



# CITY OF ELKO

## Planning Department

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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, March 6, 2018 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.S.T.

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

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

Date/Time Posted: February 28, 2018 2:10 p.m.

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

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

ELKO POLICE DEPARTMENT– 1448 Silver Street, Elko NV 89801

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

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

Date/Time Posted: February 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 February, 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, MARCH 6, 2018**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

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

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

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

**APPROVAL OF MINUTES**

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

**I. NEW BUSINESS**

**A. PUBLIC HEARING**

1. Review, consideration, and possible action of Conditional Use Permit No. 2-18, filed by Boys & Girls Club of Elko, Inc., which would allow for the expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

2. Review, consideration, and possible action on Variance No. 2-18, filed by Boys & Girls Club of Elko for a reduction of the required rear yard setback for the principle structure from 49' 5" to 7', in conjunction with a Conditional Use Permit to allow for expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

3. Review, consideration, and possible adoption of Resolution 1-18, containing amendments to the Atlas Map #8 of the City of Elko Master Plan, and matters related thereto. **FOR POSSIBLE ACTION**

Planning Commission reviewed and initiated the amendment to the City of Elko Master Plan at its February 6, 2018 meeting.

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

1. Review, consideration, and possible action and possible approval of Final Plat No. 4-18, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Tower Hill Unit 1 involving the proposed division of approximately 33.804 acres divided into 23 lots and 2 remainder parcels for residential development within the R1 (Single Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally southeast of the terminus of Stitzel Road. (001-920-079).

2. Review, consideration, and possible action to initiate an amendment to the City Zoning Ordinance, specifically Sections 3-2-11 IBP, IC Industrial Districts, and matters related thereto. **FOR POSSIBLE ACTION**
3. Election of officers, and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to Section 3-4-3 A. of the City Code, the Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary in January every year. Staff overlooked the requirement for the agendas in January and February.

## **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, FEBRUARY 6, 2018**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

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

**ROLL CALL**

**Present:** David Freistroffer  
Jeff Dalling  
Kevin Hodur  
Stefan Beck (*excused himself at 7:00 p.m.*)  
Tera Hooiman (*arrived at 5:32 p.m.*)

**Excused:** Aaron Martinez  
John Anderson

**City Staff:** Scott Wilkinson, Assistant City Manager  
Jeremy Draper, Development 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**

January 4, 2018 – Special Meeting **FOR POSSIBLE ACTION**

**\*\*\*Motion:** Approve the minutes from January 4, 2018 as presented.

**Moved by Kevin Hodur, Seconded by Stefan Beck.**

*\*Motion passed unanimously. (5-0)*

**I. NEW BUSINESS**

## A. PUBLIC HEARING

1. Review, consideration, and possible recommendation to City Council for Rezone No. 10-17, filed by Surebrec Holdings, LLC, for a change in zoning from AG (General Agricultural) to IC (Industrial Commercial), approximately 62.03 acres of property, to allow for future development, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally northeast of the intersection of Statice Street and Delaware Avenue. (APN 006-10C-006)

Luke Fitzgerald, 207 Brookwood Drive, explained that he was requesting that 62 acres be annexed into the City and zone the parcel Industrial Commercial.

Cathy Laughlin, City Planner, went over the City of Elko Staff Report dated January 26, 2018. Staff recommended that this item be conditionally approved with the conditions listed in the City of Elko Staff Report.

Jeremy Draper, Development Manager, said the Development Department recommended approval of this application. They provided their review in a memo, which was attached in the packet. Mr. Draper explained that as this is a new annexation it must conform to the Land Use Component of the Master Plan. The proposed zoning is in conformance with the Land Use Component, so he recommended approval.

Bob Thibault, Civil Engineer, said the Engineering Department recommended approval. He explained that he did have one condition regarding the legal description. The original legal description had some errors. The legal description that was provided in the packet is the revised, correct legal description, so he recommended approval as presented.

John Holmes, Fire Marshal, recommended approval.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff. He also pointed out that there were ten findings, which were articulated into the Planning Department's Staff Memo. Those should be read into the record, along with the recommended conditions.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which would conditionally approve Rezone No. 10-17 subject to the conditions listed in the City of Elko Staff Report dated January 26, 2018, listed as follows:**

### **Engineering Department:**

1. The parcel described by metes and bounds does not match the parcel of record. Please revise the legal description to reference the map instead of the metes and bounds description. The revision is required prior to Council consideration of the application.

### **Planning Department:**

1. Council approval of Annexation 3-17 is required prior to action taken on this application.

2. The applicant enters into an agreement with the City relinquishing or identifying any residual rights that may exist under the agreement between the State of Nevada and the City.

Commissioner Hodur's findings were that the proposed zone district was in conformance with the City of Elko Master Plan Land Use Component. The proposed zone district is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure. The proposed zone district is consistent with the City of Elko Wellhead Protection Plan. The Proposed zone district is in conformance with City Code 3-2-4(B), (C), and (D). The proposed zone district is in conformance with Section 3-2-11, IC-Industrial Commercial Districts. The property is large enough to meet the development standards specified in Section 3-2-11 of Elko City Code. The proposed zone district is in conformance with City Code 3-2-17. The proposed zone district is consistent with surrounding land uses. The topography of the area is well suited for the proposed commercial and light industrial land uses. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

Moved by Kevin Hodur, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (5-0)*

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

2. Review and consideration of Annexation No. 2-17 filed by Surebrec Holdings, LLC, consisting of approximately 62.03 acres of property located northeast of the intersection of Statice Street and Delaware Avenue, and matters related thereto.  
**FOR POSSIBLE ACTION**

Mr. Fitzgerald explained that they were requesting annexation into the City. He also mentioned he had a comment on one of the conditions of the Rezone application regarding relinquishing rights to the easement. There was still some discussions with the State on exactly what those consisted of, and they should have complete answers by the end of the week.

Ms. Laughlin went through the City of Elko Staff Report dated January 26, 2018. Staff recommended conditional approval of the annexation to be forwarded to the City Council with the conditions listed in the Staff Report. She then went through the Planning Department conditions.

Mr. Draper wanted to elaborate on the water line easements. When the City acquired the easements for the lines, they were under an agreement with the State. As part of that agreement, the City pays the State yearly, based on the length of the easements. The Utility Department is working with the State to revise the agreement, remove the easements from the agreement, and reduce the yearly payment. The City also has some offers for connections to the water line, which will stay with the State at this time. Mr. Fitzgerald has agreed to relinquish his rights to the agreement the City has with the State, which goes with the successor of the property. The Development Department has reviewed the application and recommended approval of the



annexation. He wanted to go over a few things in regards to the Transportation Component of the Master Plan. Delaware Street will serve as a County Roadway. Since it is being annexed into the City, there will be an additional 30 feet that will need to be dedicated, so there will be a full width roadway at least through Aster Street. Statice Street is interesting. There is a 62-foot wide easement across three parcels, which has allowed Statice Street to be developed as it is. North of the property line, on Mr. Fitzgerald's property, there is a 20-foot easement over a 24-inch water line. In discussions with the Utilities Department, as that is going to be adjacent to the roadway, they felt it best to have the 20-foot easement converted to right-of-way over the waterline to where Statice Street moves away from the property line. The reason for that is to provide access to the water line in the event that it has a break, so the City would not be encroaching onto private property in order to make a repair and the City would have more control over it. There would be a 20-foot utility easement over a portion of line, and we would work with the developer to ensure there would be no encroachment on to the easement. Building is not allowed on easements, but due to the size of the line, the City would want to make sure they are well away from it. Mr. Draper said he would be petitioning Council, once the annexation is approved, to allow him to pursue converting the easement for Statice Street to right-of-way, so there will be an 82-foot right-of-way. The corner property is being developed by Kenworth, Mr. Draper is in discussion with them about dedicating that right-of-way to the City, and they seem receptive to that. Sewer is stubbed on Ruby Vista Drive, but it is too shallow to tie into to continue it as a gravity main. The City is evaluating the options of boring underneath I-80 and connecting to the line on Union Pacific, or doing a small lift station. We are working with the Utility Department on that, and will continue to work with the Developer. The third right-of-way is Ruby Vista. When the two adjacent parcels were annexed, a condition of the annexation was that they dedicate the Ruby Vista right-of-way to the City. So the City does have right-of-way from Youth Center Road down along I80, with just a small gap to fill in. We already have a preliminary design for that, and now we just need to work with the applicant to have that dedicated to the City of Elko. He then went over the Development Department Conditions.

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

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff. He called attention to the thirteen findings, which should be read into the record. He suggested the Planning Commission revise Finding No. 13 to include "and has been evaluated in consideration of NRS.268.663 subsection 3, which has to do with the road evaluation that was completed.

Commissioner Jeff Dalling asked how long it would take to find out on the AT&T easement, and how hard it would be to get an answer out of AT&T.

Mr. Draper said it would take 30 to 90 Days.

Mr. Wilkinson explained that that information would not be required before property development. The annexation will be in ordinance form, and he thought it was good that that was addressed. It's a little different, because typically the conditions should be what is needed to annex the property. This one is a little different, because AT&T doesn't have that well marked. It's not a condition that has to be satisfied to annex the property. Mr. Wilkinson mentioned that

the Planning Commission might want to add a 14<sup>th</sup> finding that references NRS 268.610 through 268.670 inclusive, which is a catchall.

**\*\*\*Motion: Forward a recommendation to City Council to adopt an ordinance, which conditionally approves Annexation No. 2-17 subject to the conditions in the City of Elko Staff Report dated January 26, 2018, listed as follows:**

**Planning Department:**

1. The applicant enters into an agreement with the City relinquishing or identifying any residual rights that may exist under the agreement between the State of Nevada and the City.
2. Right-of-Way for Delaware Avenue shall be offered for dedication through the intersection with Aster Street. The offer of dedication shall be filed with the City with 45 days of annexation.
3. Right-of Way for Statice Street shall be offered for dedication from the intersection of Delaware Avenue extending to the intersecting property line of APN 001-860-065. The remainder of the easement shall remain for the designated use. The offer of dedication shall be filed with the City with 45 days of annexation.
4. Right-of Way for Ruby Vista shall be offered for dedication connecting existing right-of-way to the west and to the east. The offer of dedication shall be filed with the City with 45 days of annexation.

**Development Department:**

1. The property owners shall receive approval for a zone designation for the property to be consistent with the Land Use designation in the City of Elko Master Plan.
2. The property owners present a deed of dedication for right-of-way for Delaware Street, Statice Street, and Ruby Vista Drive, within 45 days of acceptance of the annexation by the City. The property owner shall work with City on the alignment of these right-of-ways prior to being offered for dedication.
3. It appears from map 730066 that the property may be encumbered by an existing easement for ATT fiber, the map does not indicate the location of this easement through the parcel. The property owner shall contact AT&T, verify the location of the AT&T easement, and provide documentation of that location to the City. This condition is to be satisfied prior to/or concurrent with property development.

**Utility Department:**

1. Applicant vacates the existing waterline easements and replaces the easements with a right-of-way.

Commissioner Hodur's findings to support his recommendation was the annexation is consistent with the City's Land Use Component of the Master Plan. The proposed zoning of IC – Industrial Commercial would ensure conformance with the land use designation as shown in the Master Plan. The annexation is consistent with the City's Transportation Component of the Master Plan. Annexation of the property provides an immediate accrual to the tax base for the City. Annexation of the property does provide the opportunity for continued Light Industrial and Commercial land uses along Ruby Vista Drive, a Minor Arterial and Statice Street, an Industrial Collector ensuring the highest and best uses of the



proposed roadways. The Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure and Annexation Potential Report dated November 2012, identifies the area as having potential for annexation. The area proposed for annexation is not localized or isolated. The area proposed for annexation promotes development of future transportation and utility corridors, thus promoting future growth opportunities for the City. Annexation of the area will not have any immediate or negative impact on City resources. The area is located within the existing 5400 water zone and can be served from existing infrastructure. Other, required, utilities, such as sewer, power, and gas will be installed at developer expense to facilitate development of the property. The topography of the area is well suited for the proposed commercial and light industrial land uses. Development of the property will result in a positive economic impact to the community. Annexation and development of the property will not adversely influence the local government structure of the County nor the City. The proposed annexation satisfies considerations and/or concerns identified as minimum factors for consideration under NRS 268.646. The annexation has been evaluated in consideration of NRS 268.663 Section 3. The annexation has been evaluated under NRS 268.610 through 268.670, inclusive.

Moved by Kevin Hodur, Seconded by Stefan Beck.

*\*Motion passed unanimously. (5-0)*

#### A. PUBLIC HEARING

2. Review, consideration, and possible recommendation to City Council for Rezone No. 11-17, filed by MRP, LLC, for a change in zoning from LI (Light Industrial) to IC (Industrial Commercial), approximately 1.5 acres of property, to allow for commercial uses, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of Silver Street, between River Street and 1<sup>st</sup> Street (350 W. Silver Street, APN 001-691-007).

Pedro Ormaza, 225 W. Silver Street, explained that the property is currently zoned Light Industrial and they wanted to change it so they could add another building, and open it up to retail businesses, which they can't have under the current zone. They have the Vape Shop that moved in already, so they need to get it changed.

Ms. Laughlin went over the City of Elko Staff Report dated January 30, 2017. Staff issued Modified Vapors a temporary business license after the rezone application was received, based on the final approval of this rezone. Staff recommended conditional approval, subject to the conditions listed in the Staff Report.

Mr. Draper said the Development Department recommended approval.

Mr. Thibault explained, like the other rezone, this application had an error in the legal description, so he requested that be corrected. The corrected legal description was included in the packet. He recommended approval with no other conditions.

Mr. Holmes had no comments.

Mr. Wilkinson recommended approval as presented by staff. He called attention to the ten findings in the Staff Report, which should be sited into the record.

Vice-Chairman Freistroffer said since this was next to other IC, it sounded like a good idea and a good use for that property.

Mr. Wilkinson said staff would like to see many of the industrial uses in the downtown area convert to more appropriate type uses.

Commissioner Dalling thought it was a good fit.

**\*\*\*Motion: Forward a recommendation to the City Council to adopt a resolution, which would approve Rezone No. 11-17.**

**Commissioner Hodur's findings to support his recommendation was the proposed zone district is in conformance with the City of Elko Master Plan Land Use Component. The proposed zone district is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure. The proposed zone district is consistent with the City of Elko Wellhead Protection Plan. The proposed zone district is consistent with the City of Elko Redevelopment Plan. The Proposed zone district is in conformance with City Code 3-2-4(B) and (C). The proposed zone district is in conformance with Section 3-2-11, IC-Industrial Commercial Districts. The proposed zone district is in conformance with City Code 3-2-17. The proposed zone district in consistent with surrounding land uses. The topography of the area is well suited for the proposed commercial and light industrial land uses. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.**

**Moved by Kevin Hodur, Seconded by Tera Hooiman.**

*\*Motion passed unanimously. (5-0)*

3. **Review, consideration, and possible recommendation to City Council for Rezone No. 12-17, filed by Swire Coca-Cola, USA, for a change in zoning from AG (General Agricultural) to LI (Light Industrial), approximately 3.00 acres of property, to allow for the continued use of a beverage distribution center, and matters related thereto. FOR POSSIBLE ACTION**

The subject property is located generally on the north side of West Idaho Street, approximately 2,500 feet east of I-80 Exit 298.

Kyle Potokar, with Big D Construction representing Swire Coca-Cola, USA, explained that Swire wished to rezone the property to allow for an expansion of the existing warehouse, in coordination with the incoming water line extension coming along Sheep Creek Trail under I-80.



Ms. Laughlin went over the City of Elko Staff Report dated January 11, 2018. Staff recommended conditional approval with the conditions listed in the Staff Report.

Mr. Draper said the Development Department recommended approval of the Rezone. He wanted to expand on a few things. Idaho Street, in front of this property, is NDOT right-of-way. Any improvements along the Idaho Street frontage will need to be coordinated with NDOT. This property is outside of the current Wellhead Protection zone, but it should be noted that the City does have plans to put in a well off the frontage road, approximately 4,500 feet from this property. That could bring this property into the 20-year capture zone. As development occurs on the property that should be noted, and we should be aware of the conditions in the Wellhead Protection Plan. Development Department had one condition that was listed in the Staff Report.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which would conditionally approve Rezone No., 12-17, subject to the conditions in the City of Elko Staff Report dated January 11, 2018, listed as follows:**

**Planning Department:**

- 1. Council approval of Annexation 3-17 is required prior to action taken on this application.**

**Development Department:**

- 1. The rezone not be finalized until the conditions for annexation 3-17 are met and the annexation is of record**

**Commissioner Hodur's findings to support his recommendation was the proposed zone district is in conformance with the City of Elko Master Plan Land Use Component. The proposed zone district is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure. The proposed zone district is consistent with the City of Elko Wellhead Protection Plan. The Proposed zone district is in conformance with City Code 3-2-4(B), (C), and (D). The proposed zone district is in conformance with Section 3-2-12(A), LI, GI Industrial Districts. The proposed zone district is in conformance with City Code 3-2-17. The proposed zone district in consistent with surrounding land uses. The topography of the area is well suited for the proposed light industrial land uses. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.**

**Moved by Kevin Hodur, Seconded by Stefan Beck.**

***\*Motion passed unanimously. (5-0)***

## B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

3. Review and consideration of Annexation No. 3-17 filed by Swire Coca-Cola, USA, consisting of approximately 3.00 acres of property located on the north side of West Idaho Street, approximately 2,500 feet east from I-80 Exit 298, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Potokar explained that Swire wished to annex the parcel in coordination with the rezone for the future water line and the building expansion.

Ms. Laughlin went over Staff Memo dated January 31, 2018. The applicant has entered into an agreement with Golden Gate Petroleum, as well as the City of Elko, to bring the water line from the extension of Cattle Drive along Sheep Creek Trail. They plan to start the construction of the water line extension later this month. Sewer is not available in close vicinity to this parcel. The parcel is currently utilizing a septic system. The City is looking at a lift station for this parcel. Staff recommended approval of the annexation with the conditions listed in the Staff Report.

Mr. Draper stated that the Development Department recommended approval of the annexation. He had a few things to expand on. When they talk about having dry sewer in Idaho Street, which means they would install a sewer main that is not connected to anything. When Golden Gate was proposing some parceling, the City obtained an easement from them for the installation of a force main lift station, which will provide the sewer service for the entire 298 area. It would pump the sewer back to the treatment plant, because it is not feasible to install a gravity system. Coca-Cola has an existing septic system, which will possibly need to be expanded based on the expansion of their property. Once we have the minimum flow with the development in this area, the Utility Department will begin the budgeting process to have the force main installed. He then went through a few things included in the Development Department Memo. He recommended approval with the Development Department condition listed in the Staff Report.

Mr. Thibault recommend approval.

Mr. Holmes recommended approval.

Mr. Wilkinson recommend approval as presented by staff. He also recommended that the first sentence of Condition No. 1 from the Utility Department be struck. It is informational only. The second sentence of that condition would be appropriate as a condition for annexation. He recommended a revision to finding 13 and adding a finding 14, which would be the same as the previous annexation that was considered.

Mr. Potokar explained that in the Summary Section of the Development Department Memo, it says that the owner wishes to subdivide the property, and that is not the owner's intent.

**\*\*\*Motion: Forward a recommendation to City Council to adopt an Ordinance, which would conditionally approve Annexation No. 3-17 subject to the conditions listed in the City of Elko Staff Report dated January 31, 2018, listed as follows:**

### Development Department:



1. The property owners shall receive approval for a zone designation for the property to be consistent with the Land Use designation in the City of Elko Master Plan.

**Utility Department:**

1. The applicant is required to install dry sewer on their property frontages, as typically required when sewer does not yet exist in the location.
2. The property owner will extend the water main on their frontages and connect to the City water no later than 90 days after service is available to their property line.
3. The onsite ground water well will be abandoned within 90 days of connecting to the City water system.
4. No cross connection between the existing well and the City's system during the period of time required to abandon the onsite ground water well.

Commissioner Hodur's findings to support his recommendation was the annexation is consistent with the City's Land Use Component of the Master Plan. The proposed zoning of LI – Light Industrial would ensure conformance with the land use designation shown in the Master Plan. The proposed annexation is consistent with the City's Transportation Component of the Master Plan. Annexation of the property provides an immediate accrual to the tax base for the city. Annexation of the property provides an opportunity for expanded Light Industrial uses. Annexation of the property is consistent with the goals, objectives, supports long range planning as outlined in the Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report dated November 2012. The alignment for water service to annexed property south/east of the I-80 corridor has been re-evaluated. Extension of water service utilizing the Sheep Creek Trail underpass is significantly less expensive than routing utilization the Exit 298 interchange. This property now factors into fulfilling that objective. The area proposed for annexation is not localized or isolated. The proposed annexation is consistent with the future transportation objectives of the City. Annexation of the area is not expected to have any immediate or negative impact on City resources. The area can be served from the existing 5400 water zone. Extension of water infrastructure is required and has been planned for including certain actions taken by the City Council identified in this report. Other, required, utilities will be installed at developer expense to facilitate development of the property. The topography of the area is well suited for the proposed commercial and light industrial land uses. Expanded used on the property will result in a positive economic impact to the community. Annexation and development of the property will not adversely influence the local government structure of the County nor the City. The proposed annexation satisfies the considerations and/or concerns identified as minimum factors for consideration under NRS 268.646. The annexation has been evaluated in consideration of NRS 268.663 Section 3. The annexation has been evaluated under NRS 268.610 through 268.670, inclusive.

Moved by Kevin Hodur, Seconded by Stefan Beck.

*\*Motion passed unanimously. (5-0)*



The Planning Commission took a break at 7:00pm.

Commissioner Stefan Beck excused himself from the meeting at 7:00 p.m.

#### A. PUBLIC HEARING

4. Review, consideration, and possible action of Conditional Use Permit No. 1-18, filed by Autumn Colors, LLC, which would allow for the development of duplex townhomes within a CT (Commercial Transitional) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northeast corner of the intersection of Cattle Drive and Mountain City Highway. (APN 001-01F-316)

Jon Bailey, 780 W. Silver Street, explained that this was the last phase of their Autumn Colors Development. They made a small change to the townhouses, so that's why they are back again.

Ms. Laughlin went over the City of Elko Staff Report dated February 1, 2018. Staff recommended approval with the conditions listed in the Staff Report.

Mr. Draper wanted to clarify a few things. As he has been reviewing this application, he had also been in contact with NDOT to discuss improvements along Mountain City Highway and intersection improvements on Cattle Drive as part of this development. This also falls within the Final Plat subdivision process. We have been trying to work hard with NDOT on getting everything aligned for Cattle Drive for future uses and connectivity with exit 298. This intersection could be a major intersection in the future. When the property was first developed, the City had some conditions that they provide hydrology studies and a traffic study. The developer provided those studies and they were reviewed by the City and DOT. He recommended approval with the conditions listed, but asked that Condition No. 11 be removed. Upon further review, he felt that it wasn't necessary to restate that.

Mr. Thibault recommended approval.

Mr. Holmes explained that he had conditions that were listed, but he had nothing further to add.

Mr. Wilkinson recommended approval as presented by staff.

**Motion: Conditionally approve Conditional Use Permit No. 1-18 subject to the conditions in the City of Elko Staff Report dated February 1, 2018, removing condition 11 from the Development Department, listed as follows:**

#### Planning Department Conditions:

1. The CUP 1-18 be approved for the building layout as shown in the provided site plan Exhibit A.
2. All landscaping shall include a combination of trees and shrubs. Landscaping shall be installed and not obstruct the view of oncoming traffic at the intersections.

3. Owner or developer is to provide such maintenance and care as is required to obtain the effect intended by the original landscape plan for the development.
4. CUP 1-18 to be recorded with the Elko County Recorder within 90 days of approval.
5. Connectivity from Sagecrest Drive to Cattle Drive pedestrian access shall be provided for.

**Development Department:**

Included in Memorandum dated January 8, 2018 from Community Development Manager

1. The permit is granted to the applicant, Autumn Colors, 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 applicant applies for and receives Final Plat approval, and is consistent with preliminary plat 5-12.
4. Development of the property is to conform to the Commercial Transitional District or requirements stipulated in the Development Agreement.
5. The NDOT right-of-way is to be landscaped. A landscape plan will be required for submittal and approval. NDOT approval will be required. The landscape plan is to include features, which create a "front" for the development adjacent to the State Route 225.
6. The sidewalk adjacent to State Route 225 shall be offset and approved by NDOT.
7. The exterior of the building shall be compatible with surrounding areas. Stucco and rock are to be incorporated into the exterior of the structures.
8. The proposed park is to be fenced preventing access directly to State Route 225. The park is to include community amenities such as a tot lot.
9. The common areas are to be maintained in an acceptable manner at all times.
10. Setback from State Route 225 is to be 30 feet.

**Fire Department Conditions:**

1. All buildings shall comply with the 2012 International Fire Code chapter 5 section 503.1.1 and shall extend to within 150 ft. of all portions of the building(s).
2. Additional access might be required to meet the requirements of the 2012 IFC Chapter 5 Section 503.2.1 for this complex.
3. Fire Department access shall meet the minimum dimensions as listed in the 2012 IFC section 503.2.1
4. Dead end access roads shall have an approved method for turning around a fire apparatus in compliance with the 2012 International Fire Code chapter 5, section 503.2.4, 503.2.5 and appendix D.
5. Fire apparatus access roads shall meet the requirements of the 2012 International Fire Code chapter 5, and City of Elko Fire Department requirements for turning radius, approach and departure angles, and grade.



6. Fire department access roads shall comply with the 2012 International Fire Code sections 503.2.1 and Appendix D section D105.1 through D105.3 for buildings in excess of thirty feet in height.
7. Signage shall be provided in compliance with the 2012 IFC appendix D 103.6 Building signage shall be provided and meet the requirements of the City of Elko Fire Department and the 2012 IFC.
8. Projects that exceed 100 or 200 dwelling units shall comply with a the appropriate section of the 2012 International Fire Code Appendix D sections D106.1 and D106.2
9. One- or two family residential developments shall comply with the 2012 IFC appendix D 107.
10. Fire flow shall be determined by the City of Elko Fire Department and listed on submitted plans.
11. Fire Department access, method of turn around, and required fire flow shall be met and maintained as required by the 2012 IFC, for phased projects. A phased development plan shall be provided and approved by the fire department.

Commissioner Hodur's findings to support its recommendation are the proposed development is in conformance with the Land Use Component of the Master Plan. The proposed development is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan. The site is suitable for the proposed use. The proposed development is in conformance with the City Wellhead Protection Program. The proposed use is consistent with surrounding land uses. The proposed use is in conformance with City Code 3-2-9(B) Commercial Transitional with the approval of the Conditional Use Permit. The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code. The development conforms to the stipulations contained in the Development Agreement. File 666547.

Moved by Kevin Hodur, Seconded by Tera Hooiman.

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

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

4. Review, consideration, and possible action and possible approval of Final Plat No. 2-18, filed by Autumn Colors, LLC, for the development of a subdivision entitled Autumn Colors Estates, Phase 5 involving the proposed division of approximately 5.85 acres divided into 41 lots for residential development within the R (Single Family and Multiple Family Residential) and CT (Commercial Transitional) Zoning Districts, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northeast corner of the intersection of Cattle Drive and Mountain City Highway (001-01F-316).

Ms. Laughlin went over the City of Elko Staff Report dated January 22, 2018. She recommended approval with the conditions listed in the Staff Report.

Mr. Draper went through the Development Department Memo dated January 23, 2018. He then went over his recommended conditions listed in the Development Memo. He added that he had an additional condition on a supplemental memo that had been handed out, which was "Additional right-of-way may be required for Cattle Drive based on a review of the intersection design by NDOT. NDOT approval is required and any additional right-of-way shall be show on the plat prior to council consideration. He explained that NDOT wanted to have Cattle Drive perpendicular to Mountain City Highway. NDOT is working with their Carson City office and should have an answer back by the end of the week, so we can provide that recommendation to Mr. Bailey. He stated that Condition No. 1 the date should be June 29, 2019.

