

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**5:30 P.M., P.S.T., OR UPON THE ADJOURNMENT OF THE SPECIAL MEETING OF**  
**THE CITY ADVISORY BOARDS**  
**TUESDAY, DECEMBER 6, 2016**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

The meeting was called to order at 7:04 p.m. by Aaron Martinez, Chairman of the City of Elko Planning Commission.

**ROLL CALL**

**Present:**       **David Freistroffer**  
                  **Aaron Martinez**  
                  **John Anderson**  
                  **Tera Hooiman**  
                  **Jeff Dalling**  
                  **Kevin Hodur**

**Excused:**       **(Vacancy)**

**City Staff Present:**   **Curtis Calder, City Manager**  
                              **Scott Wilkinson, Assistant City Manager**  
                              **Jeremy Draper, Development Manager**  
                              **Cathy Laughlin, City Planner**  
                              **Shelby Knopp, Planning Technician**  
                              **Bob Thibault, City Engineer**  
                              **John Holmes, Fire Marshal**  
                              **Ben Reed, Police Chief**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

*No public comments were made at this time.*

**APPROVAL OF MINUTES**

November 1, 2016 – Regular Meeting **FOR POSSIBLE ACTION**

**\*\*\*A motion was made by David Freistroffer, seconded by Tera Hooiman to approve the Meeting Minutes from November 1, 2016 as presented.**

*\*Motion passed unanimously. (6-0 Commissioner Kevin Hodur abstained)*

## II. NEW BUSINESS

### A. PUBLIC HEARING

1. Review, consideration, and possible action on Conditional Use Permit No. 4-16, filed by Elko Senior Activity Programs, Inc., which would allow for the construction of a detached accessory structure within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest corner of Indian View Heights Drive and Ruby View Drive. (1795 Ruby View Drive)

Kerry Aguirre, 1795 Ruby View Drive, stated the Elko Senior Activity Program's building was constructed in 2000. They haven't out grown it, as much as they use the rooms for what they are intended for, which is social events, games, meetings, and meals. They have acquired a lot of furniture and different things that they use for different events. They are remodeling right now, repainting and putting up acoustic panels to improve the sound in the building. They would like to open a room for a computer technology center, and that room is full of seasonal décor, furniture, equipment, and things they can't store anywhere else. They had considered adding on to the building, but it was expensive, so they looked into a pre-engineered steel building, a 20 by 40. They would like to put that building in the location shown on the site plan. It won't obstruct their view or anyone else's.

Cathy Laughlin, City Planner, explained that the Senior Citizen Center was issued a Conditional Use Permit in 1999 for the facility, and in that Conditional Use Permit they were also approved for an accessory structure. The accessory structure, at that time, was approved based on the location shown on "Exhibit A" from the previous application, which was located on the west side of the parking lot. When they submitted the plans for a building permit, it went through the departments for review and we noticed the proposed location of the accessory structure was in a different location from what it was approved for in 1999. Therefore, it would require a new Conditional Use Permit. Staff recommends to conditionally approve CUP 4-16 with the conditions listed in the staff memo.

Jeremy Draper, Development Manager, explained that this property is zoned PQP, Public-Quasi Public. One of the things required for this is 3-2-8(E), for locations of accessory buildings, whether attached or detached, shall be located in accordance with location on the lot as approved by the Planning Commission. There are six conditions: the first three are standard conditions, the fourth one states that the Conditional Use Permit shall lapse one year from the issuance of permit unless the permit holder is actively engaged, the fifth one states that the Planning Commission accepts the location of the accessory structure, and the sixth condition states that the finish of the accessory structure shall be similar and complimentary to the principal building.

Commissioner David Freistroffer stated that they are proposing a metal building and their current building is not a metal building.

Mr. Draper said he did not see any information on the building that is being proposed.

Commissioner Freistroffer said they were told tonight it was a metal building and it also says it in their application.

Mr. Draper said the finish, especially the color, shall be complimentary to the existing building.

Bob Thibault, City Engineer, had no additional comments and recommended approval.

