not allowed within the subdivision.
- B. Underground Utilities: Note 13 on the Tentative Map specifies side and rear lot line easements of 5 feet. This equates to a total easement width of 10 feet. Overhead utilities are not allowed within the subdivision. The utility companies, at their discretion, may request a wider easement on the rear lot line. The proposed side lot line easements conform to code.
- C. Lots Facing Curvilinear Streets. Overhead utilities are not allowed within the subdivision.
- D. Public Drainage Easement. There are no public drainage easements offered for dedication.

- E. Easement Land Not Considered and Considered in Minimum Lot Area Calculation: There are no areas offered for dedication that would not be included in minimum lot area in the Phase 2 area. Area for a drainage easement located within the remainder lot is offered for dedication.
- F. Lots Backing On To Arterial Streets: There are no lots proposed which back onto an arterial street.
- G. Water and Sewer Lines: The utilities are shown in the streets.

The proposed subdivision is in conformance with Section 3-3-14 of City code.

**SECTION 3-3-15 STREET NAMING:**

The subdivider has proposed street names. The street name does not duplicate other streets.

The proposed subdivision is in conformance with Section 3-3-15 of City code.

**SECTION 3-3-16 STREET LIGHT DESIGN STANDARDS:**

Conformance is required with presentation of civil improvements plans.

**SECTIONS 3-3-17 through 3-3-22 (inclusive)**

All the referenced sections are applicable to final Map submission, approval and construction of civil improvement plans.

**SECTION 3-3-23 PARK LAND DEDICATIONS**

There is no offer of dedication for park lands.

**SECTION 3-3-25 MODIFICATION OF STANDARDS:**

1. Section 3-3-13(F) - Lots 1, 2, & 3 are approved as double fronts lots with access restricted to Platinum Drive for lots 2 & 3 and Quartz Drive for lot 1.

**SECTION 3-2-3 GENERAL PROVISIONS:**

Section 3-2-3(C)(1) of City code specifies use restrictions. The following use restrictions shall apply:

Principal Uses: Only those uses and groups of uses specifically designated as "principal uses permitted" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses.

Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

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

Section 3-2-3(D) states that "No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography,



low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify or withdraw the determination of unsuitability.”

The proposed subdivision and development is in conformance with Section 3-2-3 of City code.

#### **SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS:**

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

The proposed subdivision with the approved development agreement is in conformance with Section 3-2-4 of City code.

#### **SECTION 3-2-5(B) R1 Single Family Residential:**

1. Section 3-2-5(E)(2). Principal Uses Permitted:
  - a. Adult care facility which serves ten (10) or fewer.
  - b. Electric power substations, sewer lift stations, and water pump stations wherein service to district residents requires location within the district.
  - c. Multiple-family residential units, including a duplex, triplex, or a fourplex located on a single lot or parcel, provided area and setback requirements are met.
  - d. One single-family dwelling of a permanent character in a permanent location with each dwelling unit on its own parcel of land and provided all area and setback requirements are met.
  - e. Publicly owned and operated parks and recreation areas and centers.
  - f. Residential facility for groups of ten (10) or fewer.

The proposed subdivision and development is in conformance with Section 3-2-5(E)(2). Conformance with Section 3-2-5(E) is required as the subdivision develops.

#### **SECTION 3-2-5(G)**

1. Lot areas are shown. All the Lots meet the minimum area requirements as stipulated in the approved Development Agreement Exhibit D.
2. Lot dimensions are shown and are in conformance with the approved Development Agreement Exhibit D.

The proposed subdivision and development is in conformance with Section 3-2-5(G) of City code with the approved Development Agreement.

#### **SECTION 3-2-17**

1. The proposed roadways are classified as a residential street in accordance with the Master Plan.
2. The proposed lots are large enough to develop the required off-street parking to be located outside the front and interior side yards.
3. Access for Lot 1, 2, & 3 is restricted to Platinum Drive for lots 2 & 3 and Quartz Drive for lot 1. A note on the Final Map is required.

The proposed subdivision and development is in conformance with Section 3-2-17. Conformance with Section 3-2-17 is required as the subdivision develops.

### **SECTION 3-8 FLOOD PLAIN MANAGEMENT**

The proposed subdivision and development is not located in a designated special flood hazard area and is in conformance with section 3-8 of City code.

### **TITLE 9 CHAPTER 8 POST CONSTRUCTION RUNOFF CONTROL AND WATER QUALITY MANAGEMENT**

Final design of the subdivision is required to conform to the requirements of this title.

### **GENERAL COMMENTS**

1. A Hydrology Report is on file for this area.
2. A soils report is required with the **final Map submittal**.
3. A complete set of civil improvement plans will be required with the final Map.

### **OTHER**

The following permits will be required for the project:

1. Storm water general permit, 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) is required in the disturbed area is equal to or greater than five acres. 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. A grading permit from the City of Elko.
5. All other applicable permits and fees required by the City of Elko.
6. The City of Elko also requires submittal of the plans from the individual utility companies before permits will be issued for the project.

### **FINDINGS**

1. The proposed subdivision and development is in conformance with the Land Use component of the Master Plan.

2. The proposed subdivision and development is in conformance with the Transportation Component of the Master Plan.
3. The proposed subdivision and development does not conflict with the Airport Master Plan.
4. The proposed subdivision does not conflict with the City of Elko Development Feasibility, Land use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report - November 2012.
5. The property is not located within the Redevelopment Area.
6. The proposed subdivision and development are in conformance with the Wellhead Protection Program. The sanitary sewer will be connected to a programmed sewer system and all street drainage will report to a storm sewer system.
7. A zoning amendment is required due to the amendment to the development agreement to include the remainder lot which has dual zoning of R1 and R3. The proposed zoning of R from R1 doesn't change the design or requirements of the subdivision.
8. In accordance with section 3-3-5(E)(2) the proposed subdivision and development will not result in undue water or air pollution based on the following:
  - a. There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable environmental and health laws and regulations
  - b. There is adequate capacity within the City's water supply to accommodate the proposed subdivision.
  - c. The proposed subdivision and development will not create an unreasonable burden on the existing water supply.
  - d. There is adequate capacity at the Water Reclamation Facility to support the proposed subdivision and development.
  - e. The proposed subdivision and development will be connected to the City's programmed sanitary sewer system therefore the ability of soils to support waste disposal does not require evaluation prior to Tentative Map approval.
  - f. Utilities are available in the immediate area and can be extended for the proposed development.
  - g. Schools, Fire and Police and Recreational Services are available throughout the community.
  - h. The proposed subdivision and development is in conformance applicable zoning ordinances and is in general conformance with the Master Plan based on the constraints of establishing reasonable grades for roadways, lot grading and slope maintenance.
  - i. The proposed subdivision and development will not cause unreasonable traffic

congestion or unsafe conditions with respect to existing or proposed streets.

- j. The area is not located within a designated flood zone. Concentrated storm water runoff has been addressed as shown on the grading plan.
  - k. The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in the water holding capacity of the land thereby creating a dangerous or unhealthy condition.
9. The proposed subdivision submittal is in conformance with Section 3-3-6 of City code with the following exception:
- ) Email address is not shown for subdivider or engineer. This is not a significant deficiency.
10. The proposed subdivision is in general conformance with Section 3-3-9 of City code.
11. The proposed subdivision is in conformance with Section 3-3-10 of City code.
12. The proposed subdivision is in conformance with Section 3-3-11 of City code.
13. The proposed subdivision is in conformance with Section 3-3-12 of City code.
14. The proposed subdivision is in conformance with Section 3-3-13 of City code with the approval of Lots 1, 2 & 3 as double front lots and access restricted to Platinum Drive for Lots 2 & 3 and Quartz Drive for Lot 1.
15. The proposed subdivision is in conformance with Section 3-3-14 of City code.
16. The proposed subdivision is in conformance with Section 3-3-15 of City code.
17. The proposed subdivision and development is in conformance with Section 3-2-3 of City code.
18. The proposed subdivision and development is in conformance with Section 3-2-4 of City code.
19. The proposed subdivision and development is in conformance with Section 3-2-5(E)(2). Conformance with Section 3-2-5(E) is required as the subdivision develops.
20. The proposed subdivision and development is in conformance with Section 3-2-5(G) of City code with the approved Development Agreement.
21. The proposed subdivision and development is in conformance with Section 3-2-17. Conformance with Section 3-2-17 is required as the subdivision develops.
22. The proposed subdivision and development is not located in a designated special flood hazard area and is in conformance with section 3-8 of City code.

**STAFF RECOMMENDATION:**

Staff recommends this item be **APPROVED** subject to the following conditions:

**CONDITIONS:**

1. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.
2. Planning Commission recommendation for approval of zone amendment 8-18 in conjunction with hearing of the tentative plat application.
3. City Council approval of the proposed zone amendment is required prior to City Council approval of the Tentative Map.
4. City Council approval of the amendment to the approved Development Agreement to include Phase 2 is required prior to City Council approval of the tentative map.
5. Tentative map approval constitutes authorization for the sub-divider to proceed with preparation of the final map and associated construction plans.
6. Tentative map approval does not constitute authorization to proceed with site improvements, with the exception of authorized grading, prior to approval of the construction plans by the City and the State.
7. The applicant submits an application for final map within a period of four (4) years in accordance with NRS 278.360(1)(a). Approval of the tentative map will automatically lapse at that time.
8. A soils report is required with final map submittal.
9. Final map construction plans improvements are to comply with Chapter 3-3 of City code.
10. The subdivision design and construction shall comply with Chapter 9-8 of City code.
11. The Utility Department will issue an Intent to serve letter.
12. A note shall be added to the final map restricting the access for Lots 2 & 3 limited to Platinum Drive and Lot 1 to be limited to Quartz Drive.
13. A modification from standards for full road improvements on Copper Street shall be approved by the City Council.
14. Revise the tentative map to show a drainage easement for the extension of the Eight Mile spillway prior to City Council consideration of the tentative map.
15. Address comments in the staff letter dated November 21, 2018.







# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Koinonia Construction, LLC  
207 Brookwood Drive  
Elko, NV 89801

Re: Rezone No. 8-18 and Preliminary Plat No. 13-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: Carter Engineering, [lanacarter@live.com](mailto:lanacarter@live.com)



**City of Elko – Assistant City Manager**  
**1751 College Avenue**  
**Telephone: 775.777.7211**  
**Facsimile: 775.777.7219**

November 21, 2018

Ms. Lana Carter, P.E.  
Carter Engineering  
POB 794  
Elko, NV 89803

Re: Copper Trails Phase 2

Dear Ms. Carter,

The City of Elko has reviewed and has the following comments:

1. Identify the gang box location. The gang box location should accommodate the proposed build out of the future phases. To be shown on the construction plans required for final map submittal.
2. A survey monument will be required at the intersection of Mittry Avenue and Copper Street if one does not exist. The monument, if required, is to be shown on the final map.
3. Contact the Utility Department for a possible oversize agreement for the sanitary sewer upon final map approvals.
4. The eight mile drainage easement is to be of record with the phase 2 approval process.
5. The Agreement to Develop Land requires amendment by ordinance. The city wishes to add a requirement to the development standards that all lots up gradient of the eight mile drainage easement will have bottom of finished floor elevations two feet above the finished grade to ensure structure protection in the event of alluvial flooding from a spillway over flow.
6. The mass grading for the entire area is to be completed with Phase 2 in accordance with the grading permit issued under separate cover. Ensure all required permits are in place before proceeding with the work.
7. Ensure the proposed drainage swale on the north side of the area does not conflict with the location and bury depth of the existing water line. Ensure proper approvals are in place for construction of the drainage swale.
8. Slope stabilization is required. Consider riprap rather than revegetation.

Please contact me at 775.777.7211 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Wilkinson". The signature is fluid and cursive, with a large initial "S" and "W".

Scott A. Wilkinson  
Assistant City Manager

CC: City of Elko - File

# Rez 8-18 Koinonia Construction, Inc.

# PP 13-18 Copper Trails Ph 2

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
00161J004	AZCUE, PROCORO & ISABEL		2648 COPPER TRL	ELKO NV	89801-4512
00161J002	BANDA, FANUEL K & KARA L		2632 COPPER TRL	ELKO NV	89801-4512
00161J001	BENCH, WILLIAM R ET AL		2624 COPPER TRL	ELKO NV	89801
001610093	BLACK, ROBERT D & SUSAN J TR		1453 FOSTER DR	RENO NV	89509-1209
00161J008	COPPER TRAILS LLC	} 1 p.c.	PO BOX 8070	RENO NV	89507-8070
00161J028	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J019	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J018	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J017	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J016	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J012	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J009	COPPER TRAILS LLC		PO BOX 8070	RENO NV	89507-8070
00161J014	CRESS, MICHAEL ET AL		2856 COPPER TRL	ELKO NV	89801
001610108	ELKO DEVELOPMENT PARTNERS LLC	} 1 p.c.	1520 TAOS LN	RENO NV	89511-6655
001610106	ELKO DEVELOPMENT PARTNERS LLC		1520 TAOS LN	RENO NV	89511-6655
001610103	ELKO, CITY OF NO P.C.		1755 COLLEGE AVE	ELKO NV	89801-3401
001610117	FISCUS, DELMER		2612 COPPER TRL	ELKO NV	89801
001610112	GRACE BAPTIST CHURCH	} 1 p.c.	3030 5TH ST	ELKO NV	89801-4472
001610113	GRACE BAPTIST CHURCH		3030 5TH ST	ELKO NV	89801-4472
00161J011	HAWKINS, KYLE J		2778 COPPER TRL	ELKO NV	89801
00161J021	KOINONIA CONSTRUCTION INC	} 1 p.c.	461 4TH ST	ELKO NV	89801-3133
00161J022	KOINONIA CONSTRUCTION INC		461 4TH ST	ELKO NV	89801-3133
00161J023	KOINONIA CONSTRUCTION INC	} 1 p.c.	207 BROOKWOOD DR	ELKO NV	89801-2301
00161J024	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J025	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J026	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J027	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J015	KOINONIA CONSTRUCTION INC		207 BROOKWOOD DR	ELKO NV	89801-2301
00161J020	KOOPMAN, JENNIFER M		2975 COPPER TRL	ELKO NV	89801
00161J005	MARTINEZ, OSCAR JR & BRENDA L		2656 COPPER TRL	ELKO NV	89801-4512
001610116	MEZA, JUAN & ASHLEY N		2616 COPPER TRAIL	ELKO NV	89801
001610041	MONTE CARLO ASSOCIATES LLC	C/O ABEL, STEVEN F	2980 S RAINBOW BLVD # 110N	LAS VEGAS NV	89146-6531
00161J013	SAGEMAN, ERIC LANAKI SR		2830 COPPER TRL	ELKO NV	89801

00161J003 SIERRA, PAUL & CRISTINA  
00161J010 TEMPLETON, RICHARD A & JANA R

2640 COPPER TRL  
2752 COPPER TRL

ELKO NV  
ELKO NV

89801-4512  
89801-4513

18

Mailed 11/21/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

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

- Rezone No. 8-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC, for a change in zoning from R1 (Single-Family Residential) and R3 (Multi-Family Residential) to R (Single-Family and Multi-Family Residential), approximately 19.194 acres of property, specifically APN 001-610-114, located generally northwest of the intersection of Copper Street and Mittry Avenue, more particularly described as:  
A parcel of land located in Section 9, Township 34 North, Range 55 East, M.D.B.&M., City of Elko, Nevada, more particularly described as follows:  
All of Parcel G as shown on the Parcel Map for Copper Trails, LLC, on file in the Office of the Elko County Recorder, Elko, Nevada, as File No. 748288, containing 19.194 acres, more or less.  
Reference is hereby made to Exhibit B, Map to Accompany Application for Zone Change for Copper Trails, LLC attached hereto and made a part hereof.  
The intent of the zone change is to allow for single-family and multiple-family development.
- Preliminary Plat No. 13-18, filed by Koinonia Construction, Inc., on behalf of Copper Trails, LLC, for the development of a subdivision entitled Copper Trails Phase 2 involving the proposed division of approximately 19.194 acres of property into 29 lots and a remainder parcel for residential development within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto. The subject property is located generally northwest of the intersection of Copper Street and Mittry Avenue. (APNs 001-610-114)

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

**ELKO CITY PLANNING COMMISSION**





# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

November 14, 2018

Elko County School District  
**Mr. Todd Pehrson**  
PO Box 1012  
Elko, NV 89803

SUBJECT: Preliminary Plat No. 13-18/Copper Trails Phase 2

Dear Mr. Pehrson:

Enclosed for your review and information is a copy of the submitted preliminary plat for the proposed Copper Trails Phase 2 subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their December 4, 2018 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures



# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

November 14, 2018

Frontier Communications  
**Mr. William Whitaker**  
111 W. Front Street  
Elko, NV 89801

SUBJECT: Preliminary Plat No. 13-18/ Copper Trails Phase 2

Dear Mr. Whitaker:

Enclosed for your review and information is a copy of the submitted preliminary plat for the proposed Copper Trails Phase 2 subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their December 4, 2018 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures



# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

November 14, 2018

Satview Broadband  
**Mr. Steve Halliwell**  
3550 Barron Way, Suite 13A  
Reno, NV 89511

SUBJECT: Preliminary Plat No. 13-18/Copper Trails Phase 2

Dear Mr. Halliwell:

Enclosed for your review and information is a copy of the submitted preliminary plat for the proposed Copper Trails Phase 2 subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their December 4, 2018 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures



# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

November 14, 2018

Southwest Gas Corporation  
**Engineering Department**  
PO Box 1190  
Carson City, NV 89702

SUBJECT: Preliminary Plat No. 13-18/Copper Trails Phase 2

To Whom It May Concern:

Enclosed for your review and information is a copy of the submitted preliminary plat for the proposed Copper Trails Phase 2 subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their December 4, 2018 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures



# CITY OF ELKO

## Planning Department

Website: [www.elkocitynv.gov](http://www.elkocitynv.gov)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

November 14, 2018

NV Energy  
**Mr. Robert Lino**  
4216 Ruby Vista Dr.  
Elko, NV 89801-1632

SUBJECT: Preliminary Plat No. 13-18/Copper Trails Phase 2

Dear Mr. Lino:

Enclosed for your review and information is a copy of the submitted preliminary plat for the proposed Copper Trails Phase 2 subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their December 4, 2018 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

### APPLICATION FOR PRELIMINARY PLAT (STAGE II) APPROVAL

**\*\*PRIOR TO SUBMITTING THIS APPLICATION, PRE-APPLICATION (STAGE I) MUST BE COMPLETE\*\***

APPLICANT(s):	Koinonia Construction, LLC		
MAILING ADDRESS:	207 Brookwood Drive		
PHONE NO (Home):		(Business):	775-303-8492
NAME OF PROPERTY OWNER (If different):	Copper Trails LLC		
(Property owner consent in writing must be provided)			
MAILING ADDRESS:	207 Brookwood Drive		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-610-114	Address:	Not Addressed
Lot(s), Block(s), & Subdivision	Not Divided		
Or Parcel(s) & File No.	Parcel G of File No 748288		
APPLICANT'S REPRESENTATIVE OR ENGINEER:	Lana L Carter, P.E., Carter Engineering LLC		

#### **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 1<sup>st</sup> 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 preliminary 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 3-3-7 of the Elko City Code (see attached checklist).
2. A Development Master Plan when, in the opinion of the Planning Commission, the proposed subdivision is sufficiently large enough 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.
3. A preliminary grading plan for subdivisions involving property characterized by an average slope greater than ten percent (10%).

**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.

RECEIVED

NOV 13 2018



**PROJECT DESCRIPTION OR PURPOSE:**

The purpose of this project is to create a 29 lot single family residential subdivision for vacant land off Copper Street and Mittry Avenue. There will be one entrance for Phase 1 from the Mittry Avenue and Copper Street intersection. Mittry Avenue will be extended into the property to a tee intersection to proposed streets, Platinum Drive and Quartz Drive. All of the utility service will be extended into the property from the Mittry Avenue and Copper Street intersection. This project is located in unshaded Zone X which is an area determined to be outside the 0.2% annual chance floodplain.
--

(Use additional pages if necessary)

## Preliminary Plat Checklist 3-3-7

Date	Name
<b>Identification Data</b>	
✓	Subdivision Name
✓	Location and Section, Township and Range
✓	Reference to a Section Corner or Quarter-Section Corner
✓	Name, address and phone number of subdivider
✓	Name, address and phone number of engineer/surveyor
✓	Scale, North Point and Date of Preparation
✓	Dates of Revisions
✓	Location maps
✓	Legal description of boundaries
<b>Existing Conditions Data</b>	
✓	2' contours on city coordinate system
	Location of Water Wells <u>NONE IN AREA</u>
✓	Location of Streams, private ditches, washes and other features
✓	Location of Designated flood zones
✓	The Location, widths and Names of all platted Streets, ROW
	Municipal Corporation Lines <u>NONE IN AREA</u>
✓	Name, book and page numbers of all recorded plats
✓	Existing Zoning Classifications
✓	Zoning of Adjacent Properties
✓	Dimensions of all tract boundaries, gross and net acreage
<b>Proposed Conditions Data</b>	
✓	Street Layout, location, widths, easements
	Traffic Impact Analysis <u>NOT REQUIRED</u>
✓	Lot Layout, including dimensions of typical lots
✓	Corner Lot Layout
✓	Lot layout on Street Curves
✓	Each lot numbered consecutively
✓	Total number of lots
✓	Location, Width and proposed use of easements
✓	Location, extent and proposed use of all land to be dedicated
✓	Location and boundary of all proposed zoning districts
	Draft of proposed deed restrictions <u>NONE</u>
✓	Preliminary Grading Plan
✓	Conceptual cut and fill
✓	Estimated quality of material to be graded
✓	SWPPP
<b>Proposed Utilities</b>	
✓	Sewage Disposal, design for sewage disposal
✓	Water Supply, Evidence of adequate volume and quality
✓	Storm Drain, Preliminary Calculations and Layout
✓	Telephone, Power, Gas, Television
	Will Serve Letter by Engineering Department <u>NOT ISSUED YET</u>

**By My Signature below:**

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

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

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

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

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


Applicant / Agent Luke Fitzgerald  
(Please print or type)

Mailing Address 207 Brookwood Dr, Elko, NV 89801  
Street Address or P.O. Box

City, State, Zip Code

Phone Number: 775 303 8492

Email address: elkoLuke@gmail.com

SIGNATURE: 

**FOR OFFICE USE ONLY**

File No.: 13-18 Date Filed: 11/13/18 Fee Paid: \$1500 CR# 1471

30 Lots X 25 = \$750  
+ \$750  
\$1,500

Robert Fitzgerald,  
Manager  
Copper Trail LLC

PO Box 8070, Reno, NV 89507  
775-303-8492  
Rob.fitz@earthlink.net

11/22/2018

City of Elko  
Planning Department

Dear City of Elko,

Copper Trails, LLC would like to extend permission to Koinonia Construction to apply for the rezoning and preliminary plat on behalf of our company Copper Trails, LLC. If you need further information to get this completed, please let me know.



Warm regards,  
Robert Fitzgerald, Manager  
Copper Trail LLC

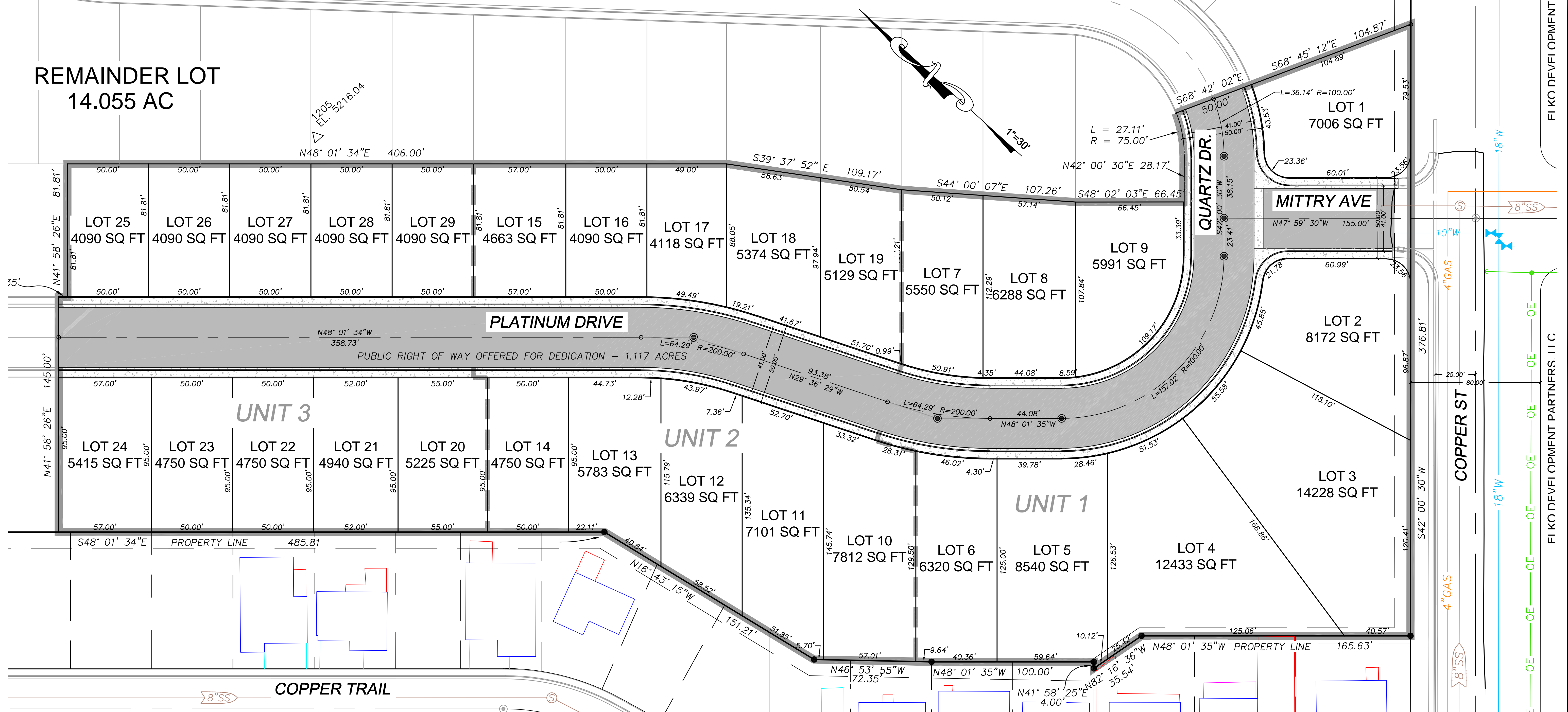
**RECEIVED**

NOV 26 2018



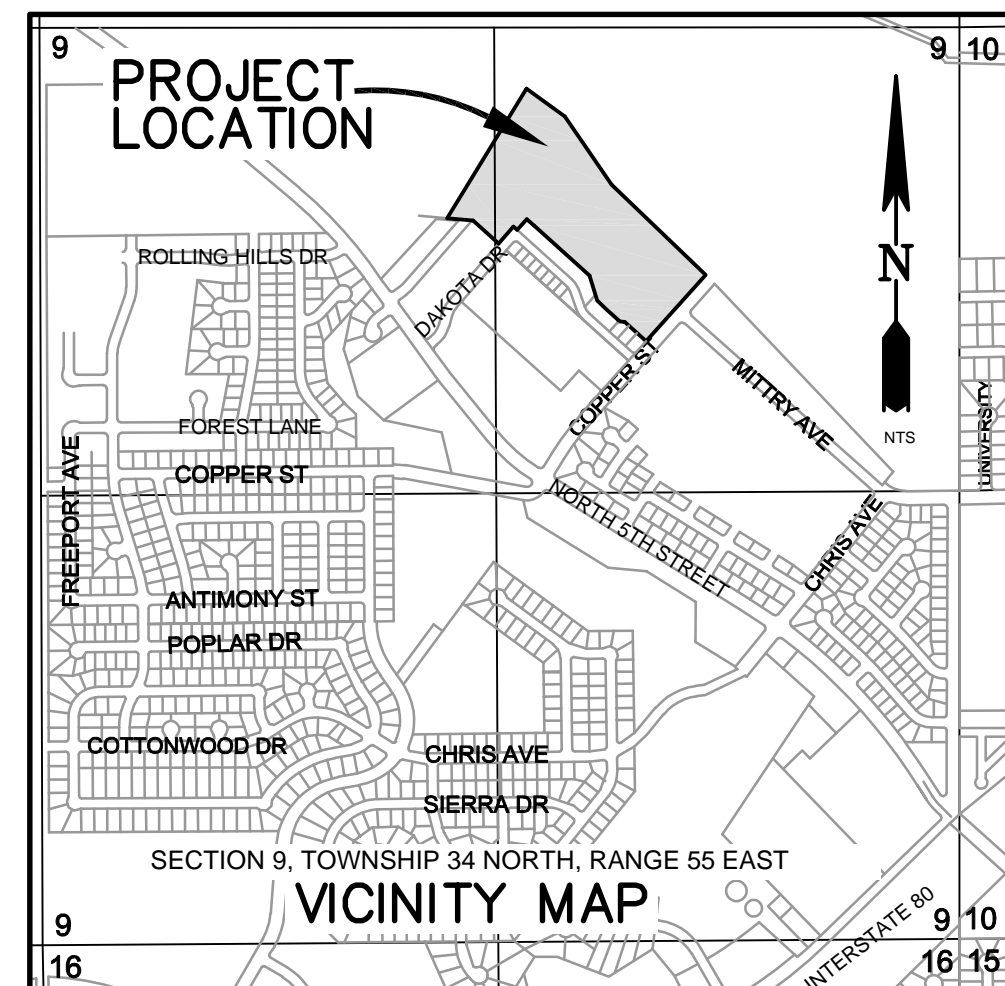


# PRELIMINARY PLAT - COPPER TRAILS PHASE 2



## PROJECT INFORMATION

- ZONING: R1 - SINGLE FAMILY RESIDENTIAL DISTRICT AND R3 - MULTIPLE FAMILY RESIDENTIAL DISTRICT. PENDING ZONE CHANGE TO R - SINGLE FAMILY AND MULTIPLE FAMILY RESIDENTIAL DISTRICT FOR ENTIRE 19.194 ACRES (PARCEL G OF FILE NUMBER 748288).
- APN = 001-610-114
- LEGAL DESCRIPTION - PARCEL G OF FILE NUMBER 748288, IN THE OFFICE OF THE ELKO COUNTY RECORDER.
- TOTAL AREA PARCEL AREA IS 19.194 ACRES. TOTAL AREA OF PHASE 2 IS 5.139 ACRES.
- 29 LOTS TOTAL WITH ONE REMAINDER LOT.
- NO DEED RESTRICTIONS.
- NO ADDRESS ASSIGNED TO THE PARCEL.
- PARCEL TO BE SUBDIVIDED IS IN LOCATED IN SECTION 9 OF TOWNSHIP 34 NORTH, RANGE 55 EAST M.D.B. & M.
- SUBDIVISION TO BE SERVED BY THE FOLLOWING UTILITY COMPANIES CITY OF ELKO - WATER, SEWER & STORM DRAIN  
SW GAS - NATURAL GAS  
FRONTIER - COMMUNICATIONS AND TELEPHONE  
NV ENERGY - ELECTRICAL  
SATVIEW BROAD BAND - COMMUNICATIONS AND TELEVISION  
ELKO SANITATION - WASTE DISPOSAL
- THIS PROPERTY IS LOCATED IN ZONE X (AREA OF MINIMAL FLOOD HAZARD) PER FEMA FIRM MAP 32007C5606E EFFECTIVE 9-4-13
- THE ESTIMATED SANITARY SEWER CONTRIBUTION IS 350 GPD/LOT. 29 LOTS x 350 GPD/LOT = 10,150.00 GPD.
- THE ESTIMATED WATER DEMAND IS 1.12 AC-FT/YEAR/LOT. 29 LOTS x 1.12 AC-FT/YEAR/LOT = 32.48 AC-FT/YEAR.
- TOTAL GROSS ACREAGE PHASE 2 5.139 ACRES  
TOTAL RIGHT OF WAY ACREAGE OFFERED FOR DEDICATION EAGLE RIDGE LOOP 1.117 ACRES  
TOTAL NET ACREAGE 4.022 ACRES
- IN ADDITION TO THE EASEMENTS SHOWN A 7.5' WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT IS PROVIDED ALONG ALL STREET FRONT LOT LINES AND A 5.0' WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT IS PROVIDED ALONG ALL SIDE AND REAR LOT LINES.
- ON SITE MITTRY AVENUE, PLATINUM DRIVE AND QUARTZ DRIVE ARE PROPOSED TO BE LOCAL RESIDENTIAL STREETS.
- CURB RETURN RADIUS SHALL BE 20' FEET WITH ACCESSIBLE CURB RAMPS.
- TEMPORARY 50' RADIUS ALL WEATHER TURN AROUND SHALL BE PROVIDED AT THE END OF EACH UNIT UNTIL NEXT UNIT IS CONSTRUCTED.



## LEGEND

EXISTING SANITARY SEWER MANHOLE	⊙
EXISTING SANITARY SEWER LINE	— 10"SS —
EXISTING CURB INLET	⊠
EXISTING STORM DRAIN	— 24"SS —
EXISTING STORM DRAIN MANHOLE	⊙
EXISTING GAS LINE	— GAS —
EXISTING WATER LINE	— W —
EXISTING WATER VALVE	⊗
EXISTING FIRE HYDRANT	⊗
EXISTING TELEPHONE PEDESTAL	⬢
EXISTING OVER HEAD POWER LINE	— OE —
EXISTING POWER BOX	⬢
PROPOSED STREET MONUMENT	●
EXISTING STREET MONUMENT	⊙
PROPERTY CORNER	●
CALCULATED POINT NOTHING TO BE SET	○



**OWNER-DEVELOPER**  
COPPER TRAILS, LLC  
KOINONIA CONSTRUCTION, LLC  
207 BROOKWOOD DRIVE  
ELKO, NEVADA 89801  
CONTACT: LUKE FITZGERALD  
(775) 303-8492

**CIVIL ENGINEER**  
CARTER ENGINEERING, LLC  
P.O. BOX 794  
ELKO, NEVADA 89801  
CONTACT: LANA L. CARTER, P.E.  
(775) 397-2531

## ENGINEER'S CERTIFICATION

I, LANA L. CARTER, A REGISTERED PROFESSIONAL CIVIL ENGINEER IN THE STATE OF NEVADA, DO HEREBY CERTIFY THAT THIS PRELIMINARY PLAT HAS BEEN PREPARED UNDER MY DIRECTION AND WAS COMPLETED ON THE 13TH DAY OF NOVEMBER, 2019.

LANA L. CARTER, P.E.



SCALE: 1"=30'

ELKO DEVELOPMENT

ELKO DEVELOPMENT PARTNERS, LLC

REV	DATE	DESCRIPTION

**Carter Engineering, LLC**  
Civil Engineering  
P.O. Box 794  
Elko, Nevada 89803  
775-397-2531

**KOINONIA CONSTRUCTION, LLC**  
COPPER TRAILS PHASE 2  
PRELIMINARY PLAT - LAYOUT  
ELKO, NEVADA

DESIGN BY:	LLC
DRAWN BY:	LLC
CHECKED BY:	LLC
DATE:	11-13-18
JOB NO:	01-2018
DWG NO:	2018-02

**SCALE**  
HORIZ: 1"=30'  
VERT: N/A

**SHEET**  
1  
OF 6

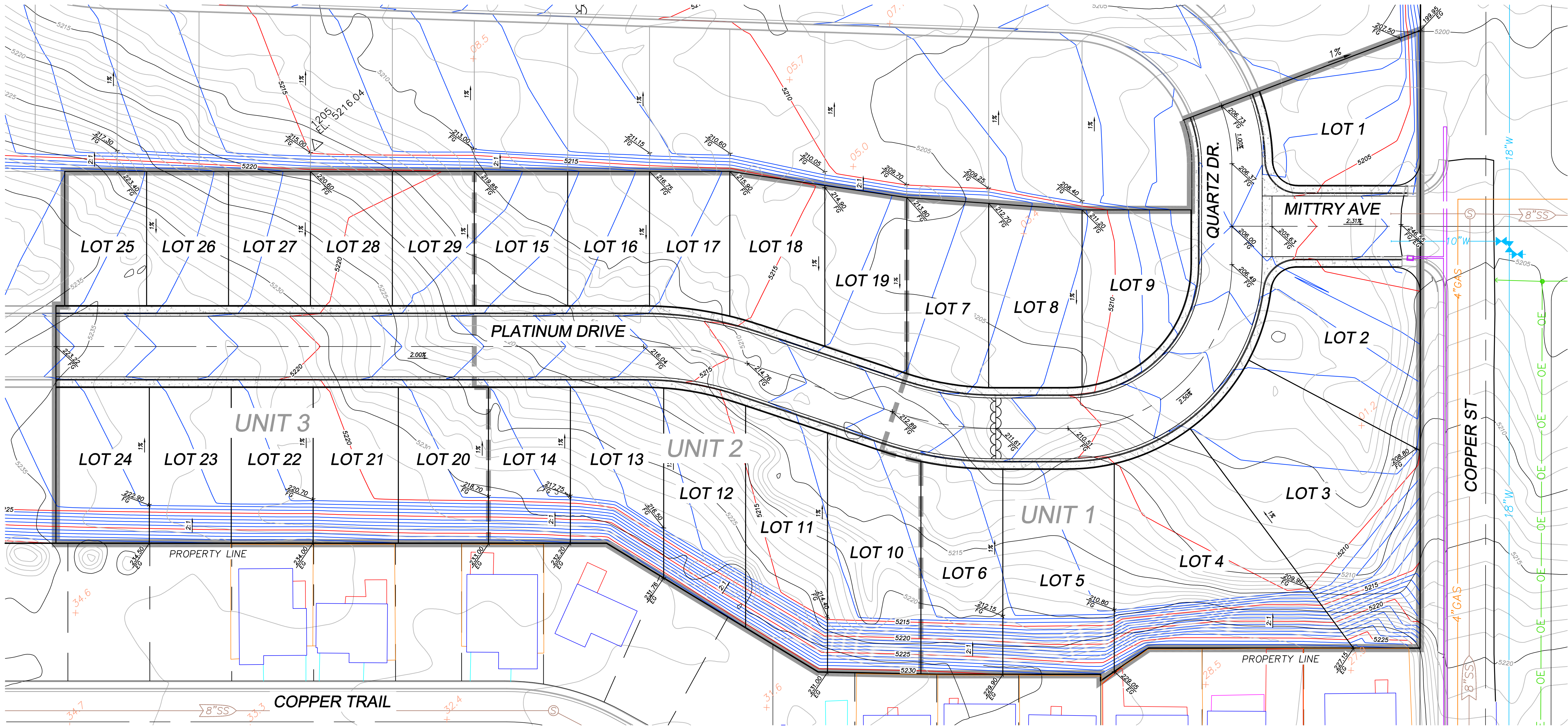










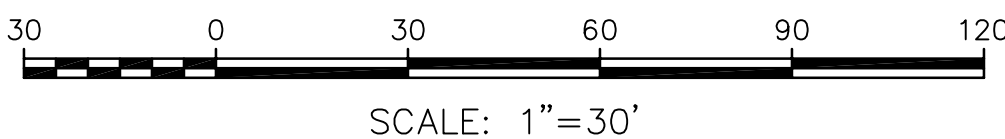
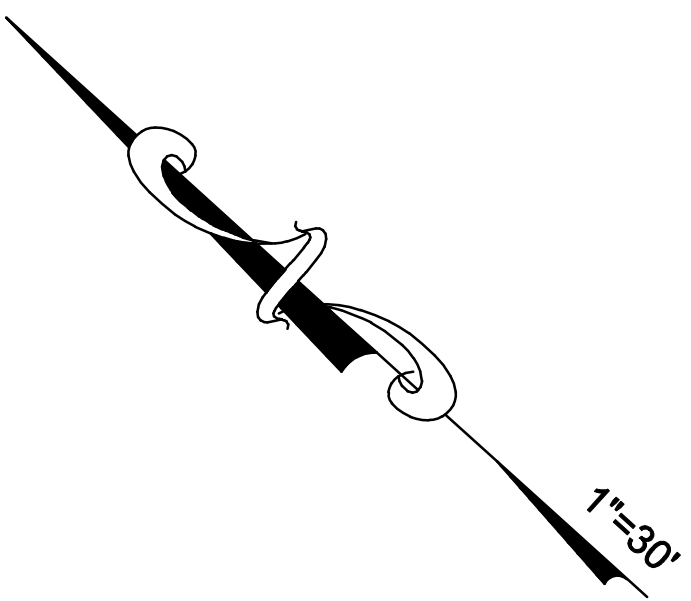


NOTES:

- 1. THE ESTIMATED EARTHWORK QUANTITIES ARE AS FOLLOWS:  
UNCLASSIFIED EXCAVATION = 29,660 CY CUT  
UNCLASSIFIED EMBANKMENT = 21,925 CY FILL  
THE ABOVE QUANTITIES ARE BANK CUBIC YARDS WITH A 3-INCH GRUB. SHRINK OR SWELL HAS NOT BEEN CONSIDERED.
- 2. ADD 5000 FEET TO SPOT ELEVATIONS.
- 3. THE FINAL GRADING OF THE LOTS WILL BE DONE TO ELIMINATE CROSS LOT DRAINAGE.
- 4. SLOPES ADJACENT TO STREETS SHALL NOT EXCEED 3:1.
- 5. INTERIOR SLOPES SHALL NOT EXCEED 2:1.
- 6. THIS PROJECT REQUIRES EXPORT EXCAVATION. THE OWNER AGREES TO SUBMIT GRADING PLANS FOR THESE SITES AS THESE LOCATIONS ARE MADE KNOWN.
- 7. THE EXISTING GROUND TOPOGRAPHY SHOWN ON THIS PLAN IS FROM A SURVEY PROVIDED BY HIGH DESERT ENGINEERING ON 8-15-18.
- 8. FINAL GRADING SHALL ELIMINATE CROSS LOT DRAINAGE BY DRAINING DOWN LOT LINES.

LEGEND

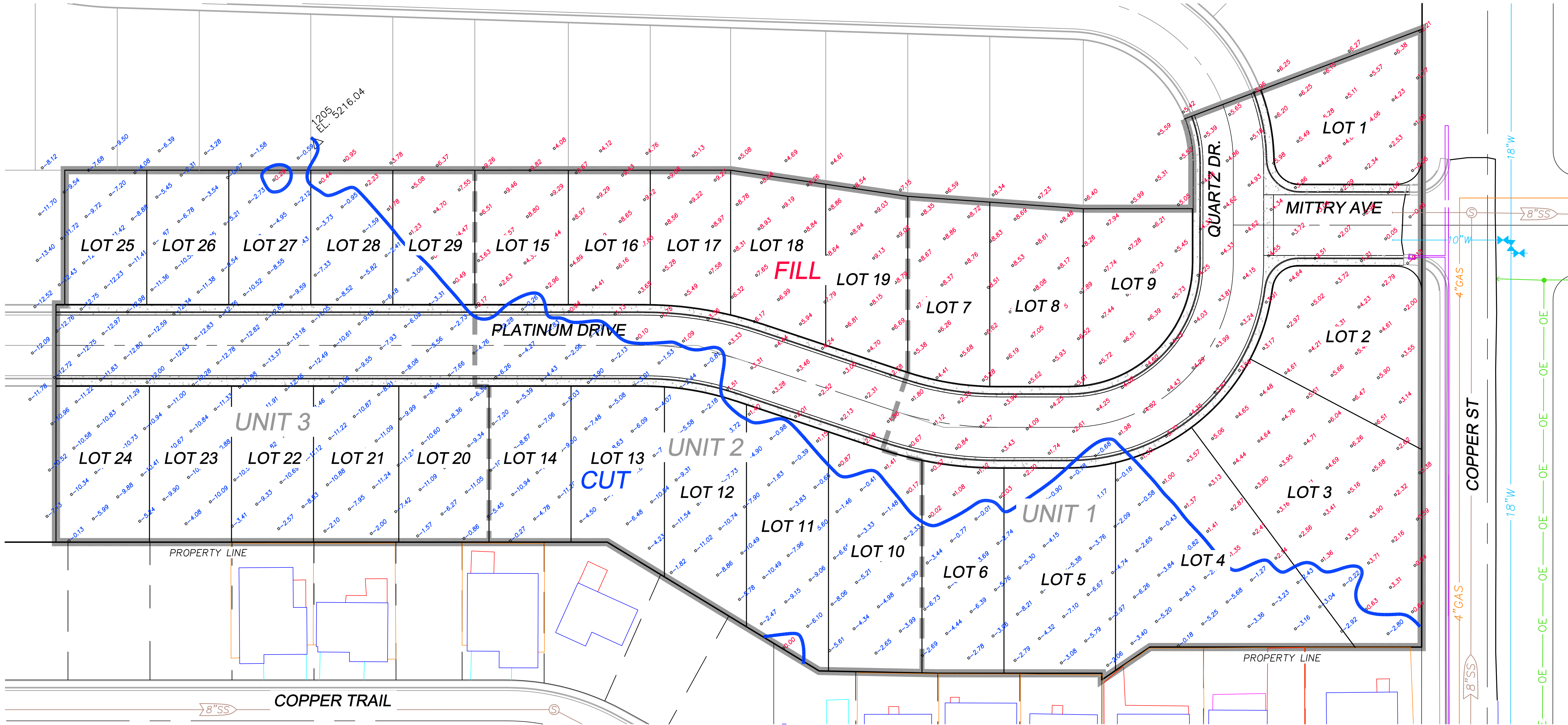
EXISTING SANITARY SEWER MANHOLE		EXISTING OVER HEAD POWER LINE	
EXISTING SANITARY SEWER LINE		EXISTING POWER BOX	
EXISTING STORM DRAIN MANHOLE		EXISTING GROUND CONTOUR	
EXISTING CURB INLET		FINISH GRADE CONTOUR	
EXISTING STORM DRAIN		SPOT ELEVATION	
EXISTING GAS LINE		PERCENT OF SLOPE	
EXISTING WATER LINE		GRADE BREAK LINE	
EXISTING WATER VALVE		ABBREVIATIONS FOR SPOT ELEVATIONS	
EXISTING FIRE HYDRANT		EG	EXISTING GRADE
EXISTING TELEPHONE PEDESTAL		FG	FINISH GRADE



DESIGN BY:	LLC	<b>Carter Engineering, LLC</b> Civil Engineering P. O. Box 784 Elko, Nevada 89803 775-397-2531
DRAWN BY:	LLC	
CHECKED BY:	LLC	
DATE:	11-13-18	
JOB NO:	01-2018	
DWG NO:	2018-02	
SCALE HORIZ: 1"=30' VERT: N/A		
SHEET 4		
OF 6		

**KOINONIA CONSTRUCTION, LLC**  
**COPPER TRAILS PHASE 2**  
**PRELIMINARY PLAT - GRADING**  
ELKO, NEVADA



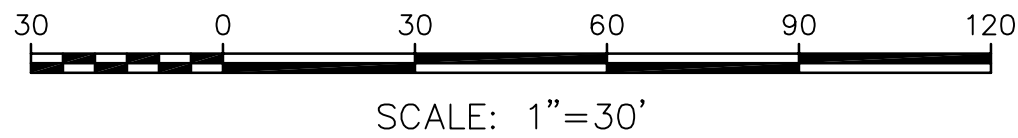
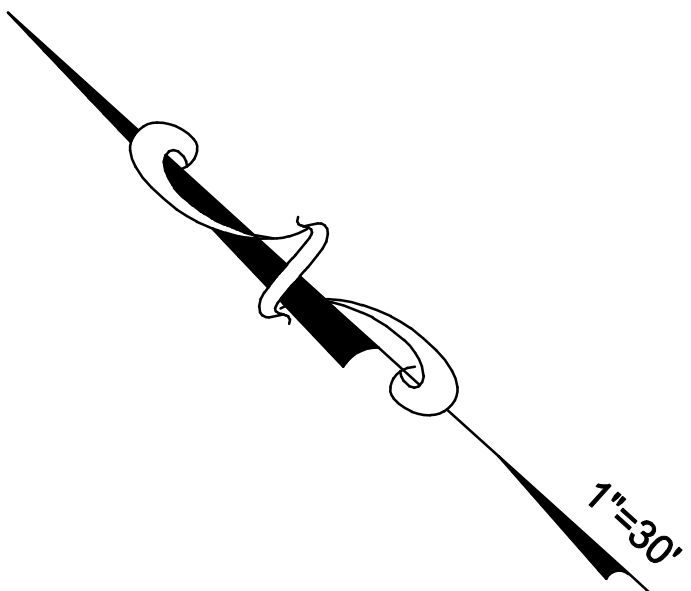


NOTES:

- THE ESTIMATED EARTHWORK QUANTITIES ARE AS FOLLOWS:  
UNCLASSIFIED EXCAVATION = 126,160 CY CUT  
UNCLASSIFIED EMBANKMENT = 68,612 CY FILL  
THE ABOVE QUANTITIES ARE BANK CUBIC YARDS WITH A 3-INCH GRUB. SHRINK OR SWELL HAS NOT BEEN CONSIDERED.
- ADD 5000 FEET TO SPOT ELEVATIONS.
- THE FINAL GRADING OF THE LOTS WILL BE DONE TO ELIMINATE CROSS LOT DRAINAGE.
- SLOPES ADJACENT TO STREETS SHALL NOT EXCEED 3:1.
- INTERIOR SLOPES SHALL NOT EXCEED 2:1.
- THIS PROJECT REQUIRES EXPORT EXCAVATION. THE OWNER AGREES TO SUBMIT GRADING PLANS FOR THESE SITES AS THESE LOCATIONS ARE MADE KNOWN.
- THE EXISTING GROUND TOPOGRAPHY SHOWN ON THIS PLAN IS FROM A SURVEY PROVIDED BY HIGH DESERT ENGINEERING ON 8-15-18.