Mr. Thibault had nothing to add and recommended approval.

Mr. Holmes recommended approval.

Mr. Wilkinson suggested a couple revisions to the findings; Finding No. 24 should read "Council approval of a modification of standards is required per 3-3-70 Modification of Standards for curb and gutter, sanitary sewer and water supply not being installed in SR 225". He noticed that the Development Department conditions were revised subsequent to the publication of the Planning Department Staff Report. He encouraged the Commission to go through the recommendations of the Development Department in the memo. He also recommended, on No. 15, concluding stating, "As recommended by NDOT". He asked Mr. Draper if he had the date of the letter from NDOT.

Mr. Draper stated it was September 20, 2017.

Mr. Wilkinson suggested adding the date with that condition. He suggested adding that the finding is based on the adjacent development and the existing utility locations to No. 16.

Commissioner Hodur asked if they should strike Condition 14 from the Development Department conditions.

Mr. Draper explained that it was stated in the legend, so they could strike that condition if they wished.

**\*\*\*Motion: Forward a recommendation to City Council to conditional approve Final Plat No. 2-18 subject to the conditions in the City of Elko Staff Report dated January 22, 2018, listed as follows:**

**Development Department:**

**(See Memorandum from Development Manager Jeremy Draper dated January 23, 2018)**

- 1. The Applicant shall complete all required subdivision improvements within two (2) years of the date of approval. Approval of the Final plat shall expire if the final plat is not recorded within two (2) years of the date on which the sub-divider recorded the previous Final Plat, pursuant to NRS 278.360. This plat shall be recorded prior to June 29, 2019. The applicant may request an extension of time as provided for under provisions of City Code.**
- 2. The final plat is approved for 20 townhome lots and 21 single-family residential lots.**
- 3. The Utility Department will issue a Will Serve Letter.**



4. Final approval for civil improvement plans
5. State approval of the subdivision.
6. A Performance Agreement with regard to the dedication of public improvements shall be presented with the final plat for approval. The developer shall enter into the Performance Agreement within 30 days of approval of the final plat by City Council.
7. The vicinity map on page 1 of the plat needs to be adjusted to identify the location of the subdivision prior to City Council consideration.
8. A drainage easement over Common Area A near Cattle Drive shall be shown on the final plat prior to City Council consideration.
9. Lot 531 shall have access restricted to Autumn Colors Drive. A Note shall be added to the final plat prior to City Council consideration.
10. Lot 532 and 537 shall have access restricted to Snowy River. A Note shall be added to the final plat prior to City Council consideration.
11. The developer shall clarify the depth of lots 513-520; the other townhome lots have a depth of 79.00', prior to City Council consideration.
12. Provide a bearing for lots 504, 505, 512, 513, and 520 on the final plat prior to City Council consideration.
13. The plat shall identify the location of the City boundary prior to City Council consideration.
14. The council should consider a modification of standards, not requiring the installation of curb and gutter as required in ECC 3-3-43-B, Curbs for the frontage of Mountain City Highway (SR 225) based on the findings of the Planning Commission, and as recommended by the NDOT in their letter dated September 2047
15. The council should consider a modification of standards, not requiring the installation of water and sewer infrastructures required in Elko City Code 3-3-43 (G) and (H), Sanitary Sewer and Water supply, along the frontage of Mountain City Highway (SR 225) based on the findings of the Planning Commission. Finding is based on adjacent development and existing utility locations.
16. NDOT approval is required for improvements on Mountain City Highway (SR 225).
17. A jurat shall be provided on the final plat for NDOT approval prior to City Council consideration.
18. Update the dates in the jurats to reflect 2018 prior to City Council consideration.
19. Additional right-of-way may be required for Cattle Drive based on a review of the intersection design by NDOT. NDOT approval is required and any additional right-of-way shall be shown on the plat prior to council consideration.

**Public Works Department:**

1. All public improvements per City code at time of development.

**Utilities Department:**

1. Civil Plans for water and sewer will be reviewed at time of submittal and offer any feedback in the form of redline comments.

**Planning Department:**

1. All revisions to map must be completed prior to City Council consideration for



- approval.
2. Common Area A needs to be landscaped and properly cared for and maintained in a manner that is acceptable to the City of Elko.
  3. Existing cluster of post office boxes for County residents needs to be addressed with in the Final Plat. Location, easement, distance to intersection, and traffic conditions all should be addressed

Commissioner Hodur's findings to support his recommendation was the subdivision is in conformance with the Land Use and Transportation Components of the Master Plan. Modifications to development standards have been approved with the development agreement shown as File 666547 on record with the Elko County Recorder's Office. Based on the Development Agreement, the subdivision is in conformance with 3-2-4 – Establishment of Zoning Districts, 3-2-5 (E) Single-Family and Multiple-Family Zoning Districts, 3-2-9 CT – Commercial Transitional Zoning District. The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations, 3-3-5 with less than 2 years since the last final plat was recorded, 3-3-6 Final Plat (Stage III), and 3-3-8 Information required for Final Plat Submission. The subdivision is in conformance with 3-3-20 General Provisions for Subdivision Design. The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility, or similar conditions, which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners. The subdivision is in conformance with 3-3-21 Street Location and Arrangement, 3-3-22 Street Design, 3-3-23 Block Design, 3-3-24 Lot Planning as modified by the Development Agreement, 3-3-25 Easement Planning, 3-3-26 Street Naming, 3-3-27 Street Lighting Design Standards, 3-3-40 Responsibility for improvements, 3-3-41 Engineering Plans, 3-3-42 Construction and Inspection, and 3-3-43 Required Improvements. The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-44 Agreement to Install Improvements. The sub-divider shall provide a performance guarantee as stipulated in the performance agreement and 3-3-45 Performance Guarantee. Council approval is required for a modification of standards as required per 3-3-70 Modification of Standards for curb and gutter, sanitary sewer and water supply not being installed in SR 225. The subdivision is in conformance with 3-8 Floodplain Management. The Final Plat is in conformance with the Preliminary Plat. All Final Plat revisions are required prior to City Council consideration of the application.

Moved by Kevin Hodur, Seconded by Tera Hooiman.

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

#### A. PUBLIC HEARING

5. Review, consideration, and possible recommendation to City Council for Rezone No. 1-18, filed by The City of Elko, for a change in zoning from R (Single-Family and Multiple-Family Residential) to PQP (Public, Quasi-Public), approximately

1.314 acres of property, to allow for incorporation into the Elko City Parks, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest corner of the intersection of College Avenue and Golf Course Road (1401 College Ave, APN 001-200-002).

#### **NO ACTION WAS TAKEN ON THIS ITEM**

6. Review, consideration, and possible recommendation to City Council for Rezone No. 2-18, filed by Jason B. Land, on behalf of Blaine Branscomb, for a change in zoning from R (Single-Family and Multi-Family Residential) to RO (Residential Office), approximately 0.086 acres of property, to allow for a professional office, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Court Street, approximately 50 feet east of 9<sup>th</sup> Street (910 Court Street, APN 001-281-002).

Jason Land, 1526 Sustacha Drive, Lamoille, NV, said he was asking for change in zoning from Residential to Residential Office.

Ms. Laughlin went over the City of Elko Staff Report dated January 18, 2018. She recommended conditional approval with the conditions listed in the Staff Report.

Mr. Draper wanted to go back to the Land Use Component of the Master Plan. When staff reviewed the application they determined that it met three of the objectives; Objective 2, 4, and 6, which is to encourage revitalization, redevelopment of the downtown area, consider mixed use pattern of development for the downtown area, and to encourage multiple scales of commercial development. The only listed use within the Master Plan for Downtown Mixed Use Area is Commercial. One of the purposes of Residential Office is to provide limited Commercial opportunities, so staff believes that meets the intent of the Land Use Designation in the Master Plan. He recommended approval with the Development Department condition listed in the Staff Report.

Mr. Thibault recommended approval.

Mr. Holmes had no further comments and recommended approval.

Mr. Wilkinson recommended approval as presented by staff. He wanted to reinforce a few observations. Under the Redevelopment Plan repurposing buildings and eliminating blight is important. Under the Mixed Use issue, the designation of the Master Plan, the Downtown Mixed Use is envisioned as an intense use. With the zoning and the surrounding land uses, this type of possibility finds a happy medium between the two and supports the Redevelopment Plan.

Commissioner Dalling asked the applicant what he was planning to do with the building.

Mr. Land explained that he was an advisor with Edward Jones and he had an office on N. 5<sup>th</sup> Street. He explained that he would rather have his firm pay him, than he pay his landlord.



Leanne Hill, 451 Valley Bend Drive, Spring Creek, NV, explained that she owned a rental at 916 Court Street. She thought anything that's improved upon the property would be beneficial to them.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution, which conditionally approves Rezone No. 2-18 subject to the conditions listed in the City of Elko Staff Report dated January 18, 2018, listed as follows:**

**Planning Department:**

1. All conditions for the rezone are satisfied prior to the Mayor signing the resolution to rezone the property.

**Development Department:**

1. A variance be granted for the lot size, lot width and interior side yard setback for the principal structure.

Commissioner Hodur's findings to support his recommendation was the proposed rezone does not appear to frustrate the Master Plan's goals and policies of the Land Use Component. Strict conformance with the Master Plan under Section 3-2-21 is not required and the proposed zone district is consistent with existing land uses in the immediate vicinity. Residential Office is not a corresponding district of Downtown Mixed Use. The proposed zone district meets several of the Objectives 2 and 4 of the Land Use Component of the Master Plan. The proposed rezone is consistent with the Transportation Component of the Master Plan. The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system. The proposed zone district and repurposing the property and structure conforms to the redevelopment plan. The proposed rezone is consistent with the City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City Wells. The property does not conform to Section 3-2-4 of City Code. As a result of the above referenced non-conformance issues, the applicant has applied for variances on the lot size, lot width and the interior side yard setback under Variance application 1-18. Approval of the variance application is required as a condition of the zone application. The proposed rezone is not in conformance with Section 3-2-5(R) Residential Office, a variance for lot size and interior side setback will be required for approval of the application. The property as developed is in conformance with City Code 3-2-17 for the principal permitted use as a single-family residence. The applicant has committed to removal of the existing garage to develop ADA compliant off-street parking to be located at the rear of the property and accessed from the alleyway if the property is issued a conditional use permit to be developed as an office use. The parcel is not located within a designated Special Flood Hazard Area. Development under the proposed rezone will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or posed a danger to human health and safety. The proposed rezone is consistent with surrounding land uses.

Moved by Kevin Hodur, Seconded by Jeff Dailing.

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

7. Review, consideration, and possible action on Variance No. 1-18, filed by Jason B. Land, on behalf of Blaine Branscomb for a reduction of the required lot area from 6,000 sq. ft. to 3,750 sq. ft., front lot width from 60 feet to 37.50 feet, and the required interior side yard setback from 5 1/2 feet to 0 feet, in conjunction with a zone change from R (Single-Family and Multi-Family Residential) to RO (Residential Office), and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Court Street, approximately 50 feet east of 9<sup>th</sup> Street (910 Court Street, APN 001-281-002).

Ms. Laughlin went over the City of Elko Staff Report dated January 18, 2018. She recommended conditional approval with the conditions listed in the Staff Report.

Mr. Draper wanted to focus on the application requirements. Ms. Laughlin talked a little about the six requirements. We have to find special circumstances or features that justify a variance for this particular property. The structure was constructed prior to existing codes being adopted and the zone being established. The lots were allowed to be less than 5,000 square feet, which at the time of development was allowed because it was not required by code. One of the items that needs to be considered is whether such special circumstances, or conditions, apply to additional properties in the same zoning district. As this is proposed to be an RO Zone, it does not apply to additional properties, but there is potential for other properties to have the same variance requirements due to lot size and location to property lines. Staff does not believe this will result in material damage or prejudice to the other properties. The Development Department recommended approval with the conditions in the Staff Report.

Mr. Thibault and Mr. Holmes recommended approval.

Mr. Wilkinson recommended approval as presented by staff. He recommended a few revisions on the Planning Department Staff Report. Condition 5 should read, "The property does not conform to..." Condition 6 should read, "The property is not in conformance with Section ..." In addition to the listed findings, Mr. Wilkinson recommended including the first finding from the Development Department's memo.

Commissioner Hodur asked if this application confirmed that this property was going to be turned into an office.

Ms. Laughlin explained that if the applicant was granted a Conditional Use Permit to allow the use of an office on the property, the applicant would have to provide parking for that office. By providing the parking, the applicant would have to provide it where the garage is located. The garage is not included in the variance because the applicant stated that he was going to demolish it. If the applicant left it as a principle permitted use as a Single Family Residence, then he would need to return to the Planning Department and apply for an additional variance for the garage.

Vice-Chairman Freistroffer said one of the conditions for variance was the openings. He asked if there were several windows on that side of the house.

Mr. Land said no.



Ms. Laughlin pointed out that there was one window that would have to be boarded up, which is on the wall parallel to Court Street.

Mr. Land said that window was boarded from the inside. He added that he not intended to have a window there, and asked if he was allowed to have a window there, or not.

Ms. Laughlin stated that he was not allowed to have a window at that location.

**\*\*\*Motion: Conditionally approve Variance No. 1-18 subject to the conditions in the City of Elko Staff Report dated January 18, 2018, listed as follows:**

**Development Department:**

1. A variance is granted for the side yard setback of the existing principal structure to be reduced to 0', the lot width is reduced to 37.5' and the lot size is reduced to 3,750 sf.
2. The garage is removed from the property.

**Building Department:**

1. Walls, roof < 5' from property line require 1 hour fire protection per City Building code table R302.1
2. Projections (overhangs) not allowed <2' of property line 2' to <5' requires 1 hour underside per R302.1
3. Openings (windows etc.) < 3' from the property line not allowed, 3' to < 5' 25% max of wall area allowed per R302.1

**Planning Department:**

1. Compliance with all staff recommendations.
2. Approval of Rezone 2-18
3. Existing accessory structure must be demolished.
4. Commencement within one year and completion within eighteen (18) months.

**Public Works Department:**

1. Applicant must provide required off street parking

Commissioner Hodur's findings to support its recommendation are the proposed variance does not appear to frustrate the Master Plan's goals and policies of the Land Use Component. Strict conformance with the Master Plan under Section 3-2-21 is not required and the proposed zone district is consistent with existing land uses in the immediate vicinity. Residential Office is not a corresponding district of Downtown Mixed use. The proposed zone district meets several of the Objectives 2 and 4 of the Land Use Component of the Master Plan. The proposed variance is consistent with the Transportation Component of the Master Plan. The proposed zone district, intensity of use and limitation of intensity of use will not create any significant cumulative issues on the existing transportation system. The proposed variance and repurposing the property and structure conforms to the Redevelopment Plan. The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City Wells. The property does not conform to Section 3-2-4 of City Code. Approval of the variance application is required to bring the



property into conformance. The proposed variance is not in conformance with Section 3-2-5(R) Residential Office, Approval of the variance application is required to bring the property into conformance. The parcel is not located within a designated Special Flood Hazard Area. It does not appear that granting of the variance will result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. Granting of the variance will not impair natural resources. The proposed variance is consistent with surrounding land uses. The special circumstances cited in the application are related to the existing conditions of the residential use and the property as developed does not conform to current zone.

Moved by Kevin Hodur, Seconded by Tera Hooiman.

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

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

1. Review, consideration, and possible action on the 2017 Annual Report of Planning Commission activities. **FOR POSSIBLE ACTION**

Ms. Laughlin went over the 2017 Annual Report of Planning Commission activities.

Vice-Chairman Freistroffer thanked staff for working on all the applications last year.

**\*\*\*Motion: Approve the 2017 Annual Report of Planning Commission activities as presented, and forward a recommendation to City Council to approve said report.**

Moved by Jeff Dalling, Seconded by Tera Hooiman.

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

5. Review, consideration, and possible action to initiate an amendment to the City of Elko Master Plan, specifically The Proposed Future Land Use Atlas Map 8, and matters related thereto. **FOR POSSIBLE ACTION**

Ms. Laughlin said that they just did an Atlas Map 8 revision, but they made some errors and overlooked a few properties that should have been included in the last amendment. These properties are up for discussion. The parcels known as the Girl Scout House, Masonic Lodge, VFW Hall, Old Police Department parcel, Elko Clinic, and the Surgical Center are all shown on the Land Use Atlas as Residential. Staff is proposing that those be Public. The reason they took no action on Rezone No 1-18 was that staff would like it to be in conformance with the Master Plan. Parcels that are south of the Peace Park, which is the current location of the State offices, and they are shown as medium density residential. Staff proposed General Commercial for those parcels. South of Cattle Drive, above 1-80 at Exit 298, staff is proposing above the Cattle Drive right-of-way to remain Industrial Business Park, and below that to be Commercial. It is all shown as Industrial Business Park right now, with the exception of a few Commercial areas.

Consideration for west of the City properties at Exit 298. It was shown as low density residential and staff is proposing that as Industrial General to provide additional industrial area in case there are some further annexations.

Mr. Wilkinson explained that staff would provide a detailed analysis on the proposed change along Cattle Drive to give the Commissioners the information on why staff is proposing that. He said they would need to evaluate and justify the change for showing some industrial outside of the expansion area, because he wasn't sure that the City could annex that area. He thought there were other targeted uses in that area that could interfere with that type of designation.

Ms. Laughlin continued with the consideration of the east Railroad Corridor to go to General Industrial. Right now, it has no classification. With the development along Manzanita staff feels that there are areas that could have potential UP leases. The final revision was for the Courthouse parcels to go to Public.

Vice-Chairman Freistroffer asked what the Courthouse parcels were currently

Ms. Laughlin said they were classified as Residential and Mixed Use.

Vice-Chairman Freistroffer asked if this item was to initiate and if they would get details next month. (Yes)

Ms. Laughlin explained that if the Commissioners felt this was something that they didn't want to see then they needed to speak up now.

Vice-Chairman Freistroffer asked what the reasoning was for the General Industrial on the west side.

Mr. Draper explained that Staff meets with the utilities every quarter, and last week in that meeting there was some discussion of a potential development in that area for a large industrial use. That was the determination to provide a land use for this area, even though it is outside the City Limits. Staff has not evaluated that area for annexation potential yet, so that will need to take place.

Vice-Chairman Freistroffer said it made sense to have the general industrial on edge of town, because they are trying to get rid of it centrally.

Mr. Draper said portions of that area are BLM property that the County applied for, for their ATV area. There could be some conflict there with this type of designation.

Mr. Wilkinson said that might be appropriate. He thought they should change a portion of the Railroad property to Industrial Business Park.

Vice-Chairman Freistroffer clarified that Mr. Wilkinson was proposing Industrial Business Park on the west side of Silver Street.

Mr. Wilkinson said yeah. The City doesn't want any General Industrial down there. If there were a land use designation in the Master Plan that would discourage that, it would be better. He



suggested going out towards the east side and having a cut off. He suggested Industrial Business Park until Union Pacific, and Union Pacific east GL.

Commissioner Hodur asked if they would be directing staff to bring it back as a resolution.

Ms. Laughlin said it would be brought back as initiation again.

**\*\*\*Motion: Direct staff to change the railroad parcel on the east side of town to Industrial Business Park west of Union Pacific Way and remain General Industrial east of Union Pacific Way, and bring the item back to the next meeting.**

**Moved by Kevin Hodur, Seconded by Tera Hooiman.**

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

## **II. REPORTS**

### **A. Summary of City Council Actions.**

*Ms. Laughlin reported that City Council finalized the last Master Plan Amendment 1-17. They considered the Planning Commission's action to deny Section 3-2-29 of the Elko City Code to prohibit marijuana establishments. They voted against that and set the matter for first reading. It went through the first reading and was headed to second reading. They heard an appeal on the decision from the Planning Commission to deny CUP 6-17 for Lyfe Recovery Services for the halfway house on Winchester Drive. They approved the CUP and added another condition that they have 180 days to comply with 3-2-17 for requirements for the parking. They will be required a Variance to park in the front setback, and she will have to show that she can meet the required parking for the property, or apply for a waiver for what she can't meet. The City Council also set a limit of 11 occupants for the home. She has the capability of having 22.*

*Mr. Wilkinson added that the City receives complaints almost daily as they continue to operate. Staff will be doing a report to the City Council on that.*

*Vice-Chairman Freistroffer asked if the CUP would come back to the Planning Commission.*

*Ms. Laughlin explained that the parking waiver and/or the variance would come back to the Planning Commission, if those applications come in.*

*Mr. Wilkinson said the applicant had legal representation at the City Council that brought up issues with the Disabilities Law. He thought the Council was trying to find a happy medium, while understanding the Planning Commission's position and recommendation. They also had communication from the community and the courts on the need for a facility like that. A limit on occupancy wasn't presented to the Planning Commission or the City Council, but they decided that that might be an appropriate condition, providing that they convert their entire front yard area into parking.*



*Ms. Laughlin explained that there were currently five residents at the facility, which have been issued there from Drug Court, and three of the five have vehicles plus the one staff member.*

*Ms. Laughlin reported that the business impact statement was finalized for the application fee increase. Staff is now working on the revisions to the applications. City Council approved the Planning Commission 2018 Work Program.*

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**

*There were no public comments made at this time.*

#### **ADJOURNMENT**

There being no further business, the meeting was adjourned.

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David Freistroffer, Vice-Chairman

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Jeff Dailing, Secretary

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on Conditional Use Permit No. 2-18, filed by Boys and Girls Club of Elko, Inc., which would allow for the expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: ***NEW BUSINESS, PUBLIC HEARINGS***
4. Time Required: **15 Minutes**
5. Background Information: **Boys and Girls Club was issued a Conditional Use Permit in 2012 for their current facility. The existing gymnasium was approved as an accessory structure. They are proposing and expansion to the current facility and therefore are required a new Conditional Use Permit. This Conditional Use Permit would supersede the previous CUP 11-12.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Move to conditionally approve Conditional Use Permit 2-18 with the following conditions: (listed in City Planner Memo)**
9. Findings:
  - **The proposed development is in conformance with the Land Use component of the Master Plan**
  - **The proposed development is in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan**
  - **The site is suitable for the proposed use.**
  - **The proposed expansion of the development is in conformance with the City Wellhead Protection Program.**
  - **The proposed use is consistent with surrounding land uses.**
  - **The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the Condition Use Permit**
  - **The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **Boys and Girls Club of Elko, Inc.  
782 Country Club Drive**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 3/6**

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

Title: Conditional Use Permit 2-18  
Applicant(s): Boys + Girls Club of Elko, Inc.  
Site Location: 782 Country Club Dr. - APN 001-560-092  
Current Zoning: PQP Date Received: 2/13 Date Public Notice: 2/20  
COMMENT: This is to Allow for an expansion of an  
existing building within a PQP Zoning District.

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

Assistant City Manager: Date: 3/1/18  
Recommend approval as presented by  
Staff. Approval of Variance 2-18 required

SAW

Initial

City Manager: Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Initial





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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	<b>February 22, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>March 6, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I. A. 1</b>
<b>APPLICATION NUMBER:</b>	<b>Conditional Use Permit 2-18</b>
<b>APPLICANT:</b>	<b>Boys &amp; Girls Club of Elko</b>
<b>PROJECT DESCRIPTION:</b>	<b>Expansion of existing facility</b>
<b>RELATED APPLICATIONS:</b>	<b>Variance 2-18</b>

**A Conditional Use Permit for the expansion of the current Boys and Girls Club of Elko and the addition of an accessory building on the parcel.**



### **STAFF RECOMMENDATION:**

**RECOMMEND APPROVAL, subject to findings of fact and conditions.**

### **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-560-092

**PROPERTY SIZE:** 1.375 acres

**EXISTING ZONING:** PQP –Public, Quasi, Public

**MASTER PLAN DESIGNATION:** Public

**EXISTING LAND USE:** Developed as the current Boys & Girls Club facility

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by developed land to the north, south, and west. It is surrounded by properties zoned PQP, Public, Quasi-Public.

### **PROPERTY CHARACTERISTICS:**

- The property is currently developed.
- The property has topography that is not always the easiest for development.
- The property is accessed from County Club Drive
- The property is not in the flood zone.

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

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

### **BACKGROUND INFORMATION**

- The application for the Conditional Use Permit was filed as required under City Code 3-2-8 (D). The proposed conditional use would supersede CUP 11-12 which was approved for the Boys & Girls Club of Elko current facility.

- The existing gymnasium was approved as an accessory structure. All accessory structures whether attached or detached, shall be located in accordance with location on the lot as approved by the Planning Commission.
- The applicant has applied for a variance for a reduction in the rear setback for the new addition. This variance would supersede VAR 7-12 which was approved for a reduction in the rear setback requirement.
- The applicant has requested a lease agreement with the Nevada Department of Transportation for a long term lease of 30' of the rear portion of the property. This is a steep sloped area and not easily developable but would increase their useable area of their parcel. The additional 30' lease area was not taken into consideration in the review of the conditional use permit application as setback requirements but reviewed as an area in which would allow for an additional buffer between the building and the adjacent property supporting the variance application for a reduction in the rear setback. They are currently still negotiating on the lease and it would not be considered part of their parcel.
- It appears that the proposed expansion is over their existing sewer lateral.
- 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 3: Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
5. Objective 8: Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

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

### **Transportation**

1. The Master Plan identifies Country Club Drive as residential collector roadway.
2. The site has pedestrian access along Country Club Drive as well as Convention Drive. Sidewalks are a necessary safety feature, particularly in residential neighborhoods 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 permit is in conformance with the Master Plan Transportation Component and existing transportation infrastructure

### **ELKO WELLHEAD PROTECTION PLAN**

- The property is located in the 5-year capture zone for City wells. Development will be required to conform to the Elko Wellhead Protection Plan

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

- Section 3-2-3 (C) 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 as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-8(D).

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

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

The proposed development does not conform with this section of the code and therefore have applied for a variance for the rear yard setback requirement.

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

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

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

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

- Conformance with this section is required. The current facility is in conformance

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

#### General Regulations:

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

zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.

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

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

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

### **FINDINGS**

- The proposed development is in conformance with the Land Use component of the Master Plan
- The proposed development is in conformance with the existing transportation infrastructure and the Transportation component of the Master Plan
- The site is suitable for the proposed use.
- The proposed expansion of the development is in conformance with the City Wellhead Protection Program.
- The proposed use is consistent with surrounding land uses.
- The proposed use is in conformance with City Code 3-2-8 PQP, Public-Quasi, Public with the approval of the Condition Use Permit
- The proposed development is in conformance with 3-2-3, 3-2-4, 3-2-17, 3-2-18, and 3-8 of the Elko City Code.

### **STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of CUP 2-18 with the following conditions:

#### **Development Department:**

Included in Memorandum dated February 22, 2018 from Community Development Manager

1. The permit is granted to the applicant Boys and Girls Club of Elko.
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. Staff recommends the Planning Commission approve the location of the Accessory Building as required in 3-2-8-E-2.
4. A variance for the interior side yard setback for the principal building is required for a reduction in the setback from 49'-5" to 7'-0" as shown on the plan. Staff is in support of this reduction based on the irregular shape of the lot and the Boys and Girls Club obtaining a long term lease from NDOT for an additional 30' along this property line.
5. Slope stabilization will be required on all slope areas.

**Planning Department Conditions:**

1. The CUP 2-18 be approved for the building layout as shown in the provided site plan Exhibit A. Including the detached accessory building.
1. CUP 2-18 to be recorded with the Elko County Recorder within 90 days after the commencement of the expansion to the current facility.
2. The exterior of the building shall be compatible with the existing building.