John Holmes, Fire Marshal, had no comments.

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

Commissioner Freistroffer suggested they modify Development Department Condition Number 6, so that it says complimentary in color to the principal building.

**\*\*\* A motion was made by David Freistroffer, seconded by Jeff Dalling to conditionally approve Conditional Use Permit No. 4-16 with the list of six conditions listed in the City of Elko Staff Report dated December 6, 2016, with a modification to the sixth condition, listed as follows:**

1. The conditional use permit is granted to the property owner(s) allowing for the installation of an accessory structure.
2. The permit shall be personal to the property owner(s) 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 property owner records the conditional use permit.
4. The conditional use permit shall automatically lapse and be of no effect one year from the issuance unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
5. The planning commission shall accept the location of the accessory structure.
6. The finish of the accessory structure shall be complimentary in color to the principal building.

Commissioner Freistroffer's findings are that Conditional Use Permit No. 4-16 is in conformance with the City of Elko Master Plan Land Use and Transportation Component, City of Elko Wellhead Protection Program, the proposed use is consistent with the surrounding land uses, that the proposed use is in conformance with City Code 3-2-8, with the approval of the Conditional Use Permit acceptance of the location by the Planning Commission, and that the proposed development is in conformance with City Codes 3-2-3, 3-2-4, 3-2-17, 3-8, and 3-2-18.

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

## **I. UNFINISHED BUSINESS**

## **A. PUBLIC HEARING – 6:30 P.M.**

1. Review, consideration, and possible action on Conditional Use Permit No. 3-16, filed by Miguel Castro, which would allow for a bar to be located within a C (General Commercial) Zoning District located within the Central Business District.  
**FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Idaho Street approximately 110' west of the intersection of 5th Street and Idaho Street. (460 Idaho Street)

Mike Lostra, Lostra Engineering, 930 College Avenue, said he was representing the applicant, Miguel Castro. Mr. Castro is proposing to put the Moon Bar in the location of the old Cucina Fresca building. They are pretty excited about this, with more and more people leaving the downtown corridor and more and more empty buildings, there is a need for people to come back down there. It's pretty simple. It's a smaller size bar, versus Cowboy's a couple doors down. It's a good use for this area.

Matthew Lipparelli, 462 Idaho Street, said he has thought about this for about a month. One of his rhetorical questions is: he would like to know what the City has against the people that have a business, downtown, on Idaho Street. First of all, everything is crumbling down there. On one side of the store you want to do Redevelopment and on the other side, you allow bars to come in, even though there are ten bars within a block and a half radius. Then, four years ago, you took away 75% of the parking. He would like the Planning Commission to consider that. He's had a business down there for 26 years and never had many problems with it being downtown. He doesn't look forward, again, to having to step across blood, broken bottles, or puke. This is the first time he has asked anything from the City, but he would like the Planning Commission to consider his proposal of not putting that bar in there.

Lina Blohm said her husband and herself have owned businesses in the downtown Elko area, and his father before him, for over 75 Years. They currently own the building at the corner of 5<sup>th</sup> and Idaho Street, directly across from this proposed location for a bar. She has had to think long and hard about this as well. Being involved in Redevelopment, were here to encourage investment in the downtown. But, here again, it has to be a whole hearted community commitment. They have seen a lot of businesses come and go, there are struggles in running a small business. But that is the heart of downtown. They all have a lot of pride in their buildings. She said the Commissioners, knowing that they cannot say no to this bar based on City Code, have at their disposal particular language, which could help these folks run a fine, clean business establishment. She wanted to know more about these folks. What do they know about the Elko Community? How have they become involved in the community? Who are their patrons going to be? How are they going to regulate their business?

Miguel Castro, 1050 Connolly Drive #107, said that he is from California, but he loves this town. They are not trying to cause conflict or effect the surrounding businesses in anyway. They will keep the area clean, especially if the trash is coming from them.

Ms. Blohm asked if Mr. Castro had experience running this type of business.