LEGEND

- EXISTING SANITARY SEWER MANHOLE  
EXISTING SANITARY SEWER LINE  
EXISTING STORM DRAIN MANHOLE  
EXISTING CURB INLET  
EXISTING STORM DRAIN  
EXISTING GAS LINE  
EXISTING WATER LINE  
EXISTING WATER VALVE  
EXISTING FIRE HYDRANT  
EXISTING TELEPHONE PEDESTAL  
EXISTING OVER HEAD POWER LINE  
EXISTING POWER BOX



DESIGN BY:	LLC	DATE	DESCRIPTION
DRAWN BY:	LLC		
CHECKED BY:	LLC		
DATE:	11-13-18		
JOB NO:	01-2018		
DWG NO:	2018-02		

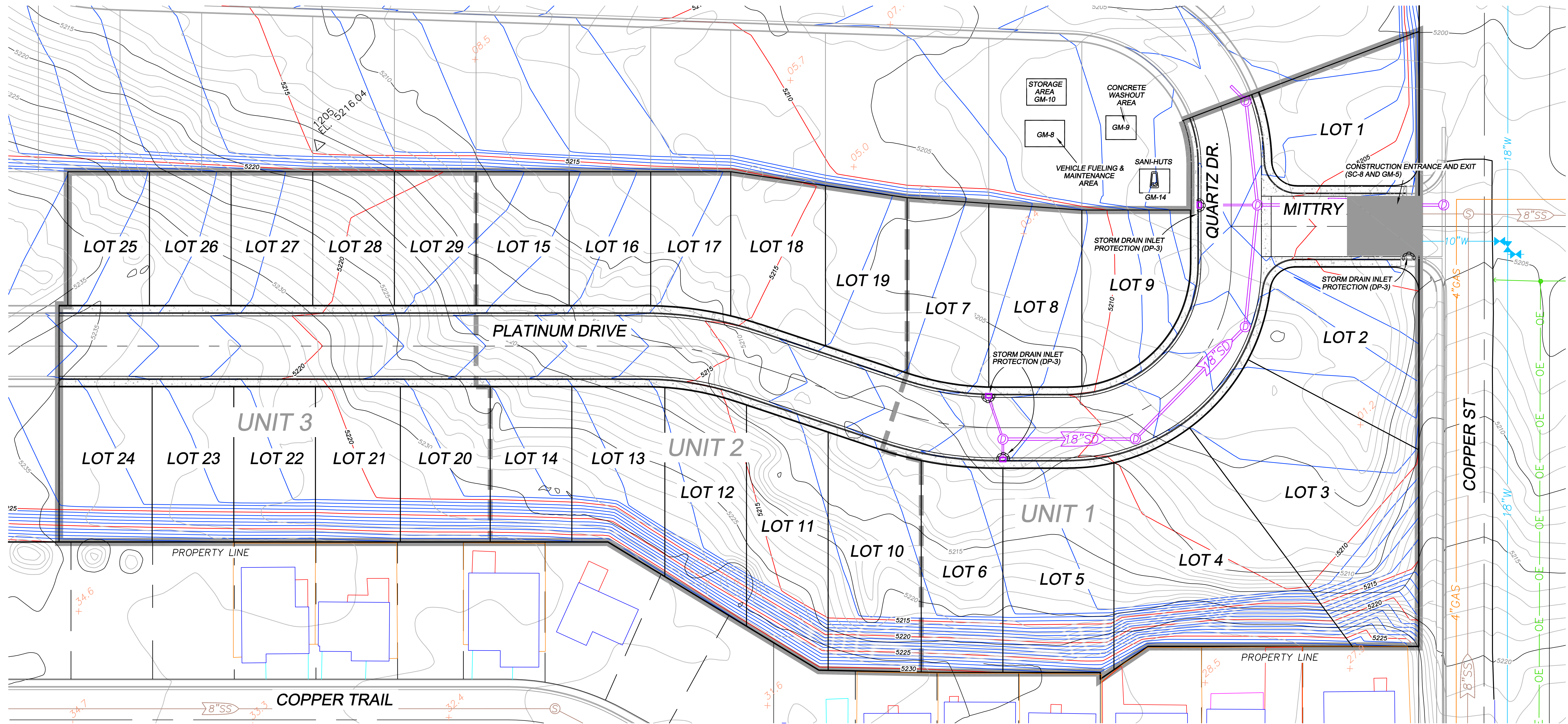
**KOINONIA CONSTRUCTION, LLC**  
**COPPER TRAILS PHASE 2**  
**PRELIMINARY PLAT - CUT AND FILL**  
ELKO, NEVADA

**Carter Engineering, LLC**  
**Civil Engineering**  
P.O. Box 784  
Elko, Nevada 89803  
775-397-2531

SCALE  
HORIZ: 1"=30'  
VERT: N/A

SHEET  
5  
OF 6



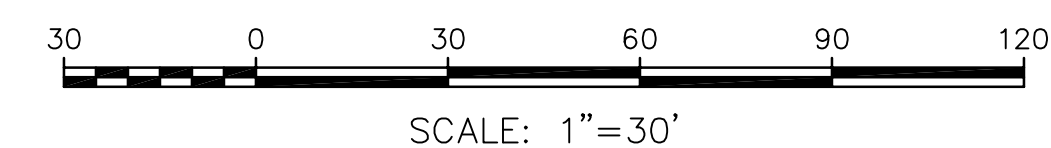
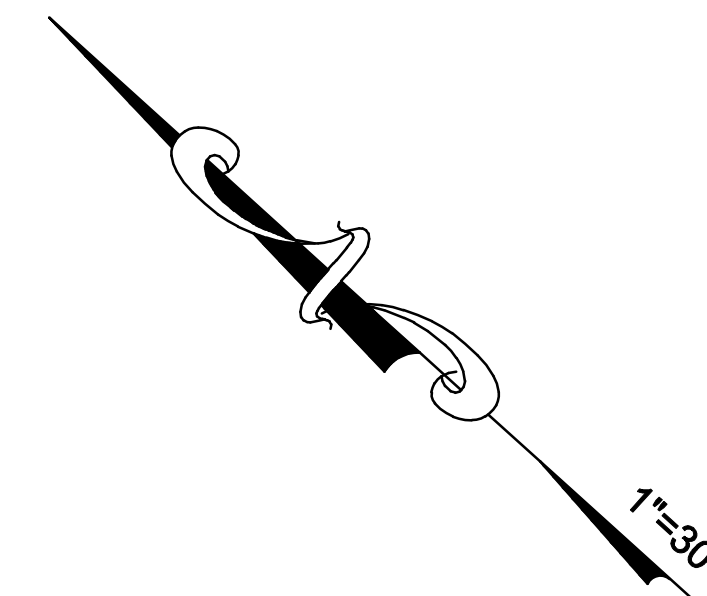


### NOTES: (BMP)

- ALL BMPs BASED ON CITY OF ELKO CONSTRUCTION SITE BEST MANAGEMENT PRACTICES HANDBOOK.
- EC-4 AND EC-5 SHALL BE IMPLEMENTED TO CONTROL DUST.
- DURING CONSTRUCTION TEMPORARY DIVERSION DIKS AND DITCHES (RC-2) WILL BE USED INSTEAD OF FIBER ROLLS (SC-1). FIBER ROLLS WILL BE INSTALLED AFTER SLOPE CONSTRUCTION AT THE TOE OF THE SLOPE.
- ALL DISTURBED AREAS SHALL BE REVEGETATED PER (EC-8) IF NOT LANDSCAPED.

### LEGEND

EXISTING SANITARY SEWER MANHOLE		EXISTING WATER LINE	
EXISTING SANITARY SEWER LINE		EXISTING WATER VALVE	
EXISTING CURB INLET		EXISTING FIRE HYDRANT	
EXISTING STORM DRAIN		EXISTING TELEPHONE PEDESTAL	
EXISTING STORM DRAIN MANHOLE		EXISTING OVER HEAD POWER LINE	
PROPOSED TYPE 4-R CURB INLET		EXISTING POWER BOX	
PROPOSED STORM DRAIN		EXISTING GROUND CONTOUR	
PROPOSED STORM DRAIN MANHOLE		FINISH GRADE CONTOUR	
EXISTING GAS LINE			



DESIGN BY:	LLC	REVISION	
DRAWN BY:	LLC	DATE	
CHECKED BY:	LLC		
DATE:	11-13-18		
JOB NO:	01-2018		
DWG NO:	2018-02		
<b>SCALE</b> HORIZ: 1"=30' VERT: N/A			
<b>SHEET</b> 6			
<b>OF</b> 6			

**KOINONIA CONSTRUCTION, LLC**  
**COPPER TRAILS PHASE 2**  
**PRELIMINARY PLAT - EROSION CONTROL**  
ELKO, NEVADA

**Carter Engineering, LLC**  
**Civil Engineering**  
P. O. Box 784  
Elko, Nevada 89803  
775-397-2531



**Elko City Planning Commission**  
**Agenda Action Sheet**

1. Title: **Review, consideration, and possible recommendation to City Council for Vacation No. 2-18, filed by A.M. Engineering LLC., for the vacation of a portion of D Street and W. Cedar Street right-of-way abutting APN 001-143-001, consisting of an area approximately 2,467.89 sq. ft., and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **NEW BUSINESS, MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**
4. Time Required: **15 Minutes**
5. Background Information: **The existing non-conforming parking is within the City of Elko right-of-way. The property has been vacant for more than 12 months and has lost all legal non-conforming status. Without the vacation, the use of the property would be severely compromised. CL**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 2-18 based on facts, findings and conditions as presented in the Staff Report dated November 20, 2018.**
9. Findings: **See Staff Report dated November 20, 2018.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **A.M. Engineering  
445 5<sup>th</sup> Street  
Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE:** 12/4

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

Title: Vacation No. 2-18

Applicant(s): A.M. Engineering

Site Location: 742 D Street - APN 001-143-001

Current Zoning: C Date Received: 10/31/18 Date Public Notice: N/A

COMMENT: This is to vacate a portion of the D Street  
and Cedar Street right-of-way adjacent to par APN  
001-143-001

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

Assistant City Manager: Date: 11/26/18

Recommend approval as presented by  
Staff.

SAW

Initial

City Manager: Date: 11/28/18

No comments/concerns.

cc

Initial





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

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>November 20, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>IB.1</b>
<b>APPLICATION NUMBER:</b>	<b>Vacation 2-18</b>
<b>APPLICANT:</b>	<b>A.M. Engineering</b>
<b>PROJECT DESCRIPTION:</b>	<b>APN 001-143-001</b>

**Vacation of a portion of D Street and a portion of Cedar Street right-of-way to allow for parking for 742 D. Street professional office building.**



### **STAFF RECOMMENDATION:**

RECOMMEND to APPROVE subject to findings of fact, conditions and waivers.

## **PROJECT INFORMATION**

**PARCEL NUMBER:** 001-143-001

**PARCEL SIZE:** 9,662 sq. ft.

**EXISTING ZONING:** (C) General Commercial

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

**EXISTING LAND USE:** Developed, Professional Office Building

### **BACKGROUND:**

1. A.M. Engineering owns the property.
2. The property has been vacant for more than 12 months, therefore, any legal non-conforming uses are invalid.
3. The property is fully developed with a professional office building.
4. The City Council accepted the petition for vacation at its November 13, 2018 meeting.

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

North: Residential / Developed  
East: Commercial / Developed  
South: Commercial / Developed  
West: Residential / Undeveloped

### **PROPERTY CHARACTERISTICS:**

1. The property is currently developed.
2. The property has been vacant for more than 12 months and has lost any legal non-conforming use.
3. The property access is off of D Street.

### **MASTER PLAN AND CITY CODES:**

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive  
City of Elko Master Plan – Land Use Component  
City of Elko Master Plan – Transportation Component  
City of Elko Redevelopment Plan  
City of Elko Code – Section 3-2-4 Establishment of Zoning Districts  
City of Elko Code – Section 3-2-10 General Commercial Zoning District  
City of Elko Code – Section 8-7 Street Vacation Procedures

**NRS 278.479 to 278.480 inclusive**

1. 278.480(4) If any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall, not less than 10 business days before the public hearing described in subsection 5.
2. NRS 278.480 (5) Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.31895.
3. Per NRS 278.480(6) Public utility companies have been notified of the vacation on November 14, 2018.
4. It does not appear that there are any City utilities located within the area proposed to be vacated.

**MASTER PLAN – Land Use:**

1. The Master Plan Land Use Atlas shows the area as Medium Density Residential.
2. C- General Commercial Zoning District is not listed as a corresponding zoning district for Medium Density.
3. Strict conformance with the Master Plan Land Use is not required for a vacation under Section 8-7.
4. The Master Plan was adopted after the property was developed and therefore is in error concerning the land use designation as Medium Density Residential.
5. The existing land use doesn't create a significant impact on traffic or other surrounding uses.

Strict conformance with the Master Plan under section 8-7 is not required. The vacation and commercial land use is consistent with existing land uses in the immediate vicinity.

**MASTER PLAN - Transportation:**

1. The area will be accessed from D Street.
2. Existing roadway width is not modified with the vacation.
3. D Street is identified as a Commercial Collector. The function of D Street is not consistent with this classification in the Master Plan Transportation component as the traffic counts are less.
4. Cedar Street is identified as a Residential Collector.
5. Remaining right-of-way for D Street is 69.18' and Cedar Street is 72.24'.

The proposed vacation is in conformance with the Master Plan Transportation component.

**REDEVELOPMENT PLAN**

The area proposed for vacation is located outside the Redevelopment Area.

### **ELKO CITY CODE SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS**

The area proposed for vacation will be merged with the adjacent property. The existing zone district, C- General Commercial, does not stipulate a minimum lot area requirement. The vacation will add area to the lot of record.

The proposed vacation is in conformance with Section 3-2-4 of City code.

### **ELKO CITY CODE SECTION 3-2-10 COMMERCIAL ZONING DISTRICTS**

1. The area proposed for vacation will be merged with the adjacent property. The merged area meets requirements stipulated in code.

The proposed vacation is in conformance with Section 3-2-10 of City code.

### **ELKO CITY CODE SECTION 8-7 STREET VACATION PROCEDURES**

1. The proposed vacation is being processed independent of the proposed development of the property.
2. A 7.5 foot wide utility easement is required on the proposed West Cedar Street and D. Street alignment and shall be included in the City Council order vacating the right-of-way.

The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City code.

### **FINDINGS**

1. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive.
2. Strict conformance with the Master Plan under section 8-7 is not required. The vacation and commercial land use is consistent with existing land uses in the immediate vicinity.
3. The proposed vacation is in conformance with the City of Elko Master Plan Transportation component
4. The area proposed for vacation is not located within the Redevelopment Area.
5. The proposed vacation is in conformance with Section 3-2-4 of City code.
6. The proposed vacation is in conformance with City Code 3-2-10(B).
7. The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City code.
8. The proposed vacation will not materially injure the public and is in the best interest of the City.

**STAFF RECOMMENDATION:**

Staff recommends forward a recommendation to City Council to adopt a resolution which conditionally APPROVES the proposed vacation with the following conditions:

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





# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

AM Engineering  
445 5<sup>th</sup> Street  
Elko, NV 89801

Re: Vacation No. 2-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC:



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

NV Energy  
**Mr. Jake Johnson**  
6100 Neil Road  
Reno, NV 89511

SUBJECT: Proposed Vacation No. 2-18

Dear Mr. Johnson:

Please be advised that the City of Elko Planning Department is processing a request filed by AM Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southwest side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

Southwest Gas Corporation  
**Engineering Department**  
PO Box 1190  
Carson City, NV 89702-1190

SUBJECT: Proposed Vacation No. 2-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by AM Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southeast side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

Satview Broadband

**Mr. Tariq Ahmad**

PO Box 18148

Reno, NV 89511

And VIA EMAIL: [taroil@yahoo.com](mailto:taroil@yahoo.com)

SUBJECT: Proposed Vacation No. 2-18

Dear Mr. Ahmad:

Please be advised that the City of Elko Planning Department is processing a request filed AM Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southwest side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta

Planning Technician

[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

Frontier Communication

**Mr. William Whitaker**

111 W. Front Street

Elko, NV 89801

SUBJECT: Proposed Vacation No. 2-18

Dear Mr. Whitaker:

Please be advised that the City of Elko Planning Department is processing a request filed by AM Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southwest side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta

Planning Technician

[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures





# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

Beehive Broadband  
2000 N. Sunset Road  
Lake Point, UT 84074

SUBJECT: Proposed Vacation No. 2-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Am Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southwest side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures

## Shelby Archuleta

---

**From:** Pamela Lattin <p.lattin@canyonconstructionco.com>  
**Sent:** Monday, November 26, 2018 2:09 PM  
**To:** Shelby Archuleta  
**Cc:** Ann Nisbet; Dan Bilbao; Ira Rackley; Jim Meeks; Mike Lattin; Seana Davis  
**Subject:** Proposed Vacation No. 2-18

Shelby, please be advised that Michael W. Lattin, VP-Field Operations, has reviewed your letter of November 14, 2018, Re: Proposed Vacation No. 2-18 and has determined that Elko Heat Company has no present or future interests in the area of the northwest and southwest sides of APN 001-143-001 (D Street and Cedar Street right-of-way). This email complies with NRS 278.480(6).

Pamela Lattin  
Secretary/Treasurer  
Elko Heat Company  
Canyon Construction Company  
PO Box 2030 Elko, NV 89801  
775.738.2210 x 106  
775.934.1934 (cell)



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 14, 2018

Elko Heat  
P.O. Box 2347  
Elko, NV 89803

SUBJECT: Proposed Vacation No. 2-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by AM Engineering to vacate a portion of the D Street and Cedar Street right-of-way located generally on the northwest and southwest side of APN 001-143-001. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

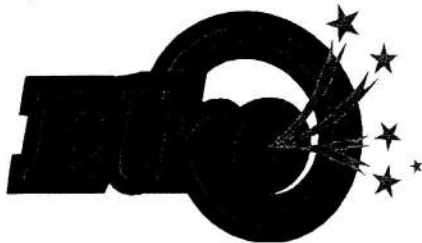
Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801 \*

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

### APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

**APPLICANT(s):** A. M. Engineering

**MAILING ADDRESS:** 445 5th Street, Elko, NV 89801

**PHONE NO (Home)** 775-848-8940

**(Business)** 775-738-3113

**NAME OF PROPERTY OWNER (If different):** Aaron Martinez

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

**MAILING ADDRESS:** 445 5th Street, Elko, NV 89801

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

**ASSESSOR'S PARCEL NO.:** 001-143-001

**Address** 472 D Street

**Lot(s), Block(s), & Subdivision** Lot 11, Block 59R, Sunset Heights Subdivision

**Or Parcel(s) & File No.**

#### FILING REQUIREMENTS:

**Complete Application Form:** In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

**Fee:** A \$600.00 non-refundable fee.

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

**Legal Description:** A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

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

**Other Information:** The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

OCT 31 2018

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

City of Elko 1753 College Ave. Elko, NV 89801

(Name)

(Address)

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

A.M. Engineering LLC 472 D Street Elko, NV 89801

(Name)

(Address)

1. Describe the nature of the request: A.M. Engineering is requesting the vacation of right of way due to the property losing existing legal non-conforming usage status. In order to obtain parking and ADA parking, per city code, we are requesting vacation per drawing C4.  

---

---

---

---
2. Describe any utilities currently located in the area proposed for vacation, and if any are present how they will be addressed: The area being requested for vacation does not contain any utilities according to the City of Elko Master Utility Map.  

---

---

---

---

---

---

**Use additional pages if necessary**

**This area intentionally left blank**



**By My Signature below:**

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

**Applicant / Agent** Aaron Martinez  
(Please print or type)

**Mailing Address** 445 5th St., Ste. 201  
Street Address or P.O. Box

Elko, NV 89801  
City, State, Zip Code

Phone Number: 775-738-3113

Email address: aaron@amengineering.pro

**SIGNATURE:** 

---

**FOR OFFICE USE ONLY**

**File No.:** 2-18 **Date Filed:** 10/31/18 **Fee Paid:** 600.<sup>00</sup> ck 1258

---



SEE ATTACHED DOCUMENT

OCCUPANCY  
FLOOR AREA PER OCCUPANT  
BUILDING SQ FT

OCCUPANT LOAD 39.2 (40)

CONSTRUCTION CLASSIFICATION

TYPE III

## 3-2-10: PC, C COMMERCIAL DISTRICTS

(2) LANDSCAPING

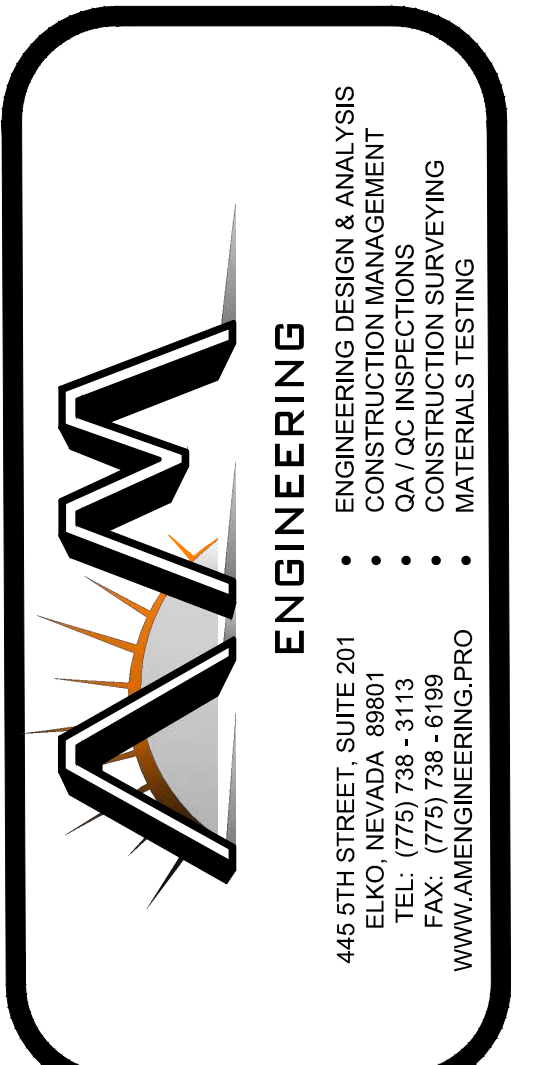
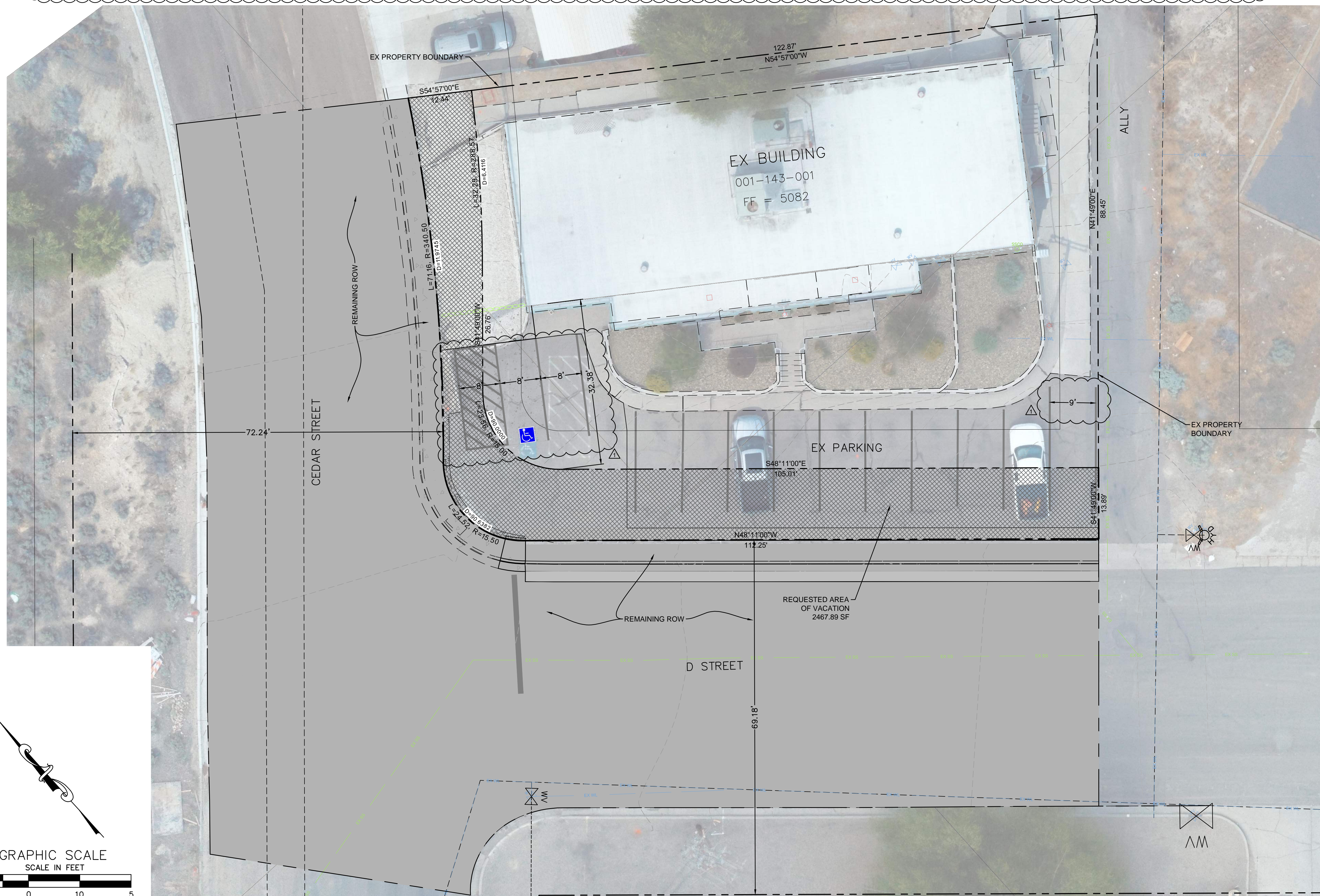
g. FOR EVERY NEW CONSTRUCTION THE C GENERAL COMMERCIAL ZONING DISTRICT WHICH IS OUTSIDE OF THE CENTRAL BUSINESS DISTRICT (CBD), MINIMUM LANDSCAPE AREA SHALL BE PROVIDED IN AN AMOUNT EQUAL TO FIFTEEN PERCENT (15%) OF THE SURFACE AREA OF THE DEVELOPED PORTION OF THE PROPERTY FOR LOT SIZES ONE ACRE OR GREATER AND TEN PERCENT (10%) OF THE SURFACE AREA OF THE DEVELOPED PORTION OF THE PROPERTY FOR LOT SIZES SMALLER THAN ONE ACRE, TO INCLUDE PROPERTY CONSISTING OF MULTIPLE PARCELS WHICH FORM A SINGLE DEVELOPMENT. ADDITIONALLY, THE CITY MAY, AT ITS DISCRETION, REQUIRE THAT LANDSCAPED AREAS BE DISTRIBUTED THROUGHOUT THE DEVELOPMENT, INCLUDING YARD AREAS BETWEEN BUILDINGS, ALONG THE ADJACENT STREET RIGHT OF WAY LINE. THE LANDSCAPED AREA MAY INCLUDE, BUT IS NOT LIMITED TO, TREES, SCREEN PLANTING, LAWNS, TREES, SHRUBS, FENCES AND WALLS. DROUGHT TOLERANT, LOW MAINTENANCE SPECIES, IN CONJUNCTION WITH DECORATIVE HARD SURFACE MATERIALS SUCH AS, BUT NOT LIMITED TO, VOLCANIC ROCK, GRAVEL OR STONE, ARE ENCOURAGED AND MAY, WHERE APPROPRIATE, BE UTILIZED TO FULFILL LANDSCAPE SURFACE REQUIREMENTS.

STREET FRONTAGE LF	207.25
2 1/2 SQ FT PER LF	<u>518.13</u>
EXISTING LANDSCAPING SQ FT	1,845.68

TOTAL AREA                    2467.89 SF

BUILDING SQ FT	3,926.22
----------------	----------

BUILDING SQ FT	3,926.22
UNUSABLE SQ FT	<u>.449.05</u>
USABLE SQ FT	3,477.13
REQUIRED PARKING SPACES	12



A.M. ENGINEERING

742 D STREET  
TENANT IMPROVEMENT  
ROW VACATION EXHIBIT

NEVADA

ELKO COUNTY

ELKO

[illegible]

## C4

DATE: AUGUST 2018  
DRAWN BY: RSR  
DESIGNED BY: AKM  
CHECKED BY: AKM  
JOB NO.:





RECEIVED

6 2018

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review and consideration of Site Plan Review No. 2-18, filed by The State of Nevada for approval of the location of an accessory building in the PQP (Public, Quasi-Public) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **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)**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Staff Report, Application**
8. Recommended Motion: **Approve Site Plan Review No. 2-18 subject to the findings of fact listed in the Staff Report dated November 6, 2018.**
9. Findings: **See Staff Report dated November 6, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Nevada, State of  
Attn: Robert Nicholas  
[RNicholas@dot.nv.gov](mailto:RNicholas@dot.nv.gov)  
1263 South Stewart Street  
Carson City, NV 89712**  
  
**Stantec  
John J Welsh, PE  
[john.welsh@stantec.com](mailto:john.welsh@stantec.com)  
6995 Sierra Center Parkway  
Reno, NV 89511-2213**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Site Plan Review No. 2-18  
Applicant(s): State of Nevada (NDOT)  
Site Location: 1951 Idaho Street - APN 001-560-002  
Current Zoning: PQP Date Received: 10/31/18 Date Public Notice: N/A  
COMMENT: This is a Site Plan Review for a modular unit  
at the NDOT facility.

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

Assistant City Manager: Date: 11/26/18  
Recommend approval as presented  
by staff

SAC

Initial

City Manager: Date: 11/28/18  
No comments/concerns.

CC

Initial





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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	November 6, 2018
<b>PLANNING COMMISSION DATE:</b>	December 4, 2018
<b>AGENDA ITEM NUMBER:</b>	I. B.2
<b>APPLICATION NUMBER:</b>	Site Plan Review 2-18
<b>APPLICANT:</b>	State of Nevada
<b>PROJECT DESCRIPTION:</b>	Expansion of existing facility

A site plan review for the expansion of the current State of Nevada Department of Transportation facility with the addition of an accessory building in the northeast corner of the parcel for the NDOT communication and storm water personnel.



### **STAFF RECOMMENDATION:**

RECOMMEND APPROVAL, subject to findings of fact and conditions.

### **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-560-002

**PROPERTY SIZE:** 14.31 acres

**EXISTING ZONING:** PQP –Public, Quasi, Public

**MASTER PLAN DESIGNATION:** Public

**EXISTING LAND USE:** Developed as the current State of Nevada  
Department of Transportation facility

### **NEIGHBORHOOD CHARACTERISTICS:**

    ) The property is surrounded by developed land to the north, south, east and west. It is surrounded by properties zoned PQP, Public, Quasi-Public to the west and south, Commercial to the east and Residential to the north.

### **PROPERTY CHARACTERISTICS:**

- ) The property is currently developed.
- ) The property is fairly flat
- ) The property is accessed from Idaho Street
- ) The property is not in the flood zone.

### **APPLICABLE MASTER PLANS AND CITY CODE SECTIONS:**

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

### **BACKGROUND INFORMATION**

- ) The application for the Site Plan Review was filed as required under City Code 3-2-8 (E).
- ) All accessory structures whether attached or detached, shall be located in accordance with location on the lot as approved by the Planning Commission.
- ) The property is not located in the Redevelopment Area.

## **MASTER PLAN**

### **Land Use**

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

The proposed development is in conformance with the Master Plan Land Use Component

### **Transportation**

1. The Master Plan identifies Idaho Street as a Principal Arterial.
2. The site has pedestrian access along Idaho Street as well as Convention Drive.
3. The proposed accessory structure will not increase existing traffic counts.

The proposed development is in conformance with the Master Plan Transportation Component and existing transportation infrastructure

## **ELKO WELLHEAD PROTECTION PLAN**

- ) The property is located in the 2-year capture zone for City wells. Development will be required to conform to the Elko Wellhead Protection Plan. It does not appear that the proposed use will have a negative impact on the 2 year capture zone. The issue will be addressed within the plan review process.

## **SECTION 3-2-3 GENERAL PROVISIONS**

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

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

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

The proposed development is required to have an approval of the proposed accessory structure to be in conformance with ECC 3-2-3 as required in ECC 3-2-8(E).

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

1. The intent of the district is to accommodate public or quasi-public institutional uses.
2. Section 3-2-8(E) Property Development Standards for Accessory Buildings:
  - ) Maximum Height: Regulations applicable to the principal building shall apply.
  - ) Location: Accessory buildings, whether attached or detached, shall be located in accordance with location on the lot as approved by the Planning Commission.

The proposed development conforms to the development standards of this section of code 3-2-8 for accessory structures.

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

1. Conformance with this section is required.
2. The current facility is in conformance with standard parking as well as ADA stalls.

### **3-8 FLOOD PLAIN MANAGEMENT**

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

### **FINDINGS**

1. The proposed development is in conformance with the Land Use component of the Master Plan
2. The proposed development is in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan
3. The site is suitable for the proposed use.

4. The proposed expansion of the development is required to conform to the City Wellhead Protection Program.
5. The proposed use is consistent with surrounding land uses.
6. The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the location for the accessory structure.
7. The proposed development is in conformance with 3-2-3, 3-2-17, and 3-8 of the Elko City Code.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** for the location of the modular building as an accessory use in the PQP district as determined under this site plan review application.





# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Nevada, State of  
Attn: Robert Nicholas  
1263 South Stewart Street  
Carson City, NV 89712

Re: Site Plan Review No. 2-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

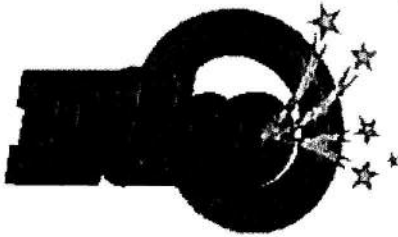
If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: Stantec, Attn: John J. Welsh, PE, 6995 Sierra Center Parkway, Reno, NV 89511-2213



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

# APPLICATION FOR SITE PLAN REVIEW APPROVAL

APPLICANT(s):	State of Nevada		
MAILING ADDRESS:	1263 S. Stewart St		
PHONE NO. (Home)	(775) 430-3717	(Business)	(775) 888-7950
NAME OF PROPERTY OWNER (If different):			
(Property owner consent in writing must be provided.)			
MAILING ADDRESS:			
ADDRESS AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
1951 Idaho ST, Elko, NV, 89801			
ASSESSOR PARCEL NO(S):	001-560-002		

### 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 1<sup>st</sup> Tuesday of every month).

**Fee:** A \$200.00 non-refundable fee.

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

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

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

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

RECEIVED

1. Identify the zoning of the property: ZPQP-ZR, Class 1.50

2. Explain in detail the type and nature of the use proposed on the property:   
The building will house approximately 8 NDOT communication and storm water personnel.

3. Describe the type of vehicles and traffic likely to be associated with the proposed use:  
The vehicles associated with the proposed use are small vehicles that are currently on the parcel.  
There are no additional vehicles as a result of placing the building.

4. Identify any outside storage of goods, materials or equipment on the property:   
There is no outside storage of goods, material or property associated with this project.

5. Describe the suitability of the property to accommodate the proposed use and how the use relates to other properties and uses in the immediate area:   
The personnel who will relocate to the new building are already working on the existing  
parcel, and will relocate after the construction is complete.

6. Identify any accessory buildings or structures associated with the proposed use on the property: There are no accessory buildings or structures associated with the use  
of the new building.

(Use additional pages if necessary to address questions

**By My Signature below:**

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

Applicant / Agent

Robert Nicholas

(Please print or type)

Mailing Address

1263 S. Stewart St

Street Address or P.O. Box

Carson City, NV, 89712

City, State, Zip Code

Phone Number:

(775) 888-7951

Email address:

RNicholas@dot.nv.gov

SIGNATURE:

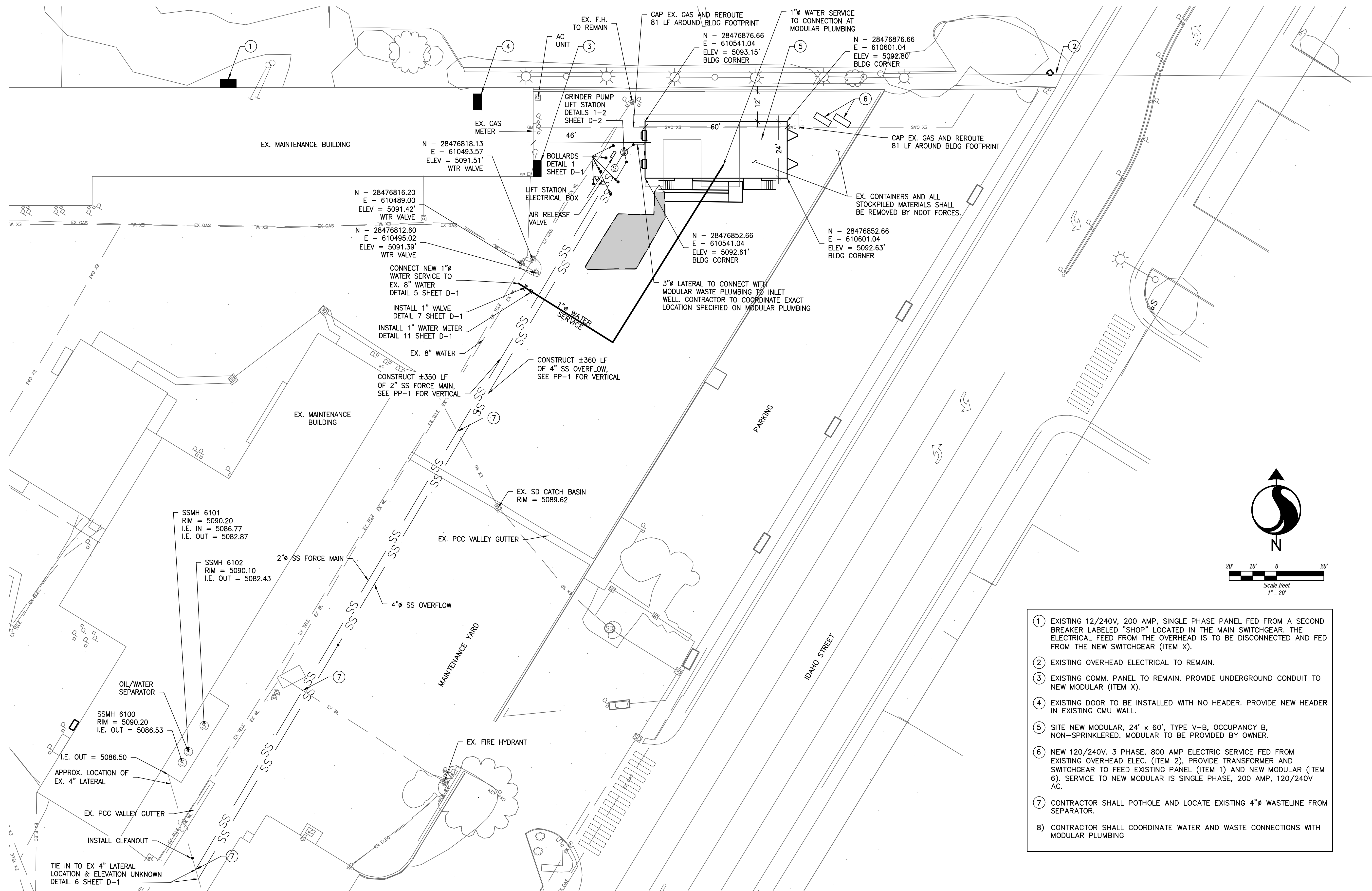
*Robert Nicholas*

---

**FOR OFFICE USE ONLY**

File No.: 2-18 Date Filed: 10/31/18 Fee Paid: N/C

---

[illegible]

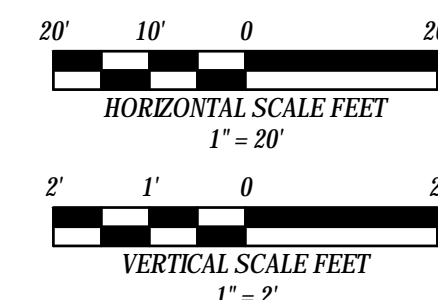
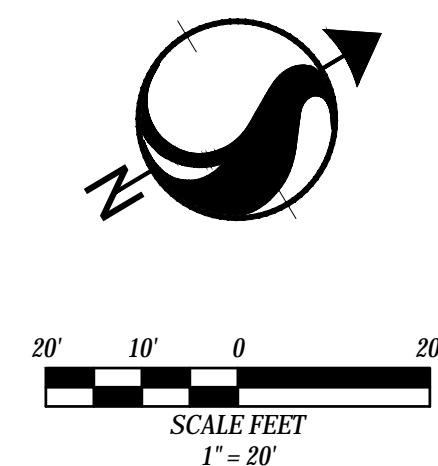
# PRELIMINARY DESIGN REVIEW

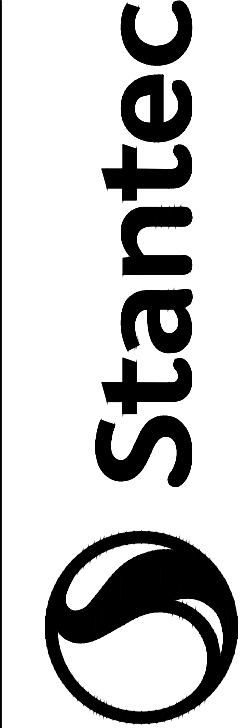
Reno, Nevada

NOTES, LEGEND, SHEET INDEX, AND ABBREVIATIONS

Project Number: 181710270			
File Name: 10270_ELKO-MODULAR_SP.DWG			
DL	JW	JW	18.10.03
Dwn.	Chkd.	Dsgn.	YY.MM.DD
Drawing No. SP-1			
Revision		Sheet	







The Contractor shall verify and be responsible for all dimensions. DO NOT scale the drawing - any errors or omissions shall be reported to Slantec without delay. The Copyrights to all designs and drawings are the property of Slantec. Reproduction or use for any purpose other than that authorized by Slantec is forbidden.