**City of Elko Development Department**  
**1755 College Avenue**  
**Elko, NV 89801**  
**(775) 777-7210**  
**FAX (775) 777-7219**

To: City of Elko Planning Department  
From: Jeremy Draper, PE – Development Manager  
RE: Conditional Use Permit No. 2-18, Boys and Girls Club  
Date: February 22, 2018

The City of Elko Development Department has provided this correspondence to aid in the Planning Commission's review of Conditional Use Permit No. 2-18 for the proposed expansion of the Boys and Girls Club located at the southeast corner of Country Club Drive and Convention Drive. Applicable Master Plan Sections, Coordinating Plans, and City Code Sections are:

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

### **BACKGROUND INFORMATION**

1. The property is zoned Public, Quasi-Public District (PQP).
2. Section 3-2-8(D)(1) of City Code requires a Conditional Use Permit for the establishment, expansion, or change of use, including principal uses.
3. The property is bounded by PQP property on all sides.
4. The Planning Commission approved Conditional Use Permit 6-11 at its meeting on December 12, 2012 for the construction of the Boys and Girls Club.
5. The Planning Commission approved Conditional Use Permit 11-12 at its meeting on August 7, 2012 for a substantive revision to CUP 6-11.



6. The Planning Commission approved Variance 7-12 at its meeting on August 7, 2012, reducing the sideyard setback from 34 feet down to 26 feet 11 inches.
7. The lot area is approximately 1.68 acres.
8. The City Council took action at its meeting on March 8, 2011 to convey the property to the Boys and Girls Club.
9. The Boys and Girls Club is entering into a lease with NDOT for a long term lease of 33' of land on the Southeast Property line
10. The proposed expansion is to provide additional areas to serve teens, the applicant does not anticipate additional traffic generated as a result of the expansion, enrollment at the club will stay the same.

#### **MASTER PLAN**

1. The Master Plan identifies the land use as Public, Quasi-Public District.
2. Objective 3 under the Land Use component of the Master Plan states Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
3. Objective 8 under 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.
4. The property is accessed via Country Club Drive. Country Club Drive is identified as a residential collector in the City's Master Plan.

#### **REDEVELOPMENT PLAN**

1. The property is not within the Redevelopment Area.

#### **WELL HEAD PROTECTION PLAN**

1. The site lies within the 5 year capture zones for Wells 19, 10A, 14 and 13. The proposed development does not pose a threat to groundwater.

#### **ZONING**

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

1. Section 3-2-3(C) states that certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance specified in Chapter 3 or imposed by the Planning Commission or City Council. The applicant has filed for a conditional use permit under Section 3-2-8(D)(3), an expansion of use exceeding 1,000 square feet. Conditional use permits are issued under the provisions of Section 3-2-18 of the Zoning Ordinance.

### **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:

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.

### **SECTION 3-2-8 PQP-PUBLIC, QUASI-PUBLIC ZONING DISTRICT**

1. Section 3-2-8(C)(2) requires a minimum setback for interior side and rear lot lines of not

less than the height of the principal building, plus one additional foot for each five feet or part thereof that such building exceeds thirty five feet in aggregate horizontal dimension of the wall generally parallel to such side or rear lot line.

The required setback from the property line the property line between NDOT and the Boys and Girls club is 49'-5", the proposed setback of the new addition is 7'-0", a variance will be required.

2. Section 3-2-8(C)(4) states the maximum lot coverage shall not exceed 35 percent of the net site area. The site plan shows the building lot coverage of 33.3% percent. Landscape coverage is shown at 34.9 percent.
3. Section 3-2-8(E)(1) – states that the regulations applicable to the principal building apply. Both the principal building and the accessory building will conform to the Airport Master Plan.
4. Section 3-2-8(E)(2) – states that accessory buildings, whether attached or detached, shall be located in accordance with the location on the lot as approved by the Planning Commission.

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

1. The site currently provide a total of 48 parking spaces, 46 standard and 2 Accessible spaces.
2. City code does not specifically address parking requirements for the proposed use of the property. Commercial recreation requirements would not be applicable. The best applicable parking requirement would be that specified under Public, Quasi-Public for an Elementary School. The requirement is one per six students. The Boys and Girls Club should verify the total number of students enrolled in the club.
3. The Boys and Girls Club has obtained a letter of authorization dated October 19, 2011, from the Convention Center allowing for additional parking for special events if there are no conflicts with Convention Center requirements. The Boys and Girls Club has also obtained a letter of authorization dated October 21, 2011, from the Elko County School District allowing for additional parking for special events on the Flagview School grounds with the understanding the District maintains primary usage.
4. Section 3-2-17(4) states Landscaping: Five percent (5%) of any off street parking lot of twenty (20) or more parking spaces shall be reserved for landscaping improvements, except for parking lots and facilities not directly associated with or serving adjacent commercial or industrial development. The site shows landscaped coverage of approximately 35%.
5. Secondary access has been provided.



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

1. Section 3-2-18(A)(1) states "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." Based on this requirement and the requirements stipulated in Section 3-2-4(B), a variance will be required for the principal building setbacks.

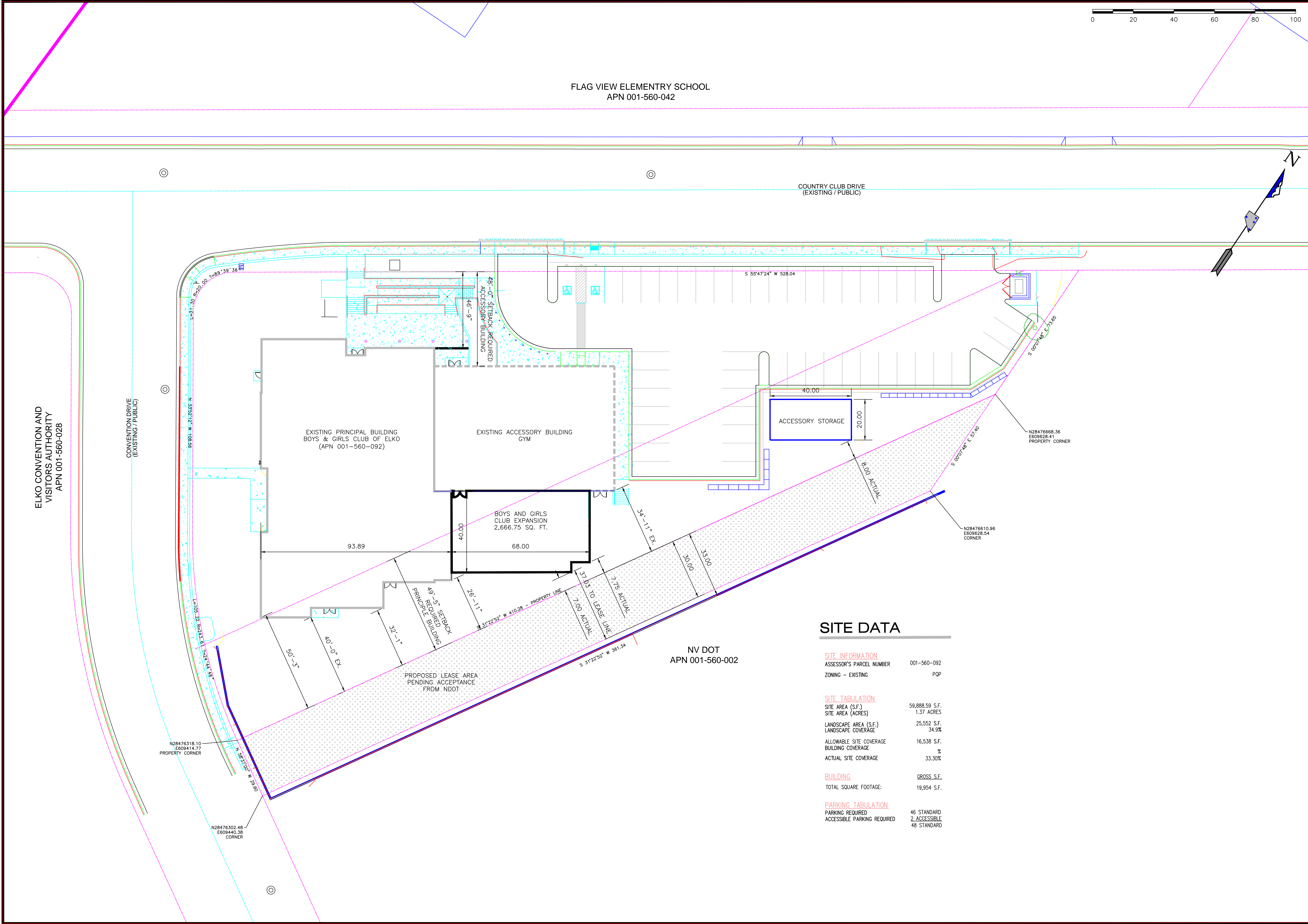
### **SECTION 3-8 FLOODPLAIN MANGEMENT**

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

### **RECOMMENDATION**

The City of Elko, Development Department recommends the conditional approval of Conditional Use Permit No. 2-18 based on the following condition(s):

1. The permit is granted to the applicant Boys and Girls Club of Elko.
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. Staff recommends the Planning Commission approve the location of the Accessory Building as required in 3-2-8-E-2.
4. A variance for the interior side yard setback for the principal building is required for a reduction in the setback from 49'-5" to 7'-0" as shown on the plan. Staff is in support of this reduction based on the irregular shape of the lot and the Boys and Girls Club obtaining a long term lease from NDOT for an additional 30' along this property line.
5. Slope stabilization will be required on all slope areas.



SITE DATA

SITE INFORMATION	
ASSESSOR'S PARCEL NUMBER	001-560-092
ZONING - EXISTING	PQP
SITE TABULATION	
SITE AREA (S.F.)	59,888.59 S.F.
SITE AREA (ACRES)	1.37 ACRES
LANDSCAPE AREA (S.F.)	25,552 S.F.
LANDSCAPE COVERAGE	34.9%
ALLOWABLE SITE COVERAGE	16,538 S.F.
BUILDING COVERAGE	%
ACTUAL SITE COVERAGE	33.30%
BUILDING	
GROSS S.F.	
TOTAL SQUARE FOOTAGE:	19,954 S.F.
PARKING TABULATION	
PARKING REQUIRED	46 STANDARD
ACCESSIBLE PARKING REQUIRED	2 ACCESSIBLE
	48 STANDARD

SHEET

S-1

OF

2

SCALE

HORIZ: 1"=20'

VERT:

JOB NO: 81733

REV.

DATE

DESCRIPTION

BY

APPD

CIVIL IMPROVEMENT PLANS FOR

BOYS & GIRLS CLUB PLAYGROUND

SITE DISPLAY MAP

NEVADA

ELKO COUNTY

ELKO

DESIGNED BY: BRJ

DRAWN BY: BRJ

CHECKED BY: NIB

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SUMMIT

ENGINEERING

CORPORATION

5005 MAE ANNE AVE. RENO, NV 89523

PHONE: (775) 747-8550 FAX: (775) 747-8559

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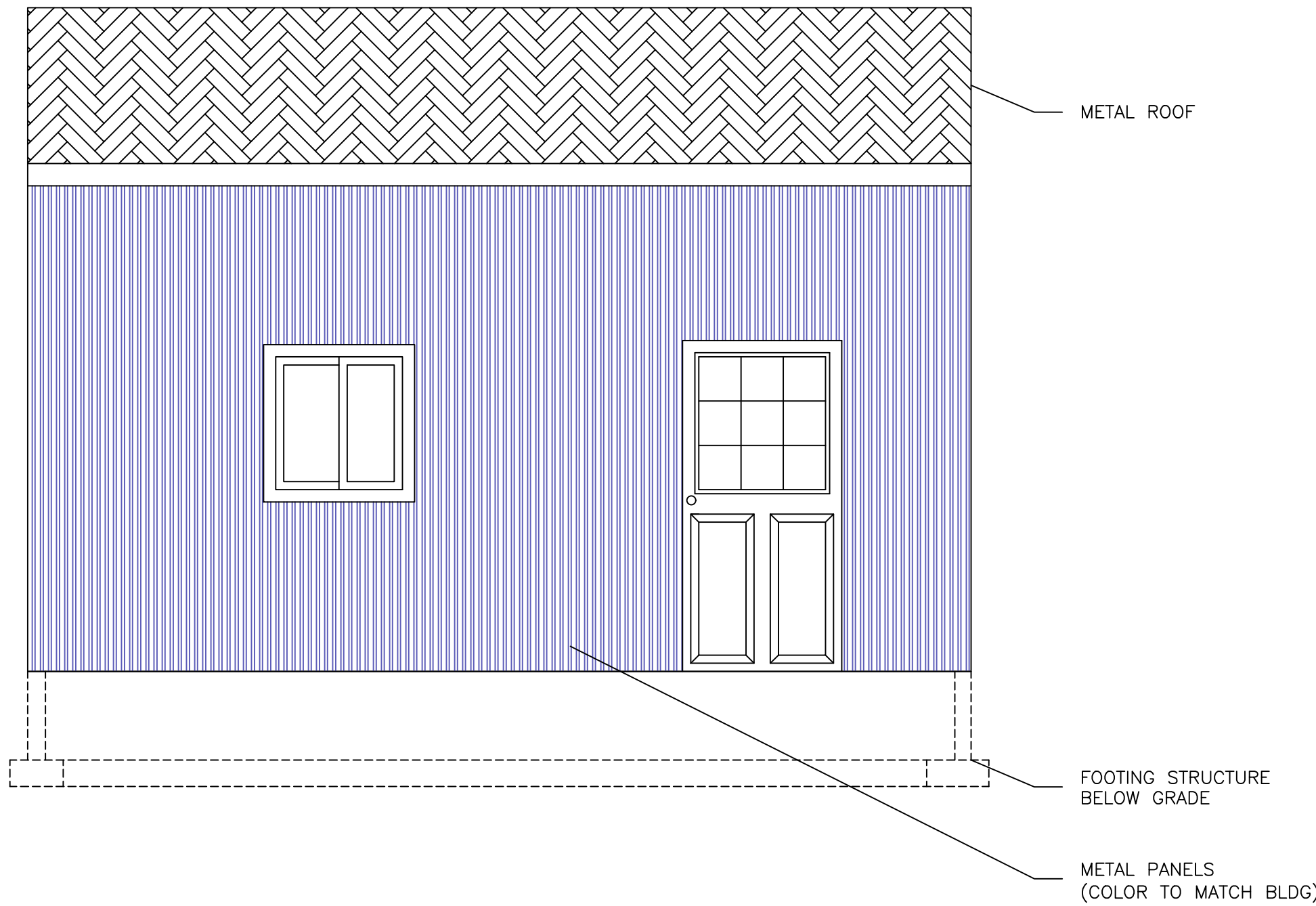
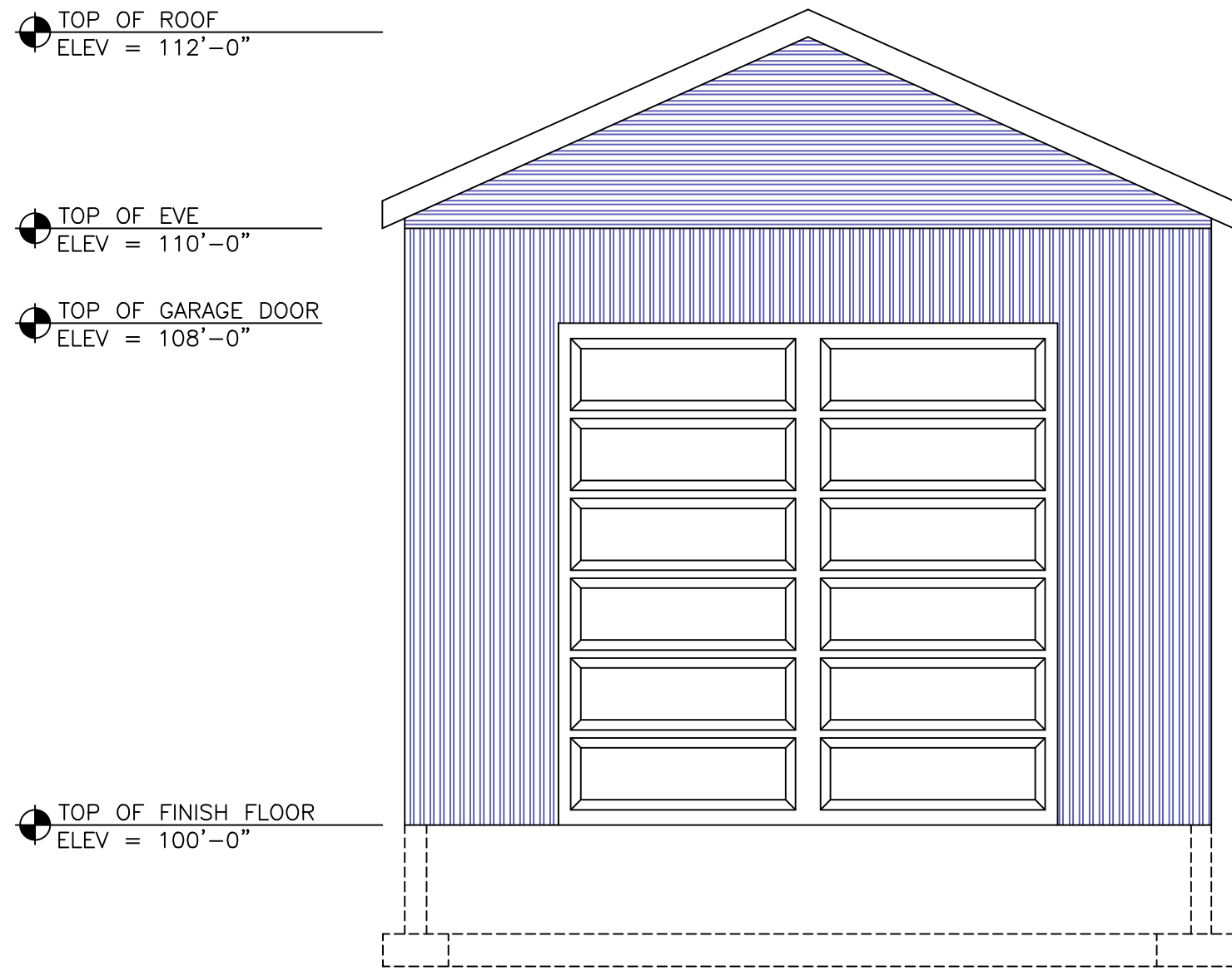
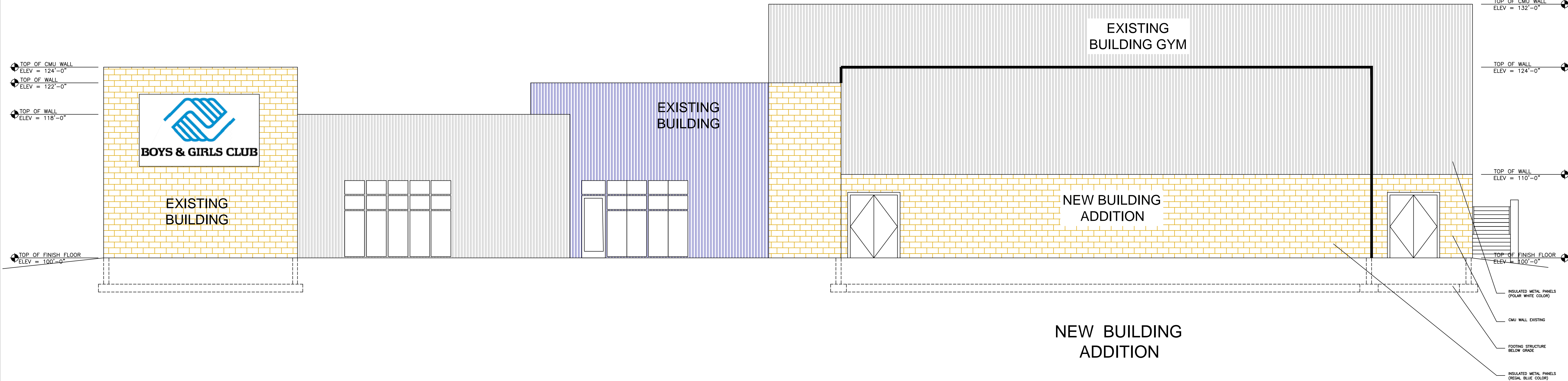
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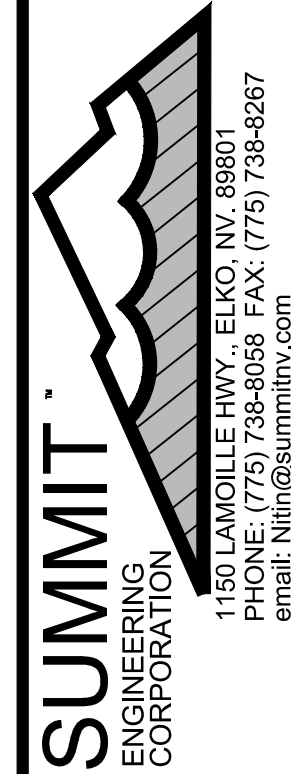
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DETACHED ACCESSORY  
BUILDING

CIVIL IMPROVEMENT PLANS FOR  
ELKO BOYS & GIRLS CLUB  
SOUTH ELEVATION PLAN

SCALE	REV.	DATE	DESCRIPTION	BY	APP'D
HORIZ: NONE					
VERT: NONE					
JOB NO: 81733					
NITIN ELEVATION.dwg					



DESIGNED BY:	ACAD14
DRAWN BY:	
CHECKED BY:	
February 12, 2018	





## 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):	Boys & Girls Club of Elko Inc.		
(Applicant must be the owner or lessee of the <b>proposed</b> structure or use.)			
MAILING ADDRESS:	782 Country Club Drive, Elko, NV 89801		
PHONE NO. (Home)	775-738-2759	(Business)	775-738-2759
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.:	001-560-092	Address	782 Country Club Drive, Elko, NV 89801
Lot(s), Block(s), & Subdivision	0.27 Acres		
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 \$750.00 non-refundable fee.

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

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

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

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

RECEIVED

FEB 13 2018

1. Current zoning of the property: PQP - Public, Quasi-Public District
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required:  
3-2-8-D3, 3-2-8-D2
3. Explain in detail the type and nature of the use proposed on the property: Expansion  
of the Boys and Girls Club amenities. The expansion will include a Teen Center / Teen Multi-Propose Facilities.  
  
This allows separation of age groups during rotations and club activities. Allowing current activities to expand into current Teen Center. For youth activies, and separate facilities for teens.  
  
Adding Accessory Storage Shed would better allow storage of equipment used for youth activity rather than storage in gym and having to move this every time there is an event in the gym.  
  
- 4. Explain how the use relates with other properties and uses in the immediate area:  
The Club is adjacent to a middle/grade school and provides after school activities.  
  
  
  
  
  
  
- 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: The property has a large grade change from County Club to the rear property line with NDOT yard.  
Wedge shaped property does not allow for typical construction. All of the property will be improved with formal landscaping, parking, or building.  
  
  
  
  
  
  
- 6. Describe the general suitability and adequacy of the property to accommodate the proposed use: The property location is well suited for the intended use.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: Grading & Drainage will not change for the proposed site with the new added construction.

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

Do not anticipate additional traffic generated as the attendance will be similar to current levels.

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9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: The property currently has 46 standard space and two accessible spaces with shared parking agreement with School and Convention Center, our neighbors

This does not include on street parking which has 10 spaces on the property frontage and 23 spaces on Country Club.

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

No signs except on building currently.

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

No outside storage of goods or equipment except club storage trailer during events. Boys and Girls Club want to add a storage shed pad w/ building on the southwest corner of the site.

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12. Identify any accessory buildings or structures associated with the proposed use on the property: A storage shed accessory building is planned for use in storage of youth activity equipment.

Dimension of such pad is 20' x 40'.

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**(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.

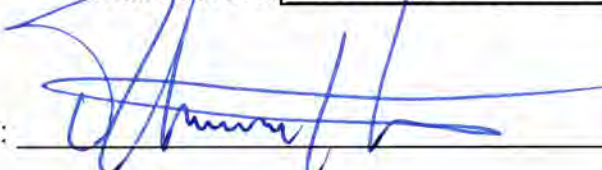
**Applicant / Agent** Boys and Girls Club of Elko  
(Please print or type)

**Mailing Address** 782 Country Club Drive  
Street Address or P.O. Box

Elko, NV 89801  
City, State, Zip Code

Phone Number: 775-388-1010

Email address: rbahr@ebgelko.org

**SIGNATURE:**  President

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**FOR OFFICE USE ONLY**

**File No.:** 2-18 **Date Filed:** 2/13/18 **Fee Paid:** \$750 **CK#** 10798

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# CUP 2-18 + Var 2-18 Boys + Girls Club

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001560096	ELKO CITY-COUNTY CIVIC AUDITOR	} 1 p.c. } 1 p.c.	700 MORAN WAY	ELKO NV	89801-3436
001560095	ELKO CITY-COUNTY CIVIC AUDITOR		700 MORAN WAY	ELKO NV	89801-3436
001560018	ELKO COUNTY SCHOOL DISTRICT		850 ELM ST	ELKO NV	89801-3349
001560042	ELKO COUNTY SCHOOL DISTRICT JUN		850 ELM ST	ELKO NV	89801-3349
001560051	ELKO, CITY OF <b>NO P.C.</b>		1755 COLLEGE AVE	ELKO NV	89801
001573003	HERMAN, CHAD W		805 COUNTRY CLUB DR	ELKO NV	89801 2609
001560048	LUNA, IFRAIN & MARIBEL		3166 SCENIC VIEW DR	ELKO NV	89801-2562
001574001	MILLER, GARY E & ITHACLARICE		804 COUNTRY CLUB DR	ELKO NV	89801-2610
001560002	NEVADA, STATE OF	C/O BUILDINGS & GROUNDS	1263 S STEWART ST	CARSON CITY NV	89712-0001

6

Mailed 2/22/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, March 6, 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:

Conditional Use Permit No. 2-18, filed by Boys & Girls Club of Elko, Inc., which would allow for the expansion of the existing building and an accessory building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

### **And**

Variance No. 2-18, filed by Boys & Girls Club of Elko, Inc. for a reduction of the required rear yard setback for the principle structure from 49' 5" to 7', in conjunction with a Conditional Use Permit to allow for expansion of the existing building with in a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

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

**ELKO CITY PLANNING COMMISSION**



RECEIVED

FEB 13 2018

DOC # 643746

02/11/2011

04:20 PM

**Official Record**

Requested By  
CITY OF ELKO

Elko County - NV

D. Mike Smiles - Recorder

Page 1 of 3 Fee: \$16.00  
Recorded By: NR RPTT: \$538.20



**APN:** Portion of 001-560-001

**Recording Requested By  
and Return to:**

Shanell Owen, City Clerk  
City of Elko  
1751 College Parkway  
Elko, Nevada 89801

**Grantee's Address/  
Mail tax statement to:**  
P.O. Box 2114  
Elko, Nevada 89803

The undersigned affirms that  
this document does not contain  
a social security number.

**GRANT, BARGAIN AND SALE DEED**

THIS INDENTURE, made and entered into this 10<sup>th</sup> day of  
August, 2011, by and between **CITY OF ELKO**, Nevada, a municipal  
corporation organized and existing under and by virtue of its Charter and a  
Special Act of the Legislature of the State of Nevada, Grantor, and **BOYS &  
GIRLS CLUB OF ELKO, INC.**, a Nevada nonprofit corporation, Grantee.