Anna Abarca, 1050 Connolly Drive #107, said she has lived here 22 years. She is currently the manager at the G Spot and has been for 3 years. She will be helping Miguel Castro with the bar and she does have experience.

Ted Blohm 495 Idaho, said they have been in business in Elko for 75 years. He had nothing against the applicant or any business, but he said you have to look at the situation of a bar. He said he would not open a jewelry store between these two bars that are downtown. You have to protect the local business people. Any other type of business he would be willing to help them, and it would be good for the community, because the downtown area is getting blighted.

Patricia Maynard, 2115 Sierra Drive, said she owns two buildings and four business downtown. They are struggling. You're taking the parking away from us and now you want to put another bar in. Downtown is struggling and we need your help. We need another small business but not a bar.

Dave Knight, his wife and himself own Carlin Trend Mining Service at 369 5<sup>th</sup> Street. He thought that opening a business was a good thing. He asked what the difference was for not allowing Pedro Ormaza to open his bar and restaurant and allowing this bar to have a special use permit.

Chairman Aaron Martinez explained that they can only discuss items specifically on the agenda.

Dave Knight said his problem with the bars is that their patrons leave a mess throughout the downtown area.

Ms. Laughlin read the conditions listed in the Staff Memo dated December 6, 2016 for those who did not have a copy. City Staff recommends conditional approval of Conditional Use Permit 3-16.

Mr. Draper stated that the Development Department recommended conditional approval with the conditions listed by Ms. Laughlin. The parking in this area, and for this particular use, will be in the downtown parking corridor, as allowed in 3-2-17 of the City Code. This business is within 400 feet of the parking corridor and that's what its primary use is. This section of Idaho Street, in front of this business as well as 5<sup>th</sup> Street, is controlled by NDOT. The on-street parking that is there is with coordination of NDOT.

Mr. Thibault had no additional comments or concerns and recommended approval.

Mr. Holmes said he didn't see any problems as long as they meet the IFC codes.

Mr. Wilkinson said the City Manager's Office had no comments or concerns. He wanted to take a minute to address some of the public comments. There has been some discussion about bar density in the downtown area. The City Council, to date, has not addressed bar density, nor distance between bars, in the downtown area. That would be a policy decision that City Council would make, and address that through changes to the code. There has also been some discussion about cleanliness and some of the issues associated with bars. We do have that issue. We do take complaints, address those complaints, and build cases against bars over time.

Ben Reed, Police Chief, didn't have a whole lot add, they had a short list of conditions, and did recommend approval, not in a position to not recommend approval. With the bars, in particular, if communication is received from bar management, and they work with the Police Department, things tend to go a lot smoother. They reach out to all of the bar owners, or managers, regularly. He asked the Commissioners to impose some additional conditions, which were listed in the memo, because it is a bar.

Chairman Martinez asked if there was an upstairs to this building. (No)

Commissioner Jeff Dalling asked Mr. Holmes if they would be required to put in fire sprinklers or if it was under the square footage required.

Mr. Holmes explained that it is right at 5,000 square feet, so anything above that will require fire sprinklers and a fire alarm as well.

Commissioner Dalling said he had a few concerns. He is always picking up trash in the area around his business, and has also noticed that the G Bar, which is next door, doesn't do any cleaning outside. That is taxing on his patrons, but it is a part of the downtown life. He questions the location, but he said that was not his choice. There is a bar two doors down and quite a few others in that area. There was a bar that got a Conditional Use Permit on 4<sup>th</sup> Street and they had a condition that they had to have food. Later, it was discovered that that condition could not be placed on a bar.

Mr. Wilkinson explained that they have had several application for bars in the downtown area. Initially there was a thought that it might be an appropriate condition to require food service for bars. They had conditioned one bar, not to actually serve food, but to put in some rough plumbing for a kitchen in the future. After that they determined that conditioning projects in an attempt to convert them into restaurants is not the appropriate way to go, and it probably wouldn't stand up to a legal challenge. The last couple applications that they have considered, they haven't had those type of conditions.