Revision	By	Appd.	Y1.MM.DD
Issued	By	Appd.	Y1.MM.DD

**TWO DAYS BEFORE YOU DIG  
CALL USA TOLL FREE  
811/1-800-227-2600**

# PRELIMINARY DESIGN REVIEW

Reno, Nevada

## STRIPING PLAN

Project Number: 181710270			
File Name: 10270_ELKO-MODULAR_ST.DWG			
HZ	JW	JW	18.10.03
Dwn.	Chkd.	Dsgn.	YY.MM.DD
Drawing No. ST-1			
Revision		Sheet	



# GENERAL BUILDING DESCRIPTION AND MATERIAL SPECIFICATIONS

JOB NO. #16171 & 16172 A&B

2 FLOORS 12 X 60 TOTAL SIZE 24 X 60  
TYPE OFFICE TOTAL SQ. FT. 1440  
DEALER PACIFIC MOBILE STRUCT. LOC. BOISE, IDAHO  
REP. ROSS PARKS PHONE NO. (208) 362-6090  
BUILDING OCCUPANT NEVADA DEPT. OF TRANSPORTATION  
CITY FERNLEY COUNTY LYON STATE NEVADA  
INSPECTED BY: IDAHO  
BUILDING CLASSIFICATION:  
OCCUPANCY GROUP B TYPE OF CONST. V-B  
OCCUPANCY LOAD 100 SQ. FT. PER PERSON= 14  
ROOF LOAD: DEAD 8 LIVE 30 WIND 115 MPH/EXP. C  
FLOOR LOAD 50/100 PSF/SEISMIC CAT. D

NOTES:  
(1) SITE LOCATION: #16171 A&B: FERNLEY, NEVADA  
#16172 A&B: SILVER SPRINGS, NEVADA  
FOUNDATION: AS PER FOUNDATION PLAN

## TRANSPORTING CHASSIS

TYPE X CROSSMEMBER/OUTRIGGER  
MAIN LONGITUDINAL MEMBER 12" I-BEAM  
CROSSMEMBERS-- X 14 GAGE EACH @ X 96" O.C.  
OUTRIGGERS-- X 13 GAGE EACH @ X 48" O.C.  
RUNNING GEAR--TYPE X OVERSLUNG DUNDERSLUNG  
TIRES X 14 PLY  
BRAKE SYSTEM 12 VOLT ELECTRIC  
NUM. OF AXLES, BRAKE 4 IDLERS 0  
HITCH MEMBERS--TYPE X STD. BALL  
X DETACHABLE  
PAINTING-- ALL MEMBERS TO BE COMPLETELY COATED  
WITH ANTI-RUST PAINT  
NOTES:  
(1) OUTRIGGERS @ 48" O/C PERIMETER OF BUILDING

## FLOOR CONSTRUCTION (50/100# FLOOR LOAD)

WOOD JOISTS W/ NOM. 2x10 EACH @ X 16" O.C.  
RIM SPLICE AND BRIDGING W/ NOM. DBL. 2x10  
LUMBER GRADE #2 HF  
SUBFLOORING MATERIAL 3/4" T&G DECKING (APA RATED)  
UNDER SHEATHING MOBILE FLEX-K  
NOTES:

## FINISHED FLOORING

NO.	LOCATION	TYPE	MFG.	STYLE	COLOR
1	RESTROOMS	SHT. VINYL	TARKETT	C.S.	(NOTE 1)
2	REMAINDER	1/8" TILE	ARMSTRONG	STD	(NOTE 2)
3					

NOTES:  
(1) SHT. VINYL COLOR: #17002 CREAMY GREYS  
(PROVIDE 1/4" UNDERLAYMENT @ SHT. VINYL AREAS)  
(2) 1/8" TILE COLOR: #51036 SHELTER WHITE

## MOULDINGS

WALLS V.C. BATTEN  
CEILING SUSPENDED T-GRID  
STD. BASE 4" RUBBER BASE W/TOE (NOTE 1)  
RESTRM BASE 4" RUBBER BASE W/TOE (NOTE 1)  
DOORS METAL WINDOWS PAINTED MDF (NOTE 2)  
NOTES:  
(1) 4" RUBBER BASE COLOR: BURKE/MERCER #660 SLATE  
(2) WINDOW TRIM PAINT COLOR: SW #6231 ROCK CANDY

## INSULATION

LOCATION	R-VALUE	THICKNESS	MATERIAL
FLOOR	R-30	7.0"	UNFACED FIBERGLASS
ROOF	R-38	10.0"	UNFACED W/CLASS A V/R
EXT. WALLS	R-21	5.5"	UNFACED (NOTE 1)
INT. WALLS	R-13	3.5"	UNFACED SOUND(NOTE 2)

NOTES:  
(1) WALL VINYL IS VAPOR BARRIER  
(2) PROVIDE INSULATION W/3.0 PCF @ RESTROOM WALLS

## INTERIOR WALL FINISH

NO.	LOCATION	MATERIAL	COLOR
1	THRU-OUT	5/8" VINYL GYPSUM	(NOTE 1)
2	RESTROOMS	(48" H) FRP PER CODE	WHITE
3			

NOTES:  
(1) 5/8" VINYL GYPSUM COLOR: GRANITE BUFF

## EXTERIOR WALL CONSTRUCTION

WOOD STUDS W/ NOM. 2x6 @ X 16" O.C.  
TOP & BTM PLATES, SPLICES & BLKG W/ NOM. 2x6  
LUMBER GRADE SPF STUD/SPF STD & BTR PL  
EXTERIOR SUBSHEATHING 7/16" OSB (NOTE 1)  
EXTERIOR SIDING 5/16" HARDIPANEL W/8" O/C GROOVES  
OVER BUILDING WRAP  
EXTERIOR TRIM 5/4x4 FIBER CEMENT TRIM  
COLORS:SIDING MATCH FULLER O'BRIEN IC23-2 DECORATOR WHITE  
TRIM MATCH FULLER O'BRIEN 2C15-4 PORTSMOUTH GRAY  
MATCHING SKIRTING-SIZE 36" AMT. 168LF COLORMATCH SIDING (6)  
CEILING HEIGHT X 7'-11"  
NOTES:  
(1) ENDWALLS: BLOCK ALL EDGES - FASTEN 7/16" OSB  
W/8d @ 6" & 12" O/C  
SIDEWALLS: BLOCK ALL EDGES - FASTEN 7/16" OSB  
W/8d @ 6" & 12" O/C  
(2) HEADERS: 36" SPAN USE (3)2x4 SPF W/1/2" PLYWD. FILLER  
60" SPAN USE (3)2x6 SPF W/1/2" PLYWD. FILLER  
72" SPAN USE (3)2x6 SPF W/1/2" PLYWD. FILLER  
(3) CHORD SPLICES: USE (15) 1/2d NAILS EA SIDE OF SPLICE  
(4) DBL. TOP PLATE  
(5) ENDWALLS ONLY: INSTALL (1 EA) SIMPSON #LSTA15 @ HVAC  
OPENING & CORNERS OF ENDWALLS  
(6) SKIRTING MATERIAL: 5/16" HARDIPANEL SIDING

## INTERIOR WALL CONSTRUCTION

FRAMING-LUMBER GRADE SPF STUD/SPF STD & BTR PL  
PARTITION WALLS W/ NOM. 2x4 @ X 16" O.C.  
SHEAR WALLS W/ NOM. -- @ X 16" O.C.  
PLUMBING WALLS W/ NOM. 2x6 @ X 24" O.C.  
SUBSHEATHING --  
NOTES:  
(1) INTERIOR WALLS TO BE FULL HEIGHT

## ROOF CONSTRUCTION (3-12 PITCH) (30# LIVE LOAD)

FRAMING W/ NOM. 2x12 #2HF JOISTS @ X 24" O.C.  
LONGITUDINAL BEAMS 1 1/2"x24" LVL BEAMS  
SUBSHEATHING 1/2" GDX WUNDERLAYMENT(32/16) (NOTE 1)  
ROOFING MAT. (24 GA) LOKSEAM W/ 3/4" HI-RIB (NOTE 2)  
FASCIA MAT. (24 GA) FACE SHEET METAL  
SOFFIT MAT. 5/16" HARDI SOFFIT (VENTED ON EAVES)  
CEILING MATERIAL 5/8" GYPSUM @ UNDERSIDE OF JOISTS  
CEILING FINISH (2x2 LAY-IN) SUSP-T-GRID/WHITE  
CEILING FINISH 5/8" GYPSUM (T.T.P.) @ R/R'S, STORAGE(NOTE 3)  
EAVES-- ENDS 12" OVERHANG  
SIDES 12" OVERHANG  
GUTTERS/DOWNSPOUTS FULL GUTTER/DOWNSPOUTS(MATCH TRIM)  
VENTING EAVE & RIDGE (SEE DETAIL/SHT. #3)  
NOTES:  
(1) BLOCK EDGES 0'-0" @ EACH END, FASTEN 1/2"  
CDX W/8d NAILS  
@ 6" O/C - BUILDING PERIMETER  
@ 6" O/C - PANEL EDGES  
@ 12" O/C - PANEL FIELD  
(2) METAL ROOFING COLOR: BONE WHITE  
(3) TAPE, TEXTURE, PAINT: PROVIDE (1) COAT LATEX PRIMER  
& (1) COAT LATEX SATIN PAINT/COLOR: SW #6231 ROCK CANDY  
(LIGHT ORANGE PEEL TEXTURE)

## WINDOW SCHEDULE (1 = 29/NFRG/WESTERN WINDOW)

LOC.	TYPE	SIZE	FRAME	GLASS	OTHER
1	H.S.	72x48	VINYL	INSUL.	LOW E ARGON W/SCREEN
2	H.S.	60x48	VINYL	INSUL.	LOW E ARGON W/SCREEN
3	H.S.	36x18	VINYL	INSUL.	LOW E ARGON W/SCREEN (OBSCURE)

DRAPES/BLINDS--STYLE 1" ALUMINUM MINI-BLINDS  
COLOR #112 ALABASTER  
LOCATION ALL EXT. WINDOWS

NOTES:  
(1) ALL WINDOWS @ STANDARD DOOR HEIGHT  
(2) PROVIDE PAINTED MDF SURROUNDS

## DOOR SCHEDULE

LOC	TYPE	SIZE	FRAME	LOCKSET	OTHER
1	H.M.	36x80	STEEL	KEYED	(NOTE #1)
2	SCWD	36x80	STEEL	PRIVACY	(NOTE #2)
3	SCWD	36x80	STEEL	KEYED	(NOTE #3)
4	SCWD	48x80	STEEL	DUMMY	(NOTE #4)

NOTES:  
(1) EXT. DOOR #1:(16GA)INSUL DOOR W/(16GA)WELDED FRAME  
HINGES: MFG. STANDARD B/B(4.5"x4.5) NRP (1.5 PR)  
CLOSURE: MFG. STANDARD GRADE 1 (H/C)  
LOCKSET: SCHLAGE ND SERIES H/D GRADE 1 KEYED LEVER  
W/6-PIN SCHLAGE CONSTRUCTION CORE.  
(PERMANENT SCHLAGE PRIMUS KEYING BY OWNER)  
MFG. STD. WEATHERSTRIPPING, THRESHOLD, DOOR BOTTOM  
(2) INT. DOOR #2: S.C. PREFINISHED ROTARY NATURAL BIRCH  
& CLEAR FINISH W/(16GA)KD DRYWALL FRAME WHOLES  
(PERMANENT SCHLAGE PRIMUS KEYING BY OWNER)  
HINGES: MFG. STANDARD 4.0"x4.0" (1.0 PR)  
LOCKSET: PARKER #SL8160 H/D GRADE 2 LEVER PRIVACY  
MFG. STANDARD WALL STOP  
(3) INT. DOOR #3: S.C. PREFINISHED ROTARY NATURAL BIRCH  
& CLEAR FINISH W/(16GA)KD DRYWALL FRAME WHOLES  
HINGES: MFG. STANDARD 4.0"x4.0" (1.0 PR)  
LOCKSET: PARKER #SL8160 H/D GRADE 2 LEVER KEYED  
W/STD. 6-PIN SCHLAGE CYLINDER (KEYED SEPARATE)  
MFG. STANDARD WALL STOP  
(4) INT. DOOR #4: S.C. PREFINISHED ROTARY NATURAL BIRCH  
& CLEAR FINISH W/(16GA)KD DRYWALL FRAME WHOLES  
HINGES: MFG. STANDARD 4.0"x4.0" (1.0 PR)  
MFG. STD. DUMMY SET W/MAGNETIC CATCH PER DOOR  
(5) INT. DOOR FRAMES COLOR: SW #  
(6) EXT. DOORS & FRAMES COLOR: MATCH TRIM  
(PORTSMOUTH GRAY)

## ELECTRICAL (SQUARE D)

TOTAL LOAD 120/240V 225 AMP 1 PHASE M.B. 225 AMP  
PANEL: EXT. SURFACE MT. BREAKERS: BOLT ON TYPE  
SERVICE X UNDERGROUND X OVERHEAD  
WIRING X COPPER NONMETALLIC SHEATHED CABLE  
X COPPER THHN WIRE IN X FLEX X EMT COND.  
X COND: MC CABLE

LIGHTING	TYPE
EXTERIOR	EXT. WALL MT. W/TOW HPS W/PHOTOCELL (PHILLIPS #TLW-70-NLX-L-PC-1)
CEILING	2X4/RECESSED LED (DIMMING) (TEXAS FLUORESCENTS #31A24L-F56W6050L-DMVFID-40K)
RESTROOMS, STORAGE	4'/SURFACE MT LED (TEXAS FLUORESCENTS #209A48L-F48W4800L-DMV-40K)
EXIT SIGN DUAL LIGHT	LITHONIA #LHQM-S-W-I-R-120/211 W/DUAL HEADS & BATTERY BACKUP

FANS	LOCATION	TYPE	CFM
1	RESTROOMS	AIRKING #BFQ110 EXHAUST FAN	110

NOTES:  
(1) WIRING TO BE IN EMT CONDUIT  
(2) SERVICE TO BE UNDERGROUND  
(3) PROVIDE ROUGH-IN ONLY FOR PHONE/DATA  
(4) PROVIDE ROUGH-IN ONLY FOR CAMERAS/CARD READERS

## HEATING AND A/C (BARD #W30A2-A10)

TYPE END WALL MT. ELECTRIC HEATING & COOLING  
RATING-HEATING 34,130 BTUH 10 KW 1000 CFM  
EACH COOLING 29,400 BTUH 2.5 TON @ .20 CESP  
THERMOSTAT-TYPE PROGRAMABLE T-STAT @ 48" AFF

DUCTING	LOCATION & SIZE	MATERIAL	REG. SIZE
SUPPLY	(SEE SHT. 6)	(26GA) GALV.	24x24/12x12
RETURN	(SEE SHT. 6)	(26GA) GALV.	24x24/12x24

NOTES:

## APPLIANCES

APPLIANCE	TYPE	SIZE
ON DEMAND W/H	RHEEM #RTE13 (240V)	--

NOTES:

## PLUMBING

HANDICAPPED DESIGN - X REQUIRED X NOT REQUIRED  
DRAIN LINE MTR. ABS SUPPLY LINE MTR. PEX

FIXTURE	TYPE	VALVE
WTR. CLOS.	A.S. 3264-016.020(H/C) ELONG. W/OPEN FRONT SEAT	TANK
LAVY. SINK	A.S. #0355.028 WALL MT. (TOP OF RIM @ 34" AFF)	NOTE #1
SGL SINK	KOHLER #3260-3-N (S/S)	NOTE #2
URINAL	A.S. #6601.012 WALL MT.	NOTE #3
FLOOR DRAIN	SIoux CHIEF #822-2A-NR	

NOTES:  
(1) LAVY FAUCET: MOEN #8217 LEVER (3 GPM)  
(2) SINK FAUCET: MOEN #1902 W/LEVERS  
(3) URINAL FLUSHOMETER: ZURN #6000

## FURNISHINGS

TYPE	DESCRIPTION	COLOR
COUNTERTOP	(SEE SHT. #2)	NOTE #1
BASE CAB.	(SEE SHT. #2)	NOTE #2
OVERHEADS	(SEE SHT. #2)	NOTE #2
SHELF	(SEE SHT. #2)	
LOCKERS	(SEE SHT. #2)	
R/R ACCESS	TYPE	SIZE
GRAB BARS	(2 SETS) 18", 36" & 42" (S/S)	1.25"
MIRRORS	STD. @ 40" AFF W/CLIPS	18"x36"
T.P. DISP.	BRADLEY #5402 @ 21" AFF	
P/T DISP.	BRADLEY #250-15 SURFACE MT.	
SOAP DISP	BRADLEY #6562 SURFACE MT.	
COAT HOOK	BRADLEY #9943 SURFACE MT.	

NOTES:  
(1) COUNTERTOP: 3/4" INDUST. BD. W/PLASTIC-LAM  
FINISH/COLOR: PIONITE #  
(2) BASE/UPPER & STORAGE CABINETS: 3/4" INDUST. BD.  
W/PLASTIC-LAMINATE FINISH  
COLOR: PIONITE #

## MISCELLANEOUS

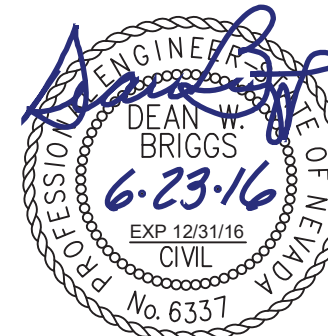
(1) NEVADA INSIGNIAS (COMMERCIAL COACH)  
(2) PROVIDE (2 EA) 5# PORTABLE FIRE EXTINGUISHERS  
W/WALL BRACKETS

SUBMITTALS BEING USED X YES X NO

APPROVED  
NRS 491 or NRS 489  
FACTORY BUILT HOUSING  
STATE OF NEVADA

JULY 06 2016  
61285

BY   
Authorized Signature



SHEET  
1

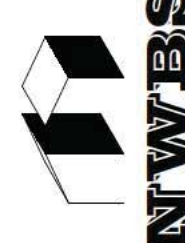
BY  
SW

DATE  
REVISIONS

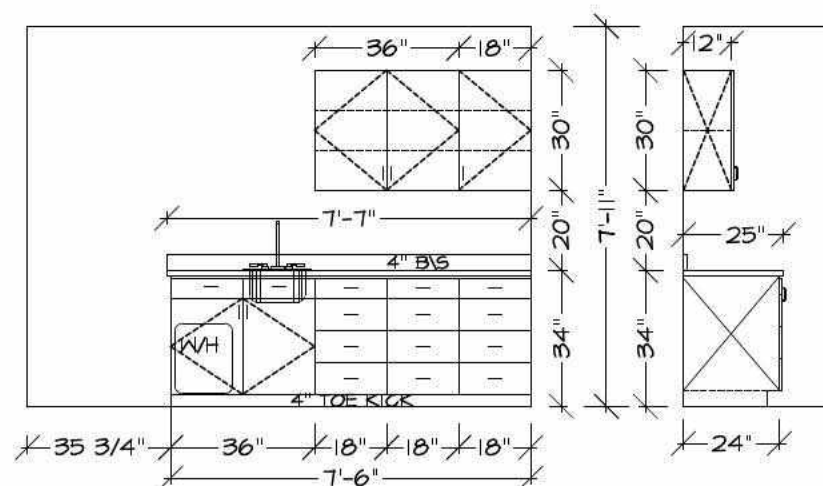
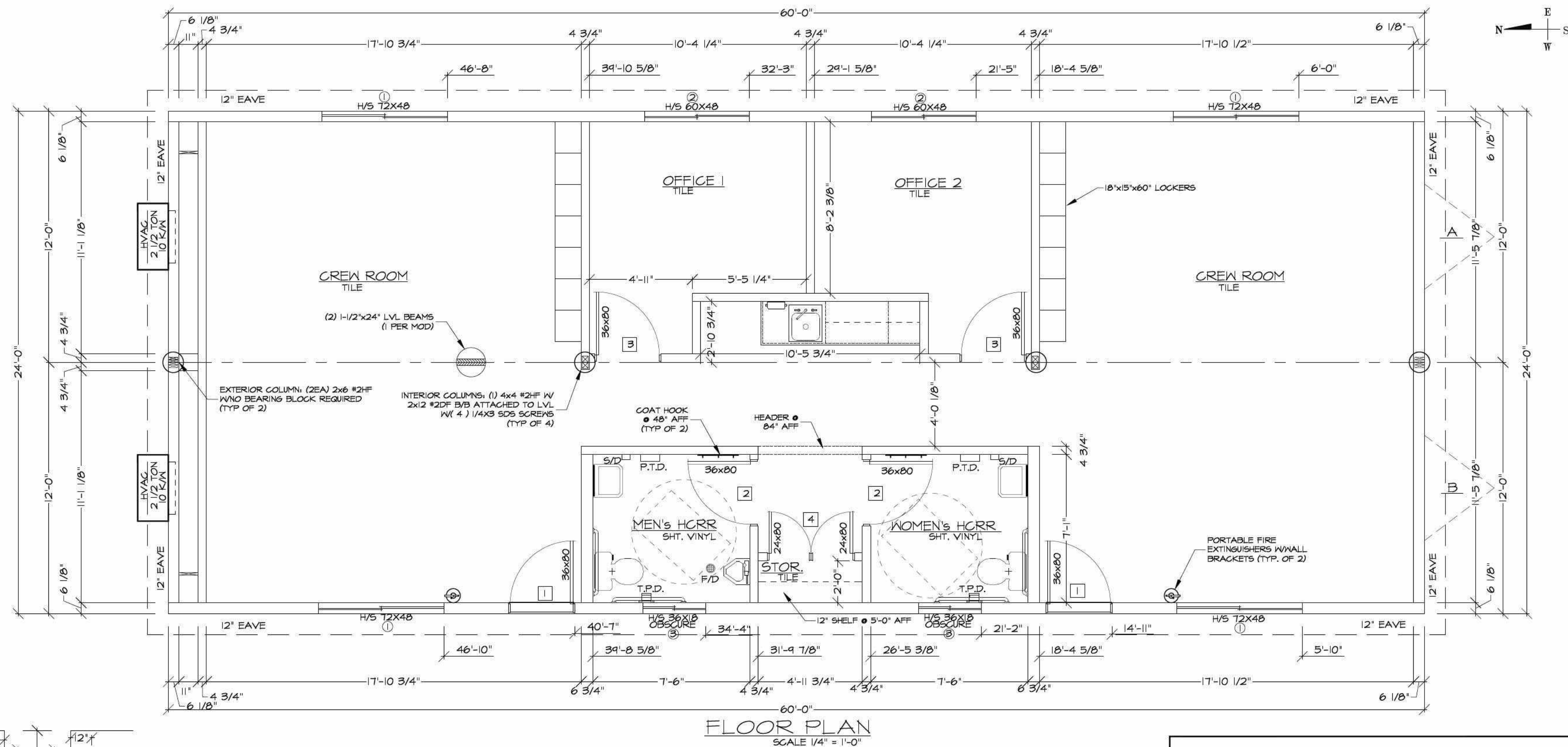
DESIGN AND LAYOUT ARE AS  
REQ'D BY DEALER AND CLIENT  
WITH ENGINEERING CHANGES  
AS REQ'D TO COMPLY WITH  
APPLICABLE CODES AND  
PRACTICAL CONST. METHODS.  
NOTE: SPECIFICATIONS ARE  
STANDARD UNLESS NOTED  
OTHERWISE.

PROJECT: 24'x 60' OFFICE  
NEVADA D.O.T. - FERNLEY, NV.  
FOR: PACIFIC MOBILE STRUCTURES, INC. - ROSS P.  
BOISE, ID. - (208) 362-6090  
THIS DRAWING SHALL NOT BE REVISED OR ALTERED WITHOUT  
WRITTEN AUTHORIZATION OF N.W.B.S.

JOB #16171 & 172 A&B  
DATE: MAY 27, 2016  
DRAWN BY: KD  
APP. BY: KD

405 E. BOEING LANE  
BOISE, IDAHO 83716  
PH: (208) 344-3527  
FAX: (208) 345-0420  




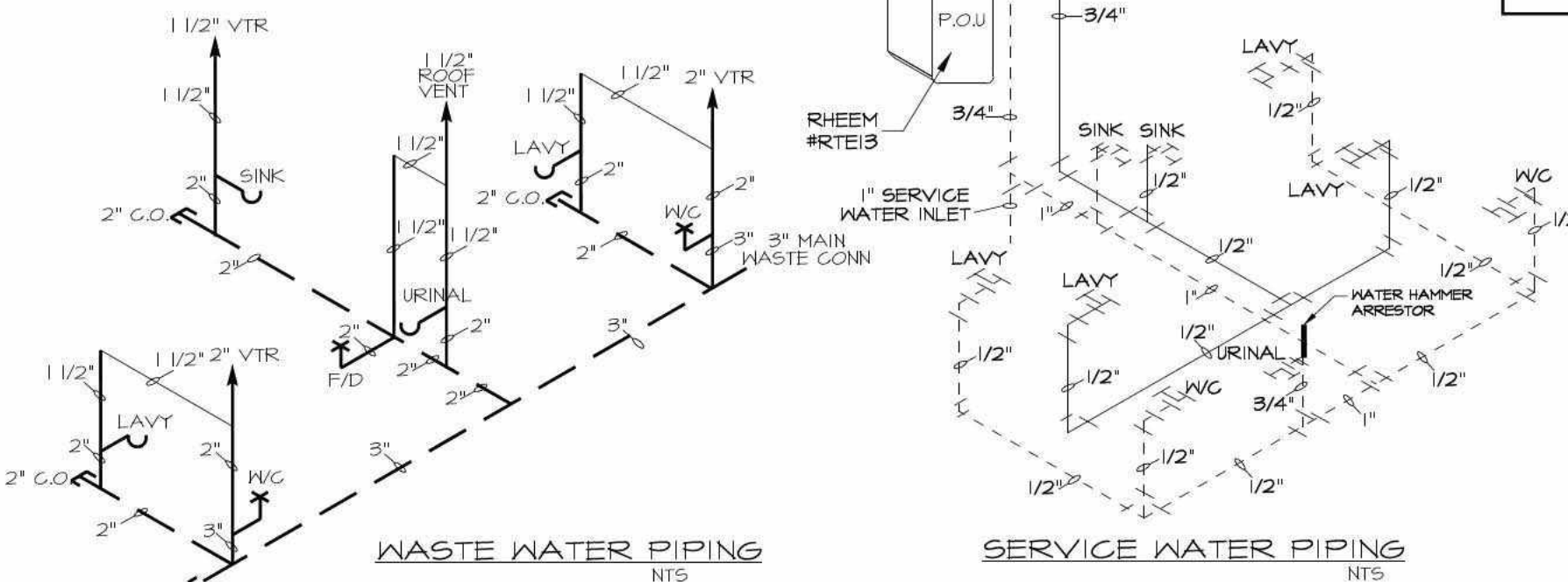
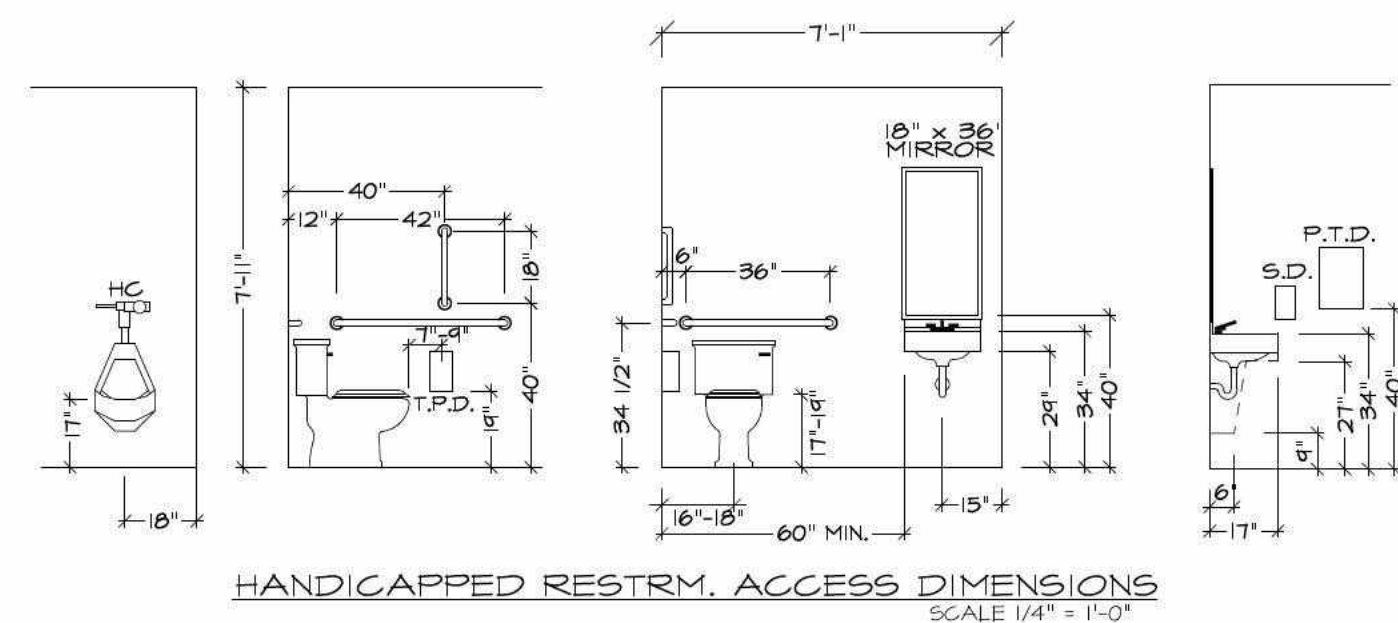


**RESTROOM ACCESSORIES:**  
T.P.D.: TOILET PAPER DISP.  
BRADLEY #5402 @ 19" AFF  
P.T.D.: PAPER TOWEL DISP.  
BRADLEY #250-15 @ 40" AFF  
S.D.: SOAP DISP. BRADLEY #6562  
@ 40" AFF  
COAT HOOK: BRADLEY #9943  
(TYP OF 2)

**NOTES:**  
WASTE MANIFOLD  
ALL HORIZONTAL WASTE (N.G.)  
COLD WATER LINES  
HOT WATER LINES  
TOTAL SERVICE FIXTURE UNITS: 24 UNITS  
(46 to 60 PSI \ 100' Developed length)  
TOTAL DRAIN FIXTURE UNITS: 14 UNITS  
(Sizing per Table 7-5 of UPC)

**NOTES:**  
1) INTERIOR WALLS TO BE FULL HEIGHT  
2) PROVIDE UN-FACED INSULATION @ INT. WALLS  
(NOTE: RESTROOM INSULATION TO BE 3.0 PCF)

**(BUILDING CLASSIFICATION)**  
TOTAL BLDG. FLOOR AREA.....1440 SQ. FT.  
FLOOR LIVE LOAD.....50/100 PSF  
ROOF LIVE LOAD.....30 PSF  
WIND LOAD(ULTIMATE).....15 MPH/EXP. C  
SEISMIC CAT.....D  
OCCUPANCY GROUP.....B  
TYPE OF CONST.....TYPE V-B (NON-RATED)  
  
OCCUPANCY LOAD PER IBC/TABLE 1004.1.1  
OFFICE AREA: 100 SQ. FT. GROSS = 14 OCCUPANTS  
  
TOTAL OCCUPANT LOAD = 14 OCCUPANTS



**APPROVED**  
NRS 461 & NRS 465  
FACTORY BUILT HOUSING  
STATE OF NEVADA  
JULY 06 2016  
61285  
BY: [Signature]  
Authorized Signature

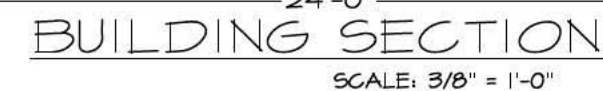
**ENGINEER**  
D. BRIGGS  
PROFESSIONAL  
NOVEMBER 1998  
EXP 12/31/16  
CIVIL  
No. 6337

<p>NWBS MODULAR BUILDINGS ARE GOVERNED BY THE STATE IN WHICH THE BUILDING IS TO BE PLACED UPON COMPLETION. ALL STATES USE THEIR LATEST STATE ADAPTED CODES FOR THEIR REVIEW OF MODULAR BUILDING PLANS. BUILDING TYPE AND USE DICTATE WHAT THE STATE ALSO. REVIEWS: NWBS RELIES ON THE STATE APPROVAL AND CUSTOMER SIGNED DRAWINGS TO PROVIDE INSURANCE OF CODE COMPLIANCE AND CUSTOMER SATISFACTION PRIOR TO CONSTRUCTION OF PROJECTS.</p> <p>DATE REVISION REV. BY</p>	<p>DESIGN &amp; LAYOUT ARE AS REQ'D BY DEALER &amp; CLIENT WITH ENGINEERING CHANGES AS REQ'D TO COMPLY WITH APPLICABLE CODES AND PRACTICAL CONSTRUCTION METHODS</p> <p>NOTE: SPECIFICATIONS, DESIGN AND DESIGN SUITABILITY ARE THE DEALER / CLIENT RESPONSIBILITY AND ARE INTENDED FOR THEIR EXCLUSIVE USE</p> <p>THIS DRAWING SHALL NOT BE COPIED, REVISED OR ALTERED WITHOUT WRITTEN AUTHORIZATION FROM N.W.B.S.</p>	<p>JOB #16171 &amp; 16172 A&amp;B</p> <p>DATE: MAY 27, 2016</p> <p>DRAWN BY: BM APP. BY: KD</p>	<p>PROJECT: 24' x 60' OFFICE</p> <p>CUSTOMER: NEVADA D.O.T. -- NEVADA</p> <p>DEALER: PACIFIC MOBILE STRUCTURES, INC. -- ROSS PARKS</p> <p>DLR. LOCATION: BOISE, ID. -- (208) 362-6090</p>	<p><b>NWBS</b></p> <p>405 E. BOEING LANE BOISE, IDAHO 83716 PH: (208) 344-3527 FAX: (208) 345-0420</p>	<p>SHEET: 2</p>
---	--	---	---	--	---------------------

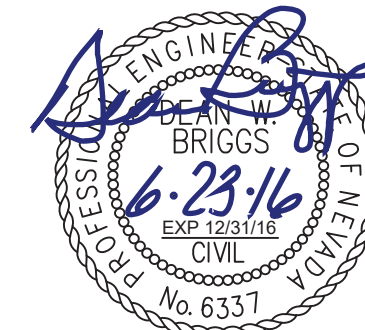




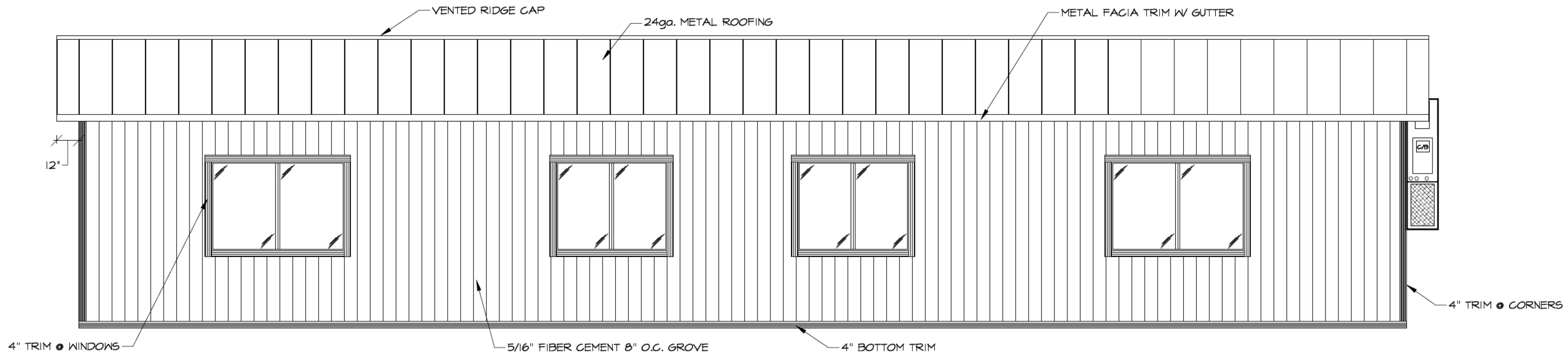
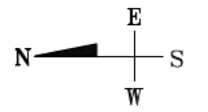
- 1/2" CDX SHEATHING BLOCK EDGES 0'-0" @ EA. END  
- FASTEN CDX SHEATHING W/(8d) NAILS  
• 6" O.C. • BUILDING PERIMETER  
• 6" O.C. • PANEL EDGES  
• 12" O.C. PANEL FIELD



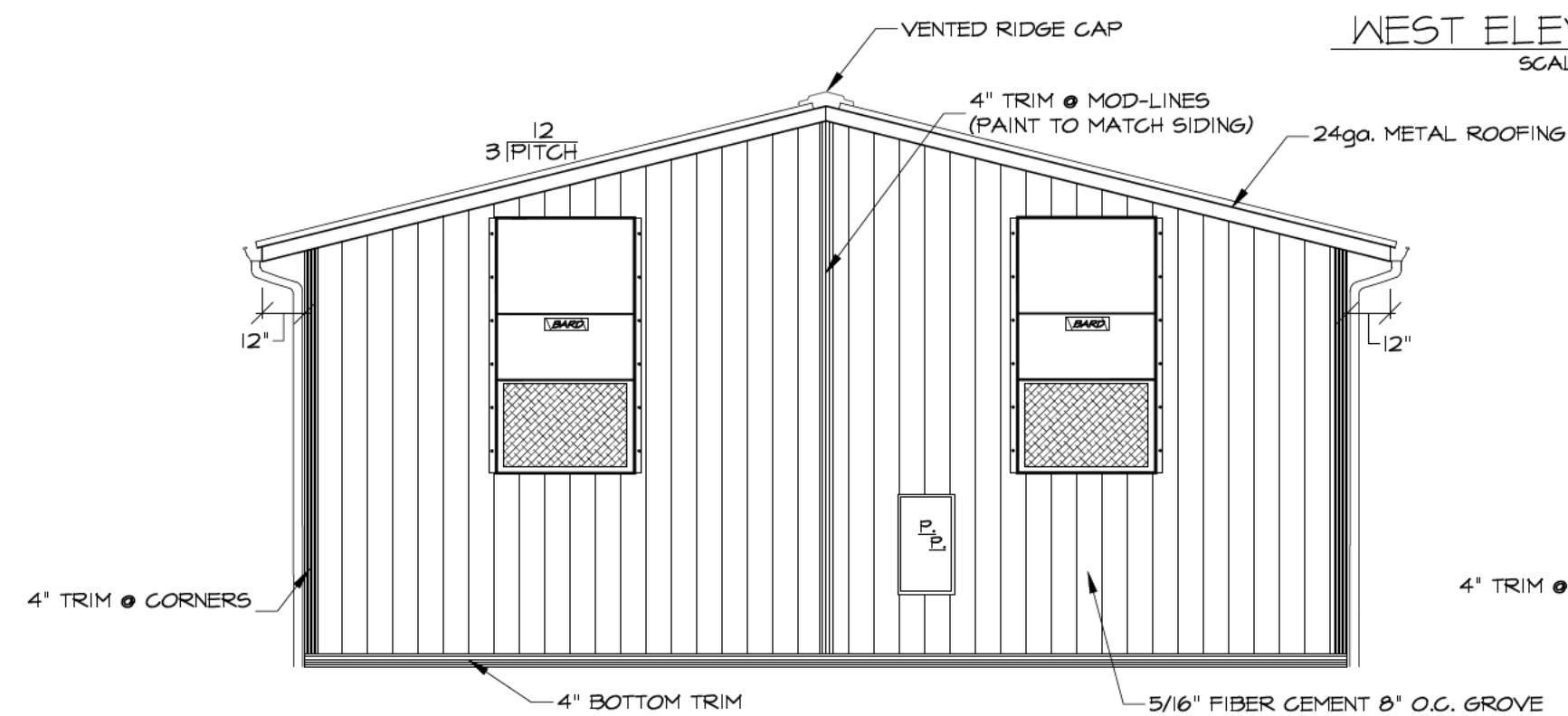
BY [Signature]  
Authorized Signature



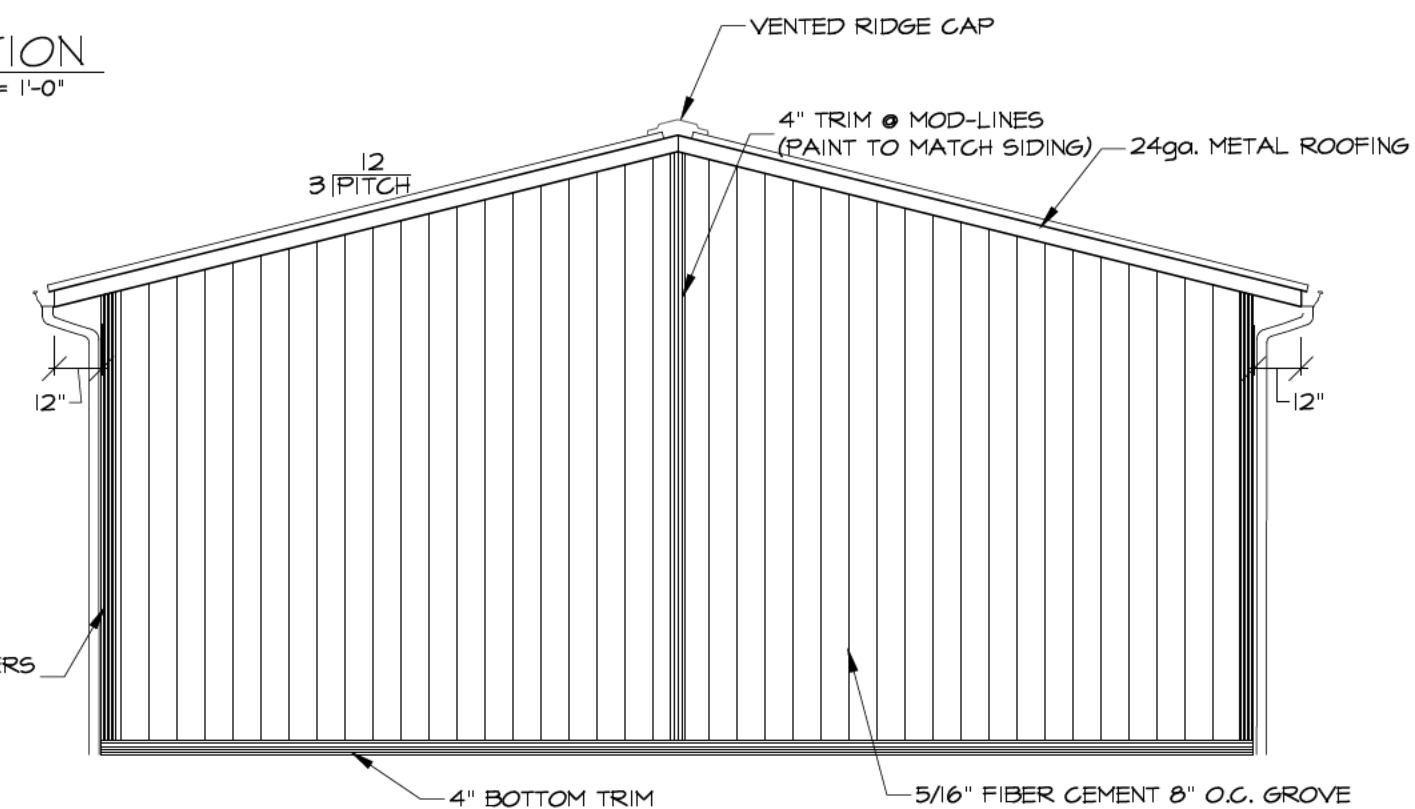




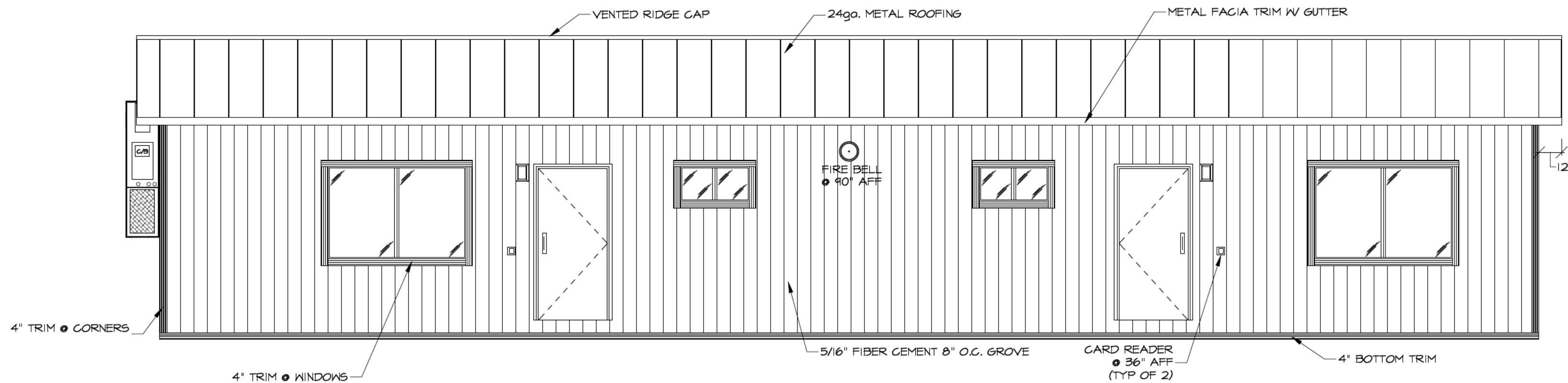
WEST ELEVATION  
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"



NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



EAST ELEVATION  
SCALE: 1/4" = 1'-0"

**APPROVED**  
NRS 481 or NRS 489  
FACTORY BUILT HOUSING  
STATE OF NEVADA  
**JULY 06 2016**  
**61285**

BY   
Authorized Signatory

NWBS MODULAR BUILDINGS ARE GOVERNED FOR CODE COMPLIANCE BY THE STATE IN WHICH THE BUILDING IS TO BE PLACED UPON COMPLETION. ALL STATES USE THEIR LATEST STATE ADOPTED CODES FOR THEIR REVIEW OF MODULAR BUILDING PLANS. BUILDING TYPE AND USE DICTATE WHAT THE STATE ALSO. REVIEWS NWBS RELIES ON THE STATE APPROVAL AND CUSTOMER SIGNED DRAWINGS TO PROVIDE INSURANCE OF CODE COMPLIANCE AND CUSTOMER SATISFACTION PRIOR TO CONSTRUCTION OF PROJECTS.

DATE	REVISION	REV. BY

DESIGN & LAYOUT ARE AS REQ'D BY DEALER & CLIENT WITH ENGINEERING CHANGES AS REQ'D TO COMPLY WITH APPLICABLE CODES and PRACTICAL CONSTRUCTION METHODS  
NOTE: SPECIFICATIONS, DESIGN AND DESIGN SUITABILITY ARE THE DEALER / CLIENT RESPONSIBILITY AND ARE INTENDED FOR THEIR EXCLUSIVE USE

THIS DRAWING SHALL NOT BE COPIED, REVISED OR ALTERED WITHOUT WRITTEN AUTHORIZATION FROM N.W.B.S.

JOB #16171 & 16172 A&B

DATE: MAY 27, 2016

DRAWN BY: BM APP. BY: KD

PROJECT: 24' x 60' OFFICE

CUSTOMER: NEVADA D.O.T. -- NEVADA

DEALER: PACIFIC MOBILE STRUCTURES, INC. -- ROSS PARKS

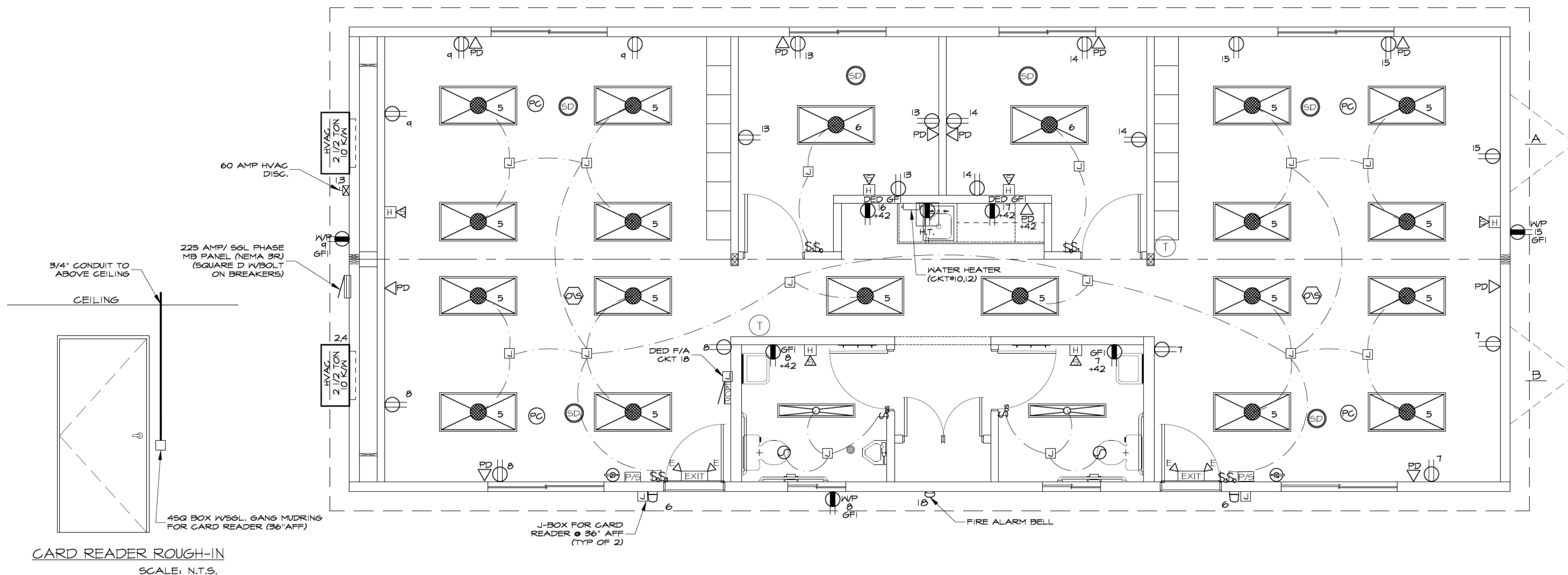
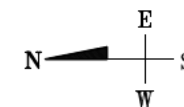
DLR. LOCATION: BOISE, ID. -- (208) 362-6090



405 E. BOEING LANE  
BOISE, IDAHO 83716  
PH: (208) 344-3527  
FAX: (208) 345-0420

SHEET:

4

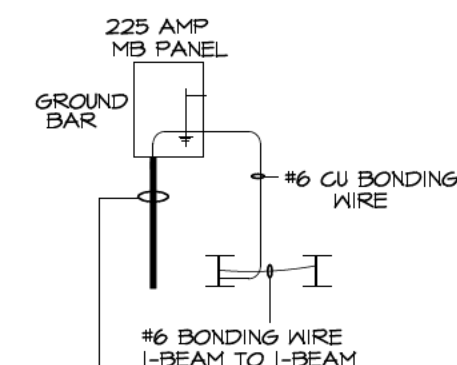


ELECTRICAL POWER PLAN  
SCALE: 1/4" = 1'-0"

\*LEGEND & NOTES\*

	2X4, RECESSED LED TROFFER (DIMMING) TEXAS FLUORESCENTS (#131A24L-F56W6050L-DMVFD-40K)		CEILING MOUNT OCCUPANCY SENSOR P/S CSI200 W WATTSTOPPER BZ-150 POWER PACK
	1X4, SURFACE MT. LED WRAP TEXAS FLUORESCENTS (#209A48L-F48W4800L-DMV-40K)		WATTSTOPPER #LS-301 DIMMING PHOTO SENSOR FOR DAYLIGHT ZONES
	EXTERIOR HIGH PRESSURE SODIUM WALL PACK (PHILIPS #TLW-TO-NLX-L-PC-1) W/BUILT IN PHOTOCCELL		INDIVIDUAL ADDRESSABLE MODULE: ROUGH-IN ONLY (48" AFF TO CENTER) 4 SQ BOX W/SSL GANG MUDRING W 3/4" CONDUIT STUB TO ABOVE CEILING
	110 CFM EXHAUST FAN (AIRKING# BFQ110)		PULL STATION: ROUGH-IN ONLY (48" AFF TO CENTER) 4 SQ BOX W/SSL GANG MUDRING W 3/4" CONDUIT STUB TO ABOVE CEILING
	LOW VOLTAGE MOMENTAR SWITCH # 42" AFF TO CENTER (WHITE) (WATTSTOPPER LV5-1-W)		WALL MT. HORN/STROBE: ROUGH-IN ONLY (84" AFF. TO CENTER) 4 sq BOX (SSL GANG MUDRING) W 3/4" CONDUIT STUB TO ABOVE CEILING
	SINGLE POLE, THREE-WAY 0-10 V DIMMING CONTROL # 42" AFF TO CENTER (WHITE) (LUTRON #DVSCTV)		FIRE ALARM CONTROL PANEL
	SINGLE POLE OCCUPANCY SENSOR (WHITE) # 45" AFF TO CENTER (WATTSTOPPER- FMB01W)		CEILING MT SMOKE DETECTOR NO ROUGH-IN REQUIRED
	SPEC GRADE 20 AMP DUPLEX RECEPT (WHITE) # 18" AFF UNLESS NOTED OTHERWISE		LITHONIA #LHQM-S-W-I-R-120/277 W DUAL HEADS & BATTERY BACKUP. (TYP OF 2)
	SPEC GRADE 20AMP GFI DUPLEX RECEPT (WHITE) # 45" AFF UNLESS NOTED OTHERWISE		WALL MT. PROGRAMMABLE T-STAT # (48" AFF)
	SPEC GRADE 20AMP WEATHER PROOF GFI DUPLEX RECEPT		225A 120/240V 1-PHASE MAIN BREAKER PANEL (NEMA-3R)/SQUARE D W BOLT ON BREAKERS
	PHONE/DATA ROUGH-IN ONLY: 45Q BOX W/IG MUDRING W/BLANK COVER W 3/4" CONDUIT STUB TO ABOVE CEILING		

VOLTAGE: 120/240										LOCATION: EXTERIOR									
PHASE: L										MOUNTING: SURFACE MT.									
BUS AMP: 225 AMP																			
<u>225 AMP M.B. POWER PANEL</u>																			
DESCRIPTION	# OF	WATTS		WIRE SIZE	BREAKER AMP	POLE	CIR #	BUS CONNECTION	CIR #	BREAKER POLE	AMP	WIRE SIZE	WATTS		# OF	DESCRIPTION			
		A	B										A	B					
HVAC	1	6032		6-6-10	60	2	1			2	4	60	6-6-10	6032		1	HVAC		
LIGHTS	18	1008		12-2	20	1	5			6	1	20	12-2	404		6	LIGHTS/FANS		
GFI/RECEPTS	4		720	12-2	20	1	7			8	1	20	12-2		900	5	GFI/RECEPTS		
GFI/RECEPTS	4	720		12-2	20	1	9			10				6480					
HEATAPE	1		1000	12-2	20	1	11			12	2	60	6-3		6480	1	WATER HEATE		
RECEPTS	4	720		12-2	20	1	13			14	1	20	12-2	720		4	RECEPTS		
RECEPTS	4		720	12-2	20	1	15			16	1	20	12-2		500	1	DED GFI		
DED GFI	1	500		12-2	20	1	17			18	1	20	12-2	500		1	FACP		
							19			20									
							21			22									
							23			24									
							25			26									
							27			28									
							29			30									
TOTALS		8,960	8,412											14,136	13,912		TOTALS		
WATTS: BUS A = 23,116										LCLX25% = 118									
BUS B = 22,384																			
TOTAL = 45,500 WATTS										45,618 WATTS + 240 VOLTS = 190 AMPS									



ONE LINE DIAGRAM  
NTS

APPROVED  
NRS 461 or NRS 489  
FACTORY BUILT HOUSING  
STATE OF NEVADA  
JULY 06 2016  
61285  
BY [Signature]

DATE	REVISION	REV. BY

DESIGN & LAYOUT ARE AS REQ'D BY DEALER & CLIENT WITH ENGINEERING CHANGES AS REQ'D TO COMPLY WITH APPLICABLE CODES AND PRACTICAL CONSTRUCTION METHODS  
NOTE: SPECIFICATIONS, DESIGN AND DESIGN SUITABILITY ARE THE DEALER / CLIENT RESPONSIBILITY AND ARE INTENDED FOR THEIR EXCLUSIVE USE  
THIS DRAWING SHALL NOT BE COPIED, REVISED OR ALTERED WITHOUT WRITTEN AUTHORIZATION FROM N.W.B.S.