**WITNESSETH:**

FOR VALUABLE CONSIDERATION RECEIVED, Grantor does hereby  
grant, bargain, sell and convey unto said Grantee, its successors and assigns,  
forever, that certain parcel of land situate, lying and being in the City of Elko,  
County of Elko, Nevada, and more particularly described in Exhibit "A" attached  
hereto and made a part hereof.

TOGETHER WITH the tenements, hereditaments and  
appurtenances thereunto belonging or in anywise appertaining, and  
the reversion and reversions, remainder and remainders, rents,  
issues, and profits thereof.



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08/11/2011  
002 of 8

SUBJECT TO any and all exceptions, reservations, restrictions, restrictive covenants, assessments, easements, rights and rights-of-way of record.

SUBJECT TO an automatic reverter as follows: If the Boys & Girls Club of Elko, Inc., to which the property is conveyed pursuant to NRS 268.055, does not build a facility for charitable or civic purposes or ceases to use the property for charitable or civic purposes, the property automatically reverts to the City of Elko.

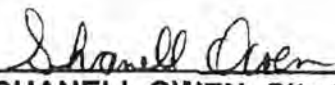
TO HAVE AND TO HOLD the said premises, together with the appurtenances, unto the said Grantee, its successors and assigns, forever, subject to the reverter.

IN WITNESS WHEREOF, the Grantor has executed this deed the day and year first hereinabove written.

GRANTOR:  
CITY OF ELKO

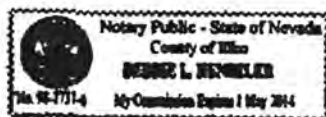
By:   
CHRIS J. JOHNSON, Mayor

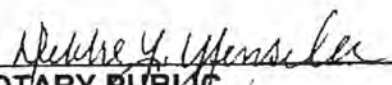
ATTEST:

  
SHANELL OWEN, City Clerk

STATE OF NEVADA     )  
                                      : ss.  
COUNTY OF ELKO     )

This instrument was acknowledged before me on the 10<sup>th</sup> day of August, 2011, by CHRIS J. JOHNSON as Mayor and SHANELL OWEN as City Clerk, of the City of Elko.



  
NOTARY PUBLIC



643746

08/11/2011  
003 of 3

EXHIBIT "A"  
LEGAL DESCRIPTION  
PORTION OF APN 001-560-001

A parcel of land being bound by the Southeasterly right-of-way of Country Club Drive, by the Northeasterly right-of-way of Convention Drive, by the Westerly boundary of the NDOT Elko Maintenance Yard, and by the East line of the Northwest Quarter of the Southwest Quarter of Section 11, Township 34 North, Range 55 East, MDM, City of Elko, State of Nevada, being more particularly described as follows:

Commencing at the West Quarter Corner of said Section 11 as shown on the Parcel Map for the City of Elko, File Number 183399, recorded October 18, 1983 in the Official Records of Elko County, Nevada;  
thence along the Center of Section line North  $89^{\circ}52'12''$  East a distance of 1328.76 feet to the West 1/16 Corner of said Section 11;  
thence along the East line of the Northwest Quarter of the Southwest Quarter of said Section 11 South  $00^{\circ}07'48''$  East a distance of 156.41 feet to a point on the Southeasterly right-of-way of Country Club Drive (formerly Cedar Street), also being the Point of Beginning;  
thence continuing along said East line South  $00^{\circ}07'48''$  East a distance of 73.65 feet to the Northwest corner of the parcel described in Deed between the City of Elko and the State of Nevada, File Number 43531, book 111, page 39, recorded June 26, 1969 in said Official Records, also being known as "PARCEL NO. 5";  
thence along the Northwesterly boundary of said "PARCEL NO. 5" South  $31^{\circ}22'52''$  West a distance of 410.28 feet to a point on the Northeasterly right-of-way of Convention Drive as shown on the Amended Plat of Parcel Map for the City of Elko, File Number 189717, recorded March 23, 1984 in said Official Records;  
thence departing said Northwesterly boundary, and along said Northeasterly right-of-way from a tangent which bears North  $58^{\circ}37'00''$  West, along a circular curve to the right with a radius of 243.61 feet and a central angle of  $24^{\circ}44'48''$  an arc length of 105.22 feet;  
thence North  $33^{\circ}52'12''$  West a distance of 108.56 feet;  
thence along a tangent circular curve to the right with a radius of 20.00 feet and a central angle of  $89^{\circ}39'36''$  an arc length of 31.30 feet to a point on the Southeasterly right-of-way of Country Club Drive;  
thence along said Southeasterly right-of-way North  $55^{\circ}47'24''$  East a distance of 416.00 feet to the Point of Beginning.

Said parcel contains an area of approximately 59,889 square feet.

BASIS OF BEARINGS: Being identical to the Parcel Map for the City of Elko, File Number 183399, recorded October 18, 1983 in the Official Records of Elko County, Nevada, and the Amended Plat of Parcel Map for the City of Elko, File Number 189717, recorded March 23, 1984 in said Official Records.

Description Prepared By:

Ryan G. Cook, PLS 15224  
Summit Engineering Corp.  
5405 Mae Anne Avenue  
Reno, Nevada 89523





# STATE OF NEVADA DECLARATION OF VALUE

DOC # DV -

643746

08/11/2011

04:20 PM

Official Record

Requested By  
CITY OF ELKO

FOR REC

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Book

Date of

Notes:

Elko County - NV

D. Mike Smiles - Recorder

Page 1 of 1 Fee: \$16.00  
Recorded By: NR RPTT: \$538.20

1. Assessor Parcel Number (s)

a) Portion of 011-560-011

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

2. Type of Property:

- |  |   |
|--|---|
| a) <input checked="" type="checkbox"/> Vacant Land | b) <input type="checkbox"/> Single Fam Res. |
| c) <input type="checkbox"/> Condo/Twnhse           | d) <input type="checkbox"/> 2-4 Plex        |
| e) <input type="checkbox"/> Apt Bldg.              | f) <input type="checkbox"/> Comm/Ind'l      |
| g) <input type="checkbox"/> Agricultural           | h) <input type="checkbox"/> Mobile Home     |
| i) <input type="checkbox"/> Other                  |   |

3. Total Value/Sales Price of Property:

\$ 137,700

Transfer Tax Value:

\$ 137,700

Real Property Transfer Tax Due:

\$ 538.20

(TAX IS COMPUTED @ \$1.95 per \$500 value)

4. If Exemption Claimed:

- a. Transfer Tax Exemption, per NRS 375.090, Section: N/A  
b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: N/A %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed. One signature suffices.

Signature Shawn Owen Capacity Treasurer, City Clerk  
Signature \_\_\_\_\_ Capacity \_\_\_\_\_

SELLER (GRANTOR) INFORMATION

(REQUIRED)

Print Name: City of Elko  
Address: 1751 College Ave.  
City: Elko  
State: NV Zip: 89801

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: Boys & Girls Club of Elko, Inc.  
Address: P.O. Box 2114  
City: Elko  
State: NV Zip: 89803

COMPANY/PERSON REQUESTING RECORDING

(REQUIRED IF NOT THE SELLER OR BUYER)

Print Name: \_\_\_\_\_ Escrow # \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)

**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review, consideration, and possible action on Variance No. 2-18, filed by Boys & Girls Club of Elko for a reduction of the required rear yard setback for the principle structure from 49' 5" to 7', in conjunction with a Conditional Use Permit to allow for expansion of an existing building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: **PUBLIC HEARINGS,**
4. Time Required: **15 Minutes**
5. Background Information: **The applicant is requesting a variance for the required rear yard setback for an addition to their existing facility. August 7, 2012, the applicant was approved for a Variance 7-12 reducing the rear yard setback from 34 feet to 26 feet 11 inches. This variance would supersede VAR 7-12 which was approved for a reduction in the rear setback requirement.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Conditionally approve Variance No. 2-18, with the following conditions: (stated in City Planner memo)**
9. Findings:
  - **The proposed variance is consistent with the Land Use component of the Master Plan.**
  - **The proposed variance is consistent with the Transportation component of the Master Plan. The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.**
  - **The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.**
  - **The property does not conform to Section 3-2-4 of city code. Approval of the variance application is required to bring the property into conformance.**
  - **The proposed variance is not in conformance with Section 3-2-8 Public, Quasi-Public. Approval of the variance application is required to bring the property into conformance.**
  - **The parcel is not located within a designated Special Flood Hazard Area.**



Agenda Item # I.A.2.

- It does not appear that granting of the variance will result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public.
- Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance.
- Granting of the variance will not impair natural resources.
- The proposed variance is consistent with surrounding land uses.

10. Prepared By: **Cathy Laughlin, City Planner**

11. Agenda Distribution: **Boys and Girls Club of Elko Inc.**  
**782 Country Club Drive**  
**Elko, NV 89801**

**Summit Engineering**  
**Attn: Nitin Bhakta**  
**1250 Lamoille Hwy**  
**Elko, NV 89801**



**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE:** 3/6

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

Title: Variance 2-18

Applicant(s): Boys & Girls Club of Elko, Inc

Site Location: 782 Country Club Drive - APN 001-5160-092

Current Zoning: PDP Date Received: 2/13/18 Date Public Notice: 2/20

COMMENT: This is to reduce the required rear yard setback from 49'5" to 7', in conjunction w/ Conditional Use Permit.

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

Assistant City Manager: Date: Recommended approval as presented by staff w/ attention to the condition req'd for completion

SAW

Initial

City Manager: Date: \_\_\_\_\_

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	<b>February 26, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>March 6, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I. A. 2</b>
<b>APPLICATION NUMBER:</b>	<b>Variance 2-18</b>
<b>APPLICANT:</b>	<b>Boys &amp; Girls Club of Elko</b>
<b>PROJECT DESCRIPTION:</b>	<b>Expansion of existing facility</b>
<b>RELATED APPLICATIONS:</b>	<b>Conditional Use Permit 2-18</b>

**A Variance request to reduce:**

- 1. Rear yard setback from 49'-5" to 7'-0"**



### **STAFF RECOMMENDATION:**

**RECOMMEND APPROVAL**, subject to findings of fact and conditions.

### **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-560-092

**PROPERTY SIZE:** 1.375 acres

**EXISTING ZONING:** PQP –Public, Quasi, Public

**MASTER PLAN DESIGNATION:** Public

**EXISTING LAND USE:** Developed as the current Boys & Girls Club facility

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by developed land to the north, south, and west. It is surrounded by properties zoned PQP, Public, Quasi-Public.

### **PROPERTY CHARACTERISTICS:**

- The property is currently developed.
- The property has topography that is not always the easiest for development.
- The property is of irregular size and therefore is not the easiest for compliance with development standards
- The property is accessed from County Club Drive
- 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 3-2-4 Establishment of Zoning Districts
- City of Elko Code 3-2-8 Public, Quasi-Public District
- City of Elko Code 3-2-21 Amendments
- City of Elko Code 3-2-22 Variances
- City of Elko Code 3-8 Flood Plain Management

### **BACKGROUND INFORMATION**

- August 7, 2012, the applicant was approved for a Variance 7-12 reducing the rear yard setback from 34 feet to 26 feet 11 inches. This variance would supersede VAR 7-12 which was approved for a reduction in the rear setback requirement.
- The existing gymnasium was approved as an accessory structure. All accessory structures whether attached or detached, shall be located in accordance with location on the lot as approved by the Planning Commission.
- The applicant has requested a lease agreement with the Nevada Department of Transportation for a long term lease of 30' of the rear portion of the property. This is a



steep sloped area and not easily developable but would increase their useable area of their parcel. The additional 30' lease area was not taken into consideration in the review of the Variance application as setback requirements but reviewed as an area in which would allow for an additional buffer between the building and the adjacent property supporting the variance application for a reduction in the rear setback. They are currently still negotiating on the lease and it would not be considered part of their parcel.

- The property is triangular shaped and brings difficulty in developing to the required development standards set forth in the PQP zoning district.
- It appears their proposed expansion is over their existing sewer lateral.
- 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 3: Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.
5. Objective 8: Ensure that new development does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

The variance is in conformance with the Master Plan Land Use Component.

### **Transportation**

1. The Master Plan identifies Country Club Drive as residential collector roadway.
2. The site has pedestrian access along Country Club Drive as well as Convention Drive. Sidewalks are a necessary safety feature, particularly in residential neighborhoods 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 variance is in conformance with the Master Plan Transportation Component and existing transportation infrastructure

## **ELKO WELLHEAD PROTECTION PLAN**

- The property is located in the 5-year capture zone for City wells. Development will be required to conform to the Elko Wellhead Protection Plan

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

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

The proposed development does not conform with this section of the code and therefore have applied for a variance for the rear yard setback requirement. Approval of the variance would be required to bring the development into conformance.

### **SECTION 3-2-8 POP PUBLIC, QUASI-PUBLIC DISTRICT**

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

The proposed development does not conform with the development standards of this section of code and therefore, the applicant has applied for a variance for the rear yard setback requirement. Approval of the variance would be required to bring the development into conformance.

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

- Conformance with this section is required. The current facility is in conformance

### **SECTION 3-2-21 AMENDMENTS**

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

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

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

#### **Application Requirements**

1. The variance application is in support of a non-conforming use.
2. The existing use of the property has been in place as a legal nonconforming use.

3. The variance process should not be utilized to provide a development (financial) advantage for a certain property. The variance process is appropriate to allow a use of property consistent to similar types of uses.
4. It does appear that granting of the variance will not substantially impair the intent or purpose of the Zoning Ordinance or effect a change in the land use.
5. 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.
6. The granting of the variance will not substantially impair affected natural resources.

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

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

### **FINDINGS**

1. The applicant has demonstrated the proposed hardship as developing a geometrically challenged parcel. In addition the Planning Commission has made this finding under a prior variance application. In an effort to minimize the issue the applicant is entering into a long term lease with a State agency abutting the property.
2. The circumstance presents and exceptional difficulty in expansion of the facility to meet the needs of the community.
3. The special circumstance does not apply generally to other PQP zoned properties within the vicinity.
4. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity.
5. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance.
6. Granting of the variance will not impair natural resources.
7. The proposed variance is consistent with the Land Use component of the Master Plan. The setback standards for the PQP zone applied to existing parcels within the areas identified under Objective 3 complicate efforts in preserving and promoting the City Park, City Hall and Convention Center as the civic heart of the community. The Boys and Girls Club, Public schools and other civic uses support the effort.
8. The proposed variance is consistent with the Transportation component of the Master Plan. The proposed zone district, intensity of use and limitations of intensity of use will not create any significant cumulative issues on the existing transportation system.
9. The proposed variance is consistent with City of Elko Wellhead Protection Plan. The proposed use of the property and allowed uses under the proposed district do not present a hazard to City wells.
10. The property does not conform to Section 3-2-4 of city code. Approval of the variance application is required to bring the property into conformance.



11. The proposed variance is not in conformance with Section 3-2-8 Public, Quasi-Public. Approval of the variance application is required to bring the property into conformance.
12. The parcel is not located within a designated Special Flood Hazard Area.
13. It does not appear that granting of the variance will result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public.
14. The proposed variance is consistent with surrounding land uses.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of VAR 2-18 subject to the findings and facts with the following conditions:

**Planning Department Conditions:**

1. Granting of the variance is conditioned upon approval of CUP 2-18 for the expansion of the property within a PQP – Public, Quasi-Public zoning district.
2. Commencement within one year and completion within eighteen (18) months.
3. Conformance to plans approved as a part of the variance.
4. Subject to review in two (2) years if determined necessary by the planning commission.

**Building Department:**

1. Exterior walls less than ten feet (10') from property line for this type of building use and construction type must comply with 2009 IBC with a 1 hour fire rating.

**Development Department:**

2. The Department recommends approval.



**CITY OF ELKO**  
**DEVELOPMENT DEPARTMENT**  
**1755 COLLEGE AVENUE**  
**ELKO, NEVADA 89801**  
**(775)777-7210**  
**(775)777-7219 FAX**

To: Elko City Planning Commission  
From: Jeremy Draper, Development Manager  
RE: Variance 2-18, Boys and Girls Club  
Date: February 22, 2018

The City of Elko Development Department is providing this correspondence to aid the Planning Commission's review of Variance Application 2-18.

**Project Information**



- The property is located generally on the corner of
- The property is identified as APN 001-560-092.
- The parcel is currently developed.
- The parcel is currently zoned PQP-Public, Quasi-Public.
- The property is bounded by PQP property on all sides

- The applicant has submitted CUP 2-18 for the expansion of the principal use of the building. A review of the proposed addition indicates that a variance from the interior side setback is required.
- The Planning Commission approved Variance 7-12 at its meeting on August 7, 2012 reducing the sideyard setback from 34 feet down to 26 feet 11 inches.
- The proposed addition would require a variance of the interior sideyard setback from 49 feet 5 inches to 7 feet 0 inches.
- The property is not located within a FEMA Floodzone.
- The application is for a variance from ECC 3-2-8-E-2, specifically the sideyard setback.
- The Boys and Girls Club is entering into a long term lease with NDOT for an additional 30 feet of property along the southeast property line.

### **Master Plan**

#### **Land Use:**

- The Land Use component of the Master Plan identifies this area as Public, Quasi-Public.

#### **Transportation**

- The property gains access from Country Club Drive, a residential collector.

### **Elko Wellhead Protection Plan**

- The property is located within the 5-year capture zone.

### **Section 3-2-8-Public, Quasi-Public**

- Conformance with this section is required
- The interior side setback as calculated per subsection E-2 of this code is 49 feet 5 inches. The proposed development encroaches to within 7 feet of the property line.

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

- It appears that the property is in conformance with this section

### **Section 3-2-22-Variances**

#### **Procedure**

- The applicant states the section of code from which the variance has been requested.
- A legal description of the parcel has been provided.



- A plot plan showing the proposed location of property lines related to the location of the existing accessory structure is provided but is not by a properly licensed surveyor
- Filing fees have been deposited with the Planning Department.

### **Application Requirements**

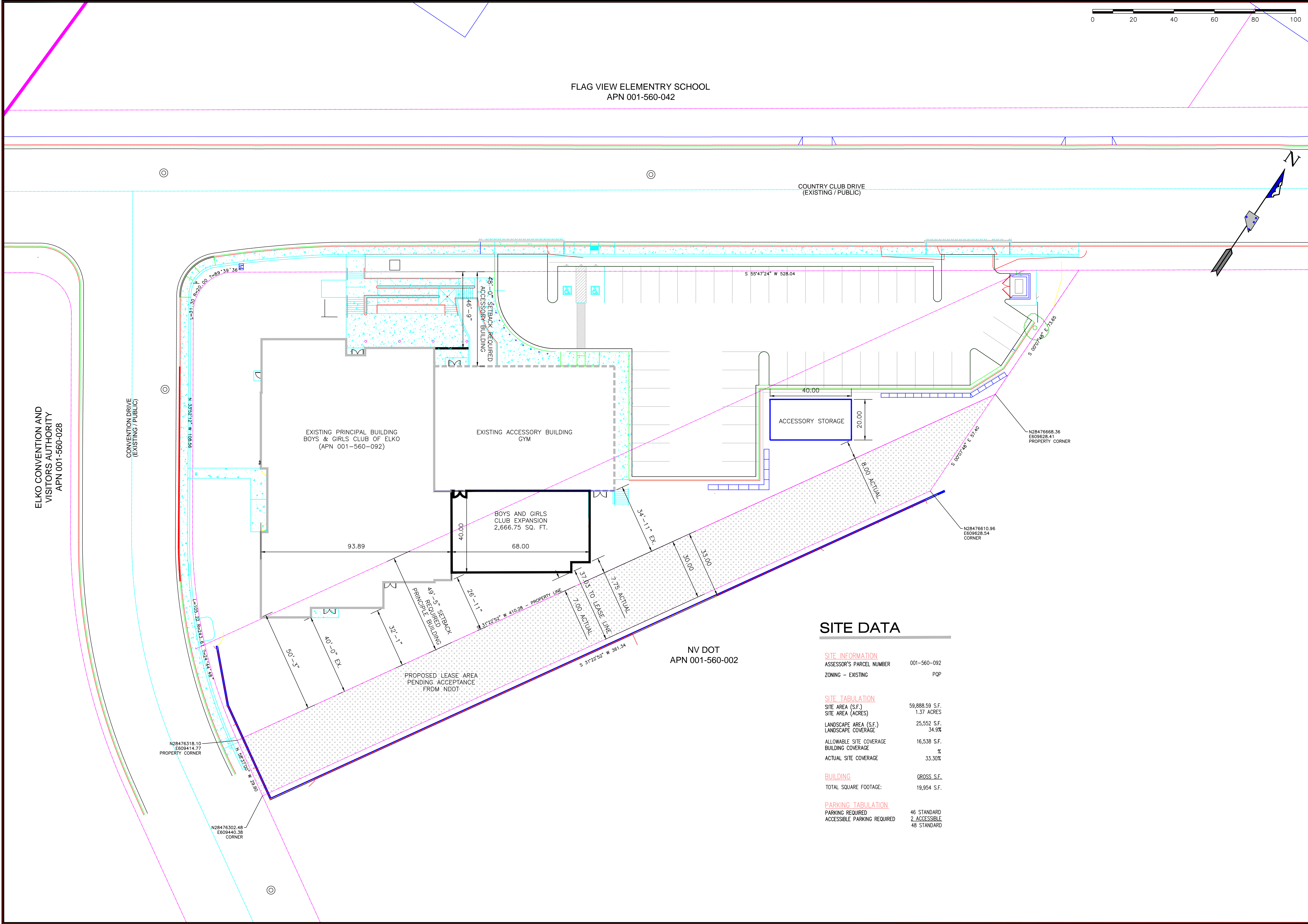
- **There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.**  
The special circumstance(s) cited in the application state that the property is of an unusual shape reducing the availability for development and expansion of the use of the property on the parcel. The applicant is entering into a long term lease along the property line requiring the variance with NDOT the adjoining property owner.
- **The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.**  
The applicant indicates a variance is required allow the building to meet the maximum lot coverage allowed in 3-2-8-C-4.
- **Such special circumstances or conditions do not apply generally to other properties in the same zoning district.**  
This is not a special circumstance found on other properties generally located in the same zoning district.
- **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.**  
It does appear that granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor will granting of the variance be detrimental to the interest, health, safety and general welfare of the public.
- **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.**  
It does appear that granting of the variance will not substantially impair the intent or purpose of the Zoning Ordinance or effect a change in the land use.
- **The granting of the variance will not substantially impair affected natural resources.**  
The Development Department has determined that granting of the variance will not impair natural resources.

### **Findings**

1. The special circumstances cited in the application are related to the irregular shape of the lot, encroaching into the sideyard setback is required to maximize the allowed lot coverage of the property.
2. It does not appear that granting the variance will result in material damage or prejudice to other properties in the vicinity. Granting of the variance does not appear to be detrimental to the interest, health, safety and general welfare of the public.
3. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance.
4. Granting of the variance will not impair natural resources.
5. The applicant is entering into a long term lease with the neighboring property for 30 feet of additional property to be used as yard space along the property line the variance is being requested for.

### **Recommendation**

The City of Elko **Development Department** recommends that the variance be approved.



SITE DATA

SITE INFORMATION	
ASSESSOR'S PARCEL NUMBER	001-560-092
ZONING - EXISTING	PQP
SITE TABULATION	
SITE AREA (S.F.)	59,888.59 S.F.
SITE AREA (ACRES)	1.37 ACRES
LANDSCAPE AREA (S.F.)	25,552 S.F.
LANDSCAPE COVERAGE	34.9%
ALLOWABLE SITE COVERAGE	16,538 S.F.
BUILDING COVERAGE	%
ACTUAL SITE COVERAGE	33.30%
BUILDING	
GROSS S.F.	
TOTAL SQUARE FOOTAGE:	19,954 S.F.
PARKING TABULATION	
PARKING REQUIRED	46 STANDARD
ACCESSIBLE PARKING REQUIRED	2 ACCESSIBLE
	48 STANDARD

SHEET

S-1

OF

2

SCALE

HORIZ: 1"=20'

VERT:

JOB NO: 81733

REV.