Commissioner Tera Hooiman asked if Ms. Abarca was planning on managing this new bar.

Anna Abarca said yes.

Commissioner Hooiman then asked Ms. Abarca how she was going to make this new bar different from the G bar.

Anna Abarca explained they are working on that at the G Bar, by not serving intoxicated people. They have noticed that it has gotten better since they have started doing that.

Commissioner Hooiman asked the applicants how they were going to make the downtown experience different than what is currently happening at the G.

Miguel Castro said they were going to try to have good communication with Police Department and when they see intoxicated patrons coming from other bars they will get them a ride home. They will also have security to keep an eye on the people coming in.

Mike Lostra, 930 College Ave, reiterated that they were down to 1600 sq. ft. and 62 occupants. He thought that sprinkler systems weren't required until they hit 100 occupants.

Mr. Holmes said that was correct.

Mathew Lipparelli asked what the hours of operation would be.

Miguel Castro said they were planning on operating from around 7 p.m. to around 2 or 3 a.m., it would depend on the conditions of the Conditional Use Permit.

Lina Blohm said she had concerns with the owner not being from Elko and with them bringing a bar to a family friendly section of downtown. She also had concerns with the manager trying to manage two bars at once.

Mike Lostra reiterated that Mr. Castro does live in Elko, he is just not from Elko.

Ted Blohm wanted the Commission to take a hard look at this bar. There are all kinds of problems and issues that come with running a bar. Think long and hard about this.

Chairman Martinez said he has personally put a lot of thought into this particular agenda item, because we are in a mass Redevelopment stage in the City of Elko. One of the things that our downtown struggles with is getting people to go downtown. There are not a lot of revenue sources coming from restaurants, daytime activities, or family oriented activities in our downtown, and that is a problem. Parking is also a problem. The number one thing that Mr. Martinez struggles with, as a business owner, is at what point the governing body has to tell a private business owner that they don't have the right to utilize their building the way they want to. At what point is the City over stepping? We need to be very clear and concise on the conditions. What we face as a Planning Commission is coming up with reasonable conditions that we can place on these applications, which won't place undue hardship on them. We have to place conditions that protect the business owners and the lively hood that surrounds the business. He would look for conditions that would, not only require the bar owner to upkeep the frontage, but look at extending that frontage requirement.

Commissioner Freistroffer said the list of conditions that they have before them is pretty close to appropriate, unless they can think of some additional conditions. The Development Agency and the City Council have not produced a set of tools that would allow them to limit the density of bars, or a set of development standards for the downtown area. They don't have any tools, other than conditions and there are a limited set of reasonable conditions that they can put on a business owner.

Chairman Martinez asked staff if there would be a problem with expanding the frontage past the footprint of the building, for cleaning.

Mr. Wilkinson said Conditional Use Permits are designed to identify conditions that need to be mitigated. The code requires that they clean their frontage, streets or alleys. We are all aware that sometimes that type of issue is expressed beyond the frontage. Mr. Wilkinson though it would be an appropriate condition. The issue will be trying to determine which bar it comes from. We can try out best to work with it, but it will be difficult to enforce. If you were to consider an

expansion of the area to be cleaned. If there is a violation of that condition it wouldn't be as strong of a violation as if it were a code violation. It would be brought back to the Planning Commission for review, or possible revocation of the Conditional Use Permit.

Chairman Martinez wanted to see a condition for the bar to be responsible for cleanliness of their frontage beyond the immediate building footprint of the distance to Cowboy's and the same distance on the other side.

Commissioner Dalling suggested the condition read the frontages of the adjoining neighbors.

Commissioner Hooiman asked if that condition would be imposed every day. (Yes)

Chairman Martinez suggested they reference City Code 4-5-18 in the condition.

Commissioner Freistroffer read a suggested condition.

Mr. Wilkinson said the Code requires them to clean on days they are open. He asked the Commissioners if they wanted them to clean on the days that they are not open.

Commissioner Freistroffer suggested that they make it the same regulations that are in 4-5-18.

Mr. Wilkinson said that seemed appropriate and fair.