JOB #16171 & 16172 A&B  
DATE: MAY 27, 2016  
DRAWN BY: BM APP. BY: KD

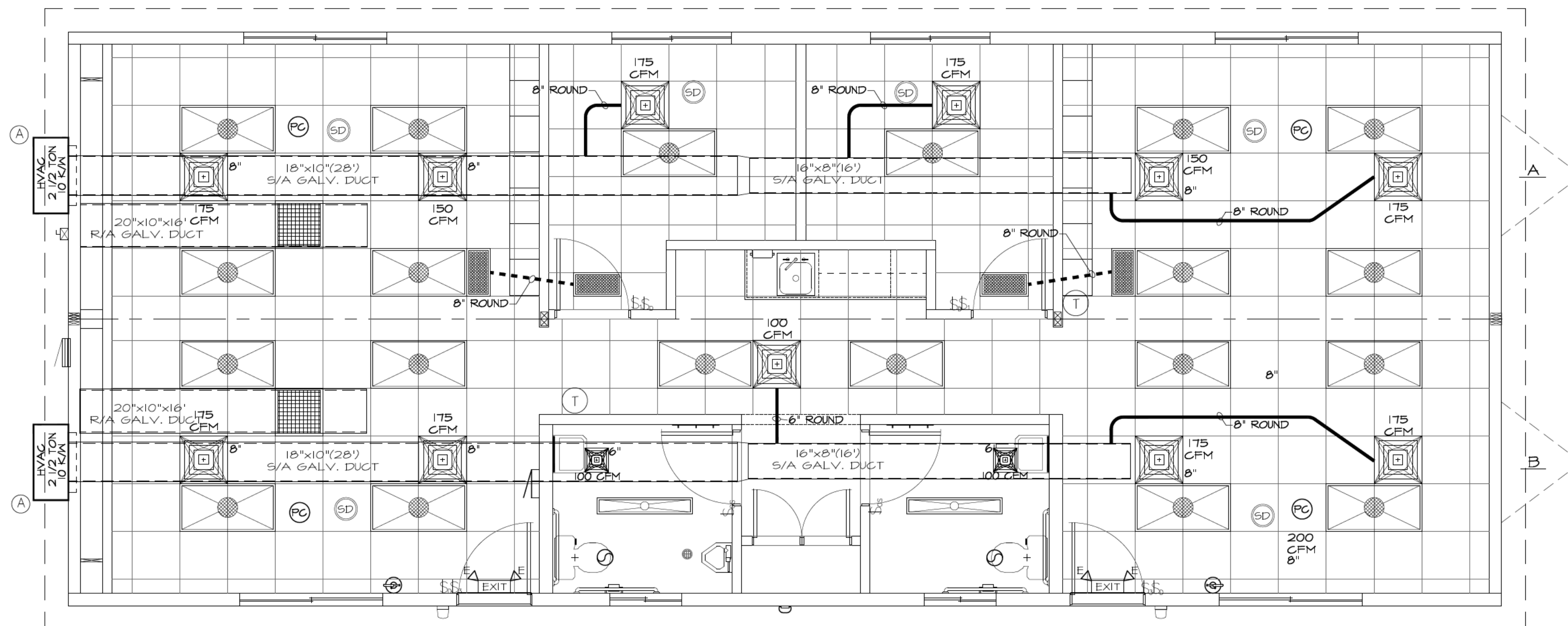
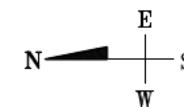
PROJECT: 24' x 60' OFFICE  
CUSTOMER: NEVADA D.O.T. -- NEVADA  
DEALER: PACIFIC MOBILE STRUCTURES, INC. -- ROSS PARKS  
DLR. LOCATION: BOISE, ID. -- (208) 362-6090



405 E. BOEING LANE  
BOISE, IDAHO 83716  
PH: (208) 344-3527  
FAX: (208) 345-0420

SHEET:  
5





HVAC & CEILING PLAN

SCALE: 1/4" = 1'-0"

### MECHANICAL LEGEND

SYM.	DESCRIPTION
	HVAC ELECTRIC 2-1/2 TON/10KW
	24"x24" SUPPLY AIR REGISTER W/ ADJ. MANUAL DAMPER
	24" x 12" PERFORATED RETURN AIR REGISTER W/22"x10" TO 8" ROUND TRANSITION
	24"x24" R/A EGGRATE GRILL W/ FULL CUT-OUT
	2-WAY 12" x 12" SUPPLY AIR REGISTER W/MANUAL ADJUSTABLE DAMPER
	WALL MT. PROGRAMABLE T-STAT @ 48" AFF

### NOTE:

DUCT WORK TO BE (26ga) GALV.

### HEATING & A/C SCHEDULE

SYM.	TYPE	K.W.	STAGES	G.F.M.	S.P.E.	VOLTS - PHASE	B.T.U. COOL'G	MANUFACTURER
(A)	HVAC	10	1	1000	.20	230/208 - 1	29,400	BARD W30A2-A10

### VENTILATION FANS

	MODEL	VOLTS	AMPS	S.P.	SONES	CFM	DUCT SIZE	LOCATION
	BROAN #676	120V	1.3	.10	4.0	100	4"	RESTROOMS

**APPROVED**  
NRS 461 or NRS 489  
FACTORY BUILT HOUSING  
STATE OF NEVADA

**JULY 06 2016**

**61285**

BY   
Authorized Signature

NWBS MODULAR BUILDINGS ARE GOVERNED FOR CODE COMPLIANCE BY THE STATE IN WHICH THE BUILDING IS TO BE PLACED UPON COMPLETION. ALL STATES USE THEIR LATEST STATE ADOPTED CODES FOR THEIR REVIEW OF MODULAR BUILDING PLANS. BUILDING TYPE AND USE DICTATE WHAT THE STATE ALSO REVIEWS. NWBS RELIES ON THE STATE APPROVAL AND CUSTOMER SIGNED DRAWINGS TO PROVIDE INSURANCE OF CODE COMPLIANCE AND CUSTOMER SATISFACTION PRIOR TO CONSTRUCTION OF PROJECTS.

DATE	REVISION	REV. BY

DESIGN & LAYOUT ARE AS REQ'D BY DEALER & CLIENT WITH ENGINEERING CHANGES AS REQ'D TO COMPLY WITH APPLICABLE CODES AND PRACTICAL CONSTRUCTION METHODS  
NOTE: SPECIFICATIONS, DESIGN AND DESIGN SUITABILITY ARE THE DEALER / CLIENT RESPONSIBILITY AND ARE INTENDED FOR THEIR EXCLUSIVE USE

THIS DRAWING SHALL NOT BE COPIED, REVISED OR ALTERED WITHOUT WRITTEN AUTHORIZATION FROM N.W.B.S.

JOB # 16171 & 16172 A&B

DATE: MAY 27, 2016

DRAWN BY: BM APP. BY: KD

PROJECT: 24' x 60' OFFICE

CUSTOMER: NEVADA D.O.T. -- NEVADA

DEALER: PACIFIC MOBILE STRUCTURES, INC. - ROSS PARKS

DLR. LOCATION: BOISE, ID. -- (208) 362-6090



405 E. BOEING LANE  
BOISE, IDAHO 83716  
PH: (208) 344-3527  
FAX: (208) 345-0420

SHEET:

6

**Elko City Planning Commission**  
**Agenda Action Sheet**

1. **Review, consideration and possible granting of Parking Waiver 2-18, filed by Charm Hospitality, LLC to waive fourteen required off-street parking spaces in connection with a hotel expansion within the C (General Commercial) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **MISC. ITEMS, PETITIONS and COMMUNICATIONS**
4. Time Required: **15 Minutes**
5. Background Information: **Subject property is located at 3019 Idaho Street. (APN 001-560-089)**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Move to grant Parking Waiver 2-18 subject to findings of fact in the Staff Report dated November 8, 2018.**
9. Findings: **See Staff Report dated November 8, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Charm Hospitality  
3019 Idaho Street  
Elko, NV 89801**



**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Parking Waiver No. 2-18  
Applicant(s): Charm Hospitality, LLC  
Site Location: 3019 Idaho Street  
Current Zoning: C Date Received: 11/13/18 Date Public Notice: N/A  
COMMENT: This is to waive 14 required Parking Spaces.

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

Assistant City Manager: Date: 11/26/18  
Recommend approval as presented by  
Staff

SAW

Initial

City Manager: Date: 11/28/18  
No comments/concerns.

cc

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	<b>November 14, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>December 4, 2018</b>
<b>APPLICATION NUMBER:</b>	<b>PKG 2-18</b>
<b>AGENDA ITEM:</b>	<b>I.B.3.</b>
<b>APPLICANT:</b>	<b>Charm Hospitality, LLC</b>
<b>PROJECT DESCRIPTION:</b>	<b>Parking Waiver 2-18</b>

An application for a parking waiver reducing to 106 parking spaces from the required 120 spaces associated with a proposed expansion of the existing hotel. There are currently 110 spaces.



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBER:** 001-560-089  
**PARCEL SIZE:** 1.954 acres  
**EXISTING ZONING:** C- General Commercial  
**MASTER PLAN DESIGNATION:** (COMM-HWY) Commercial Highway  
**EXISTING LAND USE:** Developed as a Hotel

### **NEIGHBORHOOD CHARACTERISTICS:**

- } The property is surrounded by:
  - } North: General Commercial (C) / Developed
  - } West: I-80 Corridor
  - } South: General Commercial (C) / Developed
  - } East: General Commercial (C) / Developed

### **PROPERTY CHARACTERISTICS:**

- } The area is currently developed with a commercial land use.
- } The area is generally flat with steep grade change from back of existing building to the I-80 right-of-way
- } The area is accessed from Idaho Street.

### **MASTER PLAN AND CITY CODE SECTIONS:**

Applicable Master Plans and City Code Sections are:

- } City of Elko Master Plan – Land Use Component
- } City of Elko Master Plan – Transportation Component
- } City of Elko Redevelopment Plan
- } City of Wellhead Protection Plan
- } City of Elko Zoning – Section 3-2-10 PC, C Commercial Districts
- } City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations

### **BACKGROUND:**

1. The applicant is the property owner.
2. The applicant has submitted a set of plans for an expansion to the existing building to the City of Elko Building Department.
3. The proposed addition will result in approximately 4,126 sq. ft. added to the structure. The proposed addition includes a swimming pool, commercial laundry, guest laundry, meeting room, and fitness center, typical amenities for the existing use.
4. A parking waiver was granted by the Planning Commission on June 5, 2018 for a reduction to 110 spaces from the required 121. The owner has since redesigned the proposed addition and eliminated square footage from the restaurant area reducing the required stalls to 120 as well as eliminated another 4 stalls with the proposed re-design of the site allowing for better fire department access. This new waiver would replace the PKG 1-18 waiver that was previously approved.

## **MASTER PLAN:**

### **Land use:**

1. The Master Plan Land Use Atlas shows the area as Commercial Highway.
2. C- General Commercial zoning district is listed as a corresponding zoning district for Commercial Highway.
3. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.
4. The existing facility as well as the proposed addition meet Objective 6 of the Land Use document.

The existing use and proposed expansion are in conformance with the Land use Component of the Master Plan.

### **Transportation:**

1. The area will be accessed from Idaho Street.
2. West Idaho Street is classified as a Major Arterial.

The existing use and proposed use is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure.

## **ELKO REDEVELOPMENT PLAN:**

1. The property is not located within the Redevelopment Area.

## **ELKO WELLHEAD PROTECTION PLAN:**

1. The parcel is within a 2 year capture zone. The existing and proposed use does not pose a hazard to the City wells.

The existing use and proposed use is in conformance with the Wellhead Protection Plan.

## **SECTION 3-2-10(B) – General Commercial District –C:**

1. The existing development meets the requirements under 3-2-10 for minimum area, minimum lot width, front and rear yard setbacks, side yard setback and maximum building height.
2. The existing development is consistent with the listed principal uses permitted.
3. The existing development does not abut a residential zoning district therefore; a conditional use permit is not required.

The existing use and proposed use is in conformance with Section 3-2-10 of city code.

## **SECTION 3-2-17:**

1. The intent of 3-2-17 is to secure optimum coordination and interaction between land use and transportation facilities. Preservation and improvement of the traffic function of abutting streets, and of the major street system as a whole, are essential considerations in the project planning stage of land development. It is the purpose of this section to establish the regulations necessary to assure that every land use will be so located and planned as to minimize traffic congestion, hazards and vehicular pedestrian conflicts. It is



the further purpose to place upon the property owner the primary responsibility for relieving public streets of the burden of on street parking and to provide the regulations and minimum standards essential to the planning and development of adequate off street parking.

2. Section 3-2-17(C): In all zoning districts, off street parking facilities must be provided in accordance with the provisions of this section for: 1) buildings, establishments or uses of land established after the effective date of this amendment, i.e., June 12, 2002; and 2) existing buildings, establishments or uses of land which are extended, enlarged or altered after the effective date of this amendment.
3. The applicant has provided a parking analysis stating for the hotel at 1 per guestroom = 77, 1 per 2 employees for hotel = 2, restaurant 1 per 100 sq. ft. of dining = 7, 1 per each 2 employees = 2, meeting space 1 per 24 sq. ft. of unfixed seating space = 32 for a total required of 120.
4. Section 3-2-17(E) describes the methods for compliance with off street parking.
5. Section 3-2-17(E)(4) allows for the Planning Commission to waive all or a portion of the required off street parking provided the waiver does not conflict with the intent of the code. The waiver application also requires notification of adjacent properties and provides for an appeal of the Planning Commission decision to the City Council.
6. Some amenities may be utilized by others outside the use of the facility.
7. The applicant has stated that the peak hours for the meeting rooms are during the day and hotel is evening through the night so there is not a conflict with the principal use which is the hotel.
8. The applicant has stated that the full service restaurant is generally an amenity to the hotel guests although it will be open to the public.
9. The existing development appears to meet all other requirements in 3-2-17 for landscaping, site lighting and trash enclosure.

The proposed expansion includes amenities that are typically associated with the existing use and is not expected to generate additional traffic resulting in a parking deficit.

#### **FINDINGS:**

1. The existing use and proposed expansion are in conformance with the Land use Component of the Master Plan.
2. The existing use and proposed use is compatible with the Transportation Component of the Master Plan and is consistent with the existing transportation infrastructure.
3. The property is not located in the Redevelopment Area.
4. The existing use and proposed use is in conformance with the Wellhead Protection Plan.
5. The existing use and proposed use is in conformance with Section 3-2-10 of City Code.
6. The proposed expansion includes amenities that are typically associated with the existing use and is not expected to generate additional traffic resulting in a parking deficit.

#### **STAFF RECOMMENDATION:**

Staff recommends the parking waiver be granted.



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Charm Hospitality  
3019 Idaho Street  
Elko, NV 89801

Re: Parking Waiver No. 2-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

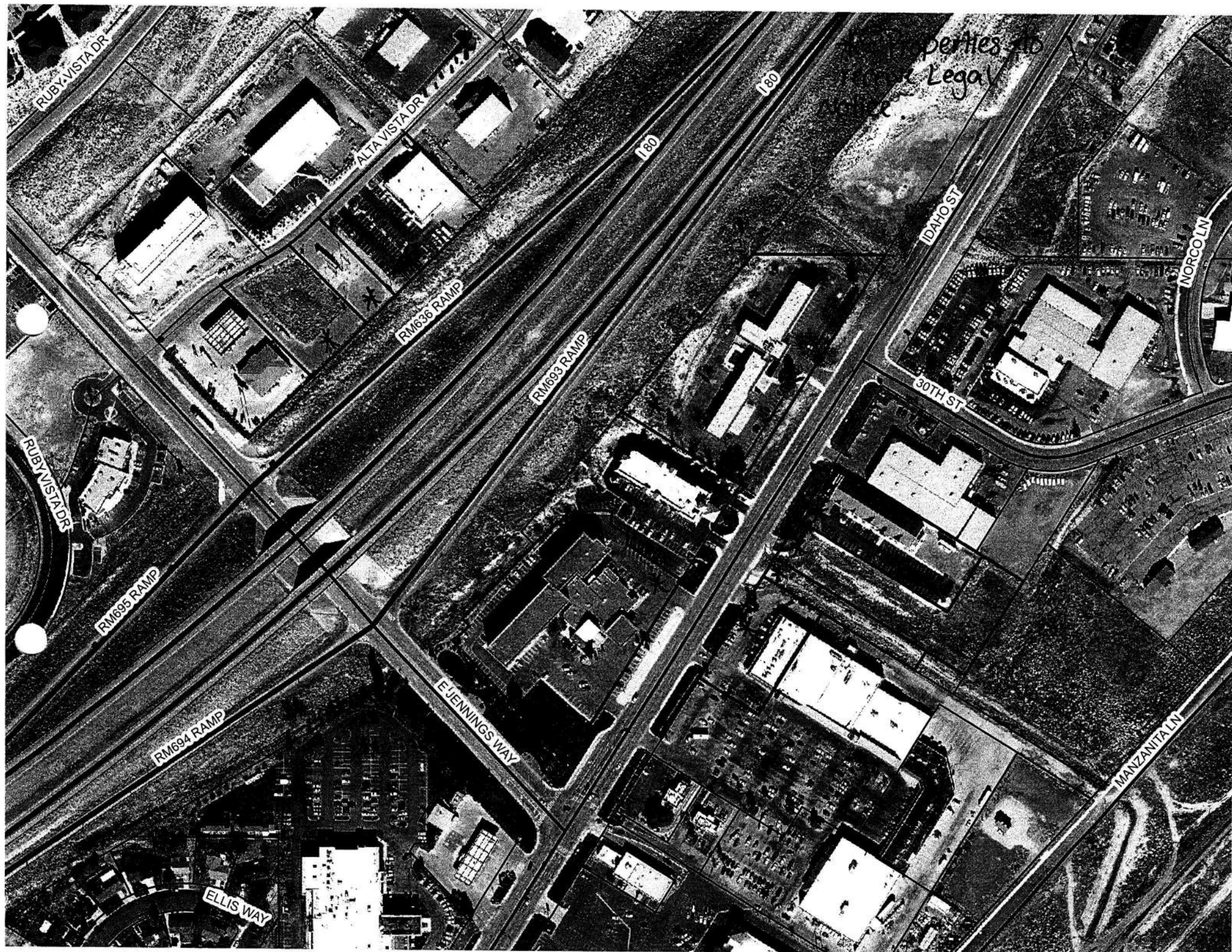
CC:

# PKG 2-18 Charm Hospitality, LLC

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001560058	ABS NV-O LLC	C/O ALBERTSONS LLC	1371 OAKLAND BLVD STE 200	WALNUT CREEK CA	94596-8408
001560083	BJCR LLC		736 IDAHO ST	ELKO NV	89801-3824
001560076	CASARINO INVESTMENTS LTD PARTNE		1490 HILLCREST RD	HOLLISTER CA	95023-5137
001560084	EL NEVA MOTEL PARTNERSHIP		736 IDAHO ST	ELKO NV	89801-3824
001560088	ELKO ACQUISITIONS LLC		2065 IDAHO ST	ELKO NV	89801-2628
0018600BF	G6 HOSPITALITY PROPERTY LLC	ATTN TAX DEPARTMENT	PO BOX 117508	CARROLLTON TX	75011-7508
001560080	K&L RENTALS LLC		371 BERRY CREEK PL	SPRING CREEK NV	89815-6507
001560077	TJOA PROPERTIES LLC		2570 ALTA VISTA DR	ELKO NV	89801-4614
001560033	Y & Y INVESTMENTS LLC	ATTN: PERRY YOUNG	601 W MOANA LN STE 5	RENO NV	89509-4959

⑨

Mailed 11/21/18



RUBI VISTA DR

ALTA VISTA DR

RM636 RAMP

RM693 RAMP

180

IDAHO ST

30TH ST

NORCOLN

MANZANITA LN

RUBI VISTA DR

RM694 RAMP

RM694 RAMP

EJENNINGS WAY

ELLIS WAY

Properties to  
be Legal  
Note



## **NOTICE OF PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a hearing on Tuesday, December 4, 2018 beginning at 5:30 P.M. P.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under hearing is:

**Parking Waiver 2-18, filed by Charm Hospitality, LLC to waive fourteen (14) required off-street parking spaces in connection with a hotel expansion within the C (General Commercial) Zoning District, and matters related thereto.**

**The subject property is located generally on the north side of Idaho Street, approximately 595 feet east of E Jennings Way (3019 Idaho Street).**

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

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

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

### APPLICATION FOR PARKING WAIVER

APPLICANT(s): CHARM HOSPITALITY, LLC

MAILING ADDRESS: 3019 IDAHO STREET, ELKO NV 89801

PHONE NO. (Home) 469-503-0280

(Business) 775-777-0990

NAME OF PROPERTY OWNER (If different): PARAM J. KAUR

(Property owner consent in writing must be provided.)

MAILING ADDRESS: PO Box 2145; Frisco, Texas 75034

ADDRESS AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):

3019 Idaho Street, Elko NV 89801

North of Jennings Way (Shown on Site Plan Vicinity map)

ASSESSOR PARCEL NO(S): 001-560-089

APPLICANT'S REPRESENTATIVE OR ENGINEER: Raj Patel

#### 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 1<sup>st</sup> Tuesday of every month).

**Fee:** A \$50.00 non-refundable fee.

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

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

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

RECEIVED

NOV 13 2018

1. APPLICANT requests a waiver of the parking requirements as described below:
Public areas including full service restaurant and meeting room are proposed to be added to an existing hotel.
Number of required parking spaces, calculated in compliance with City Code Section 3-2-17, for Hotel (Main use)
comes out to be 79, and for Guest Amenities (including Restaurant and Meeting) comes out to be 41 (9+32 respectively) ,
with a total requirement of 120 parking spaces. Whereas 106 parking spaces are proposed. Parking analysis is shown on Sheet AS2.
Existing 110 spaces are shown on survey sheet. Waiver of 14 parking spaces for guest amenities is hereby requested for approval of project.

2. Identify any special circumstances, features or conditions applying to the property under consideration.
1-- Reduction in existing 110 spaces is caused due to fire truck turn-arounds required by fire department
2-- Fire truck access around the building, as was shown in approved Parking waiver (1-18) in June 5, 2018 PC Meeting , did
not worked out due to NDOT's requirements of global stability design of 15 ft. high retaining wall, proposed along I-80 ramp.
3-- Waiver is requested for parking spaces required for hotel amenities, including Internal Restaurant and meeting
room. Both these amenities are mainly for use of hotel guests. Additionally, principal operating hours
of meeting room are during day time, separate from Hotel Peak, which is late afternoon, until night.

3. Indicate how the granting of the parking waiver will not result in prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.
Granting of parking waiver will help in justifying the internal parking arrangements for expansion of existing
hotel business, while justifying compliance with City code section 3-2-17. The overall design will meet with the
public health, safety & welfare to the surrounding areas as well as bring consistency in objectives of the
General Plan, Policies and Standards.

**(Use additional pages if necessary to address questions)**

**This area intentionally left blank**

**By My Signature below:**

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

Applicant / Agent

Param J. Kaur

(Please print or type)

Mailing Address

3019 Idaho Street

Street Address or P.O. Box

Elko NV 89801

City, State, Zip Code

Phone Number:

775-777-0990

Email address:

paramjitkaur251@yahoo.com

SIGNATURE:

Paramjit Kaur

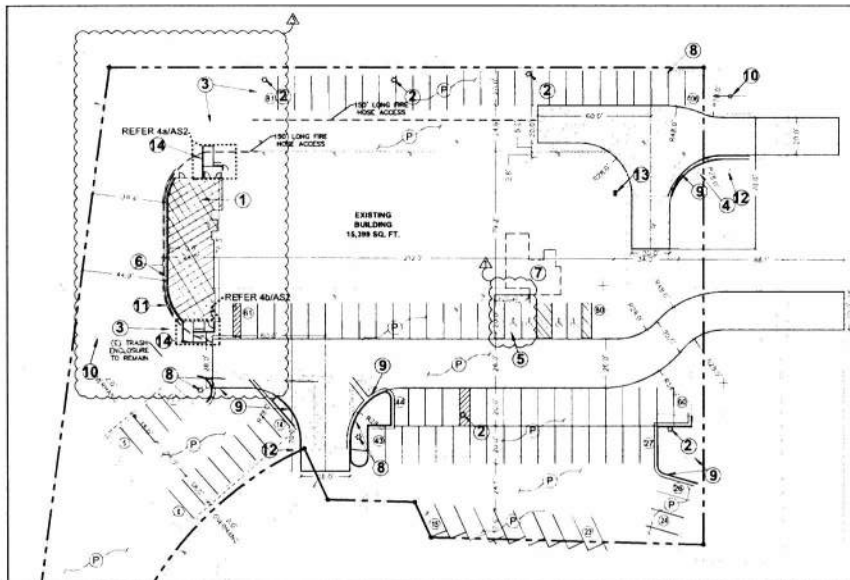
---

**FOR OFFICE USE ONLY**

File No.: 2-18 Date Filed: 11/6/18 Fee Paid: \$50 CK # 1769

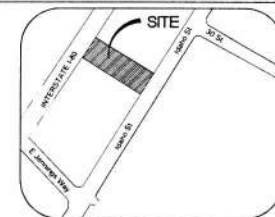
---





### SITE CONSTRUCTION NOTES

- (1) PROPOSED BUILDING ADDITION (1870 SQ. FT. AT GROUND FLOOR)
- (2) (E) SITE LIGHTING POLE, PROTECT IN PLACE.
- (3) (E) RETAINING WALL, PROTECT IN PLACE.
- (4) (E) WATER APPURTENANCE, V.I.F. (RELOCATE, IF REQUIRED)
- (5) (N) ACCESSIBLE PARKING SPACE (8'X20') AISLE (5' W/1' W/2' CROSS SLOPE POUR CONCRETE IN LANDSCAPE AREA EXTEND (E) SIDEWALK UP TO AISLE (REFER C2.2 FOR DETAILS)
- (6) (N) RETAINING WALL (REFER CIVIL & STR. PLANS FOR DETAILS)
- (7) CONVERSION OF PANTRY TO FULL SERVICE KITCHEN ON FIRST FLOOR (S FUTURE T1 AREA)
- (8) RELOCATE (E) SITE LIGHTING POLE.
- (9) DEMOLISH (E) CURBS & INSTALL (N) CURBS AS PER CIVIL PLANS.
- (10) (E) POLE SIGN, PROTECT IN PLACE
- (11) (N) 2' WIDE V-DITCH BEHIND THE RETAINING WALL. REFER C2.2 FOR DETAILS.
- (12) (E) FIRE HYDRANT, PROTECT IN PLACE.
- (13) INSTALL FIRE DEPT. KNOX BOX TO THE SATISFACTION OF AHJ.
- (14) ADD ACCESSIBLE RAMPS AS PER DETAILS ON THIS SHEET & CIVIL PLANS FOR ACCESSIBILITY CODE REFERENCES REFER DA & ADA SHEETS



VICINITY MAP

NTS

### LEGEND:

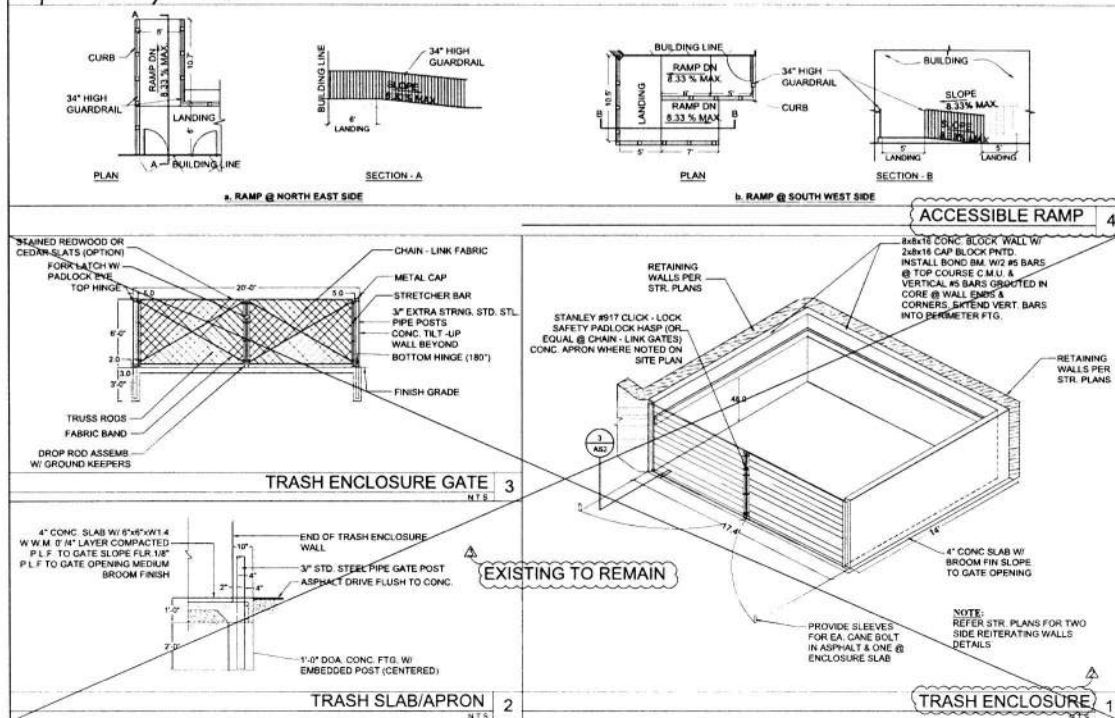
- PROPERTY LINE
- PARKING STRIPES (RESTRIPE ALL SPACES)
- CENTER LINE
- EASEMENT
- PROPOSED LOT LINE
- DRAINAGE EASEMENT
- PIPELINE EASEMENT
- (E) BUILDING
- (N) BUILDING ADDITION (1870 SQ. FT. AT GROUND FLOOR)
- (N) RETAINING WALL
- NO PARKING
- ACCESSIBLE PARKING AISLE
- CONCRETE
- FIRE TRUCK ROUTE
- SEAL COAT (E) PAVING AND RESTRIPE PARKING SPACES PER PLAN

### DISTURBED AREA DETAIL

IMPERVIOUS AREA	EXISTING (%age)	PROPOSED (%age)	REMARKS
BUILDING	15,399 SQ. FT. (18.08%)	17,269 SQ. FT. (20.48%)	FIRST FLOOR
ASPHALT PARKING	41,830 SQ. FT. (49.12%)	45,673 SQ. FT. (53.27%)	
CONCRETE	3,036 SQ. FT. (3.56%)	3,846 SQ. FT. (4.51%)	
<b>PERVIOUS AREA</b>			
LANDSCAPING	8,050 SQ. FT. (9.45%)	8,375 SQ. FT. (9.83%)	
UNDEVELOPED AREA	16,850 SQ. FT. (19.79%)	9,833 SQ. FT. (11.91%)	
<b>TOTAL</b>	<b>85,165 SQ. FT. (1.95 ACRE APPROX.)</b>		

### PARKING ANALYSIS

- a) REQUIRED SPACES (ZONING CODE SECTION 3-2.17(F))
  - HOTEL (MAIN USE)
    - 1 PER GUESTROOM
    - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT
  - FOR MAX. OF EMPLOYEES PER SHIFT
  - RESTAURANT (AMENITY TO MAIN USE)
    - 1 PER 100 SQ. FT. OF RESTAURANT DINING
    - (USABLE FLOOR AREA 693 SQ. FT.)
    - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT
    - FOR MAX. OF 4 EMPLOYEE PER SHIFT
  - MEETING (PUBLIC ASSEMBLY) (AMENITY TO MAIN USE)
    - 1 PER 24 SQ. FT. OF UNFOLDED SITTING SPACE
    - (752 SQ. FT.)
  - TOTAL SPACES REQUIRED: 120
- b) PROVIDED: 106 (79 FOR MAIN USE & 27 FOR HOTEL AMENITIES)
- c) NOTES FOR ADDITIONAL REQUIRED PARKING SPACES FOR HOTEL AMENITIES.
  - RESTAURANT PROPOSED IS AN AMENITY, WHICH IS TO SERVE HOTEL GUESTS ONLY. THEREBY, REQUIRING NO ADDITIONAL SPACES.
  - MEETING ROOM (PUBLIC ASSEMBLY) PEAK USE HOURS ARE DURING DAY TIME, SEPARATE FROM PRINCIPAL USE (HOTEL GUESTS) WITH NIGHT TIME PEAK OPERATING HOURS. MEETING ROOM IS ALSO AN AMENITY TO HOTEL USE.
  - HENCE 32 MEETING SPACES AND 09 RESTAURANT SPACES, (TOTAL OF 41 SPACES) TO BE CONSIDERED AS SHARED PARKING SPACES WITH MAIN USE IN THIS PROJECT. WAIVER APPLICATION TO BE SUBMITTED TO PLANNING COMMISSION FOR APPROVAL
- d) ACCESSIBLE PARKING
  - REQUIRED: 5 (2012 IBC TABLE 1106.1)
  - PROVIDED: 5 (4 EX+1 NEW)
- e) VAN ACCESSIBLE PARKING
  - REQUIRED: 1 (2012 IBC SEC 1106.5)
  - PROVIDED: 1



Continental Development Consultants, Inc.

7423 W. Lake Mead Blvd. Ste. 100, Las Vegas, NV 89128  
Phone: (702) 342-6131 FAX: (702) 644-4327  
Email: Contact@continentaldc.com  
Civil Engineering, Land Planning and Zoning Entitlements  
Building Design and Improvement Construction Consulting

PROPOSED SITE PLAN  
FOUR POINTS BY SHERATON  
3019 IDAHO ST.  
ELKO, NV 89801



DATE: 11/12/2018  
JOB: 20-04-01  
DWG. BY: DV  
CHK. BY: SPK

AS2

# METES AND BOUNDS LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 11, T.34 N., R.55 E., M.D.B. & M. OF ELKO, NEVADA, BEING PARCELS NO. 2, AS SHOWN ON THE PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AS FILE NO. 527886, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER 1/4 CORNER OF SAID SECTION 11, THENCE N 30° 20' 20" E, 1831.07 FEET, TO A POINT BEING THE MOST SOUTHERLY CORNER OF PARCEL NO. 1, AS SHOWN ON SAID PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC, THENCE N 31° 28' 07" E, 487.88 FEET, ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 1, TO CORNER NO. 1, A POINT BEING THE MOST SOUTHERLY CORNER OF SAID PARCEL NO. 2, AS SHOWN ON THE PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC, THE TRUE POINT OF BEGINNING, THENCE CONTINUING N 31° 28' 07" E, 253.14 FEET, ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 2, A POINT BEING THE MOST EASTERLY CORNER OF SAID PARCEL NO. 2, THENCE S 88° 54' 04" W, 334.00 FEET, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 3, A POINT BEING THE MOST NORTHERLY CORNER OF SAID PARCEL NO. 2, THENCE S 38° 58' 14" W, 354.00 FEET, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 4, A POINT BEING THE MOST WESTERLY CORNER OF SAID PARCEL NO. 2, THENCE N 45° 35' 02" E, 40.01 FEET, ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 5, THENCE N 45° 35' 02" E, 40.01 FEET, ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 6, THENCE FROM A TANGENT BEARING N 44° 28' 34" E, ON A CIRCULAR CURVE TO THE RIGHT, WITH A RADIUS OF 180.00 FEET, THROUGH A CENTRAL ANGLE OF 94° 34' 28", FOR AN ARC LENGTH OF 198.48 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 7, THENCE S 08° 54' 04" W, 28.50 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 8, THENCE S 07° 01' 11" E, 44.31 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 9, THENCE S 08° 54' 04" W, 28.50 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 10, THENCE S 07° 01' 11" E, 44.31 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 1, THE POINT OF BEGINNING, CONTAINING 1.954 ACRES, MORE OR LESS.

## FLOOD HAZARD AREA NOTE:

A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE AE AS SHOWN ON FLOOD INSURANCE RATE MAP CITY OF ELKO, NEVADA, PARCEL NO. 330015 DSD C. THE FLOOD HAZARD AREA APPEARS TO BE CONTAINED IN THE CULVERTS LOCATED WITHIN THE EXISTING DRAINAGE EASEMENT SHOWN ON THE PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC, FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AS FILE NO. 527886 AND ALSO SHOWN HEREIN.

## GENERAL NOTES:

- 1) THE TOTAL SURVEYED AREA OF THIS MAP EQUALS 1.954 ACRES
- 2) BASIS OF BEARING: THE FOUND CORNERS SHOWN HEREON AS SHOWN ON THE PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, FILE NO. 527886
- 3) ALL DIMENSIONS OF THE BOUNDARIES SHOWN COINCIDE WITH THOSE OF RECORD
- 4) THE SUBJECT PROPERTY IS ZONED C (GENERAL COMMERCIAL) AND THERE ARE NO SETBACK REQUIREMENTS
- 5) REQUIRED PARKING: 1 PER GUEST ROOM, OR SUITE PLUS 1 PER EACH 2 EMPLOYEES ON THE LARGEST SUIT
- NUMBER OF PARKING SPACES LOCATED ON THE SUBJECT PROPERTY: REGULAR SPACES = 158 HANDICAP SPACES = 4 TOTAL SPACES SHOWN ON THIS SURVEY = 162

## LEGEND

- ◆ = FOUND SECTION CORNER AS NOTED
- SET "IN" NAIL UNLESS OTHERWISE NOTED
- ⊙ = FOUND N.O.D.T. HIGHWAY MONUMENT AS NOTED
- ⊙ = FOUND PROPERTY CORNER AS NOTED
- ⊙ = CALCULATED POINT, NOTHING FOUND, NOTHING SET
- ⊙ = EXISTING FIRE HYDRANT
- ⊙ = EXISTING WATER VALVE
- ⊙ = EXISTING WATER VAULT
- ⊙ = EXISTING IRRIGATION BOX
- ⊙ = EXISTING 2" H.P. POWER BOX
- ⊙ = EXISTING POWER METER
- ⊙ = EXISTING TELEPHONE, PEDESTAL
- ⊙ = EXISTING SANITARY SINK CLEANOUT
- ⊙ = EXISTING DROP INLET
- ⊙ = EXISTING FLOOD LIGHT
- ⊙ = EXISTING STREET LIGHT
- ⊙ = EXISTING GAS METER
- ⊙ = EXISTING FLAG POLE

## LEGAL DESCRIPTION CONTAINED IN TITLE REPORT

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF NEVADA, COUNTY OF ELKO, DESCRIBED AS FOLLOWS:

PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP FOR MCLAGNEY ELKO HOLDING INC., LLC FILED IN THE OFFICE OF THE COUNTY RECORDER OF ELKO COUNTY, STATE OF NEVADA, ON NOVEMBER 30, 2004, AS FILE NO. 527886, BEING A PORTION OF SECTION 11, TOWNSHIP 34 NORTH, RANGE 55 EAST, N.D.B. & M.

## ENCROACHMENTS

THE 18" RETAINING WALL ENCROACHES ONTO THE ADJOINING PROPERTY. THE 18" CULVERT AND NEONAIL ON THE ADJOINING PROPERTY APPEARS TO DRAIN WATER EASEMENT SHOWN HEREON.

PROJECT SITE:  
HOLIDAY INN EXPRESS  
3019 ADAMS STREET  
ELKO, NEVADA

PARCEL 2  
IN TITLE COMMITMENT  
NO. 07210899

TOTAL AREA = 1.954 ACRES  
85,136 SQUARE FEET



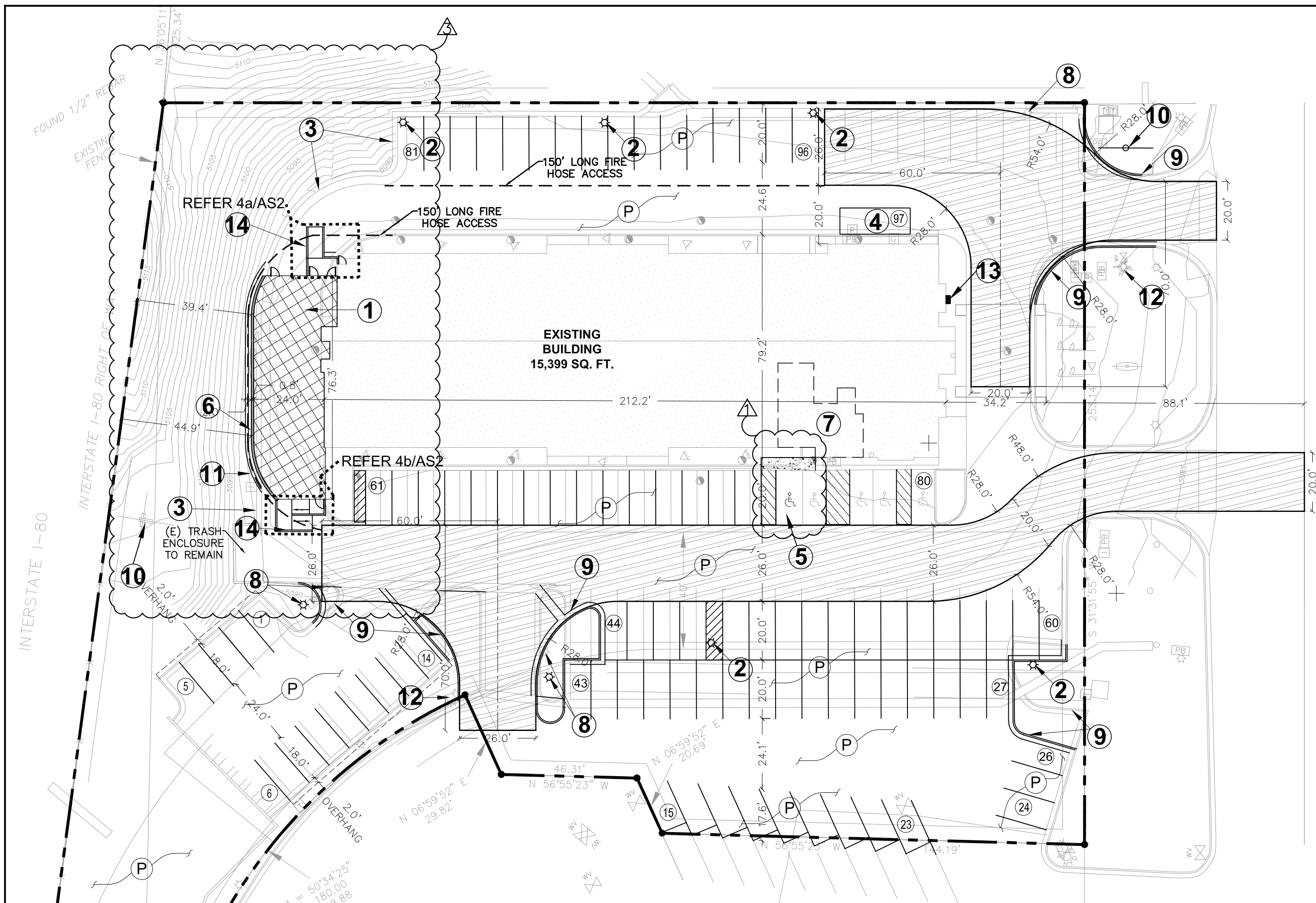
VICINITY MAP  
NOT TO SCALE



## SURVEYOR'S CERTIFICATION:

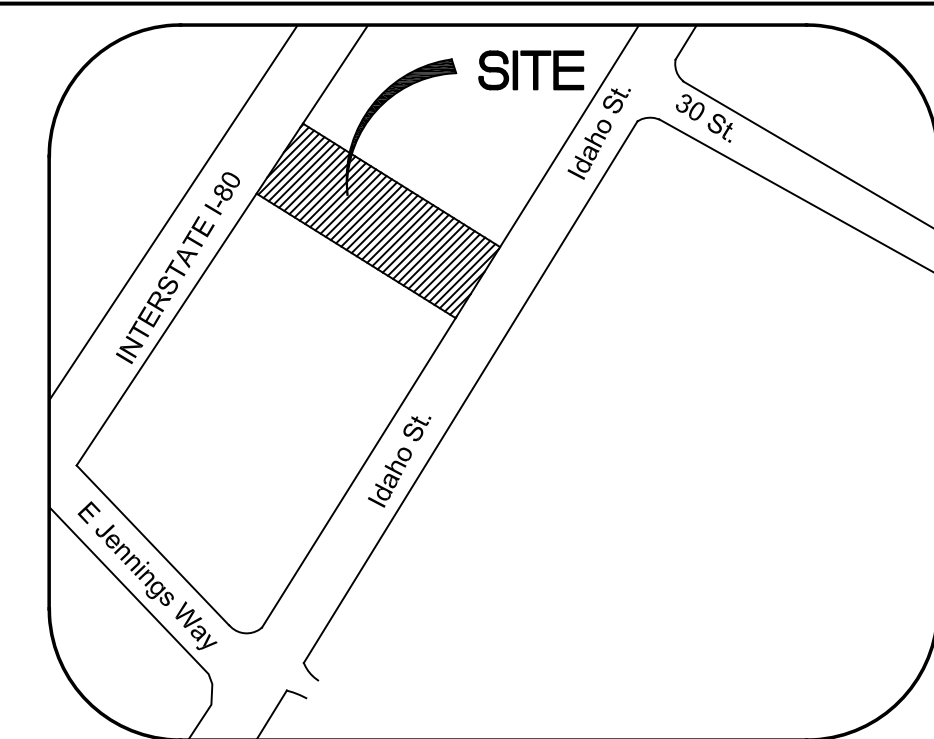
TO COLUMBIA FINANCIAL, INC., ITS SUCCESSORS OR ASSIGNS, STEWART TITLE & INSURANCE DIVISION AND DILLON PROPERTIES LLC, A NEVADA LIMITED LIABILITY COMPANY.