DATE

DESCRIPTION

BY

APPD

CIVIL IMPROVEMENT PLANS FOR

BOYS & GIRLS CLUB PLAYGROUND

SITE DISPLAY MAP

NEVADA

ELKO COUNTY

ELKO

DESIGNED BY: BRJ

DRAWN BY: BRJ

CHECKED BY: NIB

Copyright SUMMIT ENG 2012

SUMMIT

ENGINEERING

CORPORATION

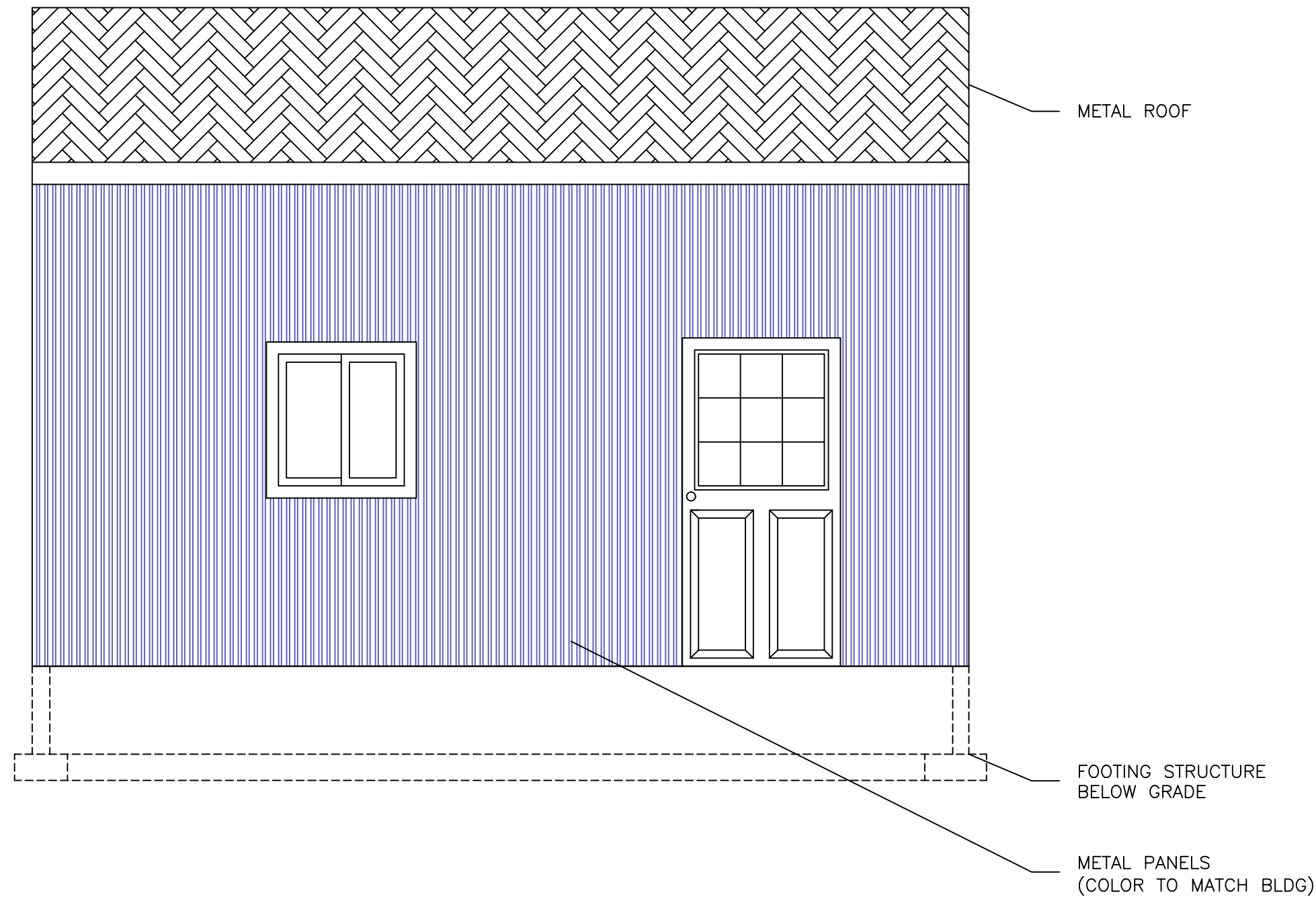
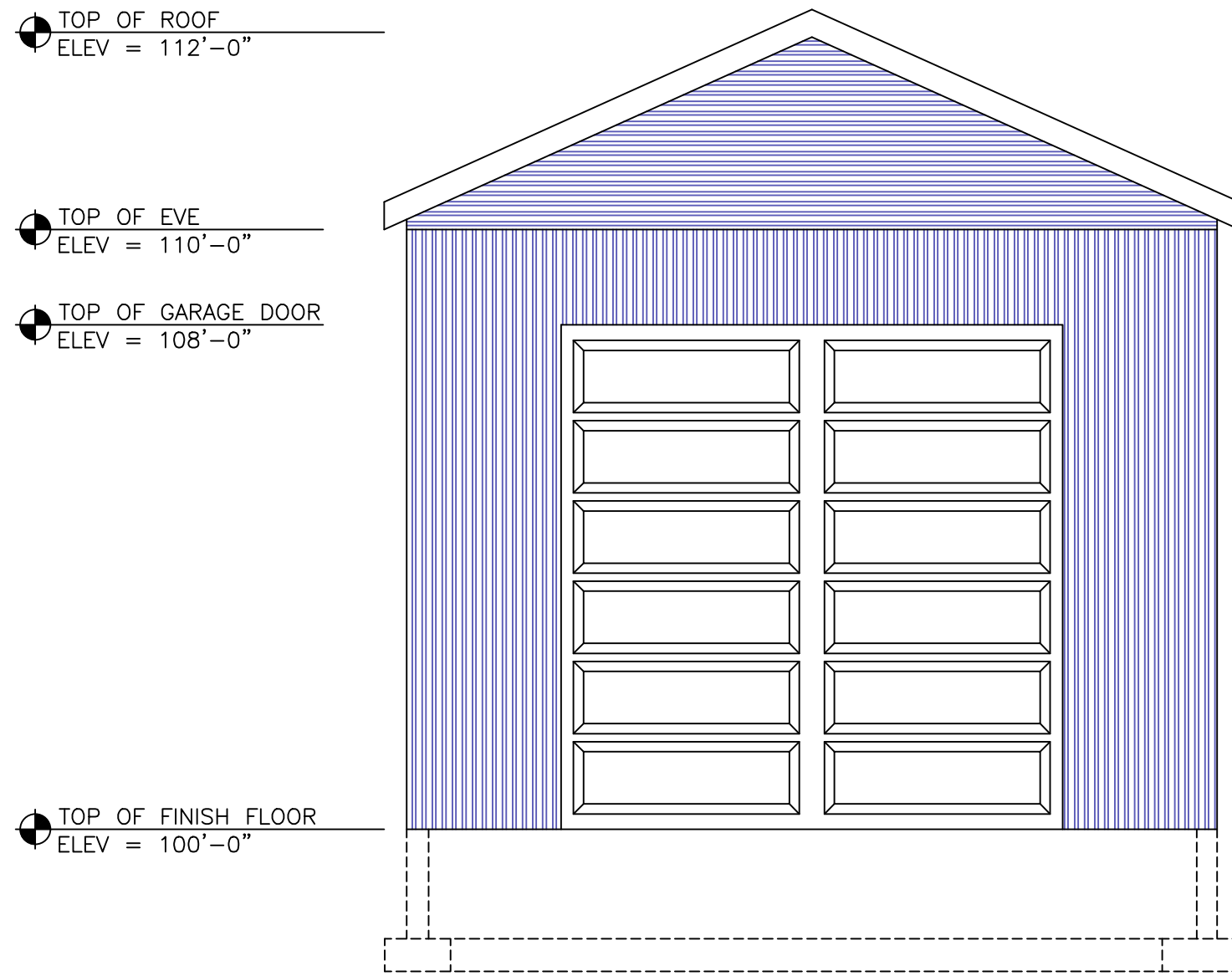
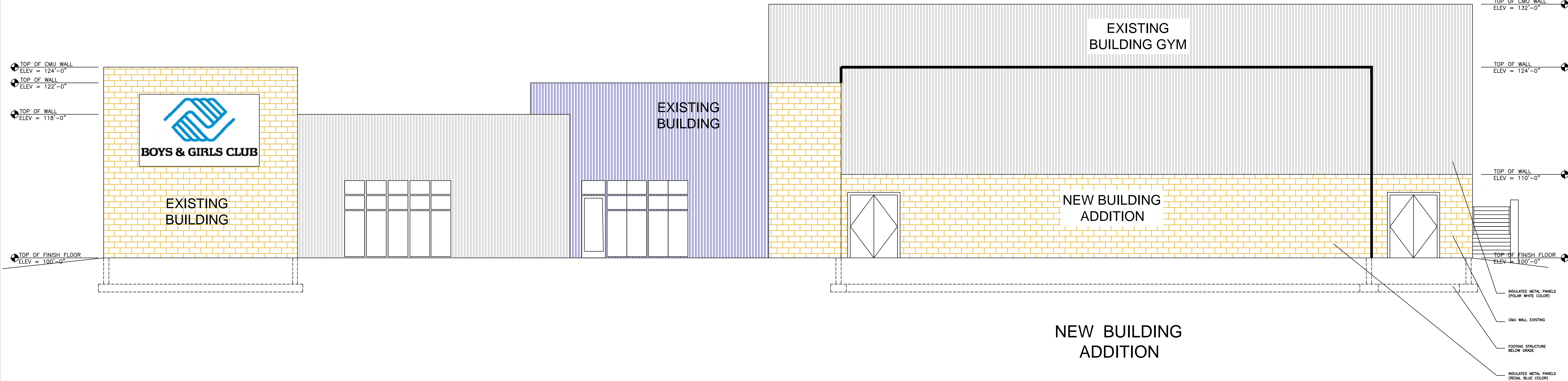
5005 MAE ANNE AVE. RENO, NV 89523

PHONE: (775) 747-8550 FAX: (775) 747-8559

FLAG VIEW ELEMENTARY SCHOOL

APN 001-560-042

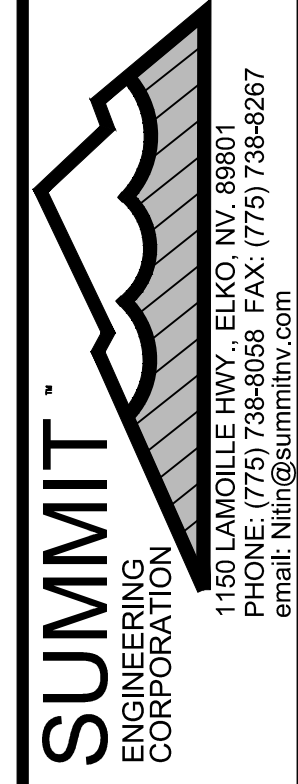




DETACHED ACCESSORY  
BUILDING

CIVIL IMPROVEMENT PLANS FOR  
ELKO BOYS & GIRLS CLUB  
SOUTH ELEVATION PLAN

SCALE	REV.	DATE	DESCRIPTION	BY	APPD
HORIZ: NONE					
VERT: NONE					
JOB NO: 81733					
NITIN ELEVATION.dwg					



DESIGNED BY:	ACAD14
DRAWN BY:	
CHECKED BY:	
February 12, 2018	

# CUP 2-18 + Var 2-18 Boys + Girls Club

YPNO	PANAME	PMADD1	PMADD2	PMCTST	PZIP
001560096	ELKO CITY-COUNTY CIVIC AUDITOR	} 1 p.c.	700 MORAN WAY	ELKO NV	89801-3436
001560095	ELKO CITY-COUNTY CIVIC AUDITOR		700 MORAN WAY	ELKO NV	89801-3436
001560018	ELKO COUNTY SCHOOL DISTRICT		850 ELM ST	ELKO NV	89801-3349
001560042	ELKO COUNTY SCHOOL DISTRICT JUN	} 1 p.c.	850 ELM ST	ELKO NV	89801-3349
001560051	ELKO, CITY OF <b>NO P.C.</b>		1755 COLLEGE AVE	ELKO NV	89801
001573003	HERMAN, CHAD W		805 COUNTRY CLUB DR	ELKO NV	89801 2609
001560048	LUNA, IFRAIN & MARIBEL		3166 SCENIC VIEW DR	ELKO NV	89801-2562
001574001	MILLER, GARY E & ITHACLARICE		804 COUNTRY CLUB DR	ELKO NV	89801-2610
001560002	NEVADA, STATE OF	C/O BUILDINGS & GROUNDS	1263 S STEWART ST	CARSON CITY NV	89712-0001

6

Mailed 2/22/18

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, March 6, 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:

Conditional Use Permit No. 2-18, filed by Boys & Girls Club of Elko, Inc., which would allow for the expansion of the existing building and an accessory building within a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

### **And**

Variance No. 2-18, filed by Boys & Girls Club of Elko, Inc. for a reduction of the required rear yard setback for the principle structure from 49' 5" to 7', in conjunction with a Conditional Use Permit to allow for expansion of the existing building with in a PQP (Public, Quasi-Public) Zoning District, and matters related thereto. The subject property is located generally on the southeast corner of the intersection of Country Club Drive and Convention Drive. (APN 001-560-092)

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

**ELKO CITY PLANNING COMMISSION**





## CITY OF ELKO PLANNING DEPARTMENT

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

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

### APPLICATION FOR VARIANCE

APPLICANT(s):	Boys & Girls Club of Elko Inc.		
MAILING ADDRESS:	782 Country Club Drive, Elko, NV 89801		
PHONE NO (Home)	775-738-2759	(Business)	775-738-2759
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.:	001-560-092	Address	782 Country Club Drive, Elko, NV 89801
Lot(s), Block(s), & Subdivision	0.27 Acres		
Or Parcel(s) & File No.	643746 Attached		

#### FILING REQUIREMENTS:

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

RECEIVED

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

Reduce the rear yard set back on Main Building Addition to 7.00 ft

1. The existing zoning classification of the property

PQP
-----

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 shape of property with set backs leave very little property to build on
---

applied for a lease on the adjacent property to the clubs rear line of 30'
--

- 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.

Using the required set back leave less than 35% of the property to build on.
--

While building a building tall enough for gym.
--

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

Allows the club to add space for a growing attendance of youth activities and will add a lower
--

age groups to be separated from teens. Construct storage shed to house amenities for youth activities.
--

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

Other properties and parcels are generally larger for this type of use.
---

- 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.

Set back in adjacent storage yard with no planned improvements near the property

line. Also B & G Club has applied for a 30' lease from adjacent property site

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

The new addition will be one story and not taller than the existing building and is

angled to property line giving only a triangle section within the set back.

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

The new expansion will not change the clubs use or activities.

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

Expansion to building will not affect natural resources such as runoff, or wetlands of any kind.

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.:

Funding source requires shovel ready this fiscal year.

(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 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

**Boys and Girls Club of Elko**

(Please print or type)

Mailing Address

**782 Country Club Drive**

Street Address or P.O. Box

**Elko, NV 89801**

City, State, Zip Code

Phone Number:

**775-388-1010**

Email address:

**rbahr@bgcelko.com**

SIGNATURE:

 **President**

---

**FOR OFFICE USE ONLY**

File No.: 2-18 Date Filed: 2/13/18 Fee Paid: \$500 CK# 10797

RECEIVED

FEB 13 2018

DOC # 643746  
02/11/2011 04:20 PM

Official Record

Requested By  
CITY OF ELKO

Elko County - NV

D. Mike Smiles - Recorder

Page 1 of 3 Fee: \$16.00  
Recorded By: NR RPTT: \$638.20



APN: Portion of 001-560-001

Recording Requested By  
and Return to:  
Shanell Owen, City Clerk  
City of Elko  
1751 College Parkway  
Elko, Nevada 89801

Grantee's Address/  
Mail tax statement to:  
P.O. Box 2114  
Elko, Nevada 89803

The undersigned affirms that  
this document does not contain  
a social security number.

GRANT, BARGAIN AND SALE DEED

THIS INDENTURE, made and entered into this 10<sup>th</sup> day of  
August, 2011, by and between CITY OF ELKO, Nevada, a municipal  
corporation organized and existing under and by virtue of its Charter and a  
Special Act of the Legislature of the State of Nevada, Grantor, and BOYS &  
GIRLS CLUB OF ELKO, INC., a Nevada nonprofit corporation, Grantee.

WITNESSETH:

FOR VALUABLE CONSIDERATION RECEIVED, Grantor does hereby  
grant, bargain, sell and convey unto said Grantee, its successors and assigns,  
forever, that certain parcel of land situate, lying and being in the City of Elko,  
County of Elko, Nevada, and more particularly described in Exhibit "A" attached  
hereto and made a part hereof.

TOGETHER WITH the tenements, hereditaments and  
appurtenances thereunto belonging or in anywise appertaining, and  
the reversion and reversions, remainder and remainders, rents,  
issues, and profits thereof.



643746

08/11/2011  
002 of 3

SUBJECT TO any and all exceptions, reservations, restrictions, restrictive covenants, assessments, easements, rights and rights-of-way of record.

SUBJECT TO an automatic reverter as follows: If the Boys & Girls Club of Elko, Inc., to which the property is conveyed pursuant to NRS 268.055, does not build a facility for charitable or civic purposes or ceases to use the property for charitable or civic purposes, the property automatically reverts to the City of Elko.

TO HAVE AND TO HOLD the said premises, together with the appurtenances, unto the said Grantee, its successors and assigns, forever, subject to the reverter.

IN WITNESS WHEREOF, the Grantor has executed this deed the day and year first hereinabove written.

GRANTOR:  
CITY OF ELKO

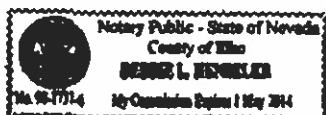
By:   
CHRIS J. JOHNSON, Mayor


ATTEST:

  
SHANELL OWEN, City Clerk

STATE OF NEVADA     )  
                                      : SS.  
COUNTY OF ELKO     )

This instrument was acknowledged before me on the 10<sup>th</sup> day of August, 2011, by CHRIS J. JOHNSON as Mayor and SHANELL OWEN as City Clerk, of the City of Elko.



  
NOTARY PUBLIC





643746

06/11/2011  
003 of 3

EXHIBIT "A"  
LEGAL DESCRIPTION  
PORTION OF APN 001-560-001

A parcel of land being bound by the Southeasterly right-of-way of Country Club Drive, by the Northeasterly right-of-way of Convention Drive, by the Westerly boundary of the NDOT Elko Maintenance Yard, and by the East line of the Northwest Quarter of the Southwest Quarter of Section 11, Township 34 North, Range 55 East, MDM, City of Elko, State of Nevada, being more particularly described as follows:

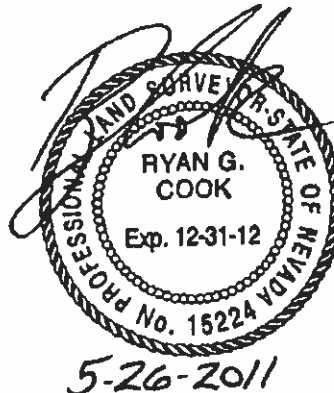
Commencing at the West Quarter Corner of said Section 11 as shown on the Parcel Map for the City of Elko, File Number 183399, recorded October 18, 1983 in the Official Records of Elko County, Nevada;  
thence along the Center of Section line North 89°52'12" East a distance of 1328.76 feet to the West 1/16 Corner of said Section 11;  
thence along the East line of the Northwest Quarter of the Southwest Quarter of said Section 11 South 00°07'48" East a distance of 156.41 feet to a point on the Southeasterly right-of-way of Country Club Drive (formerly Cedar Street), also being the Point of Beginning;  
thence continuing along said East line South 00°07'48" East a distance of 73.65 feet to the Northwest corner of the parcel described in Deed between the City of Elko and the State of Nevada, File Number 43531, book 111, page 39, recorded June 26, 1969 in said Official Records, also being known as "PARCEL NO. 5";  
thence along the Northwesterly boundary of said "PARCEL NO. 5" South 31°22'52" West a distance of 410.28 feet to a point on the Northeasterly right-of-way of Convention Drive as shown on the Amended Plat of Parcel Map for the City of Elko, File Number 189717, recorded March 23, 1984 in said Official Records;  
thence departing said Northwesterly boundary, and along said Northeasterly right-of-way from a tangent which bears North 58°37'00" West, along a circular curve to the right with a radius of 243.61 feet and a central angle of 24°44'48" an arc length of 105.22 feet;  
thence North 33°52'12" West a distance of 108.56 feet;  
thence along a tangent circular curve to the right with a radius of 20.00 feet and a central angle of 89°39'36" an arc length of 31.30 feet to a point on the Southeasterly right-of-way of Country Club Drive;  
thence along said Southeasterly right-of-way North 55°47'24" East a distance of 416.00 feet to the Point of Beginning.

Said parcel contains an area of approximately 59,889 square feet.

BASIS OF BEARINGS: Being identical to the Parcel Map for the City of Elko, File Number 183399, recorded October 18, 1983 in the Official Records of Elko County, Nevada, and the Amended Plat of Parcel Map for the City of Elko, File Number 189717, recorded March 23, 1984 in said Official Records.

Description Prepared By:

Ryan G. Cook, PLS 15224  
Summit Engineering Corp.  
5405 Mae Anne Avenue  
Reno, Nevada 89523



STATE OF NEVADA  
DECLARATION OF VALUE

DOC # DV -

643746

08/19/2011

04:20 PM

Official Record

Requested By  
CITY OF ELKO

FOR REC

Docume

Book

Date of f

Notes:

Elko County - NV

D. Mike Smiles - Recorder

Page 1 of 1 Fee: \$16.00  
Recorded By: NR RPTT: \$638.20

1. Assessor Parcel Number (s)

a) Portion of 011-560-011

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

2. Type of Property:

- |  |              |                             |                 |
|--|--------------|-----------------------------|-----------------|
| a) <input checked="" type="checkbox"/> | Vacant Land  | b) <input type="checkbox"/> | Single Fam Res. |
| c) <input type="checkbox"/>            | Condo/Twnhse | d) <input type="checkbox"/> | 2-4 Plex        |
| e) <input type="checkbox"/>            | Apt. Bldg.   | f) <input type="checkbox"/> | Comm/Ind'l      |
| g) <input type="checkbox"/>            | Agricultural | h) <input type="checkbox"/> | Mobile Home     |
| i) <input type="checkbox"/>            | Other        |                             |                 |

3. Total Value/Sales Price of Property:

\$ 137,700

Transfer Tax Value:

\$ 137,700

Real Property Transfer Tax Due:

\$ 538.20

(TAX IS COMPUTED @ \$1.95 per \$500 value)

4. If Exemption Claimed:

a. Transfer Tax Exemption, per NRS 375.090, Section:

N/A

b. Explain Reason for Exemption:

5. Partial Interest: Percentage being transferred:

N/A %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed. One signature suffices.

Signature Shawn Owen

Capacity Treasurer, City Clerk

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

SELLER (GRANTOR) INFORMATION

(REQUIRED)

Print Name: City of Elko  
Address: 1751 College Ave.  
City: Elko  
State: NV Zip: 89801

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: Boys & Girls Club of Elko, Inc.  
Address: P.O. Box 2114  
City: Elko  
State: NV Zip: 89803

COMPANY/PERSON REQUESTING RECORDING

(REQUIRED IF NOT THE SELLER OR BUYER)

Print Name: \_\_\_\_\_ Escrow # \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible adoption of Resolution 1-18 containing amendments to the Atlas Map #8 of the City of Elko Master Plan, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: *PUBLIC HEARINGS*
4. Time Required: **15 Minutes**
5. Background Information: **Planning Commission reviewed and initiated the amendment to the City of Elko Master Plan at its February 6, 2018 meeting.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Atlas map #8 and resolution.**
8. Recommended Motion: **Move to adopt Resolution 1-18, containing amendments to the Atlas map #8 of the City of Elko Master Plan; directing that an attested copy of the foregoing parts, amendments, extensions of and/or additions to the Elko City Master Plan be certified to the City Council; further directing that an attested copy of this Commission's report on the proposed changes and additions shall have be filed with the City Council; and recommending to City Council to adopt said amendments by resolution. CL**
9. Prepared By: **Cathy Laughlin, City Planner**
10. Agenda Distribution:

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE:** 3/6

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

Title: Resolution 1-18 Master Plan Amendment

Applicant(s): City of Elko

Site Location: \_\_\_\_\_

Current Zoning: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date Public Notice: 2/20

COMMENT: This is to Update the Proposed Future Land Use Atlas Map 8.

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

Assistant City Manager: Date: 3/1/18

Recommend approval as presented in the staff report by the Planning Dept

SAW

Initial

City Manager: Date: \_\_\_\_\_

Initial





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

## **CITY OF ELKO STAFF REPORT**

**DATE:** February 27, 2018  
**PLANNING COMMISSION DATE:** March 6, 2018  
**AGENDA ITEM:** Master Plan Land Use Atlas Map #8 Amendment

The City Planning Department has provided this correspondence to aid in the Planning Commission's review of the above referenced proposed Master Plan Amendment. The information presented below is specific to the proposed land use designation of Highway Commercial generally located south of Cattle Drive and north of I-80 within Section 19 Township 34N Range 55E. The other proposed changes are addressed under the recommendation section of this report.

The City of Elko Planning Department. Applicable Master Plan Sections, Coordinating Plans, and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Streets and Highways Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko – Development Report
- City of Elko – Airport Master Plan
- City of Elko Code – Section 3-8 Flood Plain Management

### **BACKGROUND INFORMATION**

1. The proposed amendment has been initiated by the Planning Department.
2. The proposed amendment would change the current land use designation of General Industrial to a land use designation Highway Commercial.
3. Several parcels are affected by the proposed change. A portion of one large parcel constitutes the majority of the area. The total area affected by the proposed amendment is approximately 256 acres.
4. All of the parcels are undeveloped.
5. The Land Use is shown as General Industrial. The appropriateness of the proposed amendment is discussed in more detail under the Master Plan Land Use section of this memo.
6. The area is bounded by vacant area to the west and north. The I-80 corridor abuts the property to the east. West Idaho abuts the area to the south but will not provide access to the area due to topography limitations.

7. The area abuts areas not annexed into the City to north.
8. All the areas abutting or adjacent to the area are zoned Agriculture.
9. Approximately 35 acres in the vicinity of Exit 298 that have a Commercial land use designation in the Master Plan. There is currently no commercial zoned property in the vicinity of Exit 298. There is a conditional approval for a zone change to a commercial zone for a parcel of 7.8 acres. That area is in the development stage and therefore conditions are required to be met prior to finalization of the zone change.

## **MASTER PLAN:**

### **Land use:**

1. The area is located in close proximity to one of three interchanges in the community.
2. The Master Plans identifies four commercial areas in the community. Those areas are identified as follows:

- a. **Downtown**

Master Plan Land Use Designation: The Downtown is, for all intense and purposes a built environment. There are minimal opportunities for large commercial development in the downtown area of the community. None of the downtown area is designated as a Highway Commercial land use.

- b. **Powder House Road and Errecart Blvd.**

Master Plan Land Use Designation: There are 315 acres designated with a commercial land use in the area. Approximately 47.1 acres are developed with the remainder vacant. The majority of the area requires extensive water infrastructure serving the 5600 water zone to be viable. Although this area has been identified as one of the priority areas in the Development, Feasibility, Land Use, Water and Sewer Infrastructure, and Annexation Report, acquisition of property for a storage tank location has hindered efforts to address this issue. The area is anchored by the regional hospital. Once the tank location issues are addressed, there is a high probability that land development related to the type of use will accelerate.

- c. **Ruby Vista and Jennings Way**

Master Plan Land Use Designation: There are approximately 114 acres designated with a commercial land use in the area. The area on the southeast side of the interchange is developed. The area on the northwest side of the interchange is rapidly developing.

Approximately 83.5 acres are developed. This area of the community has experienced exceptionally high absorption rates over the last 10 years and will soon be fully built out.

- d. **Mountain City Highway Commercial Center**

Master Plan Land Use Designation: There are approximately 245.5 acres designated with a commercial land use. Approximately 235.5 acres are zoned commercial.

Approximately 97 acres of the commercial zoned area, 40% of the total area, is vacant. Several of the largest parcels are negatively impacted having a drainage trending northwest to southeast through the area. The drainage will either increase the cost to develop that acreage or reduce the acreage available for development. Despite the challenges there has been a high level of interest in the area and land costs appear to be governing factor that is slowing the absorption rate in this area of the community.

Approximately 10 acres are currently zoned Residential and undeveloped. Residential is not a supporting zoning district for Commercial Land Use and the zoning on this area is inconsistent with the surrounding land uses unless developed as a multi-family land use.

### **Exit 298**

The area is not identified as one of four Community Commercial Centers and will become a fifth commercial center has development occurs. There is active commercial development taking place on the south side of the I-80 corridor. The proposed change in land use for the Exit 298 area will convert approximately 256 acres of vacant land from an Industrial General Land Use to a General Commercial Land Use. Taking into consideration the other areas mentioned above that we have undeveloped acreage, adding this area at Exit 298 would increase our commercial land use designation by 36% for the 4 areas of discussion. This is not taking into consideration any reduction in developable area due to challenging topography.

**Findings:** In consideration of the above analysis of existing Highway Commercial designated areas, designation of the area as a Highway Commercial land use supports the following objectives and best practices of the master plan:

- e. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.
- f. The City of Elko Master Plan Best Practice 6.2: Support the development of community commercial centers in locations that serve the broader Elko Community.

### **Transportation:**

- 1. The area is located in close proximity of the I-80 and Exit 298 interchange.
- 2. The area abuts West Idaho Street and Cattle Drive.
- 3. West Idaho Street is classified as a major arterial and will not provide access to the area.

**Finding:** The proposed designation is supported by the existing and proposed roadway infrastructure.

## **DEVELOPMENT FEASIBILITY, LANDUSE, WATER and SEWER INFRASTRUCTURE, and ANNEXATION REPORT**

The City of Elko Development Feasibility, Land Use, Water and Sewer Infrastructure, and Annexation Potential Report 2012, Appendix 4, Implementation Plan prioritizes the following areas:

- 1. **Infill Areas**

These areas of the community require the least amount of resource to support development of vacant property and provides a wide range of potential land uses. Development generally occurs without City resources and occurs as property owners identify opportunities.

2. Ruby Vista (east)

The City identified approximately 100 acres of area having potential for Light Industrial and/or Business Park land uses. The City attempted to acquire the area from the State of Nevada several years ago and was unsuccessful in those efforts. Approximately 62 acres have recently been acquired by private individuals and has been annexed into the City.

3. Exit 298

The City recently completed a \$1.6M water main installation across Section 19 to a location near the I-80 and West Idaho Interchange (Exit 298). The City has recently annexed or is in the process of annexing areas near the interchange that are either vacant or developed with light industrial uses. Those annexations are a result of a long standing agreement in which the City allowed the use of certain water rights to support the developed properties pending water service to the area.

Substantial activity is occurring in this area the community. Those activities include both Light Industrial and Commercial. The activity is a direct result of the water line extension and resulted water availability meeting the needs of property development when those opportunities arise for property owners.

The City is in the process of designing the required sewer infrastructure to support this area of the community going forward. The City is also in the process of obtaining the appropriate permissions for the construction of the infrastructure from NDOT.

4. Powder House Road and Errecart Blvd.

As stated above, the City has not been successful in its efforts to address water infrastructure needs in this area of the community. Those efforts continue as opportunities arise.