Chairman Martinez thought they should look at the operating hours. He suggested they restrict the opening time to after 5 p.m.

Commissioner Hooiman asked the applicant if he was planning to be open 7 days a week.

Miguel Castro explained that they were planning on being open Wednesday thru Saturday, from 7 p.m. to 2 a.m.

**\*\*\* A motion was made by David Freistroffer, Seconded by Kevin Hodur to conditionally approve Conditional Use Permit No. 3-16 with the fifteen conditions listed in the City of Elko Staff Report dated December 6, 2016, with additional conditions from the Planning Commission, listed as follows:**

**Building Department:**

1. Building permits are required for all work done to structure.

**City Clerk:**

1. A business license is required prior to opening for business.

**Development Department:**

1. The conditional use permit is granted to the property owner(s) allowing for the use of the property as a bar.
2. The permit shall be personal to the property owner(s) 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 property owner records the conditional use permit.
4. The conditional use permit shall automatically lapse and be of no effect one year from the issuance unless the permit holder is actively engaged in developing the specific property to the use for which the permit was issued.
2. A site plan is required prior to the issuance of a building permit.

**Fire Department:**

3. The applicant is responsible for obtaining any and all associated building and fire related construction and/or operational permits required to gain approval for the proposed use.

**Police Department:**

1. Compliance with Elko Liquor Control Code (particularly 4-5-17, 4-5-18 & 4-5-28).
2. Proper lighting necessary inside and outside establishment.
3. Communicate effectively and proactively with Elko Police Department regarding management and safety of the business, such as: provide notice as to management or supervision changes, problems with security, changes with lighting, camera systems, bouncers, weapons policies, etc.

**Planning Department:**

1. Applicant will be responsible to maintain cleanliness at all times in front of the establishment and the adjacent alley as per Elko City Code 4-5-18.
2. Signage will require a separate application with the Building Department.
3. Compliance with all staff conditions.

**Utilities Department:**

1. Civil Design Plans are required for review and possible approval.

**Planning Commission:**

1. In addition to the frontage required by City Code 4-5-18, and under the same conditions and stipulations as that code, the business is also responsible for cleaning the frontage of immediate adjacent neighbors as long as they are also not a bar.
2. The opening time be after 5 p.m. and close no later than 8 a.m.

Commissioner Freistroffer's findings are that Conditional Use Permit 3-16 is in conformance with the City of Elko Master Plan Land Use and Transportation Component, City Redevelopment Plan, City Wellhead Protection Program, the development under the proposed conditional use will not adversely impact natural systems or public federal lands such as waterways, wetlands, drainages, floodplains, etc., or pose a danger to human health and safety. The proposed use is consistent with surrounding land uses, and is in conformance with the City of Elko Code Sections 3-2-3, 3-2-10, 3-2-10(B)(5), 3-2-17, 3-2-18, and 3-8.

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

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

1. Review, consideration, and possible action to set regular meeting dates as well as special meeting dates for 2017, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin explained that they need to set the staff calendar and there were a few meetings dates that had conflicts. She suggested they propose a new date for the July 4<sup>th</sup> meeting.

Commissioners discussed various dates to change the July 2017 meeting to.

**\*\*\* A motion was made by Jeff Dalling, seconded by Tera Hooiman to meet on July 18, 2017 as opposed to July 4, 2017.**

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

Ms. Laughlin asked if they would like to change the meeting after Labor Day.

Commissioners discussed a date for the September meeting.

**\*\*\*A motion was made by David Freistroffer, Seconded by Jeff Dalling to move the September 5<sup>th</sup> meeting date to September 7, 2017.**

***\*Motion passed. (5-1 Chairman Martinez voted no)***

## **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**


Mr. Knight said that the Planning Commission did a great job and everyone was very professional making the tough decision tonight.

**NOTE:** The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time. Additionally, the Planning Commission reserves the right to

combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

## **ADJOURNMENT**

There being no further business the meeting was adjourned.

  
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Aaron Martinez, Chairman