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS DETERMINED BY THE BOARD OF LAND SURVEYING, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NEVADA, IN THE YEAR 1999, AND IN THE YEAR 2004, AND IN THE YEAR 2008, AND IN THE YEAR 2012, AND IN THE YEAR 2016, AND IN THE YEAR 2020, AND IN THE YEAR 2024, AND IN THE YEAR 2028, AND IN THE YEAR 2032, AND IN THE YEAR 2036, AND IN THE YEAR 2040, AND IN THE YEAR 2044, AND IN THE YEAR 2048, AND IN THE YEAR 2052, AND IN THE YEAR 2056, AND IN THE YEAR 2060, AND IN THE YEAR 2064, AND IN THE YEAR 2068, AND IN THE YEAR 2072, AND IN THE YEAR 2076, AND IN THE YEAR 2080, AND IN THE YEAR 2084, AND IN THE YEAR 2088, AND IN THE YEAR 2092, AND IN THE YEAR 2096, AND IN THE YEAR 2100, AND IN THE YEAR 2104, AND IN THE YEAR 2108, AND IN THE YEAR 2112, AND IN THE YEAR 2116, AND IN THE YEAR 2120, AND IN THE YEAR 2124, AND IN THE YEAR 2128, AND IN THE YEAR 2132, AND IN THE YEAR 2136, AND IN THE YEAR 2140, AND IN THE YEAR 2144, AND IN THE YEAR 2148, AND IN THE YEAR 2152, AND IN THE YEAR 2156, AND IN THE YEAR 2160, AND IN THE YEAR 2164, AND IN THE YEAR 2168, AND IN THE YEAR 2172, AND IN THE YEAR 2176, AND IN THE YEAR 2180, AND IN THE YEAR 2184, AND IN THE YEAR 2188, AND IN THE YEAR 2192, AND IN THE YEAR 2196, AND IN THE YEAR 2200, AND IN THE YEAR 2204, AND IN THE YEAR 2208, AND IN THE YEAR 2212, AND IN THE YEAR 2216, AND IN THE YEAR 2220, AND IN THE YEAR 2224, AND IN THE YEAR 2228, AND IN THE YEAR 2232, AND IN THE YEAR 2236, AND IN THE YEAR 2240, AND IN THE YEAR 2244, AND IN THE YEAR 2248, AND IN THE YEAR 2252, AND IN THE YEAR 2256, AND IN THE YEAR 2260, AND IN THE YEAR 2264, AND IN THE YEAR 2268, AND IN THE YEAR 2272, AND IN THE YEAR 2276, AND IN THE YEAR 2280, AND IN THE YEAR 2284, AND IN THE YEAR 2288, AND IN THE YEAR 2292, AND IN THE YEAR 2296, AND IN THE YEAR 2300, AND IN THE YEAR 2304, AND IN THE YEAR 2308, AND IN THE YEAR 2312, AND IN THE YEAR 2316, AND IN THE YEAR 2320, AND IN THE YEAR 2324, AND IN THE YEAR 2328, AND IN THE YEAR 2332, AND IN THE YEAR 2336, AND IN THE YEAR 2340, AND IN THE YEAR 2344, AND IN THE YEAR 2348, AND IN THE YEAR 2352, AND IN THE YEAR 2356, AND IN THE YEAR 2360, AND IN THE YEAR 2364, AND IN THE YEAR 2368, AND IN THE YEAR 2372, AND IN THE YEAR 2376, AND IN THE YEAR 2380, AND IN THE YEAR 2384, AND IN THE YEAR 2388, AND IN THE YEAR 2392, AND IN THE YEAR 2396, AND IN THE YEAR 2400, AND IN THE YEAR 2404, AND IN THE YEAR 2408, AND IN THE YEAR 2412, AND IN THE YEAR 2416, AND IN THE YEAR 2420, AND IN THE YEAR 2424, AND IN THE YEAR 2428, AND IN THE YEAR 2432, AND IN THE YEAR 2436, AND IN THE YEAR 2440, AND IN THE YEAR 2444, AND IN THE YEAR 2448, AND IN THE YEAR 2452, AND IN THE YEAR 2456, AND IN THE YEAR 2460, AND IN THE YEAR 2464, AND IN THE YEAR 2468, AND IN THE YEAR 2472, AND IN THE YEAR 2476, AND IN THE YEAR 2480, AND IN THE YEAR 2484, AND IN THE YEAR 2488, AND IN THE YEAR 2492, AND IN THE YEAR 2496, AND IN THE YEAR 2500, AND IN THE YEAR 2504, AND IN THE YEAR 2508, AND IN THE YEAR 2512, AND IN THE YEAR 2516, AND IN THE YEAR 2520, AND IN THE YEAR 2524, AND IN THE YEAR 2528, AND IN THE YEAR 2532, AND IN THE YEAR 2536, AND IN THE YEAR 2540, AND IN THE YEAR 2544, AND IN THE YEAR 2548, AND IN THE YEAR 2552, AND IN THE YEAR 2556, AND IN THE YEAR 2560, AND IN THE YEAR 2564, AND IN THE YEAR 2568, AND IN THE YEAR 2572, AND IN THE YEAR 2576, AND IN THE YEAR 2580, AND IN THE YEAR 2584, AND IN THE YEAR 2588, AND IN THE YEAR 2592, AND IN THE YEAR 2596, AND IN THE YEAR 2600, AND IN THE YEAR 2604, AND IN THE YEAR 2608, AND IN THE YEAR 2612, AND IN THE YEAR 2616, AND IN THE YEAR 2620, AND IN THE YEAR 2624, AND IN THE YEAR 2628, AND IN THE YEAR 2632, AND IN THE YEAR 2636, AND IN THE YEAR 2640, AND IN THE YEAR 2644, AND IN THE YEAR 2648, AND IN THE YEAR 2652, AND IN THE YEAR 2656, AND IN THE YEAR 2660, AND IN THE YEAR 2664, AND IN THE YEAR 2668, AND IN THE YEAR 2672, AND IN THE YEAR 2676, AND IN THE YEAR 2680, AND IN THE YEAR 2684, AND IN THE YEAR 2688, AND IN THE YEAR 2692, AND IN THE YEAR 2696, AND IN THE YEAR 2700, AND IN THE YEAR 2704, AND IN THE YEAR 2708, AND IN THE YEAR 2712, AND IN THE YEAR 2716, AND IN THE YEAR 2720, AND IN THE YEAR 2724, AND IN THE YEAR 2728, AND IN THE YEAR 2732, AND IN THE YEAR 2736, AND IN THE YEAR 2740, AND IN THE YEAR 2744, AND IN THE YEAR 2748, AND IN THE YEAR 2752, AND IN THE YEAR 2756, AND IN THE YEAR 2760, AND IN THE YEAR 2764, AND IN THE YEAR 2768, AND IN THE YEAR 2772, AND IN THE YEAR 2776, AND IN THE YEAR 2780, AND IN THE YEAR 2784, AND IN THE YEAR 2788, AND IN THE YEAR 2792, AND IN THE YEAR 2796, AND IN THE YEAR 2800, AND IN THE YEAR 2804, AND IN THE YEAR 2808, AND IN THE YEAR 2812, AND IN THE YEAR 2816, AND IN THE YEAR 2820, AND IN THE YEAR 2824, AND IN THE YEAR 2828, AND IN THE YEAR 2832, AND IN THE YEAR 2836, AND IN THE YEAR 2840, AND IN THE YEAR 2844, AND IN THE YEAR 2848, AND IN THE YEAR 2852, AND IN THE YEAR 2856, AND IN THE YEAR 2860, AND IN THE YEAR 2864, AND IN THE YEAR 2868, AND IN THE YEAR 2872, AND IN THE YEAR 2876, AND IN THE YEAR 2880, AND IN THE YEAR 2884, AND IN THE YEAR 2888, AND IN THE YEAR 2892, AND IN THE YEAR 2896, AND IN THE YEAR 2900, AND IN THE YEAR 2904, AND IN THE YEAR 2908, AND IN THE YEAR 2912, AND IN THE YEAR 2916, AND IN THE YEAR 2920, AND IN THE YEAR 2924, AND IN THE YEAR 2928, AND IN THE YEAR 2932, AND IN THE YEAR 2936, AND IN THE YEAR 2940, AND IN THE YEAR 2944, AND IN THE YEAR 2948, AND IN THE YEAR 2952, AND IN THE YEAR 2956, AND IN THE YEAR 2960, AND IN THE YEAR 2964, AND IN THE YEAR 2968, AND IN THE YEAR 2972, AND IN THE YEAR 2976, AND IN THE YEAR 2980, AND IN THE YEAR 2984, AND IN THE YEAR 2988, AND IN THE YEAR 2992, AND IN THE YEAR 2996, AND IN THE YEAR 3000, AND IN THE YEAR 3004, AND IN THE YEAR 3008, AND IN THE YEAR 3012, AND IN THE YEAR 3016, AND IN THE YEAR 3020, AND IN THE YEAR 3024, AND IN THE YEAR 3028, AND IN THE YEAR 3032, AND IN THE YEAR 3036, AND IN THE YEAR 3040, AND IN THE YEAR 3044, AND IN THE YEAR 3048, AND IN THE YEAR 3052, AND IN THE YEAR 3056, AND IN THE YEAR 3060, AND IN THE YEAR 3064, AND IN THE YEAR 3068, AND IN THE YEAR 3072, AND IN THE YEAR 3076, AND IN THE YEAR 3080, AND IN THE YEAR 3084, AND IN THE YEAR 3088, AND IN THE YEAR 3092, AND IN THE YEAR 3096, AND IN THE YEAR 3100, AND IN THE YEAR 3104, AND IN THE YEAR 3108, AND IN THE YEAR 3112, AND IN THE YEAR 3116, AND IN THE YEAR 3120, AND IN THE YEAR 3124, AND IN THE YEAR 3128, AND IN THE YEAR 3132, AND IN THE YEAR 3136, AND IN THE YEAR 3140, AND IN THE YEAR 3144, AND IN THE YEAR 3148, AND IN THE YEAR 3152, AND IN THE YEAR 3156, AND IN THE YEAR 3160, AND IN THE YEAR 3164, AND IN THE YEAR 3168, AND IN THE YEAR 3172, AND IN THE YEAR 3176, AND IN THE YEAR 3180, AND IN THE YEAR 3184, AND IN THE YEAR 3188, AND IN THE YEAR 3192, AND IN THE YEAR 3196, AND IN THE YEAR 3200, AND IN THE YEAR 3204, AND IN THE YEAR 3208, AND IN THE YEAR 3212, AND IN THE YEAR 3216, AND IN THE YEAR 3220, AND IN THE YEAR 3224, AND IN THE YEAR 3228, AND IN THE YEAR 3232, AND IN THE YEAR 3236, AND IN THE YEAR 3240, AND IN THE YEAR 3244, AND IN THE YEAR 3248, AND IN THE YEAR 3252, AND IN THE YEAR 3256, AND IN THE YEAR 3260, AND IN THE YEAR 3264, AND IN THE YEAR 3268, AND IN THE YEAR 3272, AND IN THE YEAR 3276, AND IN THE YEAR 3280, AND IN THE YEAR 3284, AND IN THE YEAR 3288, AND IN THE YEAR 3292, AND IN THE YEAR 3296, AND IN THE YEAR 3300, AND IN THE YEAR 3304, AND IN THE YEAR 3308, AND IN THE YEAR 3312, AND IN THE YEAR 3316, AND IN THE YEAR 3320, AND IN THE YEAR 3324, AND IN THE YEAR 3328, AND IN THE YEAR 3332, AND IN THE YEAR 3336, AND IN THE YEAR 3340, AND IN THE YEAR 3344, AND IN THE YEAR 3348, AND IN THE YEAR 3352, AND IN THE YEAR 3356, AND IN THE YEAR 3360, AND IN THE YEAR 3364, AND IN THE YEAR 3368, AND IN THE YEAR 3372, AND IN THE YEAR 3376, AND IN THE YEAR 3380, AND IN THE YEAR 3384, AND IN THE YEAR 3388, AND IN THE YEAR 3392, AND IN THE YEAR 3396, AND IN THE YEAR 3400, AND IN THE YEAR 3404, AND IN THE YEAR 3408, AND IN THE YEAR 3412, AND IN THE YEAR 3416, AND IN THE YEAR 3420, AND IN THE YEAR 3424, AND IN THE YEAR 3428, AND IN THE YEAR 3432, AND IN THE YEAR 3436, AND IN THE YEAR 3440, AND IN THE YEAR 3444, AND IN THE YEAR 3448, AND IN THE YEAR 3452, AND IN THE YEAR 3456, AND IN THE YEAR 3460, AND IN THE YEAR 3464, AND IN THE YEAR 3468, AND IN THE YEAR 3472, AND IN THE YEAR 3476, AND IN THE YEAR 3480, AND IN THE YEAR 3484, AND IN THE YEAR 3488, AND IN THE YEAR 3492, AND IN THE YEAR 3496, AND IN THE YEAR 3500, AND IN THE YEAR 3504, AND IN THE YEAR 3508, AND IN THE YEAR 3512, AND IN THE YEAR 3516, AND IN THE YEAR 3520, AND IN THE YEAR 3524, AND IN THE YEAR 3528, AND IN THE YEAR 3532, AND IN THE YEAR 3536, AND IN THE YEAR 3540, AND IN THE YEAR 3544, AND IN THE YEAR 3548, AND IN THE YEAR 3552, AND IN THE YEAR 3556, AND IN THE YEAR 3560, AND IN THE YEAR 3564, AND IN THE YEAR 3568, AND IN THE YEAR 3572, AND IN THE YEAR 3576, AND IN THE YEAR 3580, AND IN THE YEAR 3584, AND IN THE YEAR 3588, AND IN THE YEAR 3592, AND IN THE YEAR 3596, AND IN THE YEAR 3600, AND IN THE YEAR 3604, AND IN THE YEAR 3608, AND IN THE YEAR 3612, AND IN THE YEAR 3616, AND IN THE YEAR 3620, AND IN THE YEAR 3624, AND IN THE YEAR 3628, AND IN THE YEAR 3632, AND IN THE YEAR 3636, AND IN THE YEAR 3640, AND IN THE YEAR 3644, AND IN THE YEAR 3648, AND IN THE YEAR 3652, AND IN THE YEAR 3656, AND IN THE YEAR 3660, AND IN THE YEAR 3664, AND IN THE YEAR 3668, AND IN THE YEAR 3672, AND IN THE YEAR 3676, AND IN THE YEAR 3680, AND IN THE YEAR 3684, AND IN THE YEAR 3688, AND IN THE YEAR 3692, AND IN THE YEAR 3696, AND IN THE YEAR 3700, AND IN THE YEAR 3704, AND IN THE YEAR 3708, AND IN THE YEAR 3712, AND IN THE YEAR 3716, AND IN THE YEAR 3720, AND IN THE YEAR 3724, AND IN THE YEAR 3728, AND IN THE YEAR 3732, AND IN THE YEAR 3736, AND IN THE YEAR 3740, AND IN THE YEAR 3744, AND IN THE YEAR 3748, AND IN THE YEAR 3752, AND IN THE YEAR 3756, AND IN THE YEAR 3760, AND IN THE YEAR 3764, AND IN THE YEAR 3768, AND IN THE YEAR 3772, AND IN THE YEAR 3776, AND IN THE YEAR 3780, AND IN THE YEAR 3784, AND IN THE YEAR 3788, AND IN THE YEAR 3792, AND IN THE YEAR 3796, AND IN THE YEAR 3800, AND IN THE YEAR 3804, AND IN THE YEAR 3808, AND IN THE YEAR 3812, AND IN THE YEAR 3816, AND IN THE YEAR 3820, AND IN THE YEAR 3824, AND IN THE YEAR 3828, AND IN THE YEAR 3832, AND IN THE YEAR 3836, AND IN THE YEAR 3840, AND IN THE YEAR 3844, AND IN THE YEAR 3848, AND IN THE YEAR 3852, AND IN THE YEAR 3856, AND IN THE YEAR 3860, AND IN THE YEAR 3864, AND IN THE YEAR 3868, AND IN THE YEAR 3872, AND IN THE YEAR 3876, AND IN THE YEAR 3880, AND IN THE YEAR 3884, AND IN THE YEAR 3888, AND IN THE YEAR 3892, AND IN THE YEAR 3896, AND IN THE YEAR 3900, AND IN THE YEAR 3904, AND IN THE YEAR 3908, AND IN THE YEAR 3912, AND IN THE YEAR 3916, AND IN THE YEAR 3920, AND IN THE YEAR 3924, AND IN THE YEAR 3928, AND IN THE YEAR 3932, AND IN THE YEAR 3936, AND IN THE YEAR 3940, AND IN THE YEAR 3944, AND IN THE YEAR 3948, AND IN THE YEAR 3952, AND IN THE YEAR 3956, AND IN THE YEAR 3960, AND IN THE YEAR 3964, AND IN THE YEAR 3968, AND IN THE YEAR 3972, AND IN THE YEAR 3976, AND IN THE YEAR 3980, AND IN THE YEAR 3984, AND IN THE YEAR 3988, AND IN THE YEAR 3992, AND IN THE YEAR 3996, AND IN THE YEAR 4000, AND IN THE YEAR 4004, AND IN THE YEAR 4008, AND IN THE YEAR 4012, AND IN THE YEAR 4016, AND IN THE YEAR 4020, AND IN THE YEAR 4024, AND IN THE YEAR 4028, AND IN THE YEAR 4032, AND IN THE YEAR 4036, AND IN THE YEAR 4040, AND IN THE YEAR 4044, AND IN THE YEAR 4048, AND IN THE YEAR 4052, AND IN THE YEAR 4056, AND IN THE YEAR 4060, AND IN THE YEAR 4064, AND IN THE YEAR 4068, AND IN THE YEAR 4072, AND IN THE YEAR 4076, AND IN THE YEAR 4080, AND IN THE YEAR 4084, AND IN THE YEAR 4088, AND IN THE YEAR 4092, AND IN THE YEAR 4096, AND IN THE YEAR 4100, AND IN THE YEAR 4104, AND IN THE YEAR 4108, AND IN THE YEAR 4112, AND IN THE YEAR 4116, AND IN THE YEAR 4120, AND IN THE YEAR 4124, AND IN THE YEAR 4128, AND IN THE YEAR 4132, AND IN THE YEAR 4136, AND IN THE YEAR 4140, AND IN THE YEAR 4144, AND IN THE YEAR 4148, AND IN THE YEAR 4152, AND IN THE YEAR 4156, AND IN THE YEAR 4160, AND IN THE YEAR 4164, AND IN THE YEAR 4168, AND IN THE YEAR 4172, AND IN THE YEAR 4176, AND IN THE YEAR 4180, AND IN THE YEAR 4184, AND IN THE YEAR 4188, AND IN THE YEAR 4192, AND IN THE YEAR 4196, AND IN THE YEAR 4200, AND IN THE YEAR 4204, AND IN THE YEAR 4208, AND IN THE YEAR 4212, AND IN THE YEAR 4216, AND IN THE YEAR 4220, AND IN THE YEAR 4224, AND IN THE YEAR 4228, AND IN THE YEAR 4232, AND IN THE YEAR 4236, AND IN THE YEAR 4240, AND IN THE YEAR 4244, AND IN THE YEAR 4248, AND IN THE YEAR 4252, AND IN THE YEAR 4256, AND IN THE YEAR 4260, AND IN THE YEAR 4264, AND IN THE YEAR 4268, AND IN THE YEAR 4272, AND IN THE YEAR 4276, AND IN THE YEAR 4280, AND IN THE YEAR 4284, AND IN THE YEAR 4288, AND IN THE YEAR 4292, AND IN THE YEAR 4296, AND IN THE YEAR 4300, AND IN THE YEAR 4304, AND IN THE YEAR 4308, AND IN THE YEAR 4312, AND IN THE YEAR 4316, AND IN THE YEAR 4320, AND IN THE YEAR 4324, AND IN THE YEAR 4328, AND IN THE YEAR 4332, AND IN THE YEAR 4336, AND IN THE YEAR 4340, AND IN THE YEAR 4344, AND IN THE YEAR 4348, AND IN THE YEAR 4352, AND IN THE YEAR 4356, AND IN THE YEAR 4360, AND IN THE YEAR 4364, AND IN THE YEAR 4368, AND IN THE YEAR 4372, AND IN THE YEAR 4376, AND IN THE YEAR 4380, AND IN THE YEAR 4384, AND IN THE YEAR 4388, AND IN THE YEAR 4392, AND IN THE YEAR 4396, AND IN THE YEAR 4400, AND IN THE YEAR 4404, AND IN THE YEAR 4408, AND IN THE YEAR 4412, AND IN THE YEAR 4416, AND IN THE YEAR 4420, AND IN THE YEAR 4424, AND IN THE YEAR 4428, AND IN THE YEAR 4432, AND IN THE YEAR 4436, AND IN THE YEAR 4440, AND IN THE YEAR 4444, AND IN THE YEAR 4448, AND IN THE YEAR 4452, AND IN THE YEAR 4456, AND IN THE YEAR 4460, AND IN THE YEAR 4464, AND IN THE YEAR 4468, AND IN THE YEAR 4472, AND IN THE YEAR 4476, AND IN THE YEAR 4480, AND IN THE YEAR 4484, AND IN THE YEAR 4488, AND IN THE YEAR 4492, AND IN THE YEAR 4496, AND IN THE YEAR 4500, AND IN THE YEAR 4504, AND IN THE YEAR 4508, AND IN THE YEAR 4512, AND IN THE YEAR 4516, AND IN THE YEAR 4520, AND IN THE YEAR 4524, AND IN THE YEAR 4528, AND IN THE YEAR 4532, AND IN THE YEAR 4536, AND IN THE YEAR 4540, AND IN THE YEAR 4544, AND IN THE YEAR 4548, AND IN THE YEAR 4552, AND IN THE YEAR 4556, AND IN THE YEAR 4560, AND IN THE YEAR 4564, AND IN THE YEAR 4568, AND IN THE YEAR 4572, AND IN THE YEAR 4576, AND IN THE YEAR 4580, AND IN THE YEAR 4584, AND IN THE YEAR 4588, AND IN THE YEAR 4592, AND IN THE YEAR 4596, AND IN THE YEAR 4600, AND IN THE YEAR 4604, AND IN THE YEAR 4608, AND IN THE YEAR 4612, AND IN THE YEAR 4616, AND IN THE YEAR 4620, AND IN THE YEAR 4624, AND IN THE YEAR 4628, AND IN THE YEAR 4632, AND IN THE YEAR 4636, AND IN THE YEAR 4640, AND IN THE YEAR 4644, AND IN THE YEAR 4648, AND IN THE YEAR 4652, AND IN THE YEAR 4656, AND IN THE YEAR 4660, AND IN THE YEAR 4664, AND IN THE YEAR 4668, AND IN THE YEAR 4672, AND IN THE YEAR 4676, AND IN THE YEAR 4680, AND IN THE YEAR 4684, AND IN THE YEAR 4688, AND IN THE YEAR 4692, AND IN THE YEAR 4696, AND IN THE YEAR 4700, AND IN THE YEAR 4704, AND IN THE YEAR 4708, AND IN THE YEAR 4712, AND IN THE YEAR 4716, AND IN THE YEAR 4720, AND IN THE YEAR 4724, AND IN THE YEAR 4728, AND IN THE YEAR 4732, AND IN THE YEAR 4736, AND IN THE YEAR 4740, AND IN THE YEAR 4744, AND IN THE YEAR 4748, AND IN THE YEAR 4752, AND IN THE YEAR 4756, AND IN THE YEAR 4760, AND IN THE YEAR 4764, AND IN THE YEAR 4768, AND IN THE YEAR 4772, AND IN THE YEAR 4776, AND IN THE YEAR 4780, AND IN THE YEAR 4784, AND IN THE YEAR 4788, AND IN THE YEAR 4792, AND IN THE YEAR 4796, AND IN THE YEAR 4800, AND IN THE YEAR 4804, AND IN THE YEAR 4808, AND IN THE YEAR 4812, AND IN THE YEAR 4816, AND IN THE YEAR 4820, AND IN THE YEAR 4824, AND IN THE YEAR 4828, AND IN THE YEAR 4832, AND IN THE YEAR 4836, AND IN THE YEAR 4840, AND IN THE YEAR 4844, AND IN THE YEAR 4848, AND IN THE YEAR 4852, AND IN THE YEAR 4856, AND IN THE YEAR 4860, AND IN THE YEAR 4864, AND IN THE YEAR 4868, AND IN THE YEAR 4872, AND IN THE YEAR 4876, AND IN THE YEAR 4880, AND IN THE YEAR 4884, AND IN THE YEAR 4888, AND IN THE YEAR 4892, AND IN THE YEAR 4896, AND IN THE YEAR 4900, AND IN THE YEAR 4904, AND IN THE YEAR 4908, AND IN THE YEAR 4912, AND IN THE YEAR 4916, AND IN THE YEAR 4920, AND IN THE YEAR 4924, AND IN THE YEAR 4928, AND IN THE YEAR 4932, AND IN THE YEAR 4936, AND IN THE YEAR 4940, AND IN THE YEAR 4944, AND IN THE YEAR 4948, AND IN THE YEAR 4952, AND IN THE YEAR 4956, AND IN THE YEAR 4960, AND IN THE YEAR 4964, AND IN THE YEAR 4968, AND IN THE YEAR 4972, AND IN THE YEAR 4976, AND IN THE YEAR 4980, AND IN THE YEAR 4984, AND IN THE YEAR 4988, AND IN THE YEAR 4992, AND IN THE YEAR 4996, AND IN THE YEAR 5000, AND IN THE YEAR 5004, AND IN THE YEAR 5008, AND IN THE YEAR 5012, AND IN THE YEAR 5016, AND IN THE YEAR 5020, AND IN THE YEAR 5024, AND IN THE YEAR 5028, AND IN THE YEAR 5032, AND IN THE YEAR 5036, AND IN THE YEAR 5040, AND IN THE YEAR 5044, AND IN THE YEAR 5048, AND IN THE YEAR 5052, AND IN THE YEAR 5056, AND IN THE YEAR 5060, AND IN THE YEAR 5064, AND IN THE YEAR 5068, AND IN THE YEAR 5072, AND IN THE YEAR 5076, AND IN THE YEAR 5080, AND IN THE YEAR 5084, AND IN THE YEAR 5088, AND IN THE YEAR 5092, AND IN THE YEAR 5096, AND IN THE YEAR 5100, AND IN THE YEAR 5104, AND IN THE YEAR 5108, AND IN THE YEAR 5112, AND IN THE YEAR 5116, AND IN THE YEAR 5120, AND IN THE YEAR 5124, AND IN THE YEAR 5128, AND IN THE YEAR 5132, AND IN THE YEAR 5136, AND IN THE YEAR 5140, AND IN THE YEAR 5144, AND IN THE YEAR 5148, AND IN THE YEAR 5152, AND IN THE YEAR 5156, AND IN THE YEAR 5160, AND IN THE YEAR 5164, AND IN THE YEAR 5168, AND IN THE YEAR 5172, AND IN THE YEAR 5176, AND IN THE YEAR 5180, AND IN THE YEAR 5184, AND IN THE YEAR 5188, AND IN THE YEAR 5192, AND IN THE YEAR 5196, AND IN THE YEAR 5200, AND IN THE YEAR 5204, AND IN THE YEAR 5208, AND IN THE YEAR 5212, AND IN THE YEAR 5216, AND IN THE YEAR 5220, AND IN THE YEAR 5224, AND IN THE YEAR 5228, AND IN THE YEAR 5232, AND IN THE YEAR 5236, AND IN THE YEAR 5240, AND IN THE YEAR 5244, AND IN THE YEAR 5248, AND IN THE YEAR 5252, AND IN THE YEAR 5256, AND IN THE YEAR 5260, AND IN THE YEAR 5264, AND IN THE YEAR 5268, AND IN THE YEAR 5272, AND IN THE YEAR 5276, AND IN THE YEAR 5280, AND IN THE YEAR 5284, AND IN THE YEAR 5288, AND IN THE YEAR 5292, AND IN THE YEAR 5296, AND IN THE YEAR 5300, AND IN THE YEAR 5304, AND IN THE YEAR 5308, AND IN THE YEAR 5312, AND IN THE YEAR 5316, AND IN THE YEAR 5320, AND IN THE YEAR 5324, AND IN THE YEAR 5328, AND IN THE YEAR 5332, AND IN THE YEAR 5336, AND IN THE YEAR 5340, AND IN THE YEAR 5344, AND IN THE YEAR 5348, AND IN THE YEAR 5352, AND IN THE YEAR 5356, AND IN THE YEAR 5360, AND IN THE YEAR 5364, AND IN THE YEAR 5368, AND IN THE YEAR 5372, AND IN THE YEAR 5376, AND IN THE YEAR 5380, AND IN THE YEAR 5384, AND IN THE YEAR 5388, AND IN THE YEAR 5392, AND IN THE YEAR 5396, AND IN THE YEAR 5400, AND IN THE YEAR 5404, AND IN THE YEAR 5408, AND IN THE YEAR 5412, AND IN THE YEAR 5416, AND IN THE YEAR 5420, AND IN THE YEAR 5424, AND IN THE YEAR 5428, AND IN THE YEAR 5432, AND IN THE YEAR 5436, AND IN THE YEAR 5440, AND IN THE YEAR 5444, AND IN THE YEAR 5448, AND IN THE YEAR 5452, AND IN THE YEAR 5456, AND IN THE YEAR 5460, AND IN THE YEAR 5464, AND IN THE YEAR 5468, AND IN THE YEAR 5472, AND IN THE YEAR 5476, AND IN THE YEAR 5480, AND IN THE YEAR 5484, AND IN THE YEAR 5488, AND IN THE YEAR 5492, AND IN THE YEAR 5496, AND IN THE YEAR 5500, AND IN THE YEAR 5504, AND IN THE YEAR 5508, AND IN THE YEAR 5512, AND IN THE YEAR 5516, AND IN THE YEAR 5520, AND IN THE YEAR 5524, AND IN THE YEAR 5528, AND IN THE YEAR 5532, AND IN THE YEAR 5536, AND IN THE YEAR 5540, AND IN THE YEAR 5544, AND IN THE YEAR 5548, AND IN THE YEAR 5552, AND IN THE YEAR 5556, AND IN THE YEAR 5560, AND IN THE YEAR 5564, AND IN THE YEAR 5568, AND IN THE YEAR 5572, AND IN THE YEAR 5576, AND IN THE YEAR 5580, AND IN THE YEAR 5584, AND IN THE YEAR 5588, AND IN THE YEAR 5592, AND IN THE YEAR 5596, AND IN THE YEAR 5600, AND IN THE YEAR 5604, AND IN THE YEAR 5608, AND IN THE YEAR 5612, AND IN THE YEAR 5616, AND IN THE YEAR 5620, AND IN THE YEAR 5624, AND IN THE YEAR 5628, AND IN THE YEAR 5632, AND IN THE YEAR 5636, AND IN THE YEAR 5640, AND IN THE YEAR 5644, AND IN THE YEAR 5648, AND IN THE YEAR 5652, AND IN THE YEAR 5656, AND IN THE YEAR 5660, AND IN THE YEAR 5664, AND IN THE YEAR 5668, AND IN THE YEAR 5672, AND IN THE YEAR 5676, AND IN THE YEAR 5680, AND IN THE YEAR 5684, AND IN THE YEAR 5688, AND IN THE YEAR 5692, AND IN THE YEAR 5696, AND IN THE YEAR 5700, AND IN THE YEAR 5704, AND IN THE YEAR 5708, AND IN THE YEAR 5712, AND IN THE YEAR 5716, AND IN THE YEAR 5720, AND IN THE YEAR 5724, AND IN THE YEAR 5728, AND IN THE YEAR 5732, AND IN THE YEAR 5736, AND IN THE YEAR



### SITE CONSTRUCTION NOTES

- 1 PROPOSED BUILDING ADDITION (1870 SQ.FT. AT GROUND FLOOR)
- 2 (E) SITE LIGHTING POLE, PROTECT IN PLACE.
- 3 (E) RETAINING WALL. PROTECT IN PLACE.
- 4 (N) 9' X 24' PARALLEL PARKING SPACE.
- 5 (N) ACCESSIBLE PARKING SPACE (9'X20') AISLE (5' WD.) W/ 2% CROSS SLOPE POUR CONCRETE IN LANDSCAPE AREA EXTEND (E) SIDEWALK UP TO AISLE (REFER C2.2 FOR DETAIL)
- 6 (N) RETAINING WALL. (REFER CIVIL & STR. PLANS FOR DETAILS)
- 7 CONVERSION OF PANTRY TO FULL SERVICE KITCHEN ON FIRST FLOOR (IS FUTURE T.I. AREA)
- 8 RELOCATE (E) SITE LIGHTING POLE.
- 9 DEMOLISH (E) CURBS & INSTALL (N) CURBS AS PER CIVIL PLANS.
- 10 (E) POLE SIGN, PROTECT IN PLACE.
- 11 (N) 2' WIDE V-DITCH BEHIND THE RETAINING WALL. REFER C2.2 FOR DETAILS.
- 12 (E) FIRE HYDRANT, PROTECT IN PLACE.
- 13 INSTALL FIRE DEPTT. KNOX BOX TO THE SATISFACTION OF AHJ.
- 14 ADD ACCESSIBLE RAMPS AS PER DETAILS ON THIS SHEET & CIVIL PLANS FOR ACCESSIBILITY CODE REFERENCES REFER DA & ADA SHEETS



### VICINITY MAP

N.T.S.

### LEGEND:

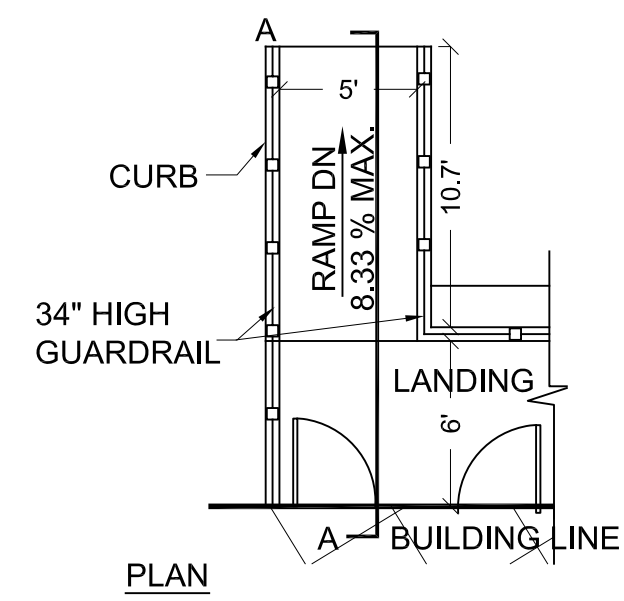
- PROPERTY LINE
- PARKING STRIPES (RESTRIPE ALL SPACES)
- CENTER LINE
- EASEMENT
- PROPOSED LOT LINE
- DRAINAGE EASEMENT
- PIPELINE EASEMENT
- (E) BUILDING
- BUILDING ADDITION (1870 SQ.FT. AT GROUND FLOOR)
- (N) RETAINING WALL
- NO PARKING
- ACCESSIBLE PARKING AISLE
- CONCRETE
- FIRE TRUCK ROUTE
- SEAL COAT (E) PAVING AND RESTRIPE PARKING SPACES PER PLAN

### DISTURBED AREA DETAIL

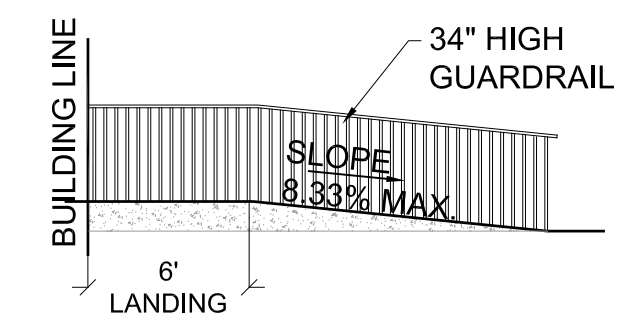
IMPERVIOUS AREA	EXISTING (%age)	PROPOSED (%age)	REMARKS
BUILDING	15,399 SQ.FT. (18.08%)	17,269 SQ.FT. (20.48%) (15,399 + 1870)	FIRST FLOOR
ASPHALT PARKING CONCRETE	41,830 SQ.FT. (49.12%) 3,036 SQ.FT. (3.56%)	45,673 SQ.FT. (53.27%) 3,846 SQ.FT. (4.51%)	
<b>PERVIOUS AREA</b>			
LANDSCAPING	8,050 SQ.FT. (9.45%)	8375 SQ.FT. (9.83%)	
UNDEVELOPED AREA	16,850 SQ.FT. (19.79%)	9,833 SQ.FT. (11.91%)	
TOTAL	85,165 SQ.FT. (1.95 ACRE APPROX.)		

### PARKING ANALYSIS

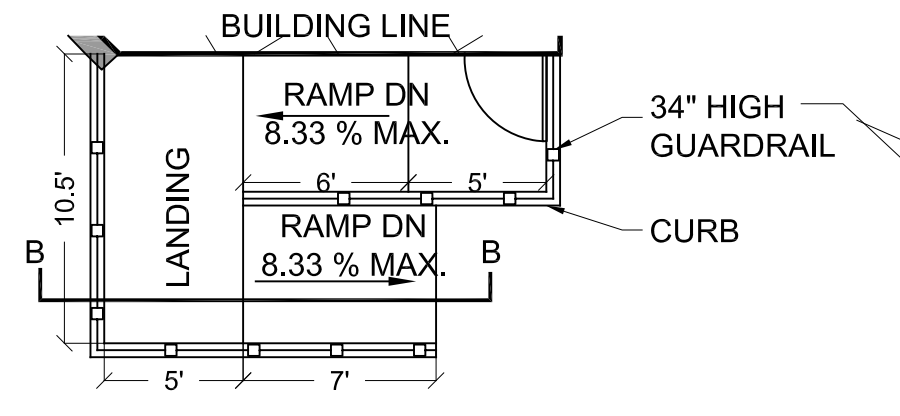
- a) **REQUIRED SPACES (ZONING CODE SECTION 3-2-17(F))**
- HOTEL (MAIN USE)**
- 1 PER GUESTROOM ..... 77
  - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT FOR MAX OF EMPLOYEES PER SHIFT ..... 02
- RESTAURANT (AMENITY TO MAIN USE)**
- 1 PER 100 SQ.FT OF RESTAURANT DINNING (USABLE FLOOR AREA 693 SQ.FT) ..... 07
  - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT FOR MAX. OF 4 EMPLOYEE PER SHIFT ..... 02
- MEETING (PUBLIC ASSEMBLY)(AMENITY TO MAIN USE)**
- 1 PER 24 SQ.FT OF UNFIXED SITTING SPACE (752 SQ.FT) ..... 32
- TOTAL SPACES REQUIRED ..... 120
- b) **PROVIDED:** ..... 97 (79 FOR MAIN USE & 18 FOR HOTEL AMENITIES)
- c) **NOTES FOR 23 ADDITIONAL REQUIRED PARKING SPACES FOR HOTEL AMENITIES.**
- RESTAURANT PROPOSED IS AN AMENITY WHICH IS TO SERVE HOTEL GUESTS ONLY.
  - MEETING ROOM ( PUBLIC ASSEMBLY) PEAK USE HOURS ARE DURING DAY TIME, SEPARATE FROM PRINCIPAL USE (HOTEL GUESTS) WITH NIGHT TIME PEAK OPERATING HOURS. MEETING ROOM IS ALSO AN AMENITY TO HOTEL USE.
  - HENCE 32 MEETING SPACES AND 09 RESTAURANT SPACES, (TOTAL OF 41 SPACES) TO BE CONSIDERED AS SHARED PARKING SPACES IN THIS PROJECT. WAIVER APPLICATION TO BE SUBMITTED TO PLANNING COMMISSION FOR APPROVAL
- d) **ACCESSIBLE PARKING**
- REQUIRED: ..... 5 (2012 IBC TABLE 1106.1)
- PROVIDED: ..... 5 (4 EX+1 NEW)
- e) **VAN ACCESSIBLE PARKING**
- REQUIRED: ..... 1 (2012 IBC SEC 1106.5)
- PROVIDED: ..... 2



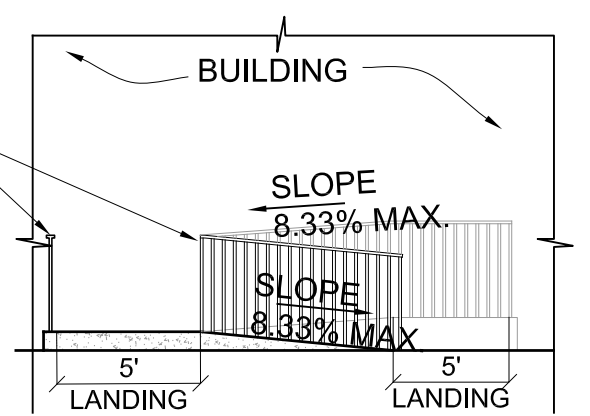
a. RAMP @ NORTH EAST SIDE



SECTION - A

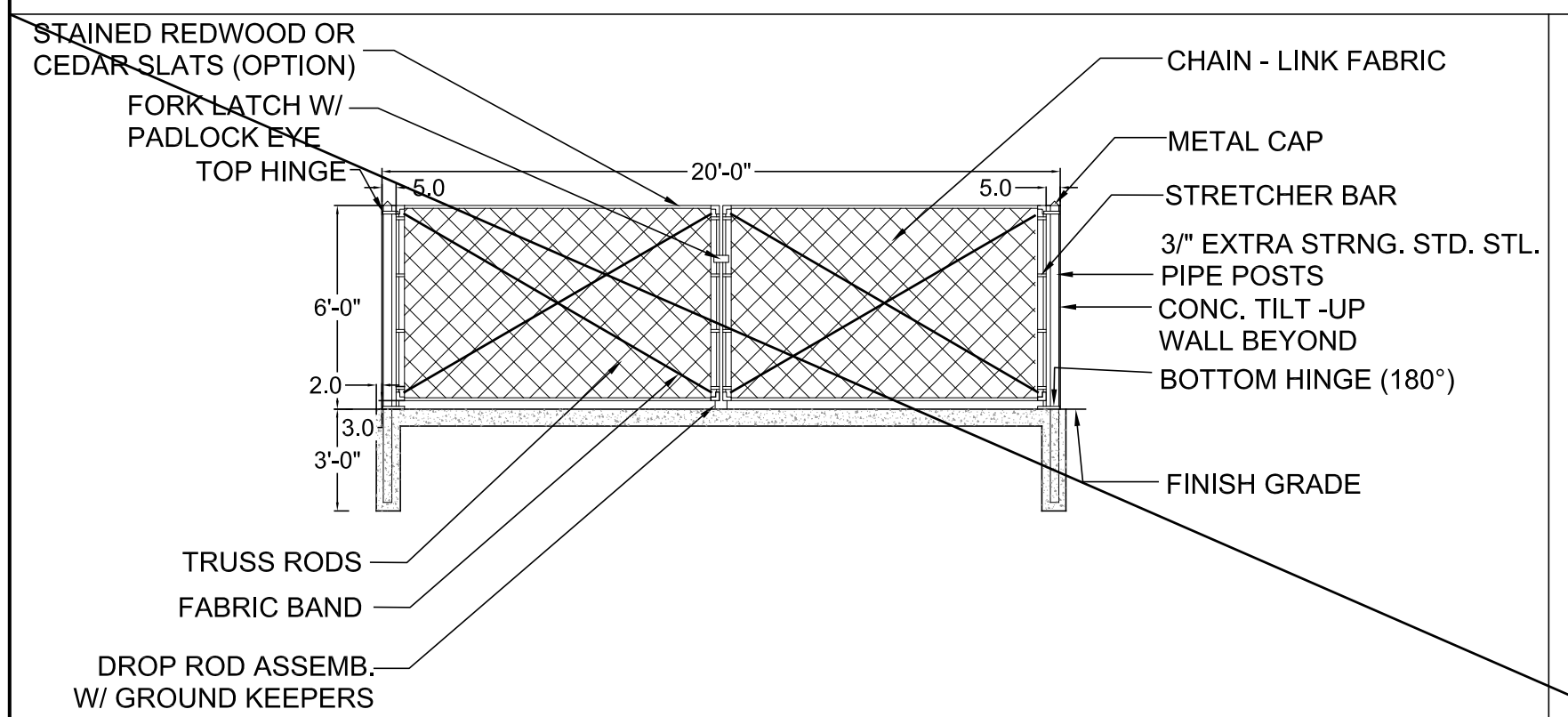


b. RAMP @ SOUTH WEST SIDE



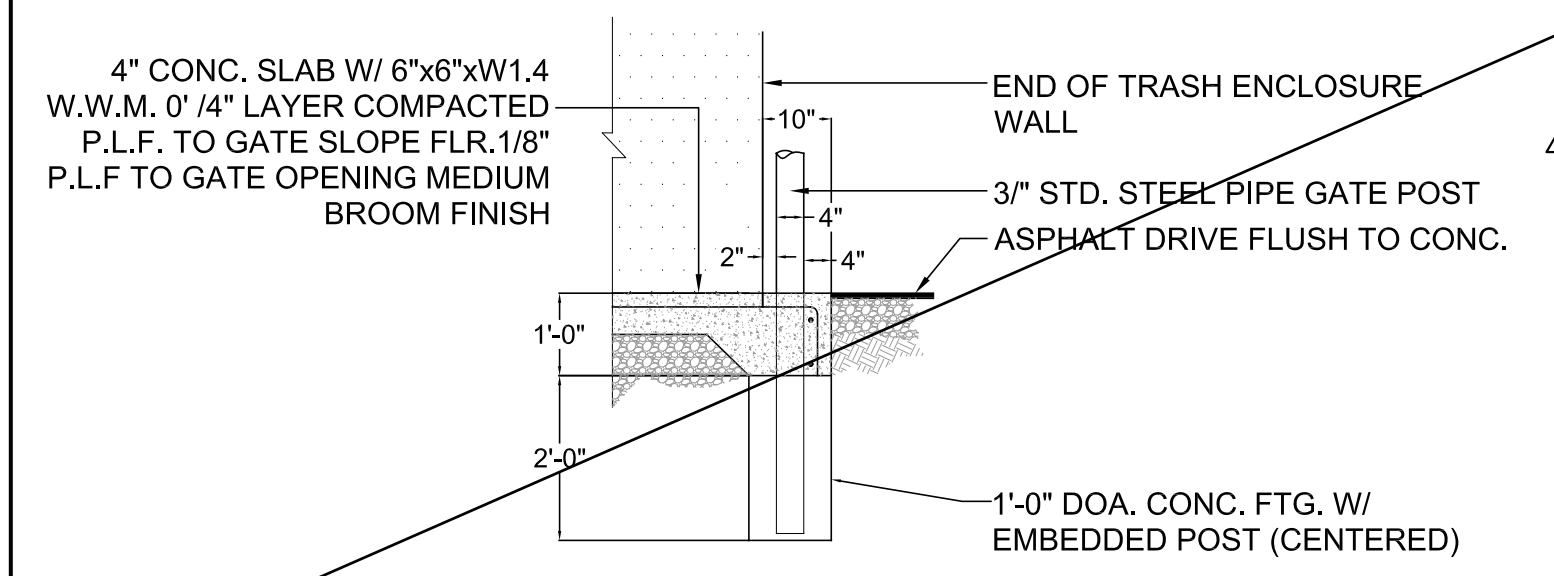
SECTION - B

### ACCESSIBLE RAMP 4



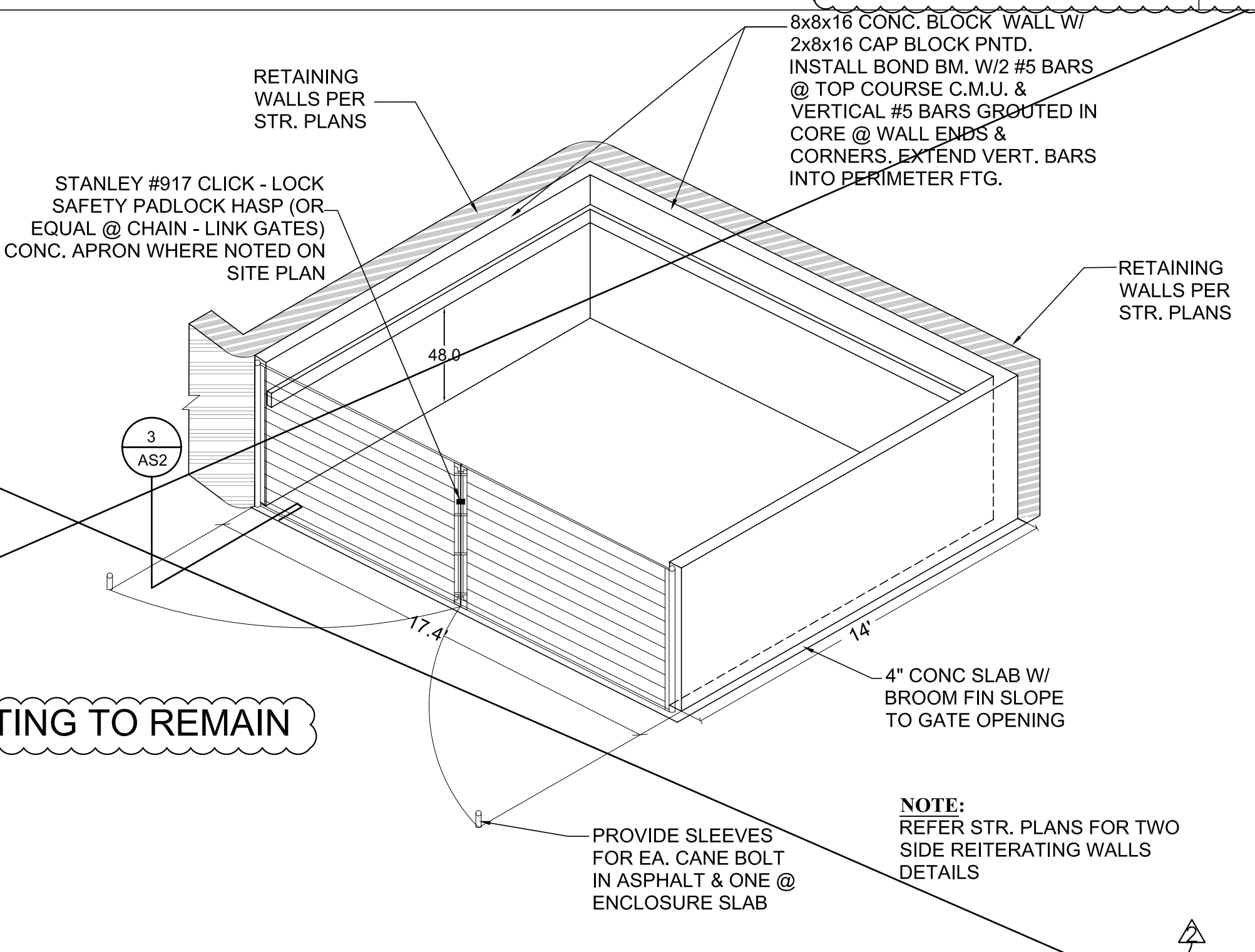
### TRASH ENCLOSURE GATE 3

N.T.S.