Finding: The proposed designation is consistent with the objectives of the report and is consistent with recent actions by the City as outlined in the implementation section of the report.

**ELKO REDEVELOPMENT PLAN:**

1. The area is not located within the Redevelopment Area.

Finding: The proposed designation is not within the redevelopment area.

**ELKO WELLHEAD PROTECTION PLAN:**

1. The area does not lie within capture zones for the City wells.
2. Portions of the area may be located in a future capture if a well is developed, as planned, near the interchange. Commercial uses typically do not pose a hazard to City wells.

Findings: The proposed designation is consistent with the existing well head protection plan and anticipated future revisions to the plan.

**SECTION 3-2-8**



Finding: The area is not located within a designated flood plain.

**FINDINGS:**

1. The proposed amendment is consistent with the Land Use Component of the City of Elko Master Plan as follows:
  - a. The proposed amendment meets Objective 6 of the Master Plan.
  - b. The proposed amendment is consistent with Best Practice 6.2 of the Master Plan.
2. The proposed amendment is consistent with the Transportation Component of the City of Elko Master Plan as the proposed land use designation is supported by the existing and proposed roadway infrastructure.
3. The proposed amendment is consistent with the City of Elko Development Feasibility, Land Use, Water and Sewer Infrastructure, and Annexation Potential Report by supporting recent City actions in the vicinity and addressing potential shortfalls of designated Highway Commercial areas across the community.
4. The proposed designation is not in conflict with the City's Redevelopment Plan.
5. The proposed designation is not in conflict with the City's Wellhead protection Plan.
6. The proposed designation is not located in a special flood hazard area.

**STAFF RECOMMENDATION:**

The resolution make the following changes to Atlas Map #8

- Does not change the designation of the area west of the interchange to a proposed industrial use
- Changes North and west of Cattle Drive to Industrial Business Park from General Industrial
- Changes East and South of Cattle Drive to Commercial Highway
- Several Public parcels to Public
- UP property from approximately 15<sup>th</sup> Street to Union Pacific Way to Industrial Business Park, Union Pacific Way to the City of Elko Boundary General Industrial
- Developed parcel north of I-80, south of Ruby Vista Drive and West of College Parkway to Commercial Highway
- High Density Residential to Medium Density Residential in the vicinity of Dakota Drive and Copper Trail

Staff recommends **APPROVAL** with the following motion:

Move to adopt Resolution 1-18, containing amendments to the Atlas map #8 of the City of Elko Master Plan; directing that an attested copy of the foregoing parts, amendments, extensions of and/or additions to the Elko City Master Plan be certified to the City Council; further directing that an attested copy of this Commission's report on the proposed changes and additions shall have be filed with the City Council; and recommending to City Council to adopt said amendments by resolution.



**CITY OF ELKO**  
**DEVELOPMENT DEPARTMENT**  
**1755 COLLEGE AVENUE**  
**ELKO, NEVADA 89801**  
**(775)777-7210**  
**(775)777-7219 FAX**

Date: February 26, 2018  
To: Cathy Laughlin, City Planner  
From: Jeremy Draper, PE, Development Manager  
RE: Master Plan Industrial to Commercial designation

The City of Elko currently has three developed commercial centers, being Downtown Elko, near the 303 interchange and near the 301 interchange with I-80. Commercial properties near Interstate traffic has potential of attracting those passing through Elko on the I-80 corridor and may be more attractive to national brands looking to locate in Elko.

In 2012 the area near Mountain City Highway and north of Interstate 80, exit 301, had a total of 106 acres of vacant commercial property. Today there are approximately 97 acres of vacant commercial property in this area, resulting in an absorption rate of 1.4% per year. Near Jennings Way and Exit 303 there is currently 45 acres of vacant commercial property as compared to 81 acres available in 2012. The Exit 303 area has seen an absorption rate of 7.4% since 2012; this is in part due to larger parcels only being partially developed, such as the Ruby Vista Apartment parcel still containing 6 acres of developable ground.

The Mountain City and Exit 303 area has large commercial properties that are vacant and can be developed by a big box store. Of the vacant commercial properties in this area three parcels exceed 10 acres in size with the largest being close to 40 acres. Home Depot was developed on 11 acres of land and does not have the complementary uses as seen in big box developments in other communities, such as what is developing at the Elko Junction Shopping Center, providing a mix of commercial uses. A development on any of these vacant parcels will greatly reduce the available acreage for commercial development in the future.

Within the City of Elko there exists a total of 258 acres of commercial property within current water service zones and 226 acres within the 5600 water zone. Including areas identified as having annexation potential in the Development Report there is a total of 381 acres within the current water zone and 226 acres within the 5600 water zone.

In the Development Report we assumed each commercial unit would require ~ 2.5 acres of land, accounting for topography challenges there exists approximately 320 acres within current water zones and 160 acres within the 5600 water zone. This equates to approximately 190 commercial units within the City of Elko and areas of

potential annexation.

The proposed change in land use for the Exit 298 area will convert approximately 256 acres of vacant land from an Industrial General Land Use to a General Commercial Land Use. The Development Report estimates that Industrial Land Uses will require approximately 13.4 units per acre. The proposed change in land use designation will increase the number of units from 19.1 units of Industrial Use to 102.4 units of Commercial Uses.

Using an assumed absorption rate of 1.00% per year of the current available acreage for commercial development, the city has enough vacant commercial land to provide for approximately 27 years of growth. By comparison, our current residential land inventory at a 2% absorption rate will provide 59 years of development and our industrial land uses will provide 15 years of development. The proposed change in land use designation will result in an increase of available land for commercial land uses providing approximately 40 years of potential commercial growth and reduces industrial growth to 13.5 years at a 1.00% growth rate. The commercial land use designation does not exclude the development of Light Industrial uses within an Industrial Commercial Zone, a corresponding zoning district for Commercial Uses within the City of Elko Master Plan.

Traffic counts are based on an average of Industrial and Commercial uses as recommended by the Institute of Traffic Engineers. A variety of building sizes and uses were used in determining potential traffic impacts for commercial and industrial development. ITE provides estimated traffic volumes based on ksf, thousand square feet, of building space for both commercial and industrial uses. As it is unknown what the size of these buildings will be developed in these areas we used an average traffic count for a variety of building sizes and lot sizes, from .5 acre of land and 5,000 sf of building space up to 22 acres and 215,000 sf of building space. For instance a big box store such as a Wal-Mart can consume 22 acres of commercial property and produce daily traffic counts of 20,000 vehicles per day. By comparison an industrial building such as Ram Enterprises will consume 5 acres of land and produce daily traffic counts of only 214 vehicles per day. The average traffic per unit of development is as follows, Commercial uses, 1,118 vehicles per day per 2.5 acre unit, and Industrial uses, 371 vehicles per day per 13.4 acre unit.

Mountain City Highway which is a major arterial roadway has a total of 212 acres of commercial property adjacent to it of which 97 acres remain vacant, plus residential uses report to this roadway. Current traffic counts on this roadway just north of I-80 are 23,000 vehicles per day according to a traffic count conducted by NDOT in 2016, with a peak of 26,000 vehicles in 2007. Those daily traffic volumes reduce to 6,000 vehicles per day just east of El Armuth Drive. Residential properties south of Mountain City Highway all report to this road for entrance and egress to their properties, however those north of Mountain City Highway have other points of egress. With all commercial areas developing along Mountain City Highway it is anticipated an additional 15,000

vehicle trips per day can be added to this roadway.

The current commercial uses in the Exit 301 area north of I-80 based on ITE would produce ~60,000 vehicle trips per day. The current traffic counts on Mountain City Highway performed by NDOT in this same area would indicate daily vehicle trips to the commercial areas would range from 20,000 to 25,000 vehicle trips per day when accounting for road not counted. This is ~40% of the anticipated daily traffic counts per ITE, understanding that with additional growth these commercial areas will see additional traffic it is safe to assume we could estimate that 50% of the ITE volume is expected in Elko. For all new developments a 100% ITE factor should be used for a known uses, for purposes of this memo with unknown uses we will use 50% of the ITE value for future land development in determining anticipated traffic flows.

Cattle Drive will be the roadway connecting Mountain City Highway to the Exit 298 area, it is identified as a Minor Arterial in our master plan. The adjacent land uses reporting directly to Cattle Drive will include the proposed 256 acres of commercial land, 336 acres of industrial land, an addition 109 acres of commercial property, and 635 acres of medium density residential development. The current layout of these sections of land will direct all traffic to Cattle Drive as there are no other points of egress from this area. To the north there is Cattle Drive as well as Pratt Drive through a county residential development, and to the south the area is bound by I-80, limiting crossings to W. Idaho Street and Sheep Creek Trail. At full development we can anticipate approximately 100,000 vehicle trips per day from these developments, most of which will report to Cattle Drive.

The following table provides a comparison for several factors used in determining the appropriateness of the land use change from Industrial General to General Commercial. Water storage requirements and water usage are based on reporting requirements to the state of Nevada, water usage is approximately 1.12 acre-feet of water per unit for both commercial and industrial uses.

Land Use	Total Acres	# Units	Water Storage Req	Water Usage (Acre-ft)	Traffic Count (Veh/day)
Ind Gen.	256	19.1	47,750	21.4	7,084
Gen Com.	256	102.4	307,200	114.7	114,568

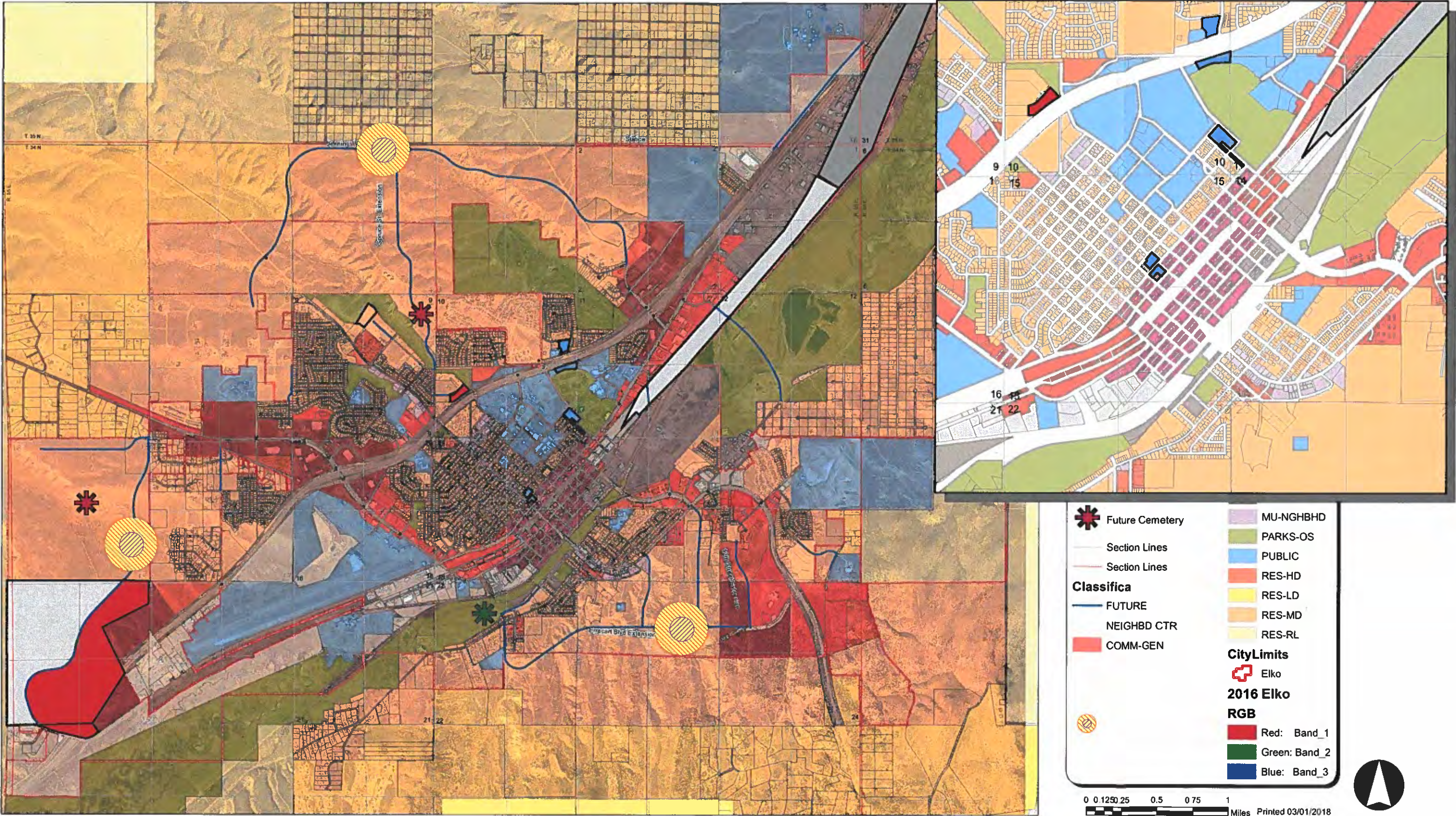


**A RESOLUTION OF THE ELKO CITY PLANNING COMMISSION  
AMENDING THE ELKO CITY MASTER PLAN UPDATING THE PROPOSED  
FUTURE LAND USE MAP ATLAS #8 BY CLEANING UP LAND USE  
DESIGNATIONS**

ABSENT: None

ABSTAIN: None







**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review, consideration and possible approval of Final Plat No. 4-18, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Tower Hill Unit 1 involving the proposed division of approximately 33.804 acres of property into 23 lots and 2 remainder parcels for residential development within the R1 (Single Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: ***MISC. ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **15 Minutes**
5. Background Information: **Subject property is located southeast of the terminous of Stitzel Road. (APN 001-920-079).**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Memo from Development Director, Memo from City Planner**
8. Recommended Motion: **Recommend to City Council to conditionally approve Final Plat 4-18 with conditions listed in City Planner Memo**
9. Findings:
  - **The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.**
  - **The subdivision is in conformance with 3-2-4-Establishment of Zoning Districts.**
  - **The subdivision is in conformance with 3-2-5-B-Single-Family Zoning Districts.**
  - **The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations.**
  - **The subdivision is in conformance with 3-3-6-Final Plat (Stage III).**
  - **The subdivision is in conformance with 3-3-8-Information required for Final Plat Submission.**
  - **The subdivision is in conformance with 3-3-20-General Provisions for Subdivision Design.**
    - **The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners.**
  - **The subdivision is in conformance with 3-3-21-Street Location and Arrangement.**
  - **The subdivision is in conformance with 3-3-22-Street Design.**



- The subdivision is in conformance with 3-3-23-Block Design.
- The subdivision is in conformance with 3-3-24-Lot Planning as modified by the Development Agreement.
- The subdivision is in conformance with 3-3-25-Easement Planning.
- The subdivision is in conformance with 3-3-26-Street Naming.
- The subdivision is in conformance with 3-3-27-Street Lighting Design Standards.
- The subdivision is in conformance with 3-3-40-Responsibility for Improvements.
- The subdivision is in conformance with 3-3-41-Engineering Plans.
- The subdivision is in conformance with 3-3-42-Construction and Inspection.
- The subdivision is in conformance with 3-3-43-Required Improvements.
- The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-44-Agreement to Install Improvements.
- The sub-divider shall provide a performance guarantee as stipulated in the performance agreement and 3-3-45-Performance Guarantee.
- The subdivision is in conformance with 3-8 Floodplain Management.
- The Final Plat is in conformance with the Preliminary Plat.

10. Prepared By: Cathy Laughlin, City Planner

11. Agenda Distribution: **Jordanelle Third Mortgage, LLC**  
**Scott MacRitchie**  
**312 Four Mile Trail**  
**Elko, NV 89801**

**High Desert Engineering**  
**640 Idaho Street**  
**Elko, NV 89801**

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 3/6**

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Title: Final Plat 4-18 Tower Hill, Unit 1  
Applicant(s): Jordanella Third Mortgage, LLC  
Site Location: Southeast of the terminus of Stitzel - ADN 001-920-079  
Current Zoning: B1 Date Received: 2/12 Date Public Notice: N/A  
COMMENT: This is for 33.804 acres to be divided into 23 lots and 2 remainder parcels for Residential Development.

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

Assistant City Manager: Date: 3/1/18  
Recommend approval as presented by staff. The proposed performance agreement is to be submitted to the City Council in conjunction with the Plat  
SAW  
Initial

City Manager: Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Initial



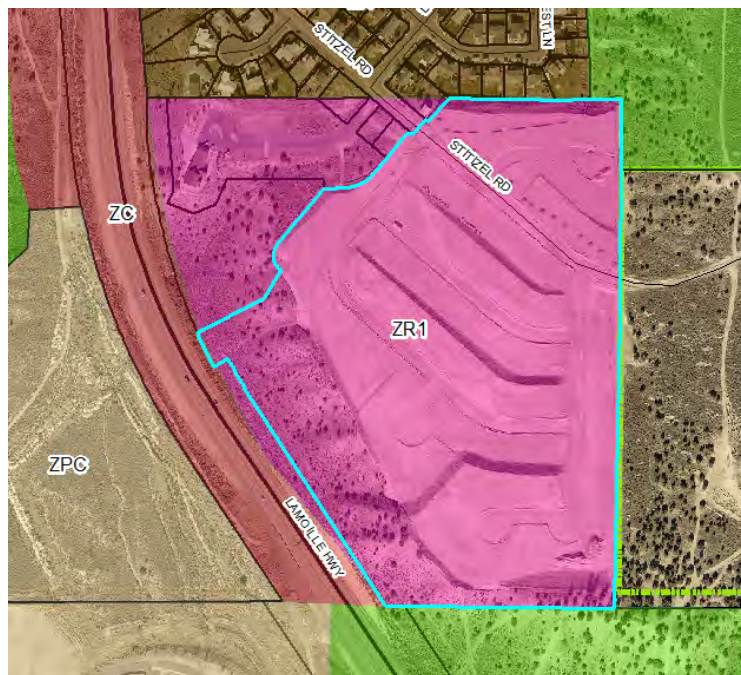


City of Elko  
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Elko, NV 89801  
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## **CITY OF ELKO STAFF REPORT**

<b>DATE:</b>	<b>February 27, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>March 6, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.B.1</b>
<b>APPLICATION NUMBER:</b>	<b>Final Plat 4-18</b>
<b>APPLICANT:</b>	<b>Autumn Colors, LLC</b>
<b>PROJECT DESCRIPTION:</b>	<b>Tower Hills Subdivision Unit 1 at the end of Stitzel Road above Lamoille Highway and Powder House Road</b>

A Final Map for the division of approximately 7.920 acres into 23 lots for single family residential development within an R1 (Single Family Residential) Zoning District and two remaining lots.



### **STAFF RECOMMENDATION:**

RECOMMEND to APPROVE this item subject to findings of fact and conditions.

## **PROJECT INFORMATION**

**PARCEL NUMBERS:** 001-920-079

**PARCEL SIZE:** 7.920 acres for this Unit 1 of the subdivision; the entire subdivision is 33.804 acres. In Unit 1, 2.116 acres are offered for dedication for street development

**EXISTING ZONING:** (R1) Single Family Residential

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

**EXISTING LAND USE:** Vacant

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- North: Residential / Developed
- East: Elko County Property / Undeveloped
- South: Agriculture (AG) / Undeveloped
- West: Planned Commercial / Undeveloped

### **PROPERTY CHARACTERISTICS:**

- The property is an undeveloped residential parcel.
- This is the first phase of the Tower Hills Subdivision.
- The parcel has challenging topography issues with a substantial grade difference towards Lamoille Highway.
- Frontage of the Lamoille Highway would be under NDOT jurisdiction.
- A portion of the property is located in the 5600 water zone and therefore cannot be served at this time by the City of Elko.

### **MASTER PLAN, COORDINATING PLANS, and CITY CODE SECTIONS:**

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

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-3 General Provisions
- City of Elko Zoning – Section 3-2-4 Zoning Districts
- City of Elko Zoning – Section 3-2-5(B) Single-Family Residential District
- City of Elko Zoning – Section 3-2-5(G) Residential Zoning Districts Area, Setback And Height Schedule For Principal Buildings



- City of Elko Zoning – Section 3-8 Flood Plain Management
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Chapter 3 Subdivisions

### **BACKGROUND INFORMATION**

1. The City Council accepted the Preliminary Plat at its meeting on October 24, 2017.
2. The subdivision is located on APN 001-920-079, shown as parcel 1 on map 666870 recorded at the Elko County Recorder's Office.
3. The application is for a total of 23 lots. The proposed density is 3.96 units per acre.
4. The total subdivided area is approximately 33.804 acres in size with 7.920 of that divided into 23 lots for Unit 1 with 2 remaining lots.
5. Approximately 2.116 acres are offered for dedication for street development.
6. The property is located off Lamoille Highway, NDOT jurisdiction and at the end of Stitzel Road. A portion of missing Stitzel Road is required as part of the development.
7. Approvals prior to the October 24, 2017 approval of the Preliminary Plat for this subdivision have expired.

### **MASTER PLAN:**

1. Conformance with the Land Use component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat.
2. Conformance with the Transportation component of the Master Plan was evaluated with review and approval of the Preliminary Plat. The Final Plat is in conformance with the Preliminary Plat.

The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.

### **ELKO REDEVELOPMENT PLAN:**

1. The property is not located within the Redevelopment Area.

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

1. The property lies outside any capture zone for the City of Elko.

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

- Section 3-2-3 (C) 1 of City code specifies use restrictions. The following use restrictions shall apply.
  1. Principal Uses: Only those uses and groups of uses specifically designated as "principal uses permitted" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses

2. Conditional Uses: Certain specified uses designated as “conditional uses permitted” may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereinafter specified in this chapter or imposed by the planning commission or city council.
3. Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

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

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

The proposed subdivision is in conformance with Section 3-2-3.

#### **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.

It appears that the proposed development will meet the requirements of 3-2-4.

#### **SECTION 3-2-5(B) Residential Zoning Districts**

1. 3-2-5(B) Single Family Residential District. Lots must comply with principal permitted uses as listed in this section.

Project is in conformance with 3-2-5(B) with the principal permitted uses as single family residential.

#### **SECTION 3-2-5(G) Residential Zoning District**

1. Lot dimensions were approved with the Preliminary Plat. Modifications were made to the lot sizes as conditions of the Preliminary Plat.

Project is in conformance with 3-2-5(G).

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

1. As the property develops, conformance with 3-2-17 will be required.

It appears the proposed development will meet the requirements of 3-2-17.

### **SECTION 3-3-5 PRELIMINARY PLAT STAGE (STAGE II)**

- F. Significance of Preliminary Approval, subject to the provisions of this section and NRS 278.360, the final plat shall be recorded within 2 years of the date of recording of the previous final plat.

### **SECTION 3-3-6 FINAL PLAT STAGE (STAGE III)**

**Pre-submission Requirements (A)(1)** – The Plat is in conformance with the zone requirements.

**Pre-submission Requirements (A)(2)** – The proposed final plat conforms closely to the preliminary plat.

**Pre-submission Requirements (A)(3)** – The Title Sheet includes an affidavit for public utilities and no objections were received from public utilities upon notification for the Preliminary Plat.

### **SECTION 3-3-8 INFORMATION REQUIRED FOR FINAL PLAT SUBMITTAL**

1. Compliance with this section is required. See Development Department memo dated February 26, 2018.

### **SECTION 3-8**

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

### **FINDINGS**

1. The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.
2. The subdivision is in conformance with 3-2-4-Establishment of Zoning Districts.
3. The subdivision is in conformance with 3-2-5-B-Single-Family Zoning Districts.
4. The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations.
5. The subdivision is in conformance with 3-3-6-Final Plat (Stage III).

6. The subdivision is in conformance with 3-3-8-Information required for Final Plat Submission.
7. The subdivision is in conformance with 3-3-20-General Provisions for Subdivision Design.
  - a. The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners.
8. The subdivision is in conformance with 3-3-21-Street Location and Arrangement.
9. The subdivision is in conformance with 3-3-22-Street Design.
10. The subdivision is in conformance with 3-3-23-Block Design.
11. The subdivision is in conformance with 3-3-24-Lot Planning as modified by the Development Agreement.
12. The subdivision is in conformance with 3-3-25-Easement Planning.
13. The subdivision is in conformance with 3-3-26-Street Naming.
14. The subdivision is in conformance with 3-3-27-Street Lighting Design Standards.
15. The subdivision is in conformance with 3-3-40-Responsibility for Improvements.
16. The subdivision is in conformance with 3-3-41-Engineering Plans.
17. The subdivision is in conformance with 3-3-42-Construction and Inspection.
18. The subdivision is in conformance with 3-3-43-Required Improvements.
19. The sub-divider shall enter into a performance agreement to address the conditions found in 3-3-44-Agreement to Install Improvements.
20. The sub-divider shall provide a performance guarantee as stipulated in the performance agreement and 3-3-45-Performance Guarantee.
21. The subdivision is in conformance with 3-8 Floodplain Management.
22. The Final Plat is in conformance with the Preliminary Plat.

## **RECOMMENDATION**

Staff recommends **approval** of the subdivision based on the following conditions:

### **Development Department**

(see Memorandum from Development Manager Jeremy Draper dated February 26, 2018)

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 3-3-44 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. The developer shall enter into the Performance Agreement within 30 days of approval of the final plat by City Council.
2. The final plat is approved for 23 single family residential lots and 2 remainder lots.
3. The Utility Department will issue a Will Serve Letter.
4. State approval of the subdivision.
5. Lot 122 shall have access restricted to Chukar Drive, a note shall be added to the final plat **prior to City Council consideration**.



6. Update the dates in the jurats to reflect 2018 **prior to City Council consideration.**
7. Conformance with Preliminary Plat conditions.
8. Public improvements are required on the State Route 227 frontage or on the south southwest side of the State Route in accordance with NDOT approval. The extent, location and type of public improvements will be determined through the review and approval process for the civil improvement plans.
9. Civil improvements are to comply with Chapter 3-3 of City code.
10. Final approval for civil improvement plans.
11. State approvals for the subdivision.
12. 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.

#### **Engineering Department**

1. Verify the bearings on Lines L7 and L9. They do not match the bearing of the overall line.

#### **Planning Department**

1. Comply with all department conditions.

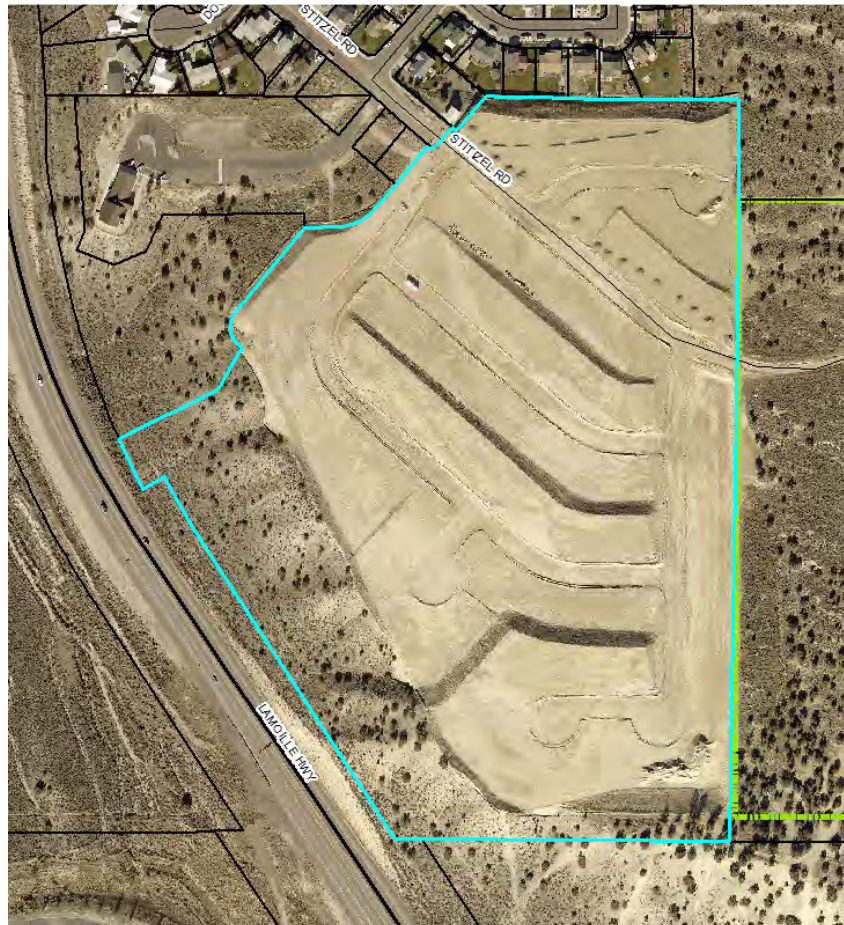


**CITY OF ELKO**  
**DEVELOPMENT DEPARTMENT**  
**1755 COLLEGE AVENUE**  
**ELKO, NEVADA 89801**  
**(775)777-7210**  
**(775)777-7219 FAX**

To: Elko Planning Commission  
From: Jeremy Draper, PE, Development Manager  
RE: Final Subdivision Plat Review for Tower Hill-Unit 1  
Date: March 1, 2018

The City Development Department has reviewed the final subdivision plat for conformance with the applicable Master Plan section, Coordinating Plans, and City Code Sections.

### **Background Information**



1. The preliminary plat for Tower Hill was approved by the Council on October 24, 2017.

2. The subdivision is located on APN 001-920-079, shown as parcel 1 on map 666870 recorded at the Elko County Recorder's Office. A portion of missing roadway on Stitzel is required as part of the development of this parcel.
3. The final plat is for 23 Single Family Residential Lots, plus 2 remainder lots.
4. The subdivision is located along an extension of Stitzel Road.
5. The property abuts Lamoille Highway, SR 227, a shared use path shall be constructed on the west side of Lamoille Highway in the following lengths, a separate memo has been provided to the developer outlining the required work.
  - a. Unit 1: 303 LF
  - b. Unit 2: 283 LF
  - c. Unit 3: 442 LF
6. The total subdivided area is 33.80 acres.
7. The total subdivided area of Unit 1 is 7.92 Acres.
8. The total area offered for dedication in Unit 1 is 2.12 Acres.
9. The density of Unit 1 is 3.96 lots per acre.
10. The property is zone R1-Single Family Residential.
11. Approvals prior to the October 24, 2017 approval of the Preliminary Plat for this subdivision have expired.

## **Master Plan**

### **Land Use Component**

- Land Use is shown as Medium Density Residential. Medium Density is identified as having a density of 5 - 8 units per acre or greater. The property is zoned R1 which is a corresponding zoning district as identified in the Master Plan for a Medium Density Land Use. The proposed density of this subdivision does conform to the subdivision.
- 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".
- Corresponding zoning districts are
  - Residential-Medium Density
    - R-Single-Family and Multiple-Family Residential
    - R1-Single-Family Residential
    - R2-Two-Family Residential
    - PUD-Planned Unit Development
    - RO-Residential Office
    - RB-Residential Business
    - RMH-2-Mobile Home Subdivision
    - RMH-3-Manufactured Home Subdivision
- Applicable objectives of the Land Use Component are
  - Objective 1-Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.

- 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.

### **Transportation Component**

- State Route 227 is classified as a NDOT roadway and functions as a major arterial. The State Route 227 borders the property to the west. Direct access to the State Route is not shown.
- Public improvements along State Route 227 shall be required in the form of the development of a shared use path on the west side of State Route 227 as approved by Elko City Council on September 23, 2014. The frontage improvements shall be phased with the completion of the phases for the subdivision as noted below. The footage is based on the footage of property adjacent to the State Route 227 right-of-way, actual required improvements on the path are determined based on the total length of improvements for the entire path:
  - Unit 1: 303 LF
  - Unit 2: 283 LF
  - Unit 3: 442 LF
- The Master Plan identifies Stitzel Road as a Collector. The roadway will function as a residential collector and will be developed to that standard within a 60 foot right-of-way.
- The remaining proposed streets will function as local streets. The roadways will be developed to that standard within a 50 foot right-of-way.
- Applicable objectives of the Transportation Component are
  - Objective 1-Provide a balanced transportation system that accommodates vehicles, bicycles, and pedestrians, while being sensitive to, and supporting the adjacent land uses.
  - Objective 2-Provide a backbone of arterial roadways to emphasize regional vehicle travel and provide adequate capacity to move large traffic volumes, including truck traffic, safely and efficiently.

The subdivision is in general conformance with the Master Plan.

### **Elko Redevelopment Plan**

The property is not located within the Redevelopment Area.

### **Elko Wellhead Protection Plan**

The proposed subdivision is not located within any capture zone for City Wells.



### **Section 3-2-3-General Provisions**

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

It appears the section of code will be met with the proposed development.

### **Section 3-2-4-Establishment of Zoning Districts**

- Conformance with this section is required.

### **3-2-5-Residential Zoning Districts**

- B. R1-Single-Family Residential District
  - a. Conformance with this section is required
  - b. The plat complies with the requirements under this section
  - c. Location of single-family residences shall be in conformance with the setbacks found in subsection G.

### **3-2-17-Traffic, Access, Parking and Loading Regulations**

- Conformance with this section is required.
- All lots shall be provided with the required number of off street parking spaces.
- Access to lost shall conform with this section.

### **3-3-5-Preliminary Plat Stage (Stage II)**

- F. Significance of Preliminary Approval, subject to the provisions of this section and NRS 278.360, the final plat shall be recorded within 4 years of the date of approval of the Preliminary Plat.

### **Section 3-3-6-Final Plat Stage (Stage III)**

- A. Presubmission Requirements
1. Zoning-The area in which the subdivision is located is R1-Single-Family Residential. A zoning amendment is not required.
  2. Preparation of Final Plat-The Final Plat conforms closely with the prepared preliminary plat 4-17.
  3. Easements-The final plat has the required approval from public utilities for easements.

### **Section 3-3-8-Information Required for Final Plat Submission**

- A. Form and Content-The final plat conforms to the required size specifications and provides the appropriate affidavits and certifications.
- B. Identification Data
1. The subdivision map identified the subdivision, and provides its location by section, township, range and county.
  2. The subdivision map was prepared by a properly licensed surveyor.
  3. The subdivision map provides a scale, north point, and date of preparation.
- C. Survey Data
1. The boundaries of the tract are fully balanced and closed.
  2. All exceptions are noted on the plat.
  3. The location and description of cardinal points are tied to a section corner.
  4. The location and description of any physical encroachments upon the boundary of the tract are noted on the plat.
- D. Descriptive Data
1. The name, right of way lines, courses, lengths and widths of all streets and easements are noted on the plat.
  2. All drainageways are noted on the plan.
  3. All utility and public service easements are noted on the plat.
  4. The location and dimensions of all lots, parcels and exceptions are shown on the plat.
  5. All residential lots are numbered consecutively on the plat.
  6. There are no sites dedicated to the public shown on the plat.
  7. The location of adjoining subdivisions are noted on the plat with required information.
  8. There are no deed restrictions proposed. **Lots 122 shall have access restricted to Chukar Drive.**

E. Dedication and Acknowledgment

1. The owner's certificate has the required dedication information for all easements and right of ways.
2. The execution of dedication is acknowledged and certified by a notary public.

F. Additional Information

1. All centerline monuments for streets are noted as being set on the plat.
2. The centerline and width of each right of way is noted on the plat.
3. The plat indicates the location of monuments that will be set to determine the boundaries of the subdivision.
4. The length and bearing of each lot line is identified on the plat.
5. The city boundary adjoining the subdivision is not identified on the plat, as the plat is not adjoining a boundary.
6. The plat identifies the location of the section lines, and 1/16<sup>th</sup> section line adjoining the subdivision boundaries.

G. City Engineer to Check

1. The Engineer shall check the final map for accuracy of dimensions, placement of monuments, the establishment of survey records, and conformance with the preliminary map.
  - a) Closure calculations have been provided.
  - b) Civil improvement plans have been provided, previous civil improvement plans have been approved for this subdivision.
  - c) Civil improvement plans for drainage have been submitted.
  - d) An engineer's estimate has been provided.
2. It appears the lot closures are within the required tolerances.

H. Required certifications

1. The Owner's Certificate is shown on the final plat.
2. The Owner's Certificate offers for dedication all right of ways shown on the plat.
3. A Clerk Certificate is shown on the final plat, certifying the signature of the City Council.
4. The Owner's Certificate offers for dedication all easements shown on the plat.
5. A Surveyor's Certificate is shown on the plat and provides the required language.
6. The City Engineer's Certificate is listed on the plat.
7. A certificate from the Nevada Division of Environmental Protection is provided with the required language.
8. A copy of review by the state engineer is not available at this time.
9. A certificate from the Division of Water Resources is provided on the plat with the required language.
10. The civil improvement plans identify the required water meters for the subdivision.

### **3-3-20-General Provisions for Subdivision Design**

- A. Conformance with Mater Plan-The proposed subdivision is in conformance with the requirements and objectives of the Mater Plan, Land Use and Transportation Components. The proposed subdivision is in conformance with the City zoning ordinances.
- B. There are no public sites offered for dedication with this subdivision.
- C. The land for the subdivision appears to be suitable for subdividing. The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners.

### **3-3-21-Street Location and Arrangement**

- The proposed subdivision is in conformance with this section, all streets are platted in conformance with the City Master Plan. Local Residential Street are arranged to discourage pass through traffic.

### **3-3-22-Street Design**

- The proposed subdivision appears to be in conformance with this section.

### **3-3-23-Block Design**

- The proposed subdivision appears to be in conformance with this section.

### **3-3-24-Lot Planning**

- The proposed subdivision appears to be in conformance with this section.

### **3-3-25-Easement Planning**

- The subdivision has offered for dedication the required utility and drainage easements as required by this section.

### **3-3-26-Street Naming**

- All proposed street names are an extension of existing streets from previous phases and conform to the Preliminary Plat.



### **3-3-27-Street Lighting Design Standards**

- The required street lighting is identified on the civil improvement plans.

### **3-3-40-Responsibility for Improvements**

- The developer shall be responsible for all required improvements.

### **3-3-41-Engineering Plans**

- Civil improvement plans have been submitted and previously approved.

### **3-3-42-Construction and Inspection**

- The developer has submitted plans for review to receive all required permits.

### **3-3-43-Required Improvements**

- Civil improvement plans have been submitted and are in conformance with this section of code.
- Civil improvements include curb, gutter and sidewalk, paving and utilities within the Stitzel Road, Chukar Drive, and Partridge Drive right of ways.
- Civil improvements including a shared use path are shown within the SR 227 right of way.

### **3-3-44-Agreement to Install Improvements**

- The subdivider will be required to enter into a Performance Agreement to address the conditions of this section.

### **3-3-45-Performance Guarantee**

- The subdivider shall provide a Performance Guarantee as stipulated in the Performance Agreement.

### **3-3-70-Modification of Standards**

- A. Where in the opinion of the planning commission, there exists extraordinary conditions of topography, land ownership, or adjacent development, the city council may modify the provisions of this chapter, or any other provision in this code, in such a manner and to the minimum extent necessary to carry out the intent of this chapter.
  - The subdivision has frontage along Lamoille Highway (SR 227), Council took action on September 23, 2014 to require the construction of a shared

use path in lieu of standard curb, gutter and sidewalk improvements, a modification of standards is not required.

- C. Additional Necessary Requirements: In modifying the standards or requirements of this chapter, as outlined heretofore, the council may make such additional requirements as are necessary in its judgement to secure substantially the objectives of the standards or requirements so modified.

### **3-8-Floodplain Management**

- The proposed subdivision is not located within a special flood hazard area.

### **8-18-Public Improvement Standards**

- Conformance with this section is required.

### **9-7-Construction Site Runoff Control**

- During construction of the subdivision and the erection of the housing, the developer shall be in conformance with this section of code.

### **9-8-Postconstruction Runoff Control and Water Quality Management**

- Conformance with this section is required.

### **Findings**

- The subdivision is in conformance with the Land Use and Transportation components of the Master Plan.
- The subdivision is in conformance with 3-2-4-Establishment of Zoning Districts.
- The subdivision is in conformance with 3-2-5-B-Single-Family Residential Zoning Districts.
- The subdivision is in conformance with 3-2-17 Traffic, Access, Parking and Loading Regulations.
- The subdivision is in conformance with 3-3-6-Final Plat (Stage III).
- The subdivision is in conformance with 3-3-8-Information required for Final Plat Submission.
- The subdivision is in conformance with 3-3-20-General Provisions for Subdivision Design.
  - The subdivision does not appear to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health and safety and general welfare of the community or the future property owners.
- The subdivision is in conformance with 3-3-21-Street Location and Arrangement.
- The subdivision is in conformance with 3-3-22-Street Design.

- The subdivision is in conformance with 3-3-23-Block Design.
- The subdivision is in conformance with 3-3-24-Lot Planning.
- The subdivision is in conformance with 3-3-25-Easement Planning.
- The subdivision is in conformance with 3-3-26-Street Naming.
- The subdivision is in conformance with 3-3-27-Street Lighting Design Standards.
- The subdivision is in conformance with 3-3-40-Responsibility for Improvements.
- The subdivision is in conformance with 3-3-41-Engineering Plans.
- The subdivision is in conformance with 3-3-42-Construction and Inspection.
- The subdivision is in conformance with 3-3-43-Required Improvements.
- The subdivider shall enter into a performance agreement to address the conditions found in 3-3-44-Agreement to Install Improvements.
- The subdivider shall provide a performance guarantee as stipulated in the performance agreement and 3-3-45-Performance Guarantee.

### **Recommendation**

The City of Elko Development Department recommends approval of the subdivision based on the following conditions:

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-44 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. The developer shall enter into the Performance Agreement within 30 days of approval of the final plat by City Council.
2. The final plat is approved for 23 single family residential lots and 2 remainder lots.
3. The Utility Department will issue a Will Serve Letter.
4. State approval of the subdivision.
5. Lot 122 shall have access restricted to Chukar Drive, a note shall be added to the final plat **prior to City Council consideration.**
6. Update the dates in the jurats to reflect 2018 **prior to City Council consideration.**
7. Conformance with Preliminary Plat conditions.
8. Public improvements are required on the State Route 227 frontage or on the south southwest side of the State Route in accordance with NDOT approval. The extent, location and type of public improvements will be determined through the review and approval process for the civil improvement plans.
9. Civil improvements are to comply with Chapter 3-3 of City code.
10. Final approval for civil improvement plans.
11. State approvals for the subdivision.
12. 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.





## CITY OF ELKO PLANNING DEPARTMENT

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

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

FEB 12 2018

### APPLICATION FOR FINAL PLAT APPROVAL

APPLICANT(s): Jordanelle Third Mortgage, LLC  
MAILING ADDRESS: 312 Four Mile Trail, Elko, NV 89801  
PHONE NO (Home) (775) 340-6005 (Business) \_\_\_\_\_  
NAME OF PROPERTY OWNER (If different): same  
(Property owner consent in writing must be provided)  
MAILING ADDRESS: same  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-920-079 Address N/A  
Lot(s), Block(s), & Subdivision \_\_\_\_\_  
Or Parcel(s) & File No. Parcel 1, File 666870  
PROJECT DESCRIPTION OR PURPOSE: 23 Lot Single Family Residential Subdivision  
APPLICANT'S REPRESENTATIVE OR ENGINEER: High Desert 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 final plat folded to a size not to exceed 9"x12" provided by a properly licensed surveyor, as well as one (1) set of reproducible plans 8 1/2" x 11" in size and any required supporting data, prepared in accordance with Section 3-3-8 of Elko City Code (see attached checklist).
2. Pre-Submission Requirements:
  - a. The final plat shall meet all requirements of the zoning district in which located, and any necessary zoning amendment shall have been adopted by the Elko City Council prior to filing of the final plat.
  - b. The final plat shall conform closely to the approved preliminary plat and be prepared in accordance with the provisions of the City Subdivision Ordinance.
  - c. The final plat submittal shall include a letter signifying approval of utility easements by all public utilities involved, and shall be so indicated by an affidavit on the map.
  - d. A complete set of construction plans for all public improvements associated with the final plat shall have been approved or substantially approved by the City Engineer.

**Fee:** \$750.00 + \$25.00 per lot including remainder parcels; non-refundable.

**Other Information:** The applicant is encouraged to submit other information and documentation to support the request.

## Final Plat Checklist 3-3-8

<b>Identification Data</b>	
✓	Subdivision Name
✓	Location and Section, Township and Range
✓	Name, address and phone number of subdivider
✓	Name, address and phone number of engineer/surveyor
✓	Scale, North Point and Date of Preparation
✓	Location maps
<b>Survey Data (Required)</b>	
✓	Boundaries of the Tract fully balanced and closed
✓	Any exception within the plat boundaries
✓	The subdivision is to be tied to a section corner
✓	Location and description of all physical encroachments
<b>Descriptive Data</b>	
✓	Street Layout, location, widths, easements
✓	All drainageways, designated as such
✓	All utility and public service easements
✓	Location and dimensions of all lots, parcels
✓	Residential Lots shall be numbered consecutively
✓	All sites to be dedicated to the public and proposed use
✓	Location of all adjoining subdivisions with name date, book and page
✓	Any private deed restrictions to be imposed upon the plat
<b>Dedication and Acknowledgment</b>	
✓	Statement of dedication for items to be dedicated
✓	Execution of dedication acknowledged by a notary public
<b>Additional Information</b>	
✓	Street CL, and Monuments identified
✓	Street CL and width shown on map
✓	Location of mounuments used to determine boudaries
✓	Each city boundary line crossing or adjoining the subdivision
✓	Section lines crossing the subdivision boundaries
<b>City Engineer to Check</b>	
✓	Closure report for each of the lots
✓	Civil Improvement plans
✓	Estimate of quantities required to complete the improvements
<b>Required Certifications</b>	
✓	All parties having record title in the land to be subdivided
✓	Offering for dedication
✓	Clerk of each approving governing body
✓	Easements
✓	Surveyor's Certificate
✓	City Engineer
✓	State Health division <i>NDEP</i>
✓	State Engineer
✓	Division of Water Resources
✓	City Council



**By My Signature below:**

- ☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.
- ☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)
- ☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.
- ☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.
- ☒ I acknowledge that, if approved, I must provide an AutoCAD file containing the final subdivision layout on NAD 83 NV East Zone Coordinate System to the City Engineering Department when requesting final map signatures for recording.
- ☒ I have carefully read and completed all questions contained within this application to the best of my ability.

**Applicant / Agent:** Scott MacRitchie, Managing Director  
(Please print or type)

**Mailing Address:** 312 Four Mile  
Street Address or P.O. Box  
Elko, NV 89801  
City, State, Zip Code

**Phone Number:** (775) 340-6005

**Email address:** scott@macritchie.com

**SIGNATURE:** Scott MacRitchie

**FOR OFFICE USE ONLY**

**File No.:** 4-18 **Date Filed:** 2/12/18 **Fee Paid:** \$1,325 Ck # 139167

23 Lots + Parcel A+B = 25 x \$25 = \$625  
+ 750  
\$1,375

---

*Thomas C. Ballew, P.E., P.L.S.*  
*Robert E. Morley, P.L.S.*  
*Duane V. Merrill, P.L.S.*  
*Floyd M. Fisk, P.E.*

---



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*(775) 738-4053 Phone*  
*(775) 753-7693 Fax*  
*640 Idaho Street*  
*Elko, NV 89801*

---

February 12, 2018

**RECEIVED**

**FEB 12 2018**

Cathy Laughlin, City Planner  
City of Elko  
1751 College Avenue  
Elko, NV 89801

Re: Tower Hill Subdivision – Unit 1  
Final Map

Dear Cathy,

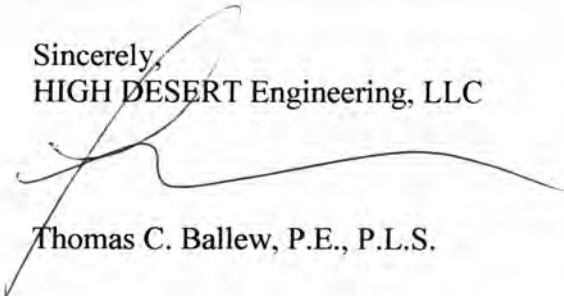
Enclosed please find the following items regarding the above referenced project:

- Application for Final Plat approval.
- Three (3) full size copies (consisting of 2 sheets each) of the Final Map.
- Two (2) full sizes copies (consisting of 9 sheets each) of the Project Construction Plans.
- One (1) copy of the Project Lot Calculations.
- One (1) copy of the Project Quantity & Cost Estimate.
- Our check in the amount of \$ 1,325.00 for the review fee (\$750.00 plus 23 Lots at \$25.00 per lot).

Pdf copies of the documents listed above were transmitted to you on today's date.

Please feel free to contact me if you have any questions regarding this matter.

Sincerely,  
HIGH DESERT Engineering, LLC



Thomas C. Ballew, P.E., P.L.S.

enclosures

cc Scott MacRitchie, Jordanelle Third Mortgage



# **LOT CALCULATIONS**

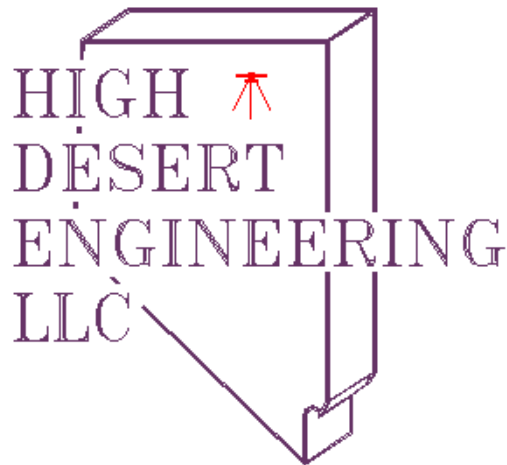
**FOR**

## **TOWER HILL SUBDIVISION UNIT NUMBER 1 ELKO, NEVADA**

**PREPARED FOR:**

**Jordanelle Third Mortgage, LLC  
4518 North 32<sup>nd</sup> Street  
Phoenix, Arizona 85018**

**Contact:  
Scott MacRitchie  
(775) 340-6005**



**PREPARED BY**

**HIGH DESERT Engineering  
640 Idaho Street  
Elko, Nevada**

February, 2018

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Parcel name: LOT 101

North:	13555.620	East :	60439.685
Line Course:	N 40-33-46 E	Length:	100.00
	North: 13631.589	East :	60504.713
Line Course:	S 89-58-43 E	Length:	105.14
	North: 13631.550	East :	60609.853
Line Course:	S 40-33-46 W	Length:	168.34
	North: 13503.663	East :	60500.385
Line Course:	N 49-26-14 W	Length:	79.90
	North: 13555.621	East :	60439.685

Perimeter: 453.38 Area: 10,720 SF 0.246 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.001 Course: N 20-01-31 E

Error North: 0.0007 East : 0.0003

Precision 1: 453,380.00

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Parcel name: LOT 102

North:	13503.663	East :	60500.383
Line Course:	N 40-33-46 E	Length:	168.34
	North: 13631.550	East :	60609.852
Line Course:	S 25-51-04 E	Length:	81.84
	North: 13557.900	East :	60645.537
Line Course:	S 40-33-46 W	Length:	135.59
	North: 13454.893	East :	60557.365
Line Course:	N 49-26-14 W	Length:	75.00
	North: 13503.664	East :	60500.388

Perimeter: 460.77 Area: 11,398 SF 0.262 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.005 Course: N 80-51-39 E

Error North: 0.0008 East : 0.0047

Precision 1: 92,154.00

-----

Parcel name: LOT 103

North:	13454.892	East :	60557.360
Line Course:	N 40-33-46 E	Length:	135.59
	North: 13557.899	East :	60645.532
Line Course:	S 25-51-04 E	Length:	98.80
	North: 13468.986	East :	60688.612

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Curve Length: 51.46 Radius: 125.00  
Delta: 23-35-10 Tangent: 26.10  
Chord: 51.09 Course: S 52-21-21 W  
Course In: S 25-51-04 E Course Out: N 49-26-14 W  
RP North: 13356.495 East : 60743.116  
End North: 13437.780 East : 60648.155  
Line Course: S 40-33-46 W Length: 31.05  
North: 13414.191 East : 60627.963  
Curve Length: 23.56 Radius: 15.00  
Delta: 90-00-00 Tangent: 15.00  
Chord: 21.21 Course: S 85-33-46 W  
Course In: N 49-26-14 W Course Out: S 40-33-46 W  
RP North: 13423.946 East : 60616.568  
End North: 13412.550 East : 60606.814  
Line Course: N 49-26-14 W Length: 65.10  
North: 13454.884 East : 60557.358

Perimeter: 405.56 Area: 9,607 SF 0.221 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.009 Course: S 16-49-47 W  
Error North: -0.0088 East : -0.0027  
Precision 1: 45,062.22

-----  
Parcel name: LOT 104

North: 13468.992 East : 60688.614  
Line Course: N 25-51-04 W Length: 180.63  
North: 13631.546 East : 60609.853  
Line Course: S 89-58-43 E Length: 149.80  
North: 13631.490 East : 60759.653  
Line Course: S 00-01-17 W Length: 150.00  
North: 13481.490 East : 60759.597  
Line Course: N 89-58-43 W Length: 16.43  
North: 13481.496 East : 60743.167  
Curve Length: 56.45 Radius: 125.00  
Delta: 25-52-21 Tangent: 28.71  
Chord: 55.97 Course: S 77-05-07 W  
Course In: S 00-01-17 W Course Out: N 25-51-04 W  
RP North: 13356.496 East : 60743.120  
End North: 13468.987 East : 60688.616

Perimeter: 553.30 Area: 17,275 SF 0.397 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.005 Course: S 28-35-00 E  
Error North: -0.0041 East : 0.0022

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Precision 1: 110,662.00

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Parcel name: LOT 105

North:	13481.494	East :	60759.593
Line	Course: N 00-01-17 E	Length:	150.00
	North: 13631.494	East :	60759.649
Line	Course: S 89-58-43 E	Length:	95.00
	North: 13631.459	East :	60854.649
Line	Course: S 00-01-17 W	Length:	150.00
	North: 13481.459	East :	60854.593
Line	Course: N 89-58-43 W	Length:	95.00
	North: 13481.494	East :	60759.593

Perimeter: 490.00 Area: 14,250 SF 0.327 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000 Course: S 90-00-00 E

Error North: 0.0000 East : 0.0000

Precision 1: 490,000,000.00

-----

Parcel name: LOT 106

North:	13481.459	East :	60854.593
Line	Course: N 00-01-17 E	Length:	150.00
	North: 13631.459	East :	60854.649
Line	Course: S 89-58-43 E	Length:	87.86
	North: 13631.426	East :	60942.509
Line	Course: S 00-01-17 W	Length:	150.00
	North: 13481.426	East :	60942.453
Line	Course: N 89-58-43 W	Length:	87.86
	North: 13481.459	East :	60854.593

Perimeter: 475.72 Area: 13,179 SF 0.303 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000 Course: S 90-00-00 E