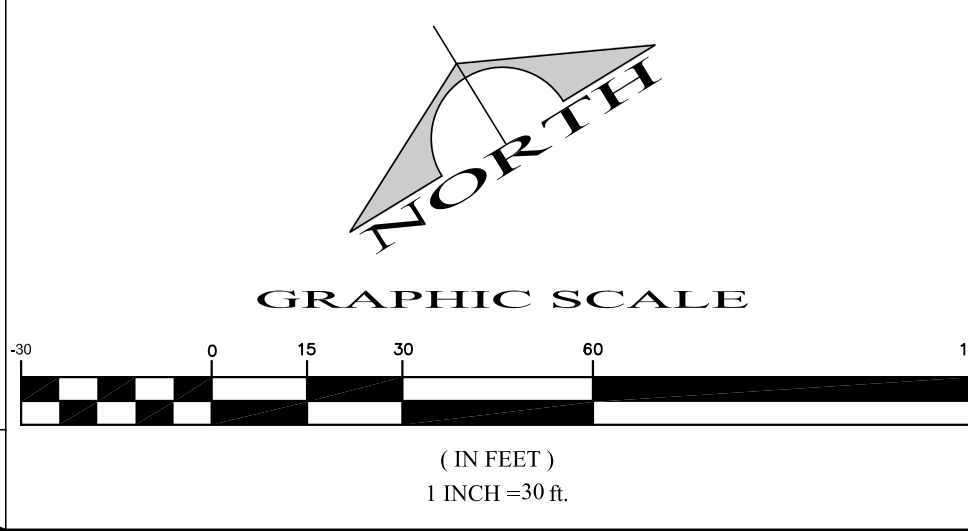
### TRASH SLAB/APRON 2

N.T.S.



### TRASH ENCLOSURE 1

N.T.S.



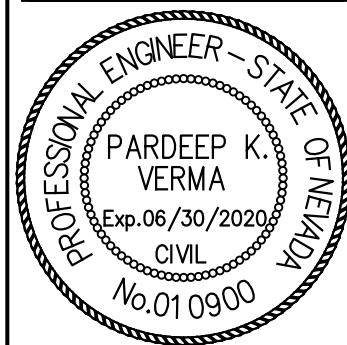
Continental Development Consultants, Inc.



REVISIONS:	REVISION	ISSUE	DATED
1	1st CYCLE PLAN CHECK	COMMENTS	02.23.18
2	2nd CYCLE PLAN CHECK	COMMENTS	06.19.18
3	CLIENT REVISIONS		10.15.18

**PROPOSED SITE PLAN**  
FOUR POINTS BY SHERATON  
3019 IDAHO ST.,  
ELKO, NV 89801

TITLE  
PROJECT



DATE: 10/29/2018  
JOB: JSD-EK-01  
DWG BY: HPS  
CHK BY: SPK

AS2



METES AND BOUNDS LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 11, T.34 N., R.55 E., M.D.B. & M., CITY OF ELKO, NEVADA, BEING PARCEL NO. 2, AS SHOWN ON THE PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AS FILE NO. 527695, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER 1/4 CORNER OF SAID SECTION 11, THENCE N 22° 50' 20" E, 1631.07 FEET, TO A POINT BEING THE MOST SOUTHERLY CORNER OF PARCEL NO. 1, AS SHOWN ON SAID PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC, THENCE N 31° 28' 07" E, 487.86 FEET, ALONG THE SOUTHEASTERLY OF SAID PARCEL NO. 1, TO CORNER NO. 1, A POINT BEING THE MOST SOUTHERLY CORNER OF SAID PARCEL NO. 2, AS SHOWN ON THE PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC, THE TRUE POINT OF BEGINNING; THENCE CONTINUING N 31° 28' 07" E, 253.14 FEET, ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 2, A POINT BEING THE MOST EASTERLY CORNER OF SAID PARCEL NO. 2; THENCE N 58° 33' 50" W, 314.31 FEET, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 3, A POINT BEING THE MOST NORTHERLY CORNER OF SAID PARCEL NO. 2; THENCE S 38° 59' 14" W, 354.02 FEET, ALONG THE NORTHWESTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 4, A POINT BEING THE MOST WESTERLY CORNER OF SAID PARCEL NO. 2; THENCE S 45° 35' 07" E, 40.01 FEET, ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 5; THENCE N 46° 28' 38" E, 42.09 FEET, ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 2, TO CORNER NO. 6; THENCE FROM A TANGENT BEARING N 46° 28' 38" E, ON A CIRCULAR CURVE TO THE RIGHT, WITH A RADIUS OF 180.00 FEET, THROUGH A CENTRAL ANGLE OF 50° 34' 25", FOR AN ARC LENGTH OF 158.88 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 7; THENCE S 06° 54' 04" W, 29.82 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 8; THENCE S 57° 01' 11" E, 46.31 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 9; THENCE S 06° 54' 04" W, 20.69 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 10; THENCE S 57° 01' 11" E, 144.19 FEET, ALONG THE SAID SOUTHERLY LINE OF PARCEL NO. 2, TO CORNER NO. 1, THE POINT OF BEGINNING, CONTAINING 1.954 ACRES, MORE OR LESS.

FLOOD HAZARD AREA NOTE:

A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE AE AS SHOWN ON FLOOD INSURANCE RATE MAP CITY OF ELKO, NEVADA, PANEL NO. 320010 002 C. THE FLOOD HAZARD AREA APPEARS TO BE CONTAINED IN THE CULVERTS LOCATED WITHIN THE EXISTING DRAINAGE EASEMENT SHOWN ON THE PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC, FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AS FILE NO. 527695 AND ALSO SHOWN HEREON.

GENERAL NOTES:

- 1) THE TOTAL SURVEYED AREA OF THIS MAP EQUALS 1.954 ACRES.
- 2) BASIS OF BEARING: THE FOUND CORNERS SHOWN HEREON AS SHOWN ON THE PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC, ON FILE IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, FILE NO. 527695.
- 3) ALL DIMENSIONS OF THE BOUNDARIES SHOWN COINCIDE WITH THOSE OF RECORD.
- 4) THE SUBJECT PROPERTY IS ZONED C (GENERAL COMMERCIAL) AND THERE ARE NO SETBACK REQUIREMENTS.
- 5) REQUIRED PARKING: 1 PER GUEST ROOM, OR SUITE PLUS 1 PER EACH 2 EMPLOYEES ON THE LARGEST SHIFT.  
NUMBER OF PARKING SPACES LOCATED ON THE SUBJECT PROPERTY:  
REGULAR SPACES = 106  
HANDICAP SPACES = 4  
TOTAL SPACES SHOWN ON THIS SURVEY = 110

LEGEND

- ◆ = FOUND SECTION CORNER AS NOTED
- = SET 'PK' NAIL UNLESS OTHERWISE NOTED
- ⊙ = FOUND N.D.O.T HIGHWAY MONUMENT AS NOTED
- = FOUND PROPERTY CORNER AS NOTED
- = CALCULATED POINT, NOTHING FOUND, NOTHING SET
- ⊕ = EXISTING FIRE HYDRANT
- WV = EXISTING WATER VALVE
- WV = EXISTING WATER VAULT
- = EXISTING IRRIGATION BOX
- = EXISTING 2'X4' POWER BOX
- = EXISTING POWER METER
- = EXISTING TELEPHONE PEDESTAL
- ⊙ = EXISTING SANITARY SEWER CLEANOUT
- DI = EXISTING DROP INLET
- ⚡ = EXISTING FLOOD LIGHT
- ☆ = EXISTING STREET LIGHT
- ⊞ = EXISTING GAS METER
- ⚑ = EXISTING FLAG POLE

LEGAL DESCRIPTION CONTAINED IN TITLE REPORT

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF NEVADA, COUNTY OF ELKO, DESCRIBED AS FOLLOWS:

PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP FOR MCCLASKEY ELKO HOLIDAY INN, LLC FILED IN THE OFFICE OF THE COUNTY RECORDER OF ELKO COUNTY, STATE OF NEVADA, ON NOVEMBER 30, 2004, AS FILE NO. 527695, BEING A PORTION OF SECTION 11, TOWNSHIP 34 NORTH, RANGE 55 EAST, M.D.B. & M.

ENCROACHMENTS

THE 18" RETAINING WALL ENCROACHES ONTO THE ADJOINING PROPERTY. THE 18" CULVERT AND HEADWALL ON THE ADJOINING PROPERTY APPEARS TO DRAIN WATER ONTO THE SUBJECT PROPERTY INTO THE 5' PUBLIC UTILITY AND DRAINAGE EASEMENT SHOWN HEREON.

PROJECT SITE:  
HOLIDAY INN EXPRESS  
3019 IDAHO STREET  
ELKO, NEVADA

PARCEL 2  
IN TITLE COMMITMENT  
NO. 07210899

TOTAL AREA = 1.954 ACRES  
85,136 SQUARE FEET

SURVEYOR'S CERTIFICATION:

TO COLUMN FINANCIAL, INC., ITS SUCCESSORS OR ASSIGNS, STEWART TITLE OF NEVADA, NORTHEAST DIVISION AND DHILLON PROPERTIES LLC, A NEVADA LIMITED LIABILITY COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005; AND INCLUDES ITEMS 1, 2, 3, 4, 6, 7(A), 7(B)(1), 8, 9, 10, 11(A), 13 AND 14 OF TABLE A THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF NEVADA, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN. IN ADDITION, THE UNDERSIGNED HEREBY CERTIFIES:

THE SURVEY WAS MADE ON THE GROUND ON MAY 23, 2007, BY ME OR UNDER MY SUPERVISION AND CORRECTLY SHOWS THE METES AND BOUNDS DESCRIPTION AND THE LAND AREA OF THE SUBJECT PROPERTY, THE LOCATION AND TYPE OF ALL BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS (INCLUDING SIDEWALKS, CURBS, PARKING AREAS AND SPACES AND FENCES) SITUATED ON THE SUBJECT PROPERTY, AND ANY OTHER MATTERS SITUATED ON THE SUBJECT PROPERTY.

EXCEPT AS SHOWN ON THIS SURVEY, THERE ARE NO VISIBLE EASEMENTS OR RIGHTS OF WAY OF WHICH THE UNDERSIGNED HAS BEEN ADVISED.

EXCEPT AS SHOWN ON THIS SURVEY, THERE ARE NO PARTY WALLS AND NO OBSERVABLE, ABOVE GROUND ENCROACHMENTS (A) BY THE IMPROVEMENTS ON THE SUBJECT PROPERTY UPON ADJOINING PROPERTIES, STREETS, ALLEYS, EASEMENTS, OR RIGHTS OF WAY, OR (B) BY THE IMPROVEMENTS ON ANY ADJOINING PROPERTIES, STREETS OR ALLEYS UPON THE SUBJECT PROPERTY.

THE LOCATION OF EACH EASEMENT, RIGHT OF WAY, SERVITUDE AND OTHER MATTERS (ABOVE OR BELOW GROUND) AFFECTING THE SUBJECT PROPERTY AND LISTED IN THE TITLE INSURANCE COMMITMENT NO. 07210899, ISSUED BY STEWART TITLE OF NEVADA, NORTHEAST DIVISION, WITH RESPECT TO THE SUBJECT PROPERTY, HAS BEEN SHOWN ON THE SURVEY, TOGETHER WITH APPROPRIATE RECORDING REFERENCES, TO THE EXTENT THAT SUCH MATTERS CAN BE LOCATED. THE PROPERTY SHOWN ON THE SURVEY IS THE PROPERTY DESCRIBED IN THAT TITLE COMMITMENT. THE LOCATION OF ALL IMPROVEMENTS ON THE SUBJECT PROPERTY IS IN ACCORD WITH MINIMUM SETBACK, SIDEYARD AND REAR YARD LINES, PROVISIONS AND RESTRICTIONS OF RECORD FOR THE SUBJECT PROPERTY REFERENCED IN SUCH TITLE COMMITMENT.

THE SUBJECT PROPERTY HAS DIRECT ACCESS TO AND FROM A DULY DEDICATED AND ACCEPTED PUBLIC STREET OR HIGHWAY KNOWN AS IDAHO STREET.

EXCEPT AS SHOWN ON THE SURVEY, THE SUBJECT PROPERTY DOES NOT SERVE ANY ADJOINING PROPERTY FOR DRAINAGE, UTILITIES, STRUCTURAL SUPPORT OR INGRESS OR EGRESS.

THE RECORD DESCRIPTION OF THE SUBJECT PROPERTY FORMS A MATHEMATICALLY CLOSED FIGURE.

EXCEPT AS SHOWN ON THE SURVEY, NO PORTION OF THE PROPERTY SHOWN ON THE SURVEY LIES WITHIN A SPECIAL HAZARD AREA, AS DESCRIBED ON THE FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH THE SUBJECT PROPERTY IS LOCATED. THE SURVEY CORRECTLY INDICATES THE ZONE DESIGNATION OF ANY AREA SHOWN AS BEING IN A SPECIAL HAZARD AREA.

THE PARTIES LISTED ABOVE AND THEIR SUCCESSORS AND ASSIGNS ARE ENTITLED TO RELY ON THE SURVEY AND THIS CERTIFICATION AS BEING TRUE AND ACCURATE.

DATE: \_\_\_\_\_

ROBERT E. MORLEY, P.L.S. 6203

EXCEPTIONS AS LISTED IN SCHEDULE B, OF TITLE COMMITMENT NO. 07210899, WITH OBSERVATIONS

(NUMBERS REFER TO NUMBERED EXCEPTIONS IN TITLE COMMITMENT)

6. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, TOGETHER WITH INCIDENTAL RIGHTS THERETO, GRANTED TO THE STATE OF NEVADA, FOR A FLATBOTTOMED DITCH AND DIKE, RECORDED SEPTEMBER 9, 1965, IN BOOK 60, PAGE 52 OF OFFICIAL OF ELKO COUNTY, NEVADA IS SHOWN HEREON.
8. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, TOGETHER WITH INCIDENTAL RIGHTS THERETO, GRANTED TO NEVADA POWER CO., FOR ELECTRIC AND TELEPHONE LINES, RECORDED IN BOOK 185, PAGE 414 OF OFFICIAL RECORDS OF ELKO COUNTY, NEVADA, DOES NOT AFFECT THE SUBJECT PROPERTY AND THEREFORE IS NOT SHOWN HEREON.
10. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, TOGETHER WITH INCIDENTAL RIGHTS THERETO, GRANTED TO SIERRA PACIFIC POWER COMPANY AND CP NATIONAL, FOR ELECTRIC DISTRIBUTION AND COMMUNICATION FACILITIES, RECORDED AUGUST 9, 1989, IN BOOK 691, PAGE 580 OF OFFICIAL OF ELKO COUNTY, NEVADA DOES NOT AFFECT THE SUBJECT PROPERTY AND THEREFORE IS NOT SHOWN HEREON.
11. AN EASEMENT AFFECTING A PORTION OF SAID LAND FOR THE PURPOSES STATED HEREIN, TOGETHER WITH INCIDENTAL RIGHTS THERETO, GRANTED TO SIERRA PACIFIC POWER COMPANY AND CP NATIONAL, FOR ELECTRIC DISTRIBUTION AND COMMUNICATION FACILITIES, RECORDED AUGUST 9, 1989, IN BOOK 691, PAGE 582 OF OFFICIAL OF ELKO COUNTY, NEVADA IS SHOWN HEREON.
12. EASEMENTS, DEDICATIONS, RESERVATIONS, PROVISIONS, RELINQUISHMENTS, RECITALS, BUILDING SET BACK LINES, CERTIFICATIONS, AND ANY OTHER MATTERS AS PROVIDED FOR OR DELINEATED ON THE PARCEL MAP REFERENCED IN THE LEGAL DESCRIPTION CONTAINED HEREIN.
  - A. 40 FOOT DRAINAGE EASEMENT, LOCATED ALONG THE WESTERY SIDE OF SAID PROPERTY, IS SHOWN HEREON.
  - B. 6 FOOT AND 10 FOOT UTILITY EASEMENT, LOCATED ALONG THE EASTERLY SIDE OF SAID PROPERTY, IS SHOWN HEREON.
  - C. 10 FOOT DRAINAGE AND PUBLIC UTILITY EASEMENT CENTERED ABOUT EACH LOT LINE AND A 7.50 FOOT PUBLIC UTILITY EASEMENT ALONG THE STREET RIGHT OF WAY, IS SHOWN HEREON.
  - D. ANY ADDITIONAL ACCESS TO AND FROM LOTS 1 AND 2 WILL BE LIMITED TO LOCATIONS APPROVED BY THE CITY OF ELKO AND NEVADA DEPARTMENT OF TRANSPORTATION, IS NOT SHOWN HEREON.

EXCEPTIONS TO COVERAGE NUMBERED 1 THRU 5, 7 AND 9 WERE DETERMINED TO BE ITEMS THAT ARE NON-SURVEYING RELATED AND WERE NOT ADDRESSED FOR THE PURPOSES OF THIS SURVEY.

30 0 30 60 90 120

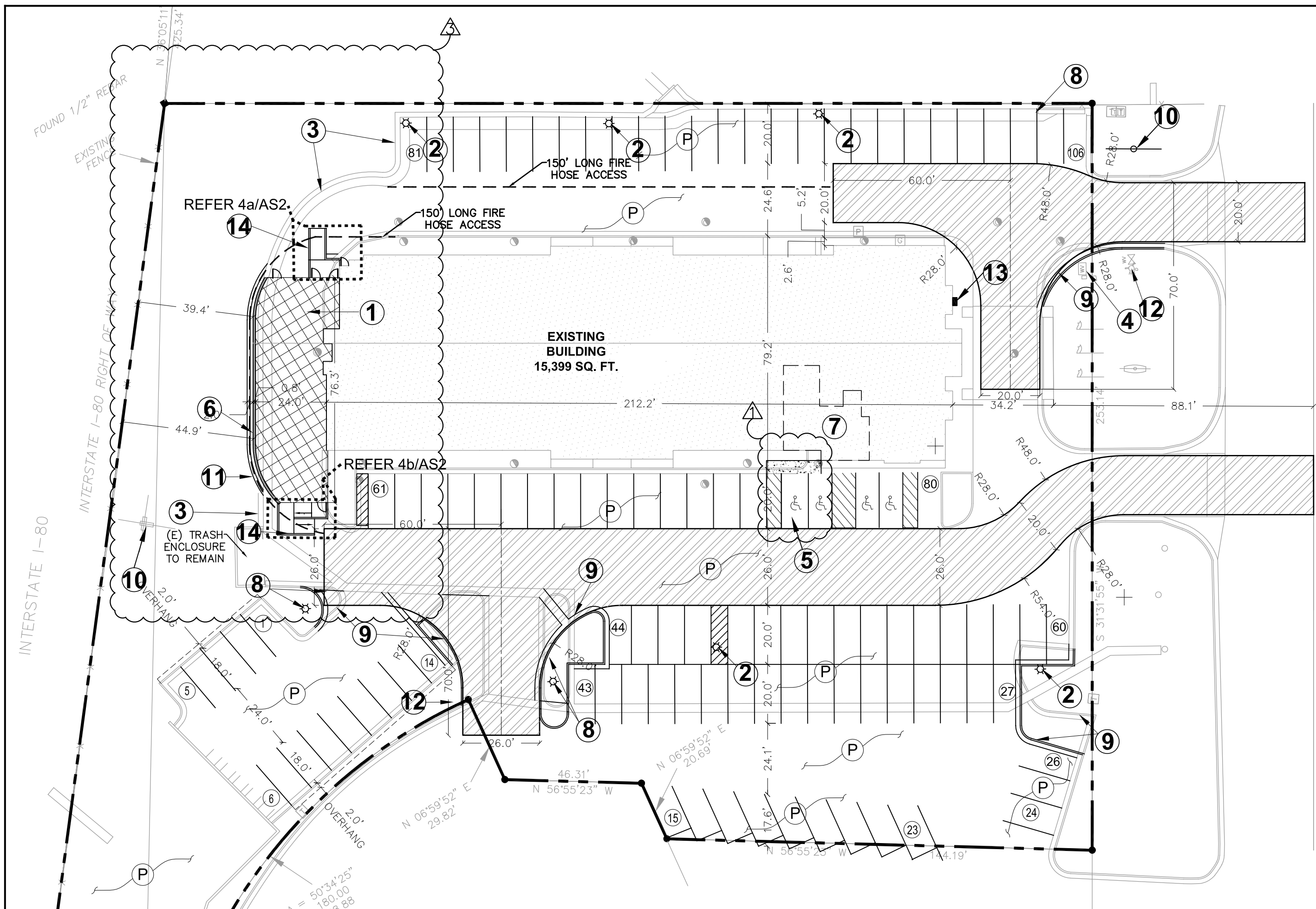
SCALE: 1"=30'

ALTA/ACSM LAND TITLE SURVEY  
FOR  
DHILLON PROPERTIES LLC  
IN  
SECTION 11, 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

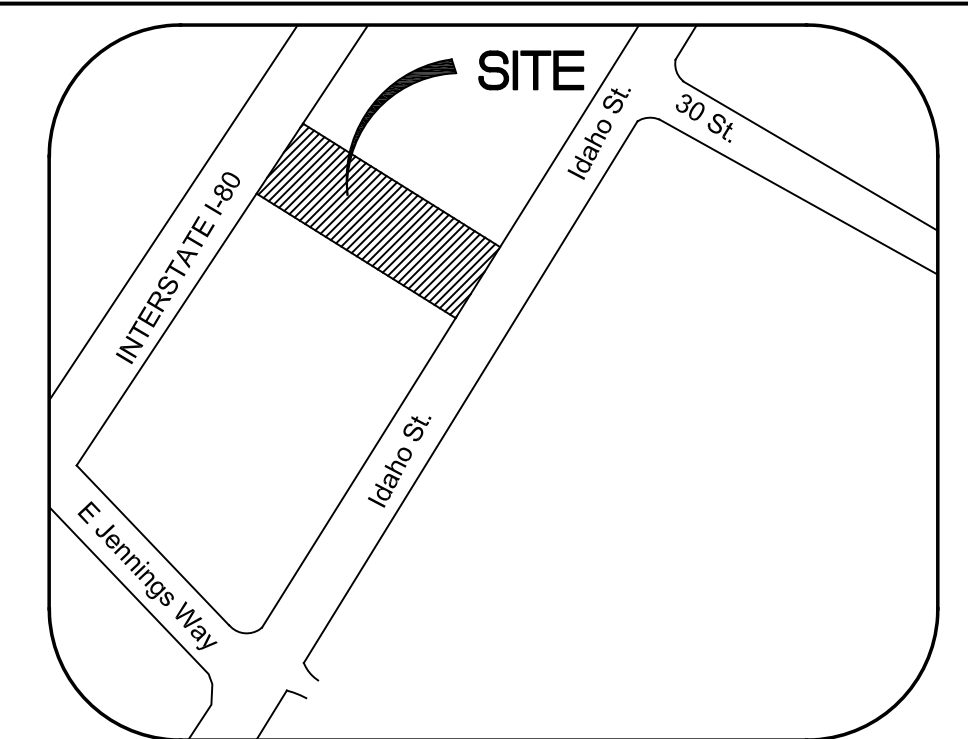
207046





### SITE CONSTRUCTION NOTES

- 1 PROPOSED BUILDING ADDITION (1870 SQ.FT. AT GROUND FLOOR)
- 2 (E) SITE LIGHTING POLE, PROTECT IN PLACE.
- 3 (E) RETAINING WALL. PROTECT IN PLACE.
- 4 (E) WATER APPURTENANCE, V.I.F (RELOCATE, IF REQUIRED)
- 5 (N) ACCESSIBLE PARKING SPACE (9'x20') AISLE (5' WD.) W/ 2% CROSS SLOPE POUR CONCRETE IN LANDSCAPE AREA EXTEND (E) SIDEWALK UP TO AISLE (REFER C2.2 FOR DETAIL)
- 6 (N) RETAINING WALL. (REFER CIVIL & STR. PLANS FOR DETAILS)
- 7 CONVERSION OF PANTRY TO FULL SERVICE KITCHEN ON FIRST FLOOR (IS FUTURE T.I. AREA)
- 8 RELOCATE (E) SITE LIGHTING POLE.
- 9 DEMOLISH (E) CURBS & INSTALL (N) CURBS AS PER CIVIL PLANS.
- 10 (E) POLE SIGN, PROTECT IN PLACE.
- 11 (N) 2' WIDE V-DITCH BEHIND THE RETAINING WALL. REFER C2.2 FOR DETAILS.
- 12 (E) FIRE HYDRANT, PROTECT IN PLACE.
- 13 INSTALL FIRE DEPTT. KNOX BOX TO THE SATISFACTION OF AHJ.
- 14 ADD ACCESSIBLE RAMPS AS PER DETAILS ON THIS SHEET & CIVIL PLANS FOR ACCESSIBILITY CODE REFERENCES REFER DA & ADA SHEETS



### VICINITY MAP

N.T.S.

### LEGEND:

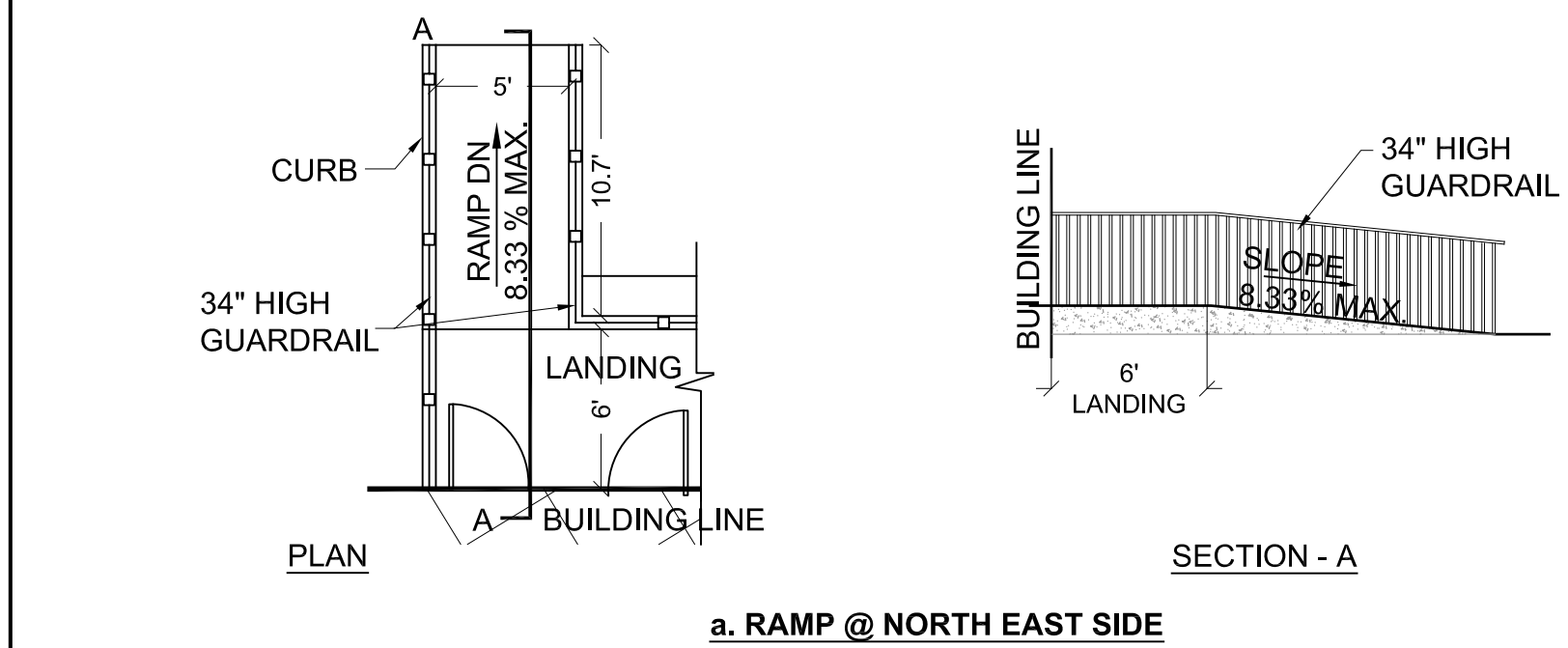
- PROPERTY LINE
- PARKING STRIPES (RESTRIPE ALL SPACES)
- CENTER LINE
- EASEMENT
- PROPOSED LOT LINE
- DRAINAGE EASEMENT
- PIPELINE EASEMENT
- (E) BUILDING
- BUILDING ADDITION (1870 SQ.FT. AT GROUND FLOOR)
- (N) RETAINING WALL
- NO PARKING
- ACCESSIBLE PARKING AISLE
- CONCRETE
- FIRE TRUCK ROUTE
- SEAL COAT (E) PAVING AND RESTRIPE PARKING SPACES PER PLAN

### DISTURBED AREA DETAIL

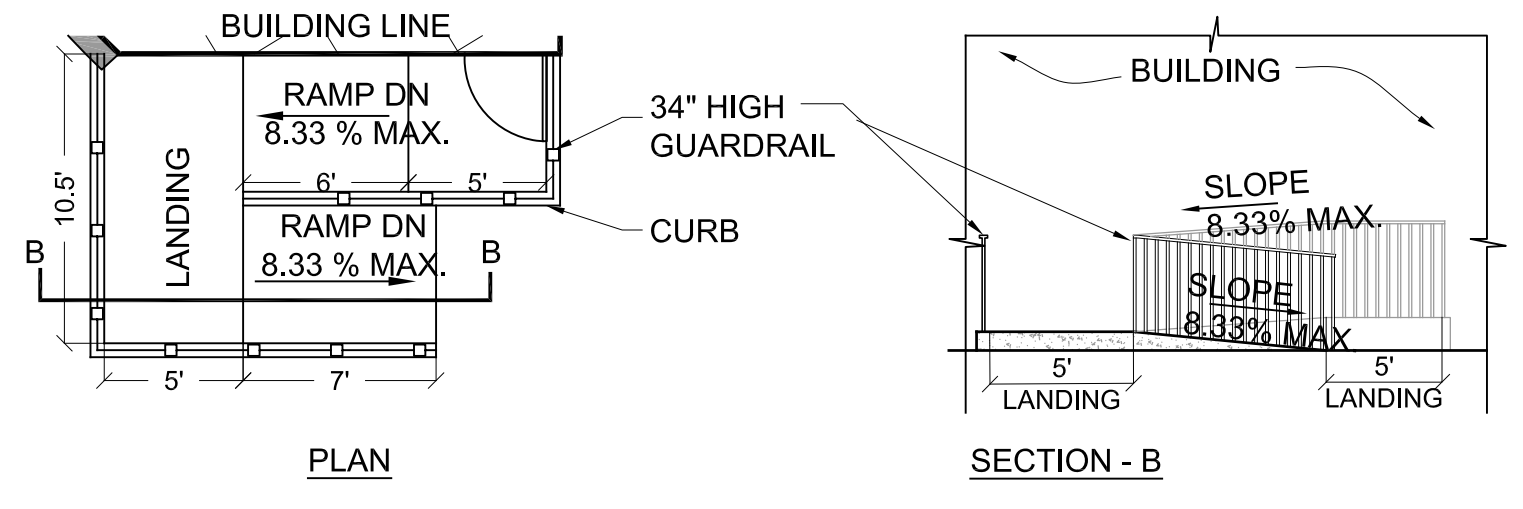
IMPERVIOUS AREA	EXISTING (%age)	PROPOSED (%age)	REMARKS
BUILDING	15,399 SQ.FT. (18.08%)	17,269 SQ.FT. (20.48%) (15,399 + 1870)	FIRST FLOOR
ASPHALT PARKING CONCRETE	41,830 SQ.FT. (49.12%) 3,036 SQ.FT. (3.56%)	45,673 SQ.FT. (53.27%) 3,846 SQ.FT. (4.51%)	
<b>PERVIOUS AREA</b>			
LANDSCAPING	8,050 SQ.FT. (9.45%)	8375 SQ.FT. (9.83%)	
UNDEVELOPED AREA	16,850 SQ.FT. (19.79%)	9,833 SQ.FT. (11.91%)	
TOTAL	85,165 SQ.FT. (1.95 ACRE APPROX.)		

### PARKING ANALYSIS

- a) **REQUIRED SPACES (ZONING CODE SECTION 3-2-17(F))**
- HOTEL (MAIN USE)**
- 1 PER GUESTROOM ..... 77
  - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT FOR MAX OF EMPLOYEES PER SHIFT ..... 02
- RESTAURANT (AMENITY TO MAIN USE)**
- 1 PER 100 SQ.FT OF RESTAURANT DINNING (USABLE FLOOR AREA 693 SQ.FT) ..... 07
  - 1 PER EACH 2 EMPLOYEE ON LARGEST SHIFT FOR MAX. OF 4 EMPLOYEE PER SHIFT ..... 02
- MEETING (PUBLIC ASSEMBLY) (AMENITY TO MAIN USE)**
- 1 PER 24 SQ.FT OF UNFIXED SITTING SPACE (752 SQ.FT) ..... 32
- TOTAL SPACES REQUIRED ..... 120
- b) **PROVIDED:** ..... 106 (79 FOR MAIN USE & 27 FOR HOTEL AMENITIES)
- c) **NOTES FOR ADDITIONAL REQUIRED PARKING SPACES FOR HOTEL AMENITIES.**
- RESTAURANT PROPOSED IS AN AMENITY, WHICH IS TO SERVE HOTEL GUESTS ONLY. THEREBY, REQUIRING NO ADDITIONAL SPACES.
  - MEETING ROOM ( PUBLIC ASSEMBLY) PEAK USE HOURS ARE DURING DAY TIME, SEPARATE FROM PRINCIPAL USE (HOTEL GUESTS) WITH NIGHT TIME PEAK OPERATING HOURS. MEETING ROOM IS ALSO AN AMENITY TO HOTEL USE.
  - HENCE 32 MEETING SPACES AND 09 RESTAURANT SPACES. (TOTAL OF 41 SPACES) TO BE CONSIDERED AS SHARED PARKING SPACES WITH MAIN USE IN THIS PROJECT. WAIVER APPLICATION TO BE SUBMITTED TO PLANNING COMMISSION FOR APPROVAL
- d) **ACCESSIBLE PARKING**
- REQUIRED: ..... 5 (2012 IBC TABLE 1106.1)
  - PROVIDED: ..... 5 (4 EX+1 NEW)
- e) **VAN ACCESSIBLE PARKING**
- REQUIRED: ..... 1 (2012 IBC SEC 1106.5)
  - PROVIDED: ..... 1

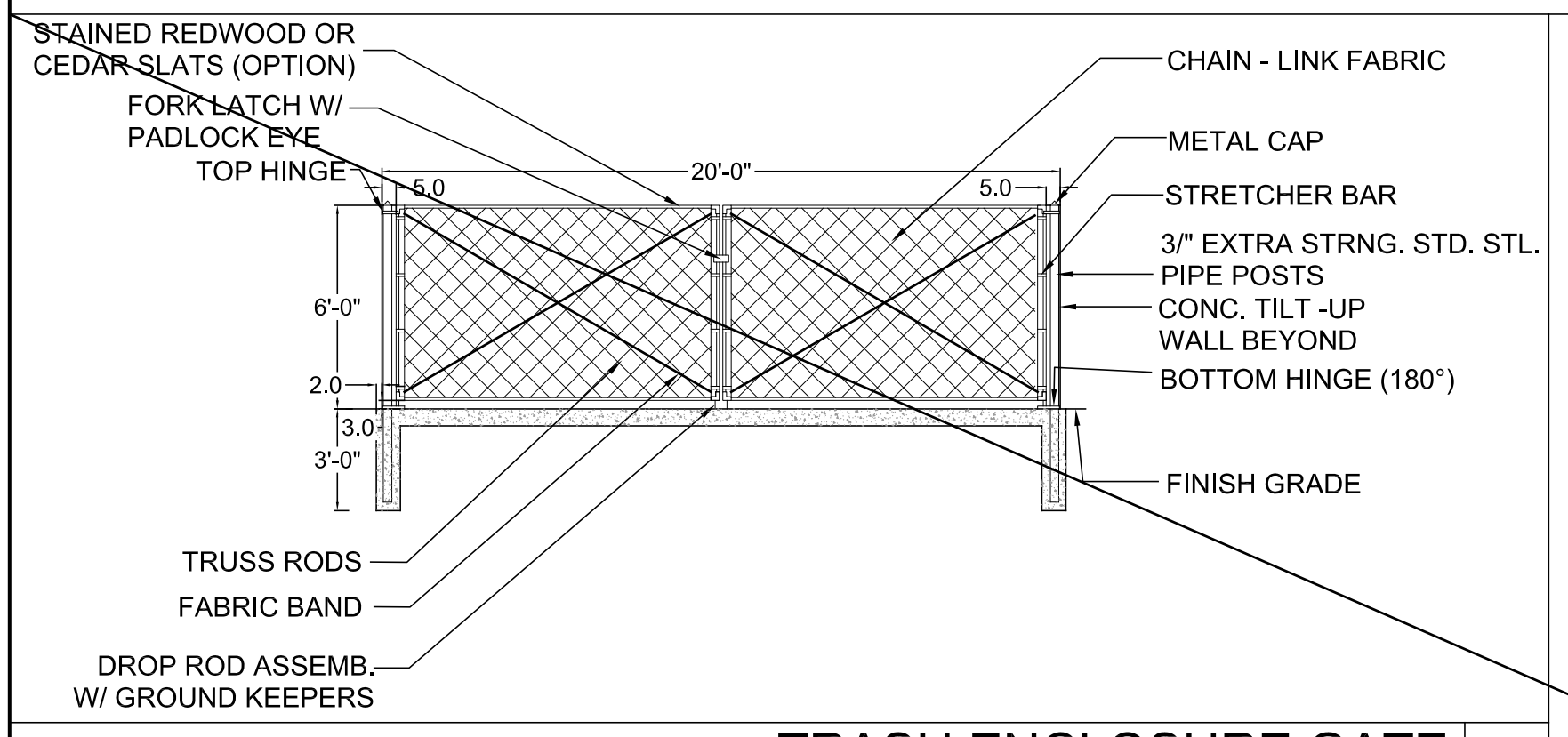


a. RAMP @ NORTH EAST SIDE



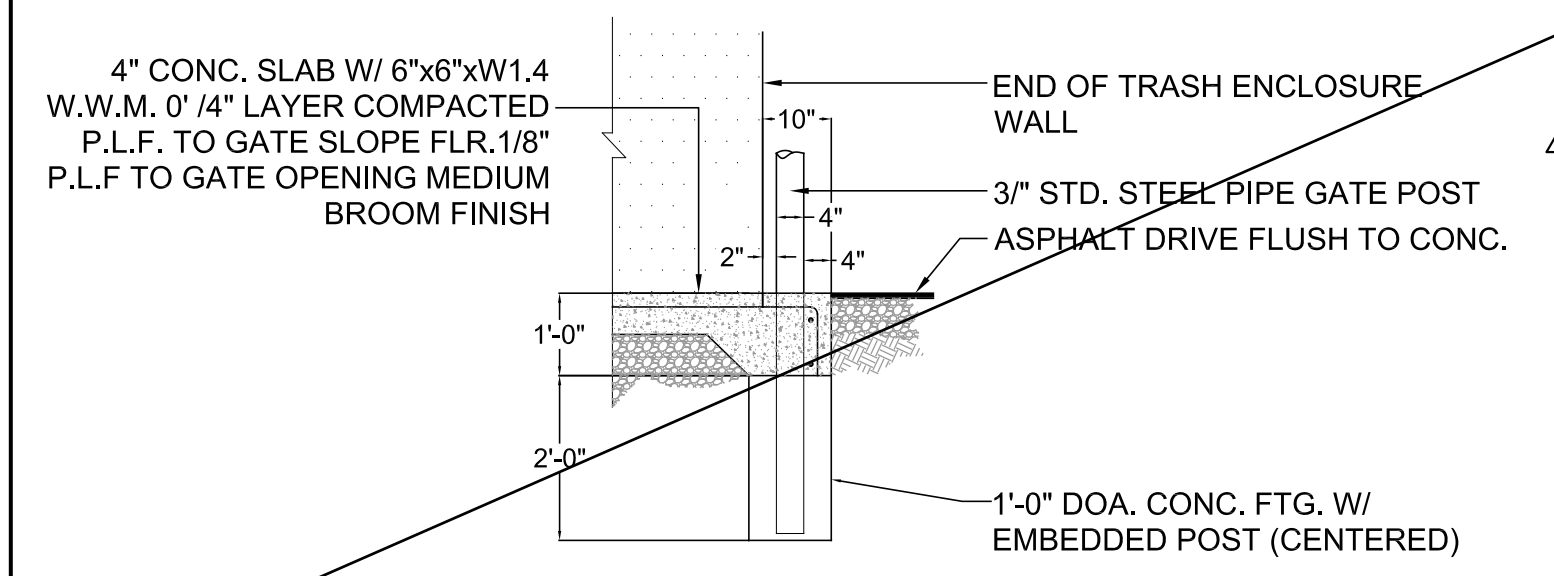
b. RAMP @ SOUTH WEST SIDE

### ACCESSIBLE RAMP 4



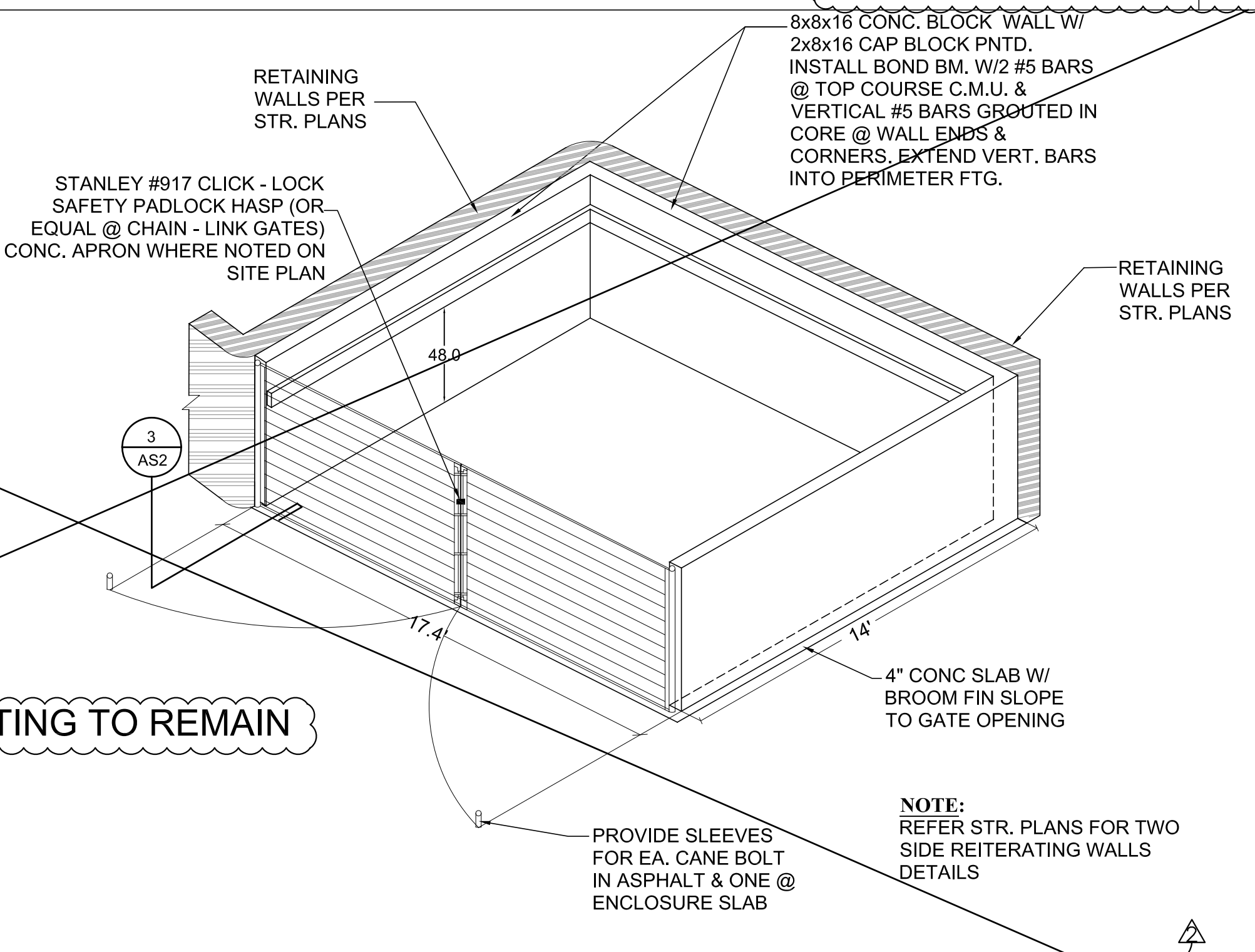
### TRASH ENCLOSURE GATE 3

N.T.S.



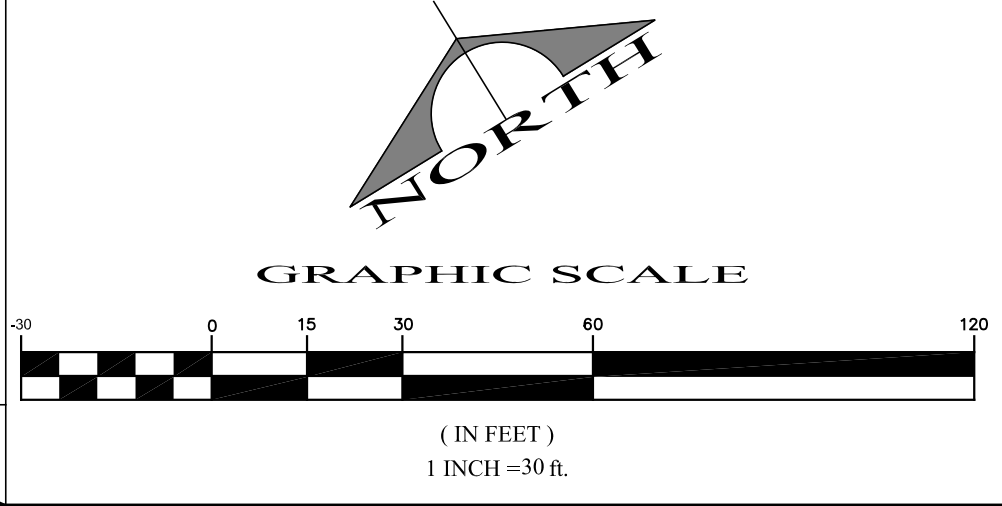
### TRASH SLAB/APRON 2

N.T.S.



### TRASH ENCLOSURE 1

N.T.S.



Continental Development Consultants, Inc.

7473 W Lake Mead Blvd, Ste 100, Las Vegas, NV 89128  
Phone (702)347-6137 • FAX (702)664-6237  
Email: Contact @ continentaldc.com  
Civil Engineering • Land Planning and Zoning Entitlements  
Building Design and Improvements • Construction Consulting

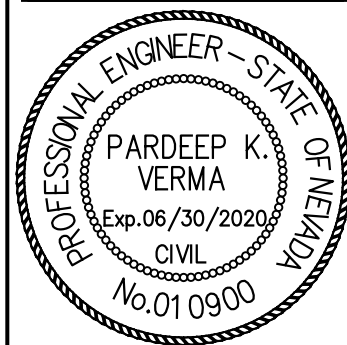


## PROPOSED SITE PLAN

FOUR POINTS BY SHERATON  
3019 IDAHO ST.,  
ELKO, NV 89801

TITLE

PROJECT



DATE: 11/12/2018  
JOB: JSD-EK-01  
DWG BY: DV  
CHK BY: SPK

# AS2

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible recommendation to City Council for Vacation No. 3-18, filed by Joy Global Surface Mining Inc., for the vacation of approximately 751.83 feet of the westerly portion of P & H drive right-of-way, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: ***NEW BUSINESS, MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **15 Minutes**
5. Background Information: **The applicant proposes to merge all of the parcels by parcel map application consolidating them into one parcel. By vacating the proposed portion of P & H Drive, it would allow them to facilitate the use of their property without a dedicated right-of-way bisecting their property. CL**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Memo**
8. Recommended Motion: **Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 3-18 based on facts, findings and conditions as presented in the Staff Report dated November 20, 2018.**
9. Findings: **See Staff Report dated November 20, 2018.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Michael McClanahan**  
**Joy Global Surfacing Mining Inc.**  
**4400 West National Avenue**  
**Milwaukee, WI 53214**  
[michael.mcclanahan@mining.komatsu](mailto:michael.mcclanahan@mining.komatsu)  
  
**Legend Engineering**  
**Lonny Reed**  
**52 West 100 North**  
**Heber City, UT 84032**  
[lonny@legendengineering.com](mailto:lonny@legendengineering.com)

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: Vacation No. 3-18  
Applicant(s): Jaglobal Surface Mining, Inc.  
Site Location: Westerly Portion of P+H Drive.  
Current Zoning: L1 Date Received: 11/9/18 Date Public Notice: N/A  
COMMENT: This is to vacate the westerly 750' of P+H Drive.

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

Assistant City Manager: Date: 11/26/18  
Recommend approval as presented by  
Staff

SAW

Initial

City Manager: Date: 11/28/18  
No comments/concerns.

cc

Initial



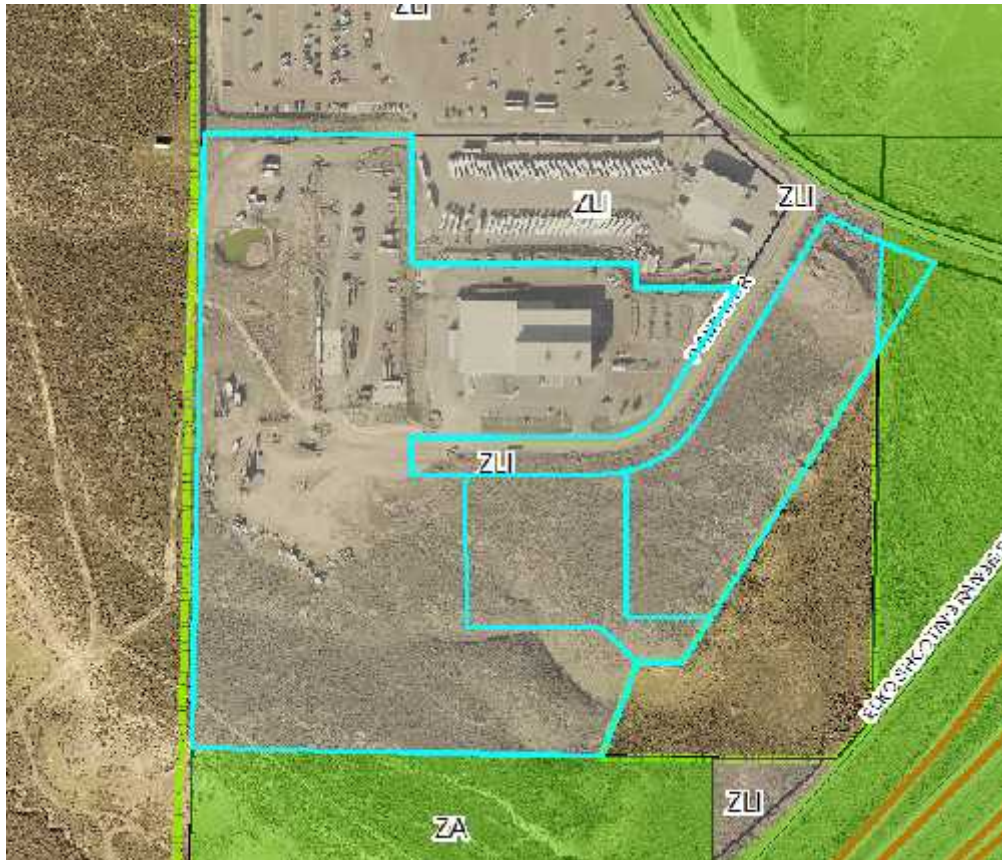


City of Elko  
1751 College Avenue  
Elko, NV 89801  
(775) 777-7160  
FAX (775) 777-7119

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	November 20, 2018
<b>PLANNING COMMISSION DATE:</b>	December 4, 2018
<b>AGENDA ITEM NUMBER:</b>	I.B.4
<b>APPLICATION NUMBER:</b>	Vacation 3-18
<b>APPLICANT:</b>	Joy Global Surface Mining Inc.
<b>PROJECT DESCRIPTION:</b>	4450 P & H Drive

**Vacation of a portion P & H Drive in conjunction with a parcel map to combine parcels.**



### **STAFF RECOMMENDATION:**

RECOMMEND to APPROVE subject to findings of fact, conditions and waivers.



## **PROJECT INFORMATION**

<b>PARCEL NUMBER:</b>	001-679-014, 001-679-016 & 001-679-015
<b>PARCEL SIZE:</b>	30.857 acres.
<b>EXISTING ZONING:</b>	(LI) Light Industrial
<b>MASTER PLAN DESIGNATION:</b>	(IND-BS PARK) Industrial Business Park
<b>EXISTING LAND USE:</b>	Developed on 001-679-014 and proposed development on 001-679-016 & 001-679-015 is in the permitting process with the City of Elko

## **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

North: Light Industrial / Developed  
East: General Agriculture / Undeveloped  
South: General Agriculture / Undeveloped  
West: Elko County Property / Undeveloped

## **PROPERTY CHARACTERISTICS:**

1. The property is partially developed on APN 001-679-014 and undeveloped on 001-679-015 & 016.
2. The property can be accessed from P & H Drive as well as West Idaho Street.

## **MASTER PLAN AND CITY CODE SECTIONS:**

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive  
City of Elko Master Plan – Land Use Component  
City of Elko Master Plan – Transportation Component  
City of Elko Redevelopment Plan  
City of Elko Code – Section 3-2-4 Establishment of Zoning Districts  
City of Elko Code – Section 3-2-12 Light Industrial Zoning District  
City of Elko Code – Section 8-7 Street Vacation Procedures

## **BACKGROUND:**

1. All three parcels were annexed into the City of Elko by Ordinance 830 on May 8, 2018.
2. Joy Global Surface Mining parent company, Harnischfeger Corporation, purchased APN 001-679-014 on December 6, 1999.
3. APN's 001-679-015 & 016 were purchased by Komatsu Equipment Company on September 28, 2018. They are in the process of deeding the property to the parent company, Harnischfeger Corporation, in order to merge the parcels.
4. All three parcels were rezoned to Light Industrial concurrent with the annexation.
5. APN 001-679-014 has been developed as an industrial use.

6. A new industrial use facility is proposed and is currently under the permitting process. The new facility would be located on APNs 001-679-015 & 016.
7. As a condition for approval of the proposed development, the parcels will be merged. As a result, the dedicated right-of-way to serve multiple parcels has been reduced.
8. The property owner has presented a deed of dedication to the City of Elko for the cul-de-sac turnaround proposed at the end of the dedicated right-of-way for proper vehicular circulation.
9. The City Council accepted the petition for vacation at their meeting November 27, 2018.

**NRS 278.479 to 278.480 inclusive**

1. 278.480(4) If any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall, not less than 10 business days before the public hearing described in subsection 5.
2. NRS 278.480 (5) Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.31895.
3. Per NRS 278.480(6) Public utility companies have been notified of the vacation on November 19, 2018.
4. It does not appear that there are any City utilities located within the area proposed to be vacated.

**MASTER PLAN – Land Use:**

1. The Master Plan Land Use Atlas shows the area as Industrial Business Park.
2. Supporting zone districts for Industrial Business Park are Industrial Business Park, Light Industrial and Industrial Commercial.
3. Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to promote economic sustainability and strengthen the community's image.
4. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The proposed vacation is in conformance with the Land Use Component of the Master Plan.

**MASTER PLAN - Transportation:**

1. The area will be accessed from West Idaho Street and P & H Drive.
2. West Idaho Street is classified as a Minor Collector.
3. P & H Drive is not classified but functions as a Commercial / Industrial Collector.
4. The area is near the Exit 298 and I-80 interchange.
5. The property owner is proposing a vehicular turnaround at the end of P & H Drive. This will require additional area for the development of the circular cul-de-sac to be dedicated to the City of Elko.

The proposed vacation is in conformance with the Transportation Component of the Master Plan.

### **REDEVELOPMENT PLAN**

The area proposed for vacation is located outside the Redevelopment Area.

### **ELKO CITY CODE SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS**

The area proposed for vacation will be merged with the adjacent property. The existing zone district, LI – Light Industrial, does not stipulate a minimum lot area requirement. The vacation will add area to the parcels of record.

The proposed vacation is in conformance with Section 3-2-4 of City code.

### **ELKO CITY CODE SECTION 3-2-12 LI, GI INDUSTRIAL ZONING DISTRICTS**

1. The area proposed for vacation will be merged with the adjacent property. The merged areas meet all the area and dimensions stipulated in code.

The proposed vacation is in conformance with Section 3-2-12 of City code.

### **ELKO CITY CODE SECTION 8-7 STREET VACATION PROCEDURES**

1. The proposed vacation is being processed independent of the proposed parcel map, deed of dedication and proposed development of the property.

The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City code.

### **FINDINGS**

1. The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive.
2. The proposed vacation is in conformance with the Land Use Component of the Master Plan.
3. The proposed vacation is in conformance with the Transportation Component of the Master Plan.
4. The area proposed for vacation is not located within the Redevelopment Area.
5. The proposed vacation is in conformance with Section 3-2-4 of City code.
6. The proposed vacation is in conformance with Section 3-2-5 of City code.
7. The proposed vacation with the recommended conditions is in conformance with Section 8-7 of City code.
8. The proposed vacation will not materially injure the public and is in the best interest of the City.

**STAFF RECOMMENDATION:**

Staff recommends forward a recommendation to City Council to adopt a resolution which conditionally APPROVES the proposed vacation with the following conditions:

1. The applicant is responsible for all costs associated with the recordation of the vacation.
2. A deed of dedication be approved by City Council for the cul-de-sac turnaround radius before recordation of the vacation.
3. A parcel map to merge the parcels must be approved and recorded prior to the recordation of the vacation.
4. Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.





# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 28, 2018

Joy Global Surface Mining, Inc.  
Attn: Michael McClanahan  
4400 West National Avenue  
Milwaukee, WI 53214

Re: Vacation No. 3-18

Dear Applicant/Agent:

Enclosed is a copy of the agenda for an upcoming Planning Commission meeting. Highlighted on the agenda is an item or items that you have requested to be acted on at the meeting. Also enclosed is pertinent information pertaining to your request. Please review this information before the meeting.

The Planning Commission requests that you, or a duly appointed representative, be in attendance at this meeting to address the Planning Commission. If you will not be able to attend the meeting but wish to have a representative present, please submit a letter to the Planning Commission authorizing this person to represent you at the meeting.

If you have any questions regarding this meeting, the information you received, or if you will not be able to attend this meeting, please call me at your earliest convenience at (775) 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician

Enclosures

CC: Legend Engineering, Attn: Lonny Reed, 52 West 100 North, Heber City, UT 84032



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

Satview Broadband  
**Mr. Tariq Ahmad**  
PO Box 18148  
Reno, NV 89511

And VIA EMAIL: [taroil@yahoo.com](mailto:taroil@yahoo.com)

SUBJECT: Proposed Vacation No. 3-18

Dear Mr. Ahmad:

Please be advised that the City of Elko Planning Department is processing a request filed Joy Global Surface Mining, Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

NV Energy  
**Mr. Jake Johnson**  
6100 Neil Road  
Reno, NV 89511

SUBJECT: Proposed Vacation No. 3-18

Dear Mr. Johnson:

Please be advised that the City of Elko Planning Department is processing a request filed by Joy Global Surface Mining Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

Southwest Gas Corporation  
**Engineering Department**  
PO Box 1190  
Carson City, NV 89702-1190

SUBJECT: Proposed Vacation No. 3-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Joy Global Surface Mining Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures





# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)

Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

Frontier Communication  
**Mr. William Whitaker**  
111 W. Front Street  
Elko, NV 89801

SUBJECT: Proposed Vacation No. 3-18

Dear Mr. Whitaker:

Please be advised that the City of Elko Planning Department is processing a request filed by Joy Global Surface Mining, Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

Beehive Broadband  
2000 N. Sunset Road  
Lake Point, UT 84074

SUBJECT: Proposed Vacation No. 3-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Joy Global Surface Mining, Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



# CITY OF ELKO

Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@ci.elko.nv.us](mailto:planning@ci.elko.nv.us)

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

---

November 19, 2018

Elko Heat  
P.O. Box 2347  
Elko, NV 89803

SUBJECT: Proposed Vacation No. 3-18

To Whom It May Concern:

Please be advised that the City of Elko Planning Department is processing a request filed by Joy Global Surface Mining, Inc. to vacate a portion of the P&H Drive right-of-way located generally on the west end of P&H Drive. Please see enclosed map.

The City respectfully requests your assistance in determining whether there are any utility improvements or any other such interests within the area proposed to be vacated.

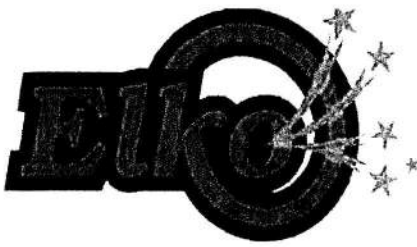
Please advise the Elko City Planning Department in writing concerning your agency's needs or interests as affected by this requested vacation, or submit a letter or email stating none of your interests are in the area, as **we are required to receive and maintain records of all responses from all local utilities per NRS 278.480(6)**. The Planning Commission will consider this item on December 4, 2018. Thank you for your time and effort in this matter!

If you have any questions, please contact our office at 777-7160.

Sincerely,

Shelby Archuleta  
Planning Technician  
[sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov)

Enclosures



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801 \*

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

### APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

**APPLICANT(s):** Joy Global Surface Mining Inc.

**MAILING ADDRESS:** 4400 West National Avenue, Milwaukee, WI 53214

**PHONE NO (office)** (414) 670-8915

**NAME OF PROPERTY OWNER (If different):**

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

**MAILING ADDRESS:**

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

**ASSESSOR'S PARCEL NO.:** \_\_\_\_\_ **Address**

**Lot(s), Block(s), & Subdivision**

**Or Parcel(s) & File No.** 001-679-014, 001-679-015, 001-679-016, & 001-679-005

**RECEIVED**

NOV 09 2018

#### FILING REQUIREMENTS:

**Complete Application Form:** In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

**Fee:** A \$600.00 non-refundable fee.

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

**Legal Description:** A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

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

**Other Information:** The applicant is encouraged to submit other information and documentation to support the request.



OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

Joy Global Surface Mining Inc., 440 W. National Ave., Milwaukee WI 53214  
(Name) (Address)

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

(Name) (Address)

1. Describe the nature of the request: We have the common ownership of parcels: 001-679-014, 001-679-015, 001-679-016, and 001-679-005, and are currently in process consolidating them into one parcel, and after said consolidation this/our parcel will both abut and surround much of the current P&H Drive ROW. We propose that the westerly 751.83 feet of P&H Drive be vacated to the surrounding ownership. This would facilitate the use of our property rather than have a public ROW running thru the middle of it.
2. Describe any utilities currently located in the area proposed for vacation, and if any are present how they will be addressed: The current power and telephone facilities that serve our current facilities lay outside ROW area. New water, sewer, drainage, power, and communication utilities will be constructed as part of our proposed project, which is currently under review for construction approval.

Use additional pages if necessary

**This area intentionally left blank**

**By My Signature below:**

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspection 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 effect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

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

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

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

**Applicant / Agent** Michael McClanahan  
(Please print or type)

**Mailing Address** 4400 W. National Ave.  
Street Address or P.O. Box

Milwaukee, WI 53214  
City, State, Zip Code

Phone Number: (414) 670-8915

Email address: michael.mcclanahan@mining.komatsu

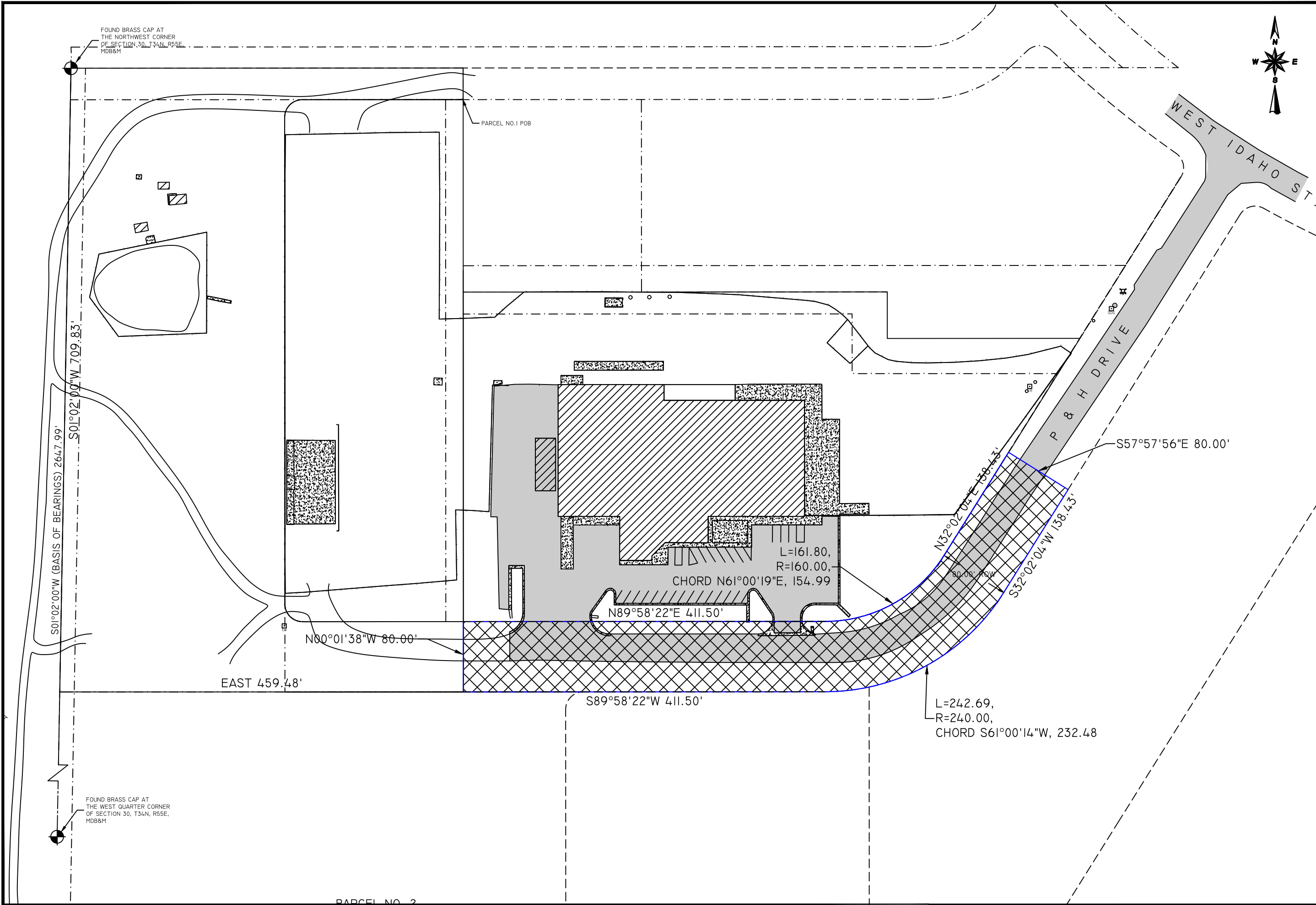
**SIGNATURE:** 

---

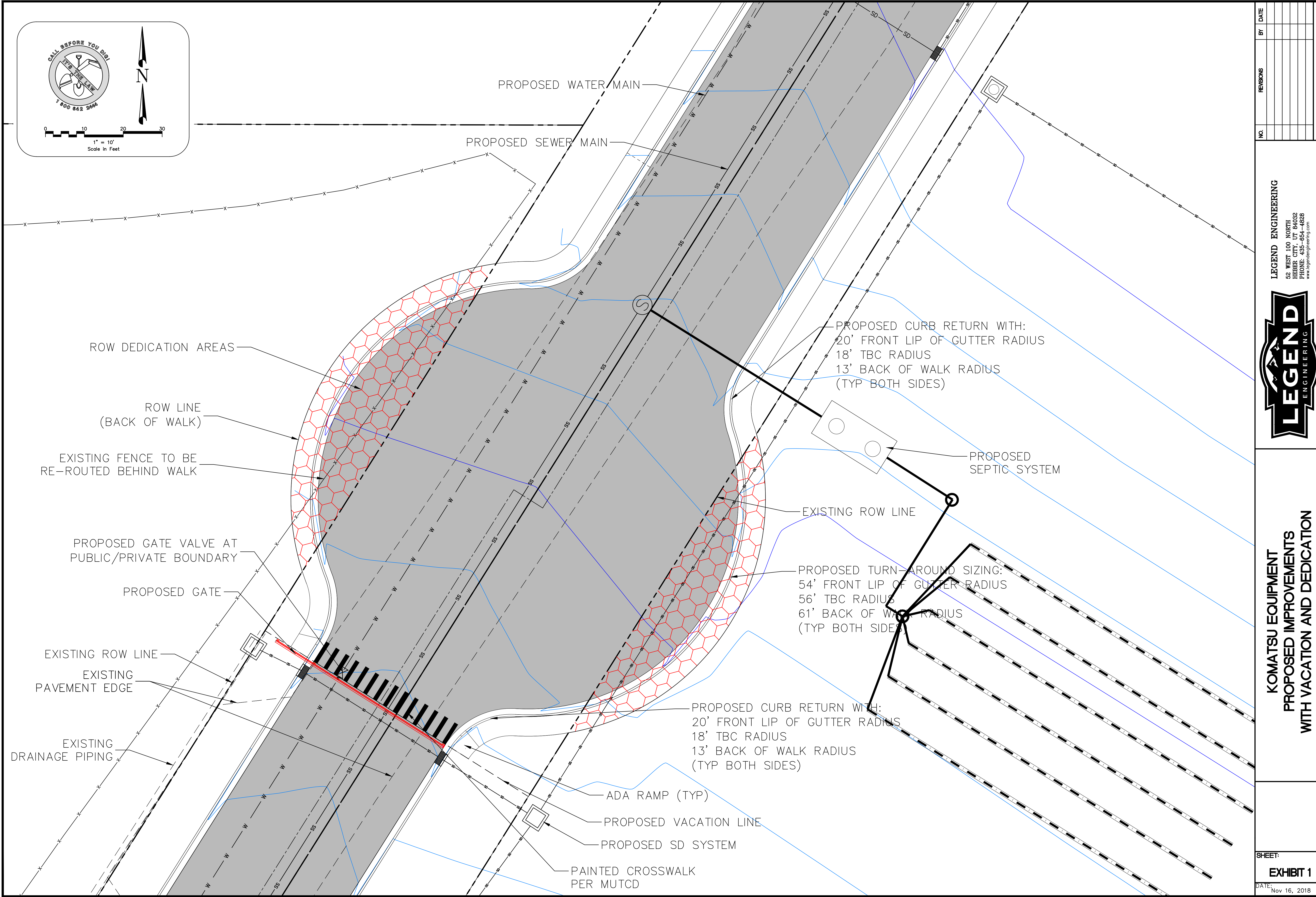
**FOR OFFICE USE ONLY**

**File No.:** 3-18 **Date Filed:** 11/9/18 **Fee Paid:** \$ 600 CX# 7462

---





[illegible]

**LEGEND ENGINEERING**  
552 WEST 100 NORTH  
HEBER CITY, UT 84032  
PHONE: 435-654-4828  
[www.legendengineering.com](http://www.legendengineering.com)



**KOMATSU EQUIPMENT  
PROPOSED IMPROVEMENTS  
WITH VACATION AND DEDICATION**

SHEET:  
**EXHIBIT 1**  
DATE:  
Nov 16, 2018

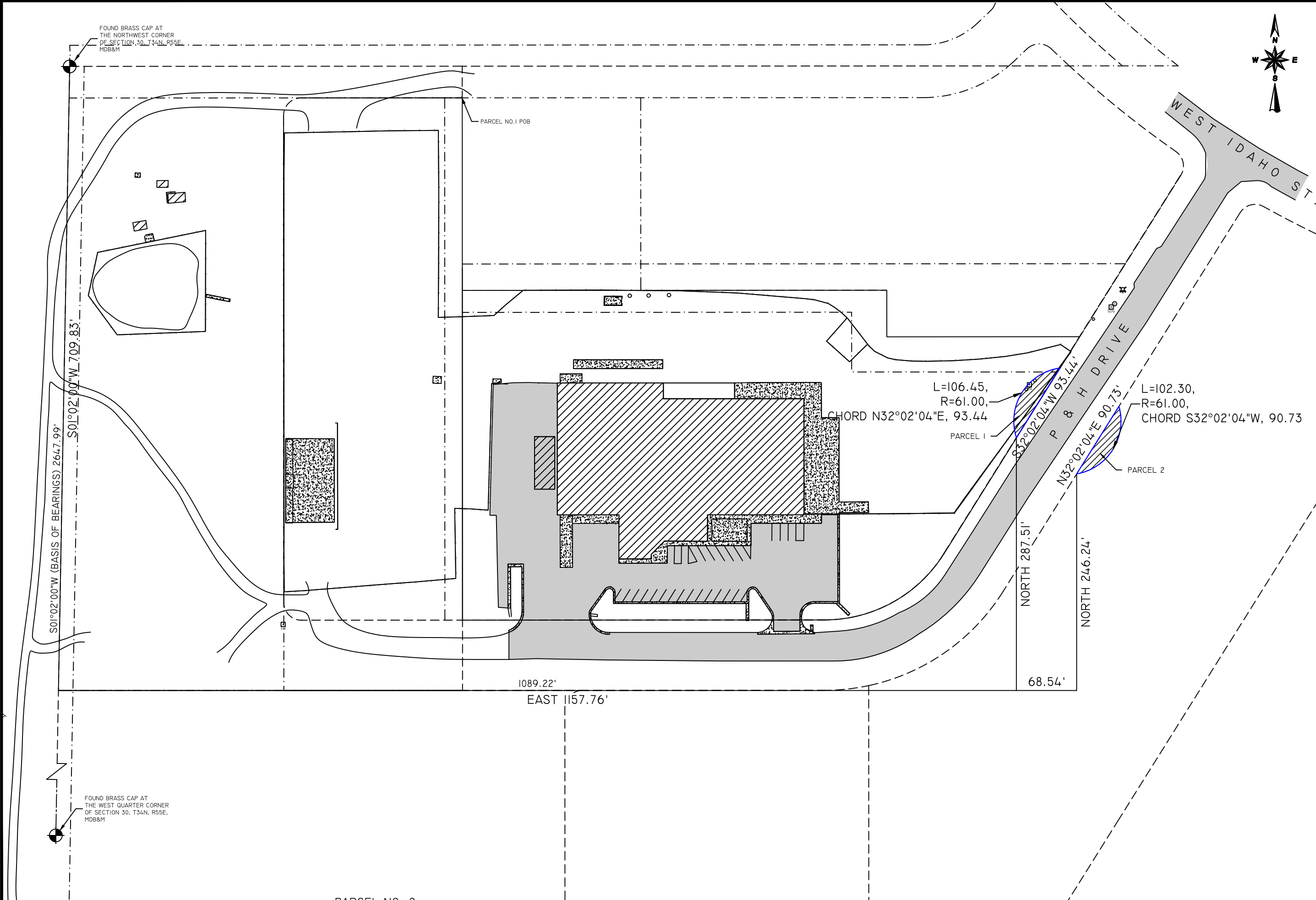




**PORTION OF P&H DRIVE VACATION**

A PARCEL OF LAND SITUATED IN SECTION 30, TOWNSHIP 34 NORTH, RANGE 55 EAST, M.D.B.&M., ELKO COUNTY, STATE OF NEVADA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 709.83 FEET S01°02'00"W ALONG THE SECTION LINE AND 459.48 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 30, TOWNSHIP 34 NORTH, RANGE 55 EAST, MOUNT DIABLO BASE AND MERIDIAN, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF P&H DRIVE AS DEDICATED BY PARCEL MAP FILE NO. 452341; AND RUNNING THENCE N00°01'38"W ALONG THE WESTERLY RIGHT-OF-WAY OF SAID P&H DRIVE 80.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID P&H DRIVE; THENCE ALONG SAID NORTHERLY AND NORTHWESTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES; (1) N89°58'22"E 411.50 FEET TO A POINT ON A 160.00 FOOT RADIUS CURVE TO THE LEFT; (2) THENCE ALONG SAID CURVE 161.80 FEET (CHORD BEARS N61°00'19"E 154.99 FEET); (3) THENCE N32°02'04"E 138.43 FEET; THENCE LEAVING SAID RIGHT-OF-WAY S57°57'56"E 80.00 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID P&H DRIVE; THENCE ALONG SAID SOUTHEASTERLY AND SOUTHERLY RIGHT OF WAY THE FOLLOWING THREE (3) COURSES: (1) S32°02'04"W 138.43 FEET TO A POINT ON A 240.00 FOOT RADIUS CURVE TO THE RIGHT; (2) THENCE ALONG SAID CURVE 242.69 FEET (CHORD BEARS S61°00'14"W 232.48 FEET); (3) THENCE S89°58'22"W 411.50 FEET TO THE POINT OF BEGINNING.





ELEMENT

LAND SURVEYING

WWW.ELEMENTSURVEYING.COM 2296 SOUTH 270 EAST, HEBER CITY, UT 84032  
(801) 592-5975

DEDICATION EXHIBIT

WASATCH COUNTY

PROJECT NO.	17-09-208	
	LEGEND ENGINEERING	
SHEET	1 OF 1	
	CUL-DE-SAC DEDICATION	

**Elko City Planning Commission**  
**Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to set regular meeting dates as well as special meeting dates for 2019, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 4, 2018**
3. Agenda Category: **NEW BUSINESS- MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**
4. Time Required: **10 Minutes**
5. Background Information: **The following dates are the first Tuesday of each month:**  
**January 1, 2019**  
**February 5, 2019**  
**March 5, 2019**  
**April 2, 2019**  
**May 7, 2019**  
**June 4, 2019**  
**July 2, 2019**  
**August 6, 2019**  
**September 3, 2019**  
**October 1, 2019**  
**November 5, 2019**  
**December 3, 2019**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information:
8. Recommended Motion: **Pleasure of the Planning Commission**
9. Findings:
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution:

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 12/4**

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

Title: 2019 Planning Commission Meeting Dates

Applicant(s): \_\_\_\_\_

Site Location: N/A

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

COMMENT: This is to determine the regular and special meeting dates for 2019.

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

Assistant City Manager: Date: 11/26/18

I recommend that any changes to meeting dates conflicting with holidays are held within the same week of the month

SAW

Initial

City Manager: Date: 11/28/18

No comments/concerns.

CE

Initial



# Zoning Bulletin

## in this issue:

First Amendment—Retail store contends city zoning ordinance regulating businesses' display and arrangement of sexual devices violates First Amendment free speech rights	2
Fees/Authority—As condition for granting subdivision application, city requires developer pay "infrastructure charge" for roadway and intersection improvements	5
Rezoning/Referendum—City residents challenge by referendum a zoning ordinance amendment that would have brought the ordinance into compliance with the city's general plan	8
Zoning News from Around the Nation	11



## First Amendment—Retail store contends city zoning ordinance regulating businesses' display and arrangement of sexual devices violates First Amendment free speech rights

City contends ordinance is constitutionally valid and meets city interests of preventing negative secondary effects

---

Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



**THOMSON REUTERS®**

610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)

ISSN 0514-7905

©2018 Thomson Reuters

All Rights Reserved

Quinlan™ is a Thomson Reuters brand

## associated with sexually oriented businesses

Citation: *Stardust, 3007 LLC v. City of Brookhaven*, 899 F.3d 1164 (11th Cir. 2018)

*The Eleventh Circuit has jurisdiction over Alabama, Florida, and Georgia.*

ELEVENTH CIRCUIT (GEORGIA) (08/10/18)—This case addressed the issue of whether an ordinance regulating businesses that gave “special prominence” to sexual devices violated that United States Constitution, including the First Amendment right to freedom of speech.

**The Background/Facts:** In January 2013, the City of Brookhaven (the “City”) adopted a code (the “Code”) to “regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City.” The Code regulated various types of adult businesses, which it referred to as “[s]exually [o]riented [b]usiness[es].” Such regulated businesses included “sexual device shop[s]” defined as “a commercial establishment that regularly features sexual devices.” Looking at Code definitions, the Code essentially regulated commercial businesses that “consistent[ly] and repeated[ly]” “give special prominence to” “any three (3) dimensional object designed for [sexual] stimulation.”

The Code did not ban sexually oriented businesses, but required, among other things, that they be licensed and not operate “within 100 feet of another sexually oriented business” or “within 300 feet of a residential district, place of worship, park, or public library.” There were 73 locations in the City where a licensed sexually oriented business could operate.

In February 2013, Stardust 3007, LLC (“Stardust”) opened a retail store in the City. Stardust was located across the street from a residential area and next to an adult entertainment club that qualified as a “sexually oriented business” under the Code. In late April 2013, Stardust began selling sexual devices. In June 2013, the City began ticketing Stardust for its Code violations, including operating a sexually oriented business: without a license; within 100 feet of another sexually oriented business; and within 300 feet of a residential zone. City Code enforcement officers identified over 1500 alleged sexual devices in the Stardust store.

After the City brought a legal action against Stardust for its alleged Code violations, Stardust filed a suit against the City first in state court and then in federal court. Stardust argued that its constitutional rights had been violated because: (1) the Code impermissibly restricted Stardust’s right to free speech; (2) the Code’s definition of “sexual device shop” was void for vagueness; (3) the City’s enforcement of the Code violated Stardust’s right to equal protection; and (4) the Code impermissibly infringed on an individual substantive due process right to intimate sexual activity.

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the district court granted summary judgment in favor of the City.

Stardust appealed.

**DECISION: Judgment of district court affirmed.**

Addressing Stardust's First Amendment argument, the Eleventh Circuit held that the Code imposed no impermissible restriction on Stardust's freedom of speech. Stardust had specifically argued that the Code was unconstitutional under the First Amendment because the Code operated as "an impermissible restriction on Stardust's constitutionally protected commercial speech" by regulating the manner in which a store displays its merchandise. The Eleventh Circuit agreed that the Code's definition of "sexual device shop" turned "not only on the store's stocking and selling of certain products, but also on its display and arrangement of those products." Here, the court concluded that the Code's restriction based on product display and arrangement implicated the First Amendment, but did not violate it.

The court explained that a zoning ordinance designed to regulate the negative secondary effects of adult businesses (such as the Code here), "justified without reference to the content of the regulated speech," is considered a content neutral time, place, and manner restriction. Thus, "[d]espite its incidental impact on free speech, such an ordinance complies with the First Amendment if it is designed to serve a substantial government interest and leaves open alternative avenues of communication," said the court. And, here, the court found that the City Code was so designed and did leave open such alternative avenues of communication. The court found that the evidence the City relied upon in drafting the Code was sufficient to support the conclusion that the Code advanced the City's legitimate interest in preventing negative secondary effects associated with sexually oriented businesses. The court also found that the Code left open sufficient alternative avenues of communication, including 73 sites inside the City limits where a licensed sexually oriented business could operate.

The court also rejected Stardust's other constitutional claims. The court held that Stardust's vagueness challenge failed because Stardust could not show that the Code was impermissibly vague in all of its applications. Rather, the court found that Stardust's operation "clearly" fell within the zone of prohibited conduct.

The court also held that, contrary to Stardust's argument, the City's enforcement of the Code did not violate Stardust's right to equal protection even though a sexually oriented business was allowed to operate next door to Stardust. The court found that Stardust's claim failed because it could not show that it was "similarly situated" to that neighboring business—the Pink Pony. The Pink Pony had been legally operating prior to adoption of the Code, was properly licensed, and had an agreement with the City to relocate within a set number of years.

Finally, the court rejected Stardust's argument that the Code impermissibly infringed on "the substantive due process right to private sexual intimacy." The court noted that the Code was a zoning ordinance that was a valid time, place, and manner restriction that left open 73 other sites for sexual device stores. The Code did not ban the sale or use of sexual devices in the City, nor did it impede any individual's ability to engage in private, consensual activity, found the court.

See also: *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County, Fla.*, 630 F.3d 1346, 1355 (11th Cir. 2011).



---

*Case Note:*

*In Stardust's state court action, the state courts entered a permanent injunction against Stardust, ordering it to cease and desist operating a sexual device shop in violation of the Code. As a matter of first impression (i.e., the first time the court ruled on the issue), the Eleventh Circuit concluded that the state court judgment did not have a preclusive effect—under the doctrine of res judicata—on the federal court judgment here. The court said that it “would make no sense for an appeal from a district court order or judgment to be precluded simply because another court treated the order or judgment as having a conclusive effect.” While the doctrine of res judicata prevents re-litigation of issues and claims already decided by a competent court, it “does not operate to bar direct review of a district court judgment, even if that judgment has been accorded res judicata effect by other courts since it was entered,” said the court. Since Stardust was seeking direct review of the district court's judgment, the Eleventh Circuit concluded that res judicata did not bar it from considering Stardust's appeal.*

---

## **Fees/Authority—As condition for granting subdivision application, city requires developer pay “infrastructure charge” for roadway and intersection improvements**

Developer contends city lacks the statutory authority to impose such a charge

Citation: *Harstad v. City of Woodbury*, 2018 WL 3868465 (Minn. 2018)

MINNESOTA (08/15/18)—This case addressed the issue of whether a statutory city can condition grant of an application for a subdivision on a developer's payment of an infrastructure charge representing an amount for “major roadway and intersection improvements” that would be “required to accommodate traffic generated by [the proposed development] and surrounding areas.” More specifically, the case addressed whether Minn. Stat. § 462.358, subd. 2a, authorizes a statutory city to impose an infrastructure charge for future road-improvement projects.

**The Background/Facts:** In July 2015, Martin Harstad (“Harstad”) submitted to the City of Woodbury (the “City”) an application for approval to subdivide approximately 77 acres of land in the City for the purpose of developing a 183-unit residential community. Months later, the City sent Harstad a memorandum outlining proposed charges for the subdivision, including a \$1,389,444 infrastructure charge. The infrastructure charge was identified as the amount to be paid for “[m]ajor roadway and intersection improvements. . .” which would be “required to accommodate traffic generated by [Harstad's proposed subdivision] and surrounding areas.”

Before his subdivision application was completed, Harstad sued the City,

challenging the infrastructure charge. Harstad argued that the City lacked statutory authority to impose conditions on the approval of a subdivision application in the form of an infrastructure charge. Since the City was a statutory city (in that it had not adopted a home rule charter), it had no inherent powers beyond those expressly conferred by statute or implied as necessary in aid of those powers expressly conferred. The City had specifically disclaimed that it had implied authority to impose the infrastructure charge, and Harstad argued that the City lacked explicit statutory authorization to impose such a charge.

The City, on the other hand, maintained that Minnesota statutory law—Minn. Stat. § 462.358, subd. 2a—granted it the authority it needed for the infrastructure charge at issue. That statute grants statutory cities the authority to pass regulations “for the review and approval or disapproval” of applications for the subdivision of land within a municipality. Subdivision 2a outlined a municipality’s power to “condition its approval” of a subdivision application in certain circumstances. The City pointed to two separate provisions in subdivision 2a, arguing that each explicitly authorized the City to impose an infrastructure charge as a condition on city approval of a subdivision application. The City pointed to the second paragraph of subdivision 2a which provides that a city can condition its approval of a subdivision application on:

“the construction and installation of sewers, streets . . . and similar utilities and improvements, or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, bond, or other financial security in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality.”

The City also pointed to the last paragraph of subdivision 2a, arguing it provided a “broad grant” of contractual authority, allowing the City “to bargain for any ‘terms or conditions of approval’ that are ‘reasonably related to the provision of the regulations.’” That provision states that a municipality may condition its approval of a subdivision on:

“compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval.”

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the district court granted summary judgment for Harstad. The court agreed that the City had no statutory authority to impose such an infrastructure charge.

The City appealed. The court of appeals affirmed, agreeing that the City lacked statutory authority to impose an infrastructure charge. The court of appeals reasoned that the infrastructure charge was a “road assessment” and that Minn. Stat. § 462.358 did not authorize the City “to condition subdivision approval on payment of a road assessment” or to collect “any type of assessment.” The court of appeals also rejected the City’s alternative argument that its power to enter into development contracts under Minn. Stat. § 462.358, subd. 2a, independently authorized the infrastructure charge.

The City again appealed.

**DECISION: Judgment of Court of Appeals affirmed.**

Agreeing with Harstad and the lower courts, the Supreme Court of Minnesota held that statutory cities—like the City here—lack the statutory authority

to condition grant of an application for a subdivision on a developer's payment of an infrastructure charge. The court also held that a statutory city's authority to enter into a development contract embodying the terms and conditions of approval of a subdivision does not authorize a municipality to condition approval on a developer's payment of an infrastructure charge.

The court so held based on its interpretation of the statutory language. First, the court looked at the second paragraph of subdivision 2a—which the City had argued gave the City explicit authority to impose an infrastructure charge. The court found that paragraph gave a municipality authority to condition approval of a subdivision application on the developer (a) constructing or installing the improvements or (b) providing a form of “financial security” that is sufficient to assure the municipality that the “improvements will be constructed or installed according to the [municipality's] specifications.” The court found that the forms of financial security listed in the statutory provision were all intended to be returned or released “unless the developer failed to satisfy the conditions of the contract concerning infrastructure improvements.” In other words, the court found that the “financial security” options listed in the provision functioned similarly to a “subdivision bond” or a “performance bond” that is used to insure installation of improvements. Had the legislature intended to authorize municipalities to condition subdivision approval on a “cash fee” for infrastructure improvements—as the City argued—it would have used those precise terms, said the court.

Here, the court found that the infrastructure charge that the City sought to impose on Harstad's subdivision application was “not a program designed to provide it with financial security.” The court so found noting that the City's infrastructure charge did not contemplate a return of funds by the City to the applicant in the event that the applicant satisfied all the conditions tied to that security. Instead, the court found that the money collected through such infrastructure charges went into a city-managed fund that was used for future road construction projects in the part of the City that corresponded to the development. This, determined the court, was a “charge or fee” and “not a form of financial security.” In sum, the court concluded that the second paragraph of Minn. Stat. § 462.358, subd. 2a, did not authorize the City's infrastructure charge because it was not a form of financial security as contemplated in the statute.

Looking at the last paragraph of subdivision 2a and the City's argument that it granted the City broad contractual authority to impose the infrastructure charges as a condition of subdivision approval, the court found that the power to enter into a development contract does not include the power to require a developer to pay an infrastructure charge. Since the court had already concluded that the second paragraph of subdivision 2a did not explicitly authorize a city to condition subdivision approval of an infrastructure charge that is not a form of financial security, the court concluded that the contract provision in the last paragraph of subdivision 2a could “not swallow the limits in the other paragraphs of the subdivision.” Again, the last paragraph provided that a municipality could condition its “approval on compliance with other requirements reasonably related to the provision of the regulations . . . .” The court found that the phrase “other requirements” referred to “additional or distinct requirements that may be necessary to implement the subdivision regulations

that a city may impose under this statute but that were not explicitly identified in the provision.” But, because the court construed the statute “to give effect to all its provisions,” the court refused to read the final paragraph of Minn. Stat. § 462.358, subd. 2a, as authorizing a power that was not authorized in the other paragraphs. In other words, because the statute did not authorize a statutory city to condition subdivision approval on an infrastructure charge, the court concluded that such a condition could not be memorialized in a contract.

---

*Case Note:*

*Importantly, the charge at issue here differs from the “traditional street assessment” provided for in Minn. Stat. §§ 429.021 and 429.051. “It is undisputed that cities have the authority to assess property for road and street improvements and that these assessments are specifically permitted by state law.” (Minn. Stat. §§ 429.021, subd. 1(1), 429.051. Here, however, the City relied exclusively on city-ordinance provisions and Minn. Stat. § 462.358, subd. 2a, as authority for the infrastructure charge; it did not rely on chapter 429 of the Minnesota Statutes.*

---

## **Rezoning/Referendum—City residents challenge by referendum a zoning ordinance amendment that would have brought the ordinance into compliance with the city’s general plan**

City seeks to remove referendum from ballot, arguing that referendum would “enact” an invalid zoning ordinance inconsistent with the city’s general plan in violation of state law

Citation: *City of Morgan Hill v. Bushey*, 5 Cal. 5th 1068, 236 Cal. Rptr. 3d 835, 423 P.3d 960 (Cal. 2018)

CALIFORNIA (08/23/18)—This case addressed the issue of “whether the people of a county or city may challenge by referendum a zoning ordinance amendment that would bring the ordinance into compliance with a change to the county’s or city’s general plan, even though such a referendum would temporarily leave in place a zoning ordinance that does not comply with the general plan.”

**The Background/Facts:** California state law requires cities and counties to develop general land use plans that function as charters for all future land use in that county or city. California state law further requires zoning ordinances to be consistent with the general plan of the county or city. (See Gov. Code § 65860,



subdivision (a).) Under that provision of law, any change to a zoning ordinance that would make it inconsistent with the general plan is invalid.

River Park Hospitality, Inc. (“River Park”) owned property (the “Property”) that was zoned “Industrial” in the City of Morgan Hill (the “City”). River Park sought to develop a hotel on the Property. In furtherance of that development, in November 2014, the City amended its general plan to change the land use designation of the Property from “Industrial” to “Commercial.” The specific zoning designation of the property—“ML-Light Industrial”—remained unchanged by the alteration of the general plan. Later, in April 2015, the City Council approved a zoning amendment (the “Ordinance”) to change the Property’s zoning designation to “CG-General Commercial.”

Subsequently, on May 1, 2015, Real Party in Interest Morgan Hill Hotel Coalition (“Hotel Coalition”)—supported by over 4,000 signatures—petitioned for a referendum challenging the Ordinance. After the referendum was certified as sufficient by the City Clerk, the City Council directed the City Clerk to discontinue processing the referendum because it “would enact zoning that was inconsistent with” the City’s general plan. The City pointed to state law, which provides that county or city zoning ordinances must be consistent with the general plan of the county or city. (See Gov. Code § 65860.) The City argued that because state law prohibits local governments and electors from enacting a zoning ordinance that is inconsistent with a general plan, the referendum here was invalid since it effectively caused the zoning ordinance to conflict with the general plan.

In June 2016, the City sued the Registrar of Voters for Santa Clara County and the City Clerk. The City asked the court to order the referendum removed from the ballot and to certify the Ordinance.

Agreeing with the City that the referendum would “enact” an invalid zoning ordinance that was inconsistent with the City’s general plan, the trial court ordered the referendum removed from the ballot.

Hotel Coalition appealed.

The Court of Appeals reversed the trial court. The Court of Appeals disagreed with the argument that referendums are always invalid if they reject a zoning ordinance enacted by the local government to bring a property’s zoning into compliance with the local government’s general plan. Rather, the Court of Appeals held that, “in cases where multiple available zoning designations could comply with the general plan,” a referendum rejecting the zoning change is acceptable because the city or county could adopt another zoning designation that would be consistent with the general plan within a “reasonable time.” (City of Morgan Hill, at p. 43, 218 Cal.Rptr.3d 276, quoting § 65860, subd. (c).) The Court of Appeals noted that while state law favored simultaneous modification of the general plan and relevant zoning provisions (Gov. Code § 65862), that preference was not a requirement. In fact, the court noted that state law provided that in circumstances where the zoning ordinance is inconsistent with a general plan by reason of amendment to the plan, “the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.”

The City and River Park appealed. Again, they argued that the referendum here would “enact” an invalid zoning ordinance that was inconsistent with the City’s general plan in violation of state law (Gov. Code § 65680).

On the other hand, Hotel Coalition argued that local electors can exercise their referendum power without conflicting with state law (Gov. Code § 65680), “at least where the local government could have chosen to comply with the general plan through other zoning designations.”

**DECISION: Judgment of Court of Appeals reversed, and matter remanded.**

Agreeing with Hotel Coalition, the Supreme Court of California held that the people of a county or city can challenge by referendum a zoning ordinance that would bring the ordinance into compliance with the general plan of the county or city—at least where the local government has other means available to make the zoning ordinance and general plan consistent.

In so holding, the court noted that California law—Gov. Code § Section 65860, subdivision (c)—contemplates some temporary inconsistency between the zoning ordinance and the general plan for a “reasonable time” when the general plan is modified. The court found that “[a] referendum simply keeps that inconsistency in place for a certain time—until the local government can make the zoning ordinance and general plan consistent in a manner acceptable to a majority of voters” Thus, held the court, “a referendum can invalidate a zoning ordinance amendment approved by a local jurisdiction to achieve compliance with a general plan amendment, where other general-plan-compliant zoning designations are available that would be consistent with a successful referendum.” The court so found, concluding that, in such a case, the local jurisdiction would likely be able to change the zoning ordinance to comply with the general plan and the referendum within a reasonable time.

Still, the court recognized that, in this particular case, it was “not clear” whether the City could use other available zoning designations for the Property that would be consistent with the general plan and a successful referendum. The City and River Park had argued that it was impossible for the City to comply with the general plan and a successful referendum. They argued that implementing a commercial zoning designation prohibiting hotels from being built on the Property would comply with the City’s general plan but not the referendum. Alternatively, they argued that no commercial designation was available for the Property that prohibited hotel use. Such an impossibility in harmonizing the general plan and referendum would, they argued, trigger a one-year delay in implementing any commercial zoning designation under the state Elections Code § 9241. (Section 9241 states that if a referendum is successful, “the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its . . . disapproval by the voters.”) The City and River Park contended that the referendum would thus be invalid because a one-year delay would not comply with Government Code § 65680’s “reasonable time” requirement.