Error North: 0.0000 East : 0.0000

Precision 1: 475,720,000.00

-----

Parcel name: LOT 107

North:	13481.418	East :	60962.453
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TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Line Course: N 00-01-17 E Length: 150.00  
North: 13631.418 East : 60962.509  
Line Course: S 89-58-43 E Length: 80.22  
North: 13631.388 East : 61042.729  
Line Course: S 00-04-57 W Length: 205.09  
North: 13426.299 East : 61042.434  
Line Course: N 89-55-03 W Length: 25.00  
North: 13426.335 East : 61017.434  
Curve Length: 86.45 Radius: 55.00  
Delta: 90-03-40 Tangent: 55.06  
Chord: 77.82 Course: N 44-56-53 W  
Course In: N 89-55-03 W Course Out: N 00-01-17 E  
RP North: 13426.414 East : 60962.434  
End North: 13481.414 East : 60962.455

Perimeter: 546.76 Area: 14,048 SF 0.323 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.005 Course: S 15-53-14 E  
Error North: -0.0046 East : 0.0013  
Precision 1: 109,352.00

-----  
Parcel name: LOT 108

North: 13426.339 East : 61017.433  
Line Course: S 89-55-03 E Length: 25.00  
North: 13426.303 East : 61042.433  
Line Course: S 00-04-57 W Length: 226.38  
North: 13199.923 East : 61042.107  
Line Course: N 64-33-10 W Length: 67.09  
North: 13228.751 East : 60981.526  
Line Course: N 52-32-36 W Length: 40.33  
North: 13253.278 East : 60949.511  
Line Course: N 00-01-17 E Length: 119.67  
North: 13372.948 East : 60949.556  
Curve Length: 99.32 Radius: 55.00  
Delta: 103-27-41 Tangent: 69.72  
Chord: 86.36 Course: N 51-48-48 E  
Course In: N 13-32-38 E Course Out: S 89-55-03 E  
RP North: 13426.418 East : 60962.436  
End North: 13426.339 East : 61017.436

Perimeter: 577.79 Area: 15,736 SF 0.361 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.004 Course: S 87-54-16 E  
Error North: -0.0001 East : 0.0036

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Precision 1: 144,447.50

-----

Parcel name: LOT 109

North:	13372.948	East :	60949.552
Line Course:	S 00-01-17 W	Length:	119.67
	North: 13253.278	East :	60949.508
Line Course:	N 52-32-36 W	Length:	33.97
	North: 13273.937	East :	60922.542
Line Course:	N 49-26-14 W	Length:	170.00
	North: 13384.485	East :	60793.394
Line Course:	N 46-54-13 W	Length:	68.82
	North: 13431.505	East :	60743.141
Line Course:	S 89-58-43 E	Length:	150.01
	North: 13431.449	East :	60893.151
Curve Length:	21.41	Radius:	15.00
	Delta: 81-47-12	Tangent:	12.99
	Chord: 19.64	Course:	S 49-05-07 E
Course In:	S 00-01-17 W	Course Out:	N 81-48-29 E
RP North:	13416.449	East :	60893.145
End North:	13418.586	East :	60907.992
Curve Length:	65.53	Radius:	55.00
	Delta: 68-15-51	Tangent:	37.28
	Chord: 61.72	Course:	S 42-19-26 E
Course In:	N 81-48-29 E	Course Out:	S 13-32-38 W
RP North:	13426.423	East :	60962.431
End North:	13372.952	East :	60949.551

Perimeter: 629.40 Area: 16,991 SF 0.390 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.005 Course: N 18-55-13 W

Error North: 0.0045 East : -0.0015

Precision 1: 125,882.00

-----

Parcel name: LOT 110

North:	13431.500	East :	60743.146
Line Course:	S 46-54-13 E	Length:	68.82
	North: 13384.481	East :	60793.399
Line Course:	S 40-33-46 W	Length:	100.00
	North: 13308.511	East :	60728.371
Line Course:	N 49-26-14 W	Length:	80.00
	North: 13360.534	East :	60667.595
Curve Length:	23.56	Radius:	15.00

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Delta:	90-00-00	Tangent:	15.00
Chord:	21.21	Course:	N 04-26-14 W
Course In:	N 40-33-46 E	Course Out:	N 49-26-14 W
RP North:	13371.929	East :	60677.349
End North:	13381.683	East :	60665.954
Line Course:	N 40-33-46 E	Length:	31.05
North:	13405.272	East :	60686.145
Curve Length:	64.74	Radius:	75.00
Delta:	49-27-31	Tangent:	34.54
Chord:	62.75	Course:	N 65-17-32 E
Course In:	S 49-26-14 E	Course Out:	N 00-01-17 E
RP North:	13356.501	East :	60743.122
End North:	13431.501	East :	60743.150

Perimeter: 368.17    Area: 9,179 SF 0.211 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.004    Course: N 84-41-43 E  
Error North: 0.0004    East : 0.0042  
Precision 1: 92,042.50

-----

Parcel name: LOT 111

North:	13308.513	East :	60728.369
Line Course:	N 40-33-46 E	Length:	100.00
North:	13384.483	East :	60793.397
Line Course:	S 49-26-14 E	Length:	85.00
North:	13329.209	East :	60857.971
Line Course:	S 40-33-46 W	Length:	100.00
North:	13253.239	East :	60792.943
Line Course:	N 49-26-14 W	Length:	85.00
North:	13308.513	East :	60728.369

Perimeter: 370.00    Area: 8,500 SF 0.195 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.000    Course: S 75-57-50 E  
Error North: -0.0000    East : 0.0000  
Precision 1: 370,000,000.00

-----

Parcel name: LOT 112

North:	13253.239	East :	60792.943
Line Course:	N 40-33-46 E	Length:	100.00
North:	13329.209	East :	60857.971

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Line Course: S 49-26-14 E Length: 85.00  
North: 13273.935 East : 60922.545  
Line Course: S 40-33-46 W Length: 100.00  
North: 13197.965 East : 60857.516  
Line Course: N 49-26-14 W Length: 85.00  
North: 13253.239 East : 60792.943

Perimeter: 370.00 Area: 8,500 SF 0.195 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.000 Course: S 75-57-50 E  
Error North: -0.0000 East : 0.0000  
Precision 1: 370,000,000.00

-----  
Parcel name: LOT 113

North: 13197.965 East : 60857.516  
Line Course: N 40-33-46 E Length: 100.00  
North: 13273.935 East : 60922.545  
Line Course: S 52-32-36 E Length: 74.30  
North: 13228.748 East : 60981.525  
Line Course: S 31-27-53 W Length: 100.00  
North: 13143.452 East : 60929.328  
Curve Length: 66.69 Radius: 420.00  
Delta: 9-05-53 Tangent: 33.42  
Chord: 66.62 Course: N 53-59-10 W  
Course In: N 31-27-53 E Course Out: S 40-33-46 W  
RP North: 13501.696 East : 61148.556  
End North: 13182.625 East : 60875.438  
Line Course: N 49-26-14 W Length: 23.59  
North: 13197.965 East : 60857.517

Perimeter: 364.58 Area: 8,316 SF 0.191 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.001 Course: S 55-28-45 E  
Error North: -0.0006 East : 0.0008  
Precision 1: 364,580.00

-----  
Parcel name: LOT 114

North: 13143.454 East : 60929.325  
Line Course: N 31-27-53 E Length: 100.00  
North: 13228.751 East : 60981.522  
Line Course: S 64-33-10 E Length: 67.09



TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

North: 13199.923 East : 61042.103  
Line Course: S 00-04-57 W Length: 104.47  
North: 13095.453 East : 61041.953  
Curve Length: 122.87 Radius: 420.00  
Delta: 16-45-43 Tangent: 61.88  
Chord: 122.43 Course: N 66-54-59 W  
Course In: N 14-42-10 E Course Out: S 31-27-53 W  
RP North: 13501.701 East : 61148.551  
End North: 13143.457 East : 60929.322

Perimeter: 394.44 Area: 9,590 SF 0.220 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.004 Course: N 49-37-01 W  
Error North: 0.0025 East : -0.0029  
Precision 1: 98,607.50

-----  
Parcel name: LOT 115

North: 13422.598 East : 60502.820  
Line Course: S 40-33-46 W Length: 125.00  
North: 13327.637 East : 60421.535  
Line Course: N 49-26-14 W Length: 73.39  
North: 13375.361 East : 60365.781  
Line Course: N 33-03-46 E Length: 67.19  
North: 13431.671 East : 60402.437  
Curve Length: 43.50 Radius: 332.35  
Delta: 7-30-00 Tangent: 21.78  
Chord: 43.47 Course: N 36-48-46 E  
Course In: S 56-56-14 E Course Out: N 49-26-14 W  
RP North: 13250.355 East : 60680.971  
End North: 13466.476 East : 60428.486  
Curve Length: 23.56 Radius: 15.00  
Delta: 90-00-00 Tangent: 15.00  
Chord: 21.21 Course: N 85-33-46 E  
Course In: S 49-26-14 E Course Out: N 40-33-46 E  
RP North: 13456.721 East : 60439.882  
End North: 13468.117 East : 60449.636  
Line Course: S 49-26-14 E Length: 70.00  
North: 13422.597 East : 60502.815

Perimeter: 402.65 Area: 10,054 SF 0.231 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.006 Course: S 77-38-29 W  
Error North: -0.0012 East : -0.0054  
Precision 1: 67,106.67

# TOWER HILL SUBDIVISION

## UNIT NUMBER 1

### LOT CALCULATIONS

-----  
Parcel name: LOT 116

North:	13373.827	East :	60559.797
Line	Course: S 40-33-46 W	Length:	125.00
	North: 13278.866	East :	60478.512
Line	Course: N 49-26-14 W	Length:	75.00
	North: 13327.637	East :	60421.535
Line	Course: N 40-33-46 E	Length:	125.00
	North: 13422.598	East :	60502.820
Line	Course: S 49-26-14 E	Length:	75.00
	North: 13373.827	East :	60559.797

Perimeter: 400.00    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.000                      Course: S 00-00-00 W  
Error North: -0.0000                      East : 0.0000  
Precision 1: 400,000,000.00

-----

Parcel name: LOT 117

North:	13325.056	East :	60616.774
Line	Course: S 40-33-46 W	Length:	125.00
	North: 13230.095	East :	60535.489
Line	Course: N 49-26-14 W	Length:	75.00
	North: 13278.866	East :	60478.512
Line	Course: N 40-33-46 E	Length:	125.00
	North: 13373.827	East :	60559.797
Line	Course: S 49-26-14 E	Length:	75.00
	North: 13325.056	East :	60616.774

Perimeter: 400.00    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.000                      Course: S 00-00-00 W  
Error North: -0.0000                      East : 0.0000  
Precision 1: 400,000,000.00

-----

Parcel name: LOT 118

North:	13276.285	East :	60673.751
Line	Course: S 40-33-46 W	Length:	125.00

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

	North: 13181.323		East : 60592.466
Line	Course: N 49-26-14 W	Length: 75.00	
	North: 13230.095		East : 60535.489
Line	Course: N 40-33-46 E	Length: 125.00	
	North: 13325.056		East : 60616.774
Line	Course: S 49-26-14 E	Length: 75.00	
	North: 13276.285		East : 60673.751

Perimeter: 400.00    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000                      Course: S 00-00-00 W

Error North: -0.0000                      East : 0.0000

Precision 1: 400,000,000.00

-----  
Parcel name: LOT 119

	North: 13227.514		East : 60730.728
Line	Course: S 40-33-46 W	Length: 125.00	
	North: 13132.552		East : 60649.443
Line	Course: N 49-26-14 W	Length: 75.00	
	North: 13181.323		East : 60592.466
Line	Course: N 40-33-46 E	Length: 125.00	
	North: 13276.285		East : 60673.751
Line	Course: S 49-26-14 E	Length: 75.00	
	North: 13227.514		East : 60730.728

Perimeter: 400.00    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.000                      Course: S 00-00-00 W

Error North: -0.0000                      East : 0.0000

Precision 1: 400,000,000.00

-----  
Parcel name: LOT 120

	North: 13178.743		East : 60787.705
Line	Course: S 40-33-46 W	Length: 125.00	
	North: 13083.781		East : 60706.420
Line	Course: N 49-26-14 W	Length: 75.00	
	North: 13132.552		East : 60649.443
Line	Course: N 40-33-46 E	Length: 125.00	
	North: 13227.514		East : 60730.728
Line	Course: S 49-26-14 E	Length: 75.00	
	North: 13178.743		East : 60787.705

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Perimeter: 400.00    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.000                      Course: S 00-00-00 W  
Error North: -0.0000                      East : 0.0000  
Precision 1: 400,000,000.00

-----

Parcel name: LOT 121

North:	13130.066	East :	60844.762
Line Course:	S 40-33-46 W	Length:	125.12
	North: 13035.013		East : 60763.399
Line Course:	N 49-26-14 W	Length:	75.00
	North: 13083.784		East : 60706.422
Line Course:	N 40-33-46 E	Length:	125.00
	North: 13178.746		East : 60787.707
Line Course:	S 49-26-14 E	Length:	64.12
	North: 13137.050		East : 60836.419
Curve Length:	10.88	Radius:	480.00
	Delta: 1-17-54	Tangent:	5.44
	Chord: 10.88	Course:	S 50-05-11 E
	Course In: N 40-33-46 E	Course Out:	S 39-15-52 W
RP North:	13501.703	East :	61148.554
End North:	13130.071	East :	60844.762

Perimeter: 400.12    Area: 9,375 SF 0.215 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.005                      Course: N 10-46-45 W  
Error North: 0.0051                      East : -0.0010  
Precision 1: 80,024.00

-----

Parcel name: LOT 122

North:	13012.939	East :	60886.837
Line Course:	N 89-55-03 W	Length:	79.55
	North: 13013.054		East : 60807.287
Line Course:	N 63-25-29 W	Length:	49.08
	North: 13035.011		East : 60763.393
Line Course:	N 40-33-46 E	Length:	125.12
	North: 13130.064		East : 60844.756
Curve Length:	62.85	Radius:	480.00
	Delta: 7-30-08	Tangent:	31.47
	Chord: 62.81	Course:	S 54-29-12 E



TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Course In: N 39-15-52 E	Course Out: S 31-45-44 W
RP North: 13501.696	East : 61148.548
End North: 13093.580	East : 60895.878
Curve Length: 22.52	Radius: 15.00
Delta: 86-01-41	Tangent: 13.99
Chord: 20.47	Course: S 15-13-25 E
Course In: S 31-45-44 W	Course Out: S 62-12-35 E
RP North: 13080.827	East : 60887.983
End North: 13073.833	East : 60901.252
Curve Length: 60.45	Radius: 125.00
Delta: 27-42-28	Tangent: 30.83
Chord: 59.86	Course: S 13-56-11 W
Course In: S 62-12-35 E	Course Out: N 89-55-03 W
RP North: 13015.554	East : 61011.835
End North: 13015.734	East : 60886.835
Line Course: S 00-04-57 W	Length: 2.80
North: 13012.934	East : 60886.831

Perimeter: 402.37 Area: 10,016 SF 0.230 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.008 Course: S 48-46-34 W

Error North: -0.0055 East : -0.0063

Precision 1: 50,296.25

-----  
Parcel name: LOT 123

North: 13033.705	East : 61041.867
Line Course: S 00-04-57 W	Length: 75.00
North: 12958.705	East : 61041.759
Line Course: N 89-55-03 W	Length: 105.00
North: 12958.856	East : 60936.759
Line Course: N 00-04-57 E	Length: 56.81
North: 13015.666	East : 60936.841
Curve Length: 37.43	Radius: 75.00
Delta: 28-35-36	Tangent: 19.11
Chord: 37.04	Course: N 14-22-45 E
Course In: S 89-55-03 E	Course Out: N 61-19-27 W
RP North: 13015.558	East : 61011.841
End North: 13051.547	East : 60946.040
Curve Length: 21.94	Radius: 15.00
Delta: 83-48-53	Tangent: 13.46
Chord: 20.04	Course: N 70-35-00 E
Course In: S 61-19-27 E	Course Out: N 22-29-26 E
RP North: 13044.349	East : 60959.200
End North: 13058.208	East : 60964.938
Curve Length: 80.83	Radius: 480.00

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Delta: 9-38-55	Tangent: 40.51
Chord: 80.74	Course: S 72-20-01 E
Course In: N 22-29-26 E	Course Out: S 12-50-31 W
RP North: 13501.701	East : 61148.553
End North: 13033.707	East : 61041.867

Perimeter: 377.01    Area: 9,228 SF 0.212 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.002                      Course: N 01-54-29 W  
Error North: 0.0023                      East : -0.0001  
Precision 1: 188,505.00

-----  
Parcel name: UNIT 1 - ALL

North: 13426.724	East : 60295.740
Line Course: N 40-33-46 E	Length: 116.53
North: 13515.251	East : 60371.517
Curve Length: 23.56	Radius: 15.00
Delta: 90-00-00	Tangent: 15.00
Chord: 21.21	Course: N 85-33-46 E
Course In: S 49-26-14 E	Course Out: N 40-33-46 E
RP North: 13505.496	East : 60382.913
End North: 13516.892	East : 60392.667
Line Course: N 40-33-46 E	Length: 60.00
North: 13562.474	East : 60431.684
Line Course: S 49-26-14 E	Length: 10.54
North: 13555.620	East : 60439.691
Line Course: N 40-33-46 E	Length: 100.00
North: 13631.589	East : 60504.719
Line Course: S 89-58-43 E	Length: 538.02
North: 13631.388	East : 61042.739
Line Course: S 00-04-57 W	Length: 672.68
North: 12958.709	East : 61041.770
Line Course: N 89-55-03 W	Length: 155.00
North: 12958.932	East : 60886.770
Line Course: N 00-04-57 E	Length: 54.01
North: 13012.942	East : 60886.848
Line Course: N 89-55-03 W	Length: 79.55
North: 13013.056	East : 60807.298
Line Course: N 63-25-29 W	Length: 49.08
North: 13035.014	East : 60763.404
Line Course: N 49-26-14 W	Length: 523.39
North: 13375.364	East : 60365.788
Line Course: N 56-56-14 W	Length: 50.00
North: 13402.642	East : 60323.884
Line Course: N 49-26-14 W	Length: 37.04

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

North: 13426.728

East : 60295.745

Perimeter: 2469.39    Area: 345,004 SF 7.920 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.007

Course: N 45-27-45 E

Error North: 0.0048

East : 0.0048

Precision 1: 352,771.43

-----  
Parcel name: UNIT 1 STREETS

North: 13481.418	East : 60962.453
Curve Length: 251.30	Radius: 55.00
Delta: 261-47-12	Tangent: 63.51
Chord: 83.15	Course: S 40-54-53 W
Course In: S 00-01-17 W	Course Out: S 81-48-29 W
RP North: 13426.418	East : 60962.433
End North: 13418.581	East : 60907.994
Curve Length: 21.41	Radius: 15.00
Delta: 81-47-12	Tangent: 12.99
Chord: 19.64	Course: N 49-05-07 W
Course In: S 81-48-29 W	Course Out: N 00-01-17 E
RP North: 13416.444	East : 60893.147
End North: 13431.444	East : 60893.153
Line Course: N 89-58-43 W	Length: 150.01
North: 13431.500	East : 60743.143
Curve Length: 64.74	Radius: 75.00
Delta: 49-27-31	Tangent: 34.54
Chord: 62.75	Course: S 65-17-32 W
Course In: S 00-01-17 W	Course Out: N 49-26-14 W
RP North: 13356.500	East : 60743.115
End North: 13405.271	East : 60686.138
Line Course: S 40-33-46 W	Length: 31.05
North: 13381.683	East : 60665.946
Curve Length: 23.56	Radius: 15.00
Delta: 90-00-00	Tangent: 15.00
Chord: 21.21	Course: S 04-26-14 E
Course In: S 49-26-14 E	Course Out: S 40-33-46 W
RP North: 13371.928	East : 60677.342
End North: 13360.533	East : 60667.588
Line Course: S 49-26-14 E	Length: 273.59
North: 13182.623	East : 60875.432
Curve Length: 189.56	Radius: 420.00
Delta: 25-51-36	Tangent: 96.42
Chord: 187.96	Course: S 62-22-02 E
Course In: N 40-33-46 E	Course Out: S 14-42-10 W
RP North: 13501.694	East : 61148.550

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

End North: 13095.447	East : 61041.952
Line Course: S 00-04-57 W Length: 61.75	
North: 13033.697	East : 61041.863
Curve Length: 80.83	Radius: 480.00
Delta: 9-38-55	Tangent: 40.51
Chord: 80.74	Course: N 72-20-01 W
Course In: N 12-50-31 E	Course Out: S 22-29-26 W
RP North: 13501.691	East : 61148.549
End North: 13058.198	East : 60964.934
Curve Length: 21.94	Radius: 15.00
Delta: 83-48-53	Tangent: 13.46
Chord: 20.04	Course: S 70-35-00 W
Course In: S 22-29-26 W	Course Out: N 61-19-27 W
RP North: 13044.339	East : 60959.196
End North: 13051.537	East : 60946.036
Curve Length: 37.43	Radius: 75.00
Delta: 28-35-36	Tangent: 19.11
Chord: 37.04	Course: S 14-22-45 W
Course In: S 61-19-27 E	Course Out: N 89-55-03 W
RP North: 13015.548	East : 61011.837
End North: 13015.656	East : 60936.837
Line Course: S 00-04-57 W Length: 56.81	
North: 12958.846	East : 60936.755
Line Course: N 89-55-03 W Length: 50.00	
North: 12958.918	East : 60886.755
Line Course: N 00-04-57 E Length: 56.81	
North: 13015.728	East : 60886.837
Curve Length: 60.45	Radius: 125.00
Delta: 27-42-28	Tangent: 30.83
Chord: 59.86	Course: N 13-56-11 E
Course In: S 89-55-03 E	Course Out: N 62-12-35 W
RP North: 13015.548	East : 61011.837
End North: 13073.827	East : 60901.255
Curve Length: 22.52	Radius: 15.00
Delta: 86-01-41	Tangent: 13.99
Chord: 20.47	Course: N 15-13-25 W
Course In: N 62-12-35 W	Course Out: N 31-45-44 E
RP North: 13080.821	East : 60887.985
End North: 13093.575	East : 60895.881
Curve Length: 73.73	Radius: 480.00
Delta: 8-48-02	Tangent: 36.94
Chord: 73.66	Course: N 53-50-15 W
Course In: N 31-45-44 E	Course Out: S 40-33-46 W
RP North: 13501.690	East : 61148.550
End North: 13137.037	East : 60836.416
Line Course: N 49-26-14 W Length: 509.12	
North: 13468.108	East : 60449.640
Curve Length: 23.56	Radius: 15.00
Delta: 90-00-00	Tangent: 15.00



TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

Chord: 21.21	Course: S 85-33-46 W
Course In: S 40-33-46 W	Course Out: N 49-26-14 W
RP North: 13456.712	East : 60439.886
End North: 13466.466	East : 60428.491
Curve Length: 43.50	Radius: 332.35
Delta: 7-30-00	Tangent: 21.78
Chord: 43.47	Course: S 36-48-46 W
Course In: S 49-26-14 E	Course Out: N 56-56-14 W
RP North: 13250.346	East : 60680.975
End North: 13431.662	East : 60402.441
Line Course: S 33-03-46 W	Length: 67.19
North: 13375.352	East : 60365.785
Line Course: N 56-56-14 W	Length: 50.00
North: 13402.629	East : 60323.882
Line Course: N 49-26-14 W	Length: 37.04
North: 13426.716	East : 60295.742
Line Course: N 40-33-46 E	Length: 116.53
North: 13515.243	East : 60371.520
Curve Length: 23.56	Radius: 15.00
Delta: 90-00-00	Tangent: 15.00
Chord: 21.21	Course: N 85-33-46 E
Course In: S 49-26-14 E	Course Out: N 40-33-46 E
RP North: 13505.489	East : 60382.915
End North: 13516.884	East : 60392.669
Line Course: N 40-33-46 E	Length: 60.00
North: 13562.466	East : 60431.686
Line Course: S 49-26-14 E	Length: 230.54
North: 13412.550	East : 60606.826
Curve Length: 23.56	Radius: 15.00
Delta: 90-00-00	Tangent: 15.00
Chord: 21.21	Course: N 85-33-46 E
Course In: N 40-33-46 E	Course Out: S 49-26-14 E
RP North: 13423.945	East : 60616.580
End North: 13414.191	East : 60627.976
Line Course: N 40-33-46 E	Length: 31.05
North: 13437.780	East : 60648.167
Curve Length: 107.90	Radius: 125.00
Delta: 49-27-31	Tangent: 57.57
Chord: 104.58	Course: N 65-17-32 E
Course In: S 49-26-14 E	Course Out: N 00-01-17 E
RP North: 13356.495	East : 60743.129
End North: 13481.495	East : 60743.175
Line Course: S 89-58-43 E	Length: 199.29
North: 13481.420	East : 60942.465
Line Course: N 00-01-17 E	Length: 150.00
North: 13631.420	East : 60942.521
Line Course: S 89-58-43 E	Length: 20.00
North: 13631.413	East : 60962.521
Line Course: S 00-01-17 W	Length: 150.00

TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOT CALCULATIONS

North: 13481.413

East : 60962.465

Perimeter: 3370.33    Area: 92,169 SF 2.116 ACRES

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.013

Course: S 64-50-50 E

Error North: -0.0056

East : 0.0120

Precision 1: 259,256.15

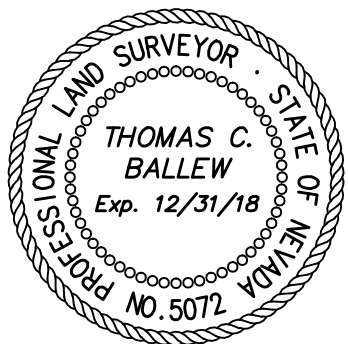
TOWER HILL SUBDIVISION – UNIT NUMBER 1  
ELKO, ELKO COUNTY, NEVADA

LAND SURVEYOR'S CERTIFICATE:

I, THOMAS C. BALLEW, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF NEVADA, CERTIFY THAT:

- THIS PLAT REPRESENTS THE RESULTS OF A SURVEY CONDUCTED UNDER MY SUPERVISION AND DIRECTION AT THE INSTANCE JORDANELLE THIRD MORTGAGE, LLC.
- THE LANDS SURVEYED LIE WITHIN SECTION 10, TOWNSHIP 34 NORTH, RANGE 55 EAST, M.D.B.& M., AND THE SURVEY WAS COMPLETED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.
- THIS PLAT COMPLIES WITH THE APPLICABLE STATE STATUTES AND ANY LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL.
- THE MONUMENTS DEPICTED ON THE PLAT ARE OF THE CHARACTER SHOWN, OCCUPY THE POSITIONS INDICATED HEREON AND ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

THOMAS C. BALLEW, P.L.S. No. 5072



DATE

CITY ENGINEER'S REPRESENTATIVE CERTIFICATE:

I, \_\_\_\_\_, REPRESENTATIVE FOR THE CITY ENGINEER OF THE CITY OF ELKO, NEVADA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND FIND IT SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, WITH ALL APPROVED ALTERATIONS; THAT ALL PROVISIONS OF N.R.S. 278.010 THROUGH 278.630, INCLUSIVE, AND ALL LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH; THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT; AND THAT THE MONUMENTS AS SHOWN ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THE MONUMENTS HAVE NOT BEEN SET AND THAT A PROPER PERFORMANCE BOND HAS BEEN DEPOSITED GUARANTEEING THEIR SETTING ON OR BEFORE \_\_\_\_\_.

CITY OF ELKO CITY ENGINEER'S REPRESENTATIVE

DATE

APPROVAL – CITY OF ELKO PLANNING COMMISSION

AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, PLANNING COMMISSION HELD ON THE ELEVENTH DAY OF OCTOBER, 2011, A TENTATIVE MAP OF THIS SUBDIVISION WAS DULY AND REGULARLY APPROVED PURSUANT TO N