Understanding that argument, the court said it would only be an issue to resolve if the City and River Park had, in fact, shown it would be impossible for the City to comply with the general plan and a successful referendum, thus triggering the Elections Code one-year delay. But the court found that the City and River Park had failed to make such a showing. The court found it may still be possible for the City’s general plan and the referendum to be harmonized—perhaps with one of the City’s other commercial zoning designations applied to the Property and/or with City alteration of its general plan in response to the

referendum. With regard to the latter possibility, the court noted that although an initiative instituting an invalid zoning ordinance cannot be used to alter a general plan, the court had not yet addressed the issue of whether § 65680 would require invalidation of a referendum where a county or city cannot change the zoning ordinance, but can alter the general plan to comply with the referendum and § 65680.

Given those “unresolved questions,” the court remanded to the trial court for it to determine “whether existing alternative zoning designations would be viable for the [P]roperty post[-]referendum, and if not, what would prevent the City from creating a new zoning designation that would be consistent with both the general plan and a successful referendum.” The court noted that, if there was “at least some avenue for the City to change the zoning ordinance to comply with the general plan within a reasonable time, the referendum must go forward as there has been no ‘clear showing of invalidity.’ ”

---

*Case Note:*

*In reaching its conclusion, the Supreme Court of California found “no sign” that the California Legislature contemplated preemption of local electors’ referendum power application against objectionable zoning ordinance alterations.*

---

---

*Case Note:*

*In remanding the matter to the trial court, the Supreme Court of California noted that, “[i]f necessary, the trial court may also address whether a referendum can be invalidated where the City has the ability to amend the general plan in order to conform the plan to the zoning designation that the referendum would leave in place.”*

---

---

*Case Note:*

*In its holding here, the Supreme Court of California disapproved of the reasoning in the related decisions in deBottari v. City Council, 171 Cal. App. 3d 1204, 217 Cal. Rptr. 790 (4th Dist. 1985) (disapproved of by, City of Morgan Hill v. Bushey, 5 Cal. 5th 1068, 236 Cal. Rptr. 3d 835, 423 P.3d 960 (Cal. 2018)) and City of Irvine v. Irvine Citizens Against Overdevelopment, 25 Cal. App. 4th 868, 30 Cal. Rptr. 2d 797 (4th Dist. 1994) (disapproved of by, City of Morgan Hill v. Bushey, 5 Cal. 5th 1068, 236 Cal. Rptr. 3d 835, 423 P.3d 960 (Cal. 2018)).*

---

## Zoning News from Around the Nation

### CALIFORNIA

In late August 2018, the California State Senate passed AB 2923, which would give the Bay Area Rapid Transit District (“BART”) the authority to cre-

ate housing on land currently being used as BART parking. Specifically, the bill allows BART's board of directors to "adopt transit-oriented development (TOD) zoning . . . that establish minimum local zoning requirements for BART-owned land that is located on contiguous parcels larger than 0.25 acres, within one-half mile of an existing or planned BART station entrance, in areas having representation on the BART board of directors." The bill had previously passed in the State Assembly in May, but the Assembly will now have to consider the Senate's amended version separately.

Source: *Curbed San Francisco*; <https://sf.curbed.com/2018/8/24/17778648/a-b-2923-bart-housing-senate-vote>

## MASSACHUSETTS

Attorney General Maura Healey has reversed her office's decision that allowed communities to ban medical marijuana dispensaries. In late August 2018, a spokeswoman for Healey announced that "[a]fter further review, we have determined that under the statute, towns are not permitted to enact bans on medical marijuana establishments." The Attorney General's office now states that "such a ban would frustrate the purpose of [the medical marijuana law] to allow qualifying patients who have been diagnosed with debilitating medical conditions reasonable access to medical marijuana treatment centers. [The law's] legislative purpose could not be served if a municipality could prohibit treatment centers within its borders, for if one municipality could do so, presumably all could do so."

Source: *CommonWealth magazine*; <https://commonwealthmagazine.org>

## PENNSYLVANIA

In early August 2018, the Pennsylvania Supreme Court granted the petition for allowance of appeal filed by certain environmental groups challenging the Commonwealth Court's decision to uphold a municipal ordinance allowing natural gas drilling in a mixed residential and agricultural zone. (See *Delaware Riverkeeper Network, et al., v. Middlesex Township Zoning Hearing Board*, No. 270 WAL 2017.) In doing so, the Supreme Court vacated and remanded the lower court's June 2, 2017 decision, telling the lower court to reconsider its decision in light of the Supreme Court's more recent decisions in *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 640 Pa. 55, 161 A.3d 911, 84 Env't. Rep. Cas. (BNA) 1838 (2017), and *Gorsline v. Board of Supervisors of Fairfield Township*, 186 A.3d 375 (Pa. 2018). In the *Pa. Env'tl. Def. Fund.*, the Supreme Court overruled an environmental balancing test that had been used by the lower court to decide that the municipal ordinance allowing the natural gas drilling did not violate Section I, Article 27 of the Pennsylvania Constitution, also known as the Environmental Rights Amendment ("ERA"). The court held that local and state government agencies have an obligation under the ERA to act as trustees for the environment and the natural resources of the state, and as such must prohibit their degradation and affirmatively act to protect them. The Commonwealth Court had also relied on reasoning in *Gorsline*, which was subsequently reversed.

Source: *Lexology*; [www.lexology.com](http://www.lexology.com)



# Zoning Bulletin

## in this issue:

Religious Freedom/Equal Terms—City ordinance prohibits religious and secular schools in office district zone	2
First Amendment—City ordinance restricts and regulates food sharing in public spaces	5
Religious Freedom—City denies use of single-family home as church's "meeting house"	8
Zoning News from Around the Nation	12



## Religious Freedom/Equal Terms— City ordinance prohibits religious and secular schools in office district zone

Christian school contends ordinance treats religious schools on less than equal terms than other nonreligious institutions, in violation of the equal

---

### Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



**THOMSON REUTERS®**

610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)

ISSN 0514-7905

©2018 Thomson Reuters

All Rights Reserved

Quinlan™ is a Thomson Reuters brand

## terms provision of the federal Religious Land Use and Institutionalized Persons Act

Citation: *Tree of Life Christian Schools v. City of Upper Arlington, Ohio*, 2018 WL 4443591 (6th Cir. 2018)

*The Sixth Circuit has jurisdiction over Kentucky, Michigan, Ohio, and Tennessee.*

SIXTH CIRCUIT (OHIO) (09/18/18)—This case addressed the issue of whether a zoning ordinance that prohibited secular and religious school uses within an office zoning district violated the “equal terms” provision of the federal Religious Land Use and Institutionalized Persons Act (“RLUIPA”) (42 U.S.C.A. § 2000cc(b)(1)) by treating a proposed religious school “less favorably than comparable nonreligious uses.” In addressing that issue, the court addressed how RLUIPA’s equal terms provision should be applied, including what elements must be proven to establish a *prima facie* case (i.e., a legally required rebuttable presumption) under RLUIPA’s equal terms provision. More specifically, the court addressed the issue of what type of comparison Congress intended of religious and nonreligious land uses under RLUIPA’s equal terms provision.

**The Background/Facts:** In 2001, the City of Upper Arlington, Ohio (the “City”), adopted a Master Plan to guide its zoning decisions. A goal of the Master Plan was to increase the City’s revenue by attracting business development. To further that goal, the City adopted a Unified Development Ordinance (the “Development Ordinance”). The Development Ordinance restricted the use of areas zoned as office-and-research-center district (“office district”) to specific uses that were primarily commercial. Under the Development Ordinance, the operation of schools—both secular and religious—was a prohibited use within the office district. Places of worship were allowed as conditional uses, which meant they were permitted in the office district with approval from the City’s Board of Zoning and Planning (the “Board”).

Despite the prohibition on school uses in the City’s office district, in 2010, Tree of Life Christian Schools (“Tree of Life”) purchased a large office building within the office district for the purpose of operating a private Christian school. Tree of Life filed a conditional-use application with the City. The Board denied the application, finding that “the proposed primary use of the property as a private school does not constitute a ‘place of worship, church’ . . . and [was] therefore not a conditional use in the [office district].” The City Council upheld the Board’s decision.

After the City rejected its conditional-use application, Tree of Life filed a lawsuit against the City. Among other things, Tree of Life argued that the Development Ordinance violated the “equal terms” provision of RLUIPA, 42 U.S.C.A. § 2000cc(b)(1). RLUIPA’s equal terms provision prohibits governments from “impos[ing] or implement[ing] a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” (42 U.S.C.A.

§ 2000cc(b)(1).) Tree of Life argued that daycares and partially used offices—which were permitted in the office district—were similarly situated to its proposed school in terms of their “minimal capacity to generate revenue for [the City].” Tree of Life argued that therefore, under the Development Ordinance, its religious school was being treated on less than equal terms than those nonreligious institutions, in violation of RLUIPA.

The district court granted final judgment to the City. It held that the Development Ordinance was “no more onerous to Tree of Life than it [was] to nonreligious entities that generate comparably small amounts of revenue for the City.” More specifically, the court rejected daycares as a comparator, holding that that daycares were not similarly situated to Tree of Life’s proposed school as evidence showed that a daycare would generate seven times more tax revenue for the City than would Tree of Life. The court also rejected partially used offices as a comparator, saying “full use of one assembly or institution compared to the full use of another type of assembly or institution” is the “proper lens through which to analyze RLUIPA equal terms claims.”

Tree of Life appealed.

**DECISION: Judgment of District Court affirmed.**

The United States Court of Appeals, Sixth Circuit, held that Tree of Life failed to establish a *prima facie* case under RLUIPA’s equal terms provision because it failed to identify a permitted land use that would generate a comparably small amount of revenue for the City.

In so holding, the court addressed how RLUIPA’s equal terms provision should be applied, including what elements must be proven to establish a *prima facie* case under RLUIPA’s equal terms provision. The court determined that under RLUIPA’s equal terms provision, a plaintiff—such as Tree of Life here— had to prove: (1) the plaintiff was a religious assembly or institution; (2) subject to a land use regulation, that (3) treats the plaintiff on less than equal terms, compared with (4) a nonreligious assembly or institution.

In the case at hand, only the third and fourth elements were at issue. In seeking to address those elements, the court found that RLUIPA’s equal terms provision—42 U.S.C.A. § 2000cc(b)(1)—did not specify the basis upon which religious and nonreligious uses should be compared. The court found that most other circuit courts that had analyzed the issue had concluded that the statute required that “a comparator for an equal terms claim must be similarly situated with regard to the regulation at issue.” Ultimately, the court held that “the comparison required by RLUIPA’s equal terms provision is to be conducted with regard to the legitimate zoning criteria set forth in the municipal ordinance in question.”

Here, the court first found that the City’s asserted regulatory purpose for the exclusion of the school from the office district—revenue maximization—was a “legitimate zoning criterion.” Next, the court found that partially used offices were not a valid comparator put forward by Tree of



Life because “the comparison of the full use of one assembly or institution compared to the full use of another type of assembly or institution” was necessary for the purposes of the analysis of similar comparators. Finally, the court rejected daycares as a “similarly situated” comparator, finding that “daycares generate far more revenue on a per-square-foot basis than Tree of Life would.”

Because Tree of Life could not establish that its proposed religious school was being treated on less than equal terms than a similarly situated nonreligious assembly or institution, the court concluded that its RLUIPA equal terms claim failed.

See also: *Primera Iglesia Bautista Hispana of Boca Raton, Inc. v. Broward County*, 450 F.3d 1295 (11th Cir. 2006).

See also: *Lighthouse Institute for Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253 (3d Cir. 2007).

See also: *River of Life Kingdom Ministries v. Village of Hazel Crest, Ill.*, 611 F.3d 367 (7th Cir. 2010).

---

**Case Note:**

In its decision, the Sixth Circuit noted a “disagreement among the circuits about how RLUIPA’s equal terms provision should be applied.” The court ultimately found the Eleventh Circuit provided the most “clear and persuasive” statement of the equal terms provision’s statutory requirements, and adopted those elements.

---

## **First Amendment—City ordinance restricts and regulates food sharing in public spaces**

Non-profit organization that shares food to communicate its message argues says ordinance violates the First Amendment rights of free speech and free association

Citation: *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 2018 WL 4000057 (11th Cir. 2018)

*The Eleventh Circuit has jurisdiction over Alabama, Florida, and Georgia.*

ELEVENTH CIRCUIT (FLORIDA) (08/22/18)—This case addressed the issue of whether an organization’s food sharing is expressive conduct protected by the First Amendment, such that the organization could bring a valid claim that an ordinance regulating “social services facilities” uses—

including “outdoor food distribution centers”—and prohibiting or conditionally permitting those uses in certain zoning districts—violates the First Amendment rights of free speech and free association.

**The Background/Facts:** Fort Lauderdale Food Not Bombs (“FLFNB”) is a non-profit organization that hosts weekly events at a public park in the City of Fort Lauderdale (the “City”). The events include the setting up of a banner with the organization’s name and emblem, as well as a table at which passersby are invited to join in sitting down to enjoy vegetarian or vegan food. FLFNB does not serve the food as a charity, but rather does so to communicate its message “that [ ] society can end hunger and poverty if we redirect our collective resources from the military and war and that food is a human right, not a privilege, which society has a responsibility to provide for all.” FLFNB’s provision of food in a visible public space, with its members partaking in meals that are shared with others, is “an act of political solidarity meant to convey the organization’s message.”

In 2014, the City enacted an ordinance that restricted this food sharing. Specifically, the City enacted an ordinance (the “Ordinance”) that amended the existing Uniform Land Development Regulations to define and regulate “social service facilities,” which include “outdoor food distribution centers.” “[O]utdoor food distribution centers” were defined as “[a]ny location or site temporarily used to furnish meals to members of the public without cost or at a very low cost as a social service . . . .” The Ordinance placed restrictions and requirements on outdoor food distribution centers, and restricted areas in which the use was permitted. Depending on the specific zoning district, a social service facility could be permitted subject to City review, not permitted, or require a conditional use permit.

The public park at which FLFNB hosted its events was zoned such that a conditional use permit was required for social service facilities. To receive a conditional use permit, applicants had to demonstrate that they would meet a list of requirements set out in the Ordinance. The City’s “Parks and Recreational Rules and Regulations” also regulated social services, prohibiting, for example, food provisions without authorization pursuant to a written agreement with the City.

After the City enacted the Ordinance, FLFNB and some of its members (hereinafter, collectively “FLFNB”) filed a lawsuit against the City. They alleged that the Ordinance and the related park rule violated their First Amendment rights of free speech and free association.

Finding there were no issues of material fact in dispute, and deciding the matter on the law alone, the district court granted summary judgment in favor of the City. The court held that FLFNB’s outdoor food sharing was “not expressive conducted protected by the First Amendment.”

FLFNB appealed.

**DECISION: Judgment of district court reversed, and matter remanded.**

The United States Court of Appeals, Eleventh Circuit, held that

FLFNB's outdoor food sharing was expressive conduct protected by the First Amendment.

In so holding, the court noted that the First Amendment guarantees "all people [ ] the right to engage not only in 'pure speech,' but 'expressive conduct' as well." The court explained that "acts that qualify as signs with expressive meaning qualify as speech within the meaning of the Constitution." Whether conduct is "expressive" depends, explained the court, on "whether the reasonable person would interpret it as some sort of message, not whether an observer would necessarily infer a specific message." The context of an event and its surrounding circumstances are critical in a reasonable person's interpretation of conduct, emphasized the court.

Here, the court found that the reasonable person would interpret FLFNB's conduct as some sort of message. The court noted the surrounding circumstances that would lead the reasonable observer to view the FLFNB's conduct as conveying some sort of message: (1) FLFNB set up tables and banners and distributed literature at its events, thus distinguishing its sharing of food with the public from friends simply eating together at the park; (2) FLFNB's food sharing events were open to everyone, thus having "social implications"; (3) FLFNB held its food sharing events in a public park near City government buildings, which the court found to be an "important factor in the 'factual context and environment' " to be considered; (4) FLFNB fed the homeless and the record demonstrated that the treatment of the City's homeless population was an issue of concern in the community; and (5) FLFNB was using the sharing of food as a means for conveying its message, and the court found the significance of sharing of meals with others "dates back millennia" to Jesus, the Pilgrims, and the establishment of Thanksgiving as a national holiday.

Accordingly, the court determined that FLFNB's food sharing events were clearly intended to "express[ ] an idea through activity," and, "[d]ue to the context surrounding them," "the reasonable observer would interpret its food sharing events as conveying some sort of message." Thus, looking at FLFNB's activity "combined with the factual context and environment in which it was undertaken," the court concluded that FLFNB's food sharing was a form of First Amendment protected expression.

The Eleventh Circuit declined to address whether the Ordinance and related park rule violated the First Amendment, leaving those issues to be taken up by the district court on remand.

See also: *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 188 Ed. Law Rep. 620 (11th Cir. 2004).

See also: *Spence v. State of Wash.*, 418 U.S. 405, 94 S. Ct. 2727, 41 L. Ed. 2d 842 (1974).

---

*Case Note:*

*FLFNB had also alleged that the Ordinance and related park rule were “unconstitutionally vague.” The district court disagreed. On appeal, the Eleventh Circuit also returned that issue on remand (with little related comment or direction) for the district court to address.*

---

## Religious Freedom—City denies use of single-family home as church’s “meeting house”

Church contends denial violates its religious freedom rights

Citation: *Roman Catholic Archdiocese of Kansas City in Kansas v. City of Mission Woods*, 2018 WL 4154034 (D. Kan. 2018)

KANSAS (08/30/18)—This case addressed the issue of “whether a municipality’s exercise of its zoning power infringed on a church’s religious freedom.”

**The Background/Facts:** In 2015, the Roman Catholic Archdiocese of Kansas City in Kansas and St. Rose Philippine Duchesne Catholic Church (the “Church”) bought a house in a Residential District in the City of Mission Woods (the “City”). The house had been used as a single-family home. The Church intended to use the house as a “meeting house” for various groups—including prayer and Bible study groups.

In the City’s Residential District, properties could only be used for single-family houses and certain “public” or “semipublic uses.” Approved “public” and “semipublic” uses included churches and synagogues, community centers, and schools. Public use of land within the Residential District required City Plan Commission and City Council approval, which included those bodies finding that certain prerequisites had been met.

Because the Church intended to use the house in a semi-public fashion, it filed an application asking the City to approve the semi-public meeting house use. The City proposed limitations on the hours of use and number of people using the house. However, the Church rejected those proposed limitations. With concerns about noise and traffic, the City ultimately refused to allow the Church to use the house as a semi-public space.

The Church then sued. Among other things, the Church argued that, in preventing it from using the proposed meeting house, the City imposed a substantial burden on the Church’s religious exercise in violation of the federal Religious Land Use and Institutionalized Persons Act (“RLUIPA”). RLUIPA’s substantial burden provision provides that:



No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C.A. § 2000cc(a)(1).

The Church also claimed that the City violated RLUIPA's equal terms provision by treating similarly situated comparators differently. RLUIPA generally "forbids governments, when implementing a land use regulation, from treating religious institutions on less than equal terms than secular entities." (42 U.S.C.A. § 2000cc(b)(1).)

The Church brought additional claims: that the City violated RLUIPA by placing "unreasonable limits" on the Church's religious exercise; that the City deprived the Church of its right to free exercise of religion under the First Amendment in violation of 42 U.S.C.A. § 1983; and that the City violated the Church's rights under § 7 of the Kansas Constitution's Bill of Rights.

Each party brought motions for summary judgment, asking the court to find there were no material issues of fact in dispute, and to decide the claims in their favor on the law alone.

**DECISION: City's Motion for Summary Judgment granted in part and denied in part. Church's Motion for Summary Judgment denied.**

Looking first at the Church's RLUIPA substantial burden claim, the United States District Court, District of Kansas, explained that "[a] government places a 'substantial burden' on a religious institution when it denies that institution a reasonable opportunity to engage in religious activity." "Mere inconvenience is not enough." Here, denying both party's motions for summary judgment on this claim, the court said that whether a government has imposed a substantial burden or mere an inconvenience is a fact question that a jury must resolve (and thus not to be solved on summary judgment).

Still, the court expounded to explain the two requirements a plaintiff, such as the Church here, must meet to establish a substantial burden under RLUIPA (42 U.S.C.A. § 2000cc(a)(1)): (1) a need to expand or relocate; and (2) actions by defendant (e.g., here, the City) that inhibited their ability to expand or relocate. "A religious institution can demonstrate a need to expand or relocate by showing, among other things, that it can't rearrange its existing space to accommodate its needs," said the court. "Alternatively, a religious institution can adduce evidence that it has turned people away, its facilities are overcrowded, or the church can't form certain groups because they lack enough space." Further, noted the court, religious institutions can show that the government "acted to inhibit their ability to expand or relocate by showing the government actor refused to consider reasonable limits on the property's use, . . . or that a plaintiff had a reasonable expectation of building there . . . ."

If the religious institution can establish such a “substantial burden,” then the burden of proof shifts to the defendant government to then prove that its zoning decision served a compelling governmental interest and that it represented the least restrictive means to achieve that interest, explained the court. To prove a compelling interest, “the governmental entity must show that when it made its decision, it possessed evidence—and not mere speculation—that plaintiffs’ action would harm the interest cited by the government,” said the court. Moreover, “[w]hen the governmental entity defends its decision by claiming that it represented the least restrictive means to achieve a compelling purpose, it must show that any alternatives suggested by plaintiffs are ineffective to achieve its goals.”

With those legal standards in mind, the court then turned to the facts of the case at hand. The court found that both the Church and the City failed to carry their summary judgment burden. The court did conclude that a reasonable jury could find the City violated RLUIPA’s substantial burden provision because the City had failed to show that alternatives to the denial of the meeting house were inadequate to address the interests of noise and traffic.

Looking next at the RLUIPA equal terms claim, the court again found that summary judgment was not warranted because determining “[w]hether two entities are similarly situated under RLUIPA is a fact-specific question that the jury normally should decide.” Still, again, the court offered guidance: The Church could show two projects were similarly situated for equal terms comparison if, although not identical, they had “many substantial similarities”—such as similarly sized expansions in the same zoning district. In contrast, the City could show that two projects were dissimilar by showing that different zoning criteria applied—such as a different decision maker (i.e., historic building board versus zoning board), a different applicable law at the time of application, or the exemption of one of the comparators from local zoning requirements.

The court then turned to the Church’s third RLUIPA claim, which asserted a violation of RLUIPA’s unreasonable limits provision. The court explained that under that provision, RLUIPA barred laws that completely exclude or unreasonably limit all religious assemblies. To succeed on such a claim here, explained the court, the Church would have to establish not only that the Church’s religious assembly was limited but that the City had “completely excluded all religious assembly or imposed limitations that effectively bar[red] all religious activity.” Here, the court found that the Church had failed to establish that the City placed unreasonable limits on all religious practices within its boundaries. Accordingly, the court granted summary judgment in favor of the City on this claim.

The next claim analyzed by the court was the Church’s claim that the City violated the Church’s First Amendment right to free exercise of religion. The court explained that while the First Amendment prohibits government bans on religion, it does allow for “laws that regulate religious practices in some circumstances.” Generally, said the court, “under the

First Amendment, laws that are not discriminatory on their face and evenly applied are permissible so long as they are rationally related to a legitimate governmental purpose.” Here, the Church had contended that the City had not applied its zoning ordinances evenly to religious and secular institutions. The court explained that there is a five-factor test for determining whether a government has applied a neutral law (like a zoning ordinance) discriminatorily: “(1) Whether defendant passed its zoning ordinances because of religious animus”; “(2) Whether defendant has targeted religious groups specifically in its enforcement of the law”; “(3) Whether defendant has treated similarly situated secular institutions more favorably than plaintiffs”; “(4) Whether the zoning ordinance’s exceptions are based on broad, objectively defined criteria or, instead, on subjective considerations”; “(5) Whether the law places a substantial burden on plaintiffs’ religious exercise.” Looking at the summary judgment record, the court found that a reasonable jury could conclude in the Church’s favor on the final three of the five factors—thus favoring a finding that the City enforced its facially neutral law discriminatorily. The court also concluded that a reasonable jury could find that the City had failed to meet its burden to justify its actions under the strict scrutiny standard—requiring the City show its decision to deny use of the meeting house served a compelling governmental interest that was the least restrictive means to achieve that interest. The court thus denied the City’s motion for summary judgment. (The Church did not bring a motion for summary judgment on this cause of action).

Next, the court addressed the Church’s claim that the City’s action violated § 7 of the Kansas Constitution’s Bill of Rights. That section prohibits infringement of the “right to worship God.” Relying on its conclusion that a reasonable jury could find that the City failed to meet its burden to justify its actions because it had failed to show that alternatives to the denial of the meeting house were inadequate to address the interests of noise and traffic—the court also denied the City’s summary judgment motion as to this claim.

Finally, for the same reasons it denied the City’s motion for summary judgment on the RLUIPA substantial burden provision, the court denied the City’s motion for summary judgment on the Church’s Kansas Preservation of Religious Freedom Act claim. (Like RLUIPA, that Act also prohibits a governmental entity from substantially burdening a person’s right to exercise religions unless the government proves that its action furthers a compelling governmental interest that is the least restrictive way to accomplish that interest.)

See also: *Westchester Day School v. Village of Mamaroneck*, 504 F.3d 338, 226 Ed. Law Rep. 595 (2d Cir. 2007).

See also: *Bethel World Outreach Ministries v. Montgomery County Council*, 706 F.3d 548 (4th Cir. 2013).

# Zoning News from Around the Nation

## ILLINOIS

The Sangamon County Board recently voted in favor of an ordinance that tightens standards for large-scale solar farm projects in the county. Among other things, the ordinance would: move the minimum setback of solar panels from 50 to 250 feet away from existing homes; require the installation of a landscaping screen blocking the view of the solar panels within 500 feet of residential areas; and “strengthen[ ] . . . language associated with the decommissioning process.”

Source: *The State Journal-Register*; [www.sj-r.com](http://www.sj-r.com)

## MARYLAND

Frederick County Council is considering a “zoning amendment to regulate agricultural composting.” The proposed amendment would allow limited food waste composting on farms under two different designations—agricultural activity zone and commercial activity zone. The agricultural activity zoning designation would allow composting on farms for agricultural purposes without site plan requirements in an area between 5,000 square feet and five acres. The commercial activity designation would food waste composting in an area between 5,000 square feet and 10 acres with the approval of a site plan. Landowners with a commercial activity designation could sell the compost.

Source: *The Frederick News-Post*; [www.fredericknewspost.com](http://www.fredericknewspost.com)

## MASSACHUSETTS

The Boston City Council is reportedly considering legislation that would amend the city’s Zoning Code to “regulate chain retail stores and subject them to additional scrutiny.” The proposed legislation recognizes the contributions of locally owned businesses, and aims to support them by “implementing what is known as a formula business policy.” Such a policy “recognize[s] chain stores as a distinct land use and would require a conditional use permit for such businesses to open and operate in a neighborhood business district.”

Source: *American Booksellers Association*; [www.bookweb.org](http://www.bookweb.org)



# Zoning Bulletin

## in this issue:

Procedure/Exhaustion of administrative remedies—Landowners bring legal action challenging building moratorium as an unconstitutional taking	2
Variance—After zoning board approves variance, city council challenges decision	4
Variance—Landowners challenge variance denial for their existing, non-compliant home	6
Rezoning—City creates new subzone applicable only to proposed superstore	9
Zoning News from Around the Nation	11



# Procedure/Exhaustion of administrative remedies— Landowners bring legal action challenging building moratorium as an unconstitutional taking

Landowners claim exception to first needing to pursue administrative remedies, claiming to do so would be futile

---

Contributors

---

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



**THOMSON REUTERS®**

610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)

ISSN 0514-7905

©2018 Thomson Reuters

All Rights Reserved

Quinlan™ is a Thomson Reuters brand

Citation: *Black v. City of Rancho Palos Verdes*, 26 Cal. App. 5th 1077, 237 Cal. Rptr. 3d 663 (2d Dist. 2018)

CALIFORNIA (09/06/18)—This case addressed the issue of whether landowners had established a futility exception to the exhaustion of administrative remedies requirement prior to bringing a legal action in court that challenged a municipal zoning decision.

**The Background/Facts:** Since 1978, the City of Rancho Palos Verdes (the “City”) had a building moratorium on an area of land because of the resurgence of an ancient landslide. In 1993, a City geologist proposed that the moratorium area be divided into eight zones for purposes of discussing remediation efforts and residential development. Relevant to this case, that geologist identified “Zone 2”—a 130-acre area, consisting of “[s]ubdivided land unaffected by large historic landslides”—as an area that “could be developed without adversely affecting the stability of the large ancient landslide.” In January 2009, the City amended the moratorium to allow some projects in Zone 2 to qualify for a “landslide moratorium exception permit only if all applicable requirements of [the City] code are satisfied” and only after those particular project applicants submitted to the City any geological or geotechnical studies required by the City to demonstrate that the proposed project would not aggravate the existing landslide instability.

In November 2015, the owners of eight lots in Zone 2 (the “Landowners”) sued the City. Those Landowners asked the court to order certain actions regarding undeveloped lots in Zone 2, and alleged a single cause of action for inverse condemnation.

The trial court held that the Landowners failed to demonstrate that the moratorium constituted an unlawful taking. The trial court found that the Landowners failed to demonstrate that the moratorium “on its face, prevent[ed] all economic use of properties located in Zone 2.” Importantly, the trial court further found that the Landowners needed to “exhaust administrative remedies before the [trial court could] determine whether, as applied to the [landowners’] properties and their intended uses for the properties, there is an unlawful taking.” (The record in the litigation revealed that as of February 2017, no applications for exclusions from the moratorium had been filed.)

The Landowners appealed. On appeal, they challenged the constitutionality of the moratorium, and argued that they were excused from exhausting their administrative remedies because to do so would be futile.

**DECISION: Judgment of Superior Court affirmed.**

The Court of Appeal, Second District, Division 1, California, held that the Landowners had failed to establish the futility exception to the exhaustion of remedies requirement applied in this case. The court explained that before challenging a land use regulation in court, land-

owners are typically required by law to obtain a final administrative decision regarding the application of land use regulations to the affected property. The court acknowledged that both the United States Court of Appeals, Ninth Circuit, and California courts, recognized a “limited futility exception” to that requirement. The court explained that the futility exception is “narrow” and “requires some development proposal by the landowner” where the prospect of denial of that proposal by the municipal agency is “inevitabl[e]” or “certain (or nearly so).”

Here, the court found that the Landowners’ stated justifications for not exhausting administrative remedies were “unconvincing.” The court found that the record revealed no decisions by the City Council on the question of whether anyone might build on a property located in Zone 2. Thus, the court concluded that, based on the record, it could not find that the “[C]ity’s response to any given application for exclusion [from the moratorium] [was] a foregone conclusion.”

The court also concluded that since the Landowners had failed to exhaust their administrative remedies, their constitutional challenge to the moratorium was a facial challenge (i.e., based only on the language of the moratorium and not on how it is/was applied). The court found nothing in the language of the moratorium that was unconstitutional (i.e., amounting to an unconstitutional taking)

See also: *Monks v. City of Rancho Palos Verdes*, 167 Cal. App. 4th 263, 84 Cal. Rptr. 3d 75 (2d Dist. 2008), as modified on denial of reh’g, (Oct. 22, 2008).

See also: *Calprop Corp. v. City of San Diego*, 77 Cal. App. 4th 582, 91 Cal. Rptr. 2d 792 (4th Dist. 2000).

## Variance—After zoning board approves variance, city council challenges decision

City council contends zoning board’s grant of variance without finding hardship violates state statutory requirements

Citation: *Rochester City Council v. Rochester Zoning Board of Adjustment & A.*, 2018 WL 4266716 (N.H. 2018)

NEW HAMPSHIRE (09/07/18)—This case addressed the issue of whether a zoning board of appeals is required to explicitly address unnecessary hardship in its written decision granting a zoning variance.

**The Background/Facts:** Donald and Bonnie Toy (the “Toys”) owned



a 14.5-acre manufactured housing park (the “Park”) in the City of Rochester (the “City”). In April 2014, the City Council passed an updated zoning ordinance that eliminated manufactured housing parks as permitted uses anywhere in the City. Nevertheless, in 2015, the Toys purchased a 22-acre lot that abutted their Park with plans to expand their manufactured housing park onto that lot. In August 2016, the Toys applied to the City’s Zoning Board of Appeals (the “ZBA”) for a variance to expand their Park to their newly purchased lot.

Under New Hampshire statutory law, RSA 674:33, I(b), a zoning board of appeals may grant an applicant a variance if: “(1) the variance will not be contrary to the public interest; (2) the spirit of the zoning ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.”

The ZBA ultimately granted the Toys’ variance request. Notably, the ZBA’s written decision did not explicitly address whether the Toys satisfied the unnecessary hardship requirement of RSA 674:33, I(b), but the ZBA did make brief findings supporting the other four statutory requirements.

The City Council challenged the ZBA’s decision, appealing to the trial court. The City Council argued that the ZBA granted a variance without finding hardship, in contravention of RSA 647:33, I(b).

The trial court affirmed the ZBA’s decision. In doing so, the court rejected the City Council’s argument that the ZBA’s decision was erroneous because the ZBA had failed to make findings with respect to unnecessary hardship. The court ruled that “the ZBA is not obligated to make specific findings of fact where, as here, none have been requested.” The trial court went on to find that the ZBA could have reasonably concluded that, “because the lot is irregularly and uniquely shaped, and contains wetlands and challenging topographical features, the lot essentially requires the type of development” that the Toys proposed. The court further ruled that “the ZBA could have reasonably determined that because the new zoning ordinance removes manufactured housing parks from the inventory of permitted uses city-wide, the proximity to existing manufactured home parks is a special condition that renders this property unique in [the City] for purposes of a variance.”

The City Council appealed. On appeal, the City Council again argued, among other things, that the ZBA’s failure to make a hardship finding in approving the Toys’ variance request was in error.

**DECISION: Judgment of Superior Court affirmed.**

The Supreme Court of New Hampshire held that the ZBA’s grant of a variance carried with it an implicit finding of hardship and that the ZBA’s failure to explicitly make a finding regarding unnecessary hardship was not in error because the City Council had not requested specific findings

of fact from the ZBA. The court said that “[a]lthough disclosure of specific findings of fact by a board of adjustment may often facilitate judicial review, the absence of findings, at least where there is no request therefor, is not in and of itself error.”

Moreover, the court concluded that the ZBA could have reasonably concluded that the Toys presented sufficient evidence of unnecessary hardship to satisfy RSA 674:33, I(b)(5). In so concluding, the court pointed to “several special conditions” of the Toys’ newly purchased lot including: its irregular and unique shape; the fact that it contained wetlands and “challenging topographical features”; the fact that it was positioned near other manufactured home parks; and the fact that those other manufactured housing parks were not permitted under the new zoning ordinance, which rendered the lot “unique in comparison to other properties in the area.”

See also: *Kalil v. Town of Dummer Zoning Bd. of Adjustment*, 155 N.H. 307, 922 A.2d 672 (2007).

---

**Case Note:**

*The City Council had also attempted to raise on appeal allegations of “conflict of interest or bias” on behalf of members of the ZBA who had previously voiced opposition to the zoning ordinance amendment that prohibited manufactured housing parks in the City. The appellate court rejected these allegations saying they had to have first been raised before the ZBA (in a motion for rehearing), and could not be introduced on appeal for the first time.*

---

## **Variance—Landowners challenge variance denial for their existing, non-compliant home**

Among other things, they argue that because their home exceeded the lot coverage limitation long before they purchased it, that excessive lot coverage constituted extraordinary circumstances warranting a variance

Citation: *Corkery v. Municipality of Anchorage*, 2018 WL 4375560 (Alaska 2018)

of fact from the ZBA. The court said that “[a]lthough disclosure of specific findings of fact by a board of adjustment may often facilitate judicial review, the absence of findings, at least where there is no request therefor, is not in and of itself error.”

Moreover, the court concluded that the ZBA could have reasonably concluded that the Toys presented sufficient evidence of unnecessary hardship to satisfy RSA 674:33, I(b)(5). In so concluding, the court pointed to “several special conditions” of the Toys’ newly purchased lot including: its irregular and unique shape; the fact that it contained wetlands and “challenging topographical features”; the fact that it was positioned near other manufactured home parks; and the fact that those other manufactured housing parks were not permitted under the new zoning ordinance, which rendered the lot “unique in comparison to other properties in the area.”

See also: *Kalil v. Town of Dummer Zoning Bd. of Adjustment*, 155 N.H. 307, 922 A.2d 672 (2007).

---

**Case Note:**

*The City Council had also attempted to raise on appeal allegations of “conflict of interest or bias” on behalf of members of the ZBA who had previously voiced opposition to the zoning ordinance amendment that prohibited manufactured housing parks in the City. The appellate court rejected these allegations saying they had to have first been raised before the ZBA (in a motion for rehearing), and could not be introduced on appeal for the first time.*

---

## **Variance—Landowners challenge variance denial for their existing, non-compliant home**

Among other things, they argue that because their home exceeded the lot coverage limitation long before they purchased it, that excessive lot coverage constituted extraordinary circumstances warranting a variance

Citation: *Corkery v. Municipality of Anchorage*, 2018 WL 4375560 (Alaska 2018)

ALASKA (09/14/18)—This case addressed the issues of: (1) whether the laches defense (i.e., an equitable defense available when a party delays asserting a claim for an “unconscionable period”) could be invoked by a variance applicant; (2) whether a municipal code’s requirement that circumstances show that a variance application “substantially” meets seven standards required a variance application to substantially meet each of the seven standards or required the application to meet only a substantial number of the seven standards; and (3) whether a variance standard requiring the applicant show the existence of “exception or extraordinary physical circumstances of the subject property” is limited to the physical features of the land itself or also includes artificial structures built on the land.

**The Background/Facts:** Patrick and Brooke Corkery (the “Corkerys”) purchased their home in the Municipality of Anchorage (the “Municipality”) in 1998. Since 1965, the lot on which the home was located was zoned R-1A. In such a zone, the maximum allowable lot coverage was 30%. In 1983, the prior owner substantially expanded the house so that the lot coverage significantly exceeded the 30% limit. In 2018, the home’s footprint was 4,401 square feet.

In 2013, when replacing the home’s roof, the Corkerys discovered significant rot in the roof and in the wall between the home interior and an attached greenhouse. The Corkerys applied for a construction permit to tear down and rebuild the greenhouse. The Municipality issued the Corkerys a conditional permit allowing for necessary repairs at the Corkerys’ own risk and requiring the Corkerys obtain a zoning variance before a certificate of occupancy would be issued for the home following repairs. The variance was required because the footprint of the home exceeded 30% of the lot coverage and therefore violated the R-1A zoning restriction.

The Municipality’s Zoning Board of Examiners and Appeals (“ZBA”) ultimately denied the Corkerys’ variance application, finding that the application failed to meet four of the seven standards used to evaluate applications for a variance from zoning regulations.

Anchorage Municipal Code (“AMC”) 21.15.010(c) provides that any application for a variance “must specify facts or circumstances that are alleged that the application substantially meets the following [seven] standards”: (1) exceptional or extraordinary physical circumstances of the property, which (2) would create an exceptional or undue hardship upon the property if the municipal code was strictly enforced, that were not (3) self-imposed; and (4) if the variance was granted, it would not adversely affect the use of adjacent property, and (5) would not change the character of the zoning district in which the property is located; and (6) would not adversely affect the health, safety, and welfare of the people of the Municipality; and (7) would be the minimum variance that would make possible a reasonable use of the land.



The ZBA concluded that standards one, two, three, and seven were not substantially met by the Corkerys' variance application. The Board found that standard one was not met because "[t]he physical condition of the land [did] not contribute to the need for a variance from lot coverage." The Board found that standard two was not met because, "even if the lot was oddly shaped and sloping, these physical circumstances did 'not necessitate increasing the building footprint over the maximum allowed.'" The Board found that standard seven was not satisfied because the Corkerys "could make reasonable use of the property without the variance."

The Corkerys appealed the ZBA's denial of their variance application to the superior court. The Corkerys raised three primary arguments on appeal: (1) "the Board incorrectly interpreted the variance provision to require compliance with all seven standards, rather than just a substantial number of them"; (2) "their existing home constituted an exceptional or extraordinary physical circumstance necessitating a variance"; and (3) "the Municipality was barred by the doctrine of laches from refusing to grant the variance."

The superior court rejected each of the Corkerys' arguments, and affirmed the ZBA's decision to deny the variance.

The Corkerys again appealed, reasserting their arguments.

**DECISION: Judgment of superior court affirmed.**

The Supreme Court of Alaska first held that the Corkerys could not invoke the doctrine of laches to obtain the affirmative relief of a variance. The court explained that the doctrine of laches "is an equitable defense available 'when a party delays asserting a claim for an unconscionable period.'" The court further explained that in order for laches to bar a claim, two elements must be shown: (1) the plaintiff (i.e., the party bringing the claim) unreasonably delayed seeking relief, and (2) this delay has resulted in "prejudice to the defendant." Here, the court held that laches was not available to the Corkerys because here the Corkerys were the plaintiffs and were not defendants in a zoning enforcement action. The court found no basis for allowing the Corkerys to invoke an equitable defense (that is typically asserted by a defendant) to compel the Municipality to grant a variance "when the Municipality has not and will not initiate a zoning enforcement action."

Next, the court rejected the Corkerys' argument that the language of the municipal variance provision requiring zoning applications "substantially meet[ ]" seven standards only required compliance with a substantial number of the seven standards. Rather, looking at the language of the provision, as well as other related sections of the Municipality's code, and finding the seven factors partially interdependent, the ZBA held that the variance provision required an applicant to substantially meet each of the seven variance standards in order for the Board to grant a variance request.

Finally, the court also rejected the Corkerys' argument that the ZBA misinterpreted the scope of the variance standard one. Again, that standard required a variance applicant show the existence of "exception or extraordinary physical circumstances of the subject property." The Corkerys contended that they satisfied that standard because their home was expanded to substantially exceed the lot coverage limitation long before they purchased it. They reasoned that because the home was part of the "property," "circumstances relating to the home, such as excessive lot coverage, constitute[d] extraordinary circumstances of the 'property.'" The court disagreed. It found that "the plain text of standard one along with other sections of the variance provision indicate that the required 'exceptional or extraordinary physical circumstances of the subject property' include only physical features of the land itself." Thus, the court concluded that standard one was intended to encompass "[p]eculiarities of the specific property" that "arise from the physical conditions of the land itself which distinguish it from other land in the general area." The excessive lot coverage of the Corkerys' home did not constitute such a circumstance and therefore did not satisfy standard one, found the court.

See also: *City and Borough of Juneau v. Thibodeau*, 595 P.2d 626 (Alaska 1979) (disavowed by, *State v. Alex*, 646 P.2d 203 (Alaska 1982)).

See also: *Jackson v. Kenai Peninsula Borough for Use and Benefit of City of Kenai*, 733 P.2d 1038, 73 A.L.R.4th 857 (Alaska 1987).

## Rezoning—City creates new subzone applicable only to proposed superstore

Community associations challenge new subzone as impermissible spot zoning

Citation: *Citizens Coalition Los Angeles v. City of Los Angeles*, 26 Cal. App. 5th 561, 237 Cal. Rptr. 3d 313 (2d Dist. 2018)

CALIFORNIA (09/13/18)—This case addressed the issue of whether the creation of a new zoning subarea amounted to impermissible spot zoning.

**The Background/Facts:** Target Corporation ("Target") applied to the City Council of the City of Los Angeles (the "City" or "City Council") to build a Super Target retail store (the "Superstore"). Target sought to build the three-story, 163,862 square-foot Superstore in an area subzoned as "Subarea C." The proposed Superstore exceeded certain zoning

requirements for Subarea C. However, the City Council granted eight variances, “largely authoriz[ing] the Superstore to be built as proposed.”

La Mirada Avenue Neighborhood Association of Hollywood (“La Mirada”) and Citizens Coalition Los Angeles (“Citizens Coalition”) (collectively, the “Community Associations”) challenged the City Council’s grant of variances to Target. The Community Associations alleged that the variances were not supported by substantial evidence, thereby violating the Los Angeles Municipal Code (the “Code”).

The trial court agreed that six of the eight variances were not supported by substantial evidence.

Target appealed, and La Mirada cross-appealed.

While the appeals were pending, the City Council enacted an amendment to the zoning ordinance (the “Amendment”). The Amendment created a new Subarea F, which was denominated as a “Large Scale Commercial Node.” Zoning Subarea F allowed for, among other things, less restrictions on height and building façade. The Amendment designated one location as Subarea F: the location where the Superstore was being built.

In light of the Amendment the appeals court dismissed the pending appeals as moot, but left the trial court’s final judgment intact.

Thereafter, and in response to the Amendment, the Community Associations filed another petition for writ of mandate. In that petition, they alleged that the City committed “impermissible ‘spot zoning’ by making the less onerous zoning requirements embodied in Subarea F applicable only to the Superstore.’ ”

The trial court declined to reach the spot zoning issue (but did conclude, on a separate petition, that the City had violated California Environmental Quality Act (“CEQA”)).

The City and Target appealed.

#### **DECISION: Judgment of Superior Court reversed.**

The Court of Appeal, Second District, Division 2, California, agreed that the Amendment constituted “spot zoning,” but also concluded that it was permissible spot zoning “because the [C]ity did not abuse its discretion in finding that its amendment . . . was in the public interest and compatible with the general plan . . . .”

The court explained that “ ‘[s]pot zoning’ occurs when a parcel of land is rezoned to give it fewer or greater rights than the parcels surrounding it.” The court acknowledged that spot zoning “traditionally refers to the creation of ‘islands’ with more restrictive zoning,” but said that spot zoning can also refer to the creation of “islands” with less restrictive zoning. Moreover, the court emphasized that given the broad legislative discretion of local government zoning, “spot zoning is not necessarily invalid.” The court further explained that spot zoning is in-

valid “only when it is not in the public interest—that is, when it is ‘arbitrary,’ ‘irrational,’ and ‘unreasonable.’” Conversely, noted the court, spot zoning will be valid and permissible when: (1) it is in the public interest such as when “there is a reasonable basis for the belief that the [spot zone] has substantial relation to the public health, safety, morals or general welfare”; and (2) it is compatible with a general (municipal land use) plan.

The court noted that the burden is on the party challenging the spot zoning to show that it is invalid. And, here, the court concluded that the Community Associations had failed to carry that burden. Rather, the court found that the creation of a less restrictive Subarea F for just the Superstore had a “substantial relation to the public health, safety, morals or general welfare.” Specifically, the court found that the development would provide: “much needed, convenient, high quality retail shopping center that will serve the existing community in a location that contains under-utilized commercial uses”; “excellent access for goods movement with a minimum disruption to adjacent residential and lower intensity neighborhoods”; and “attractive public streetscapes.” Further, the court found that the Amendment and addition of Subarea F was “compatible” with the City’s General Plan, as well as a community plan and special plan, because Subarea F provided for development that was “urban scaled, pedestrian friendly, [and] transit oriented.”

See also: *Wilkins v. City of San Bernardino*, 29 Cal. 2d 332, 175 P.2d 542 (1946).

See also: *Foothill Communities Coalition v. County of Orange*, 222 Cal. App. 4th 1302, 166 Cal. Rptr. 3d 627 (4th Dist. 2014).

---

**Case Note:**

*The Community Associations also alleged in their legal action that the City’s environmental report for the proposed Superstore was “deficient,” thereby violating the California Environmental Quality Act (“CEQA”). The trial court found the environmental report sufficient. On appeal, the appeals court found that the City complied with CEQA.*

---

## **Zoning News from Around the Nation**

### **NATIONAL**

In late September 2018, Senator Elizabeth Warren introduced a bill aimed at affordable housing opportunity. The legislation is entitled the American Housing and Economic Mobility Act. Among other things,



the bill would provide grant money—under a “competitive block-grant program”—to “suburban” communities that “reexamine and redress” restrictive zoning law.

Source: *The Atlantic*; [www.theatlantic.com](http://www.theatlantic.com)

## CALIFORNIA

On September 30, 2018, Governor Jerry Brown signed into law Assembly Bill 2923. The new law gives the Bay Area Rapid Transit District (“BART”) “land use authority for transit-oriented development on the land it already owns near existing and planned stations.” Under the new law, BART is required to, by July 1, 2020, “adopt transit-oriented development zoning standards that establish a streamlined approval process with minimum zoning requirements for height, density, and floor area ratio, and the highest maximum parking requirements for each BART station. Affected local jurisdictions would then have two years to update their own land use regulations to conform with BART’s standards.”

Source: *JDSUPRA*; [www.jdsupra.com](http://www.jdsupra.com)

## MICHIGAN

State Representative Jason Wentworth has introduced House Bill 6063, “which would prohibit municipalities from regulating and prohibiting signage or flags located on or within a building if the signage commemorates anyone who died in the line of duty.” The bill was expected to be voted on by the Michigan House of Representatives’ Military and Veterans Affairs Committee. If passed out of committee, it would go to the House floor for a vote, and subsequently, if passed there, to the state Senate.

Source: *MLive.com*; [www.mlive.com](http://www.mlive.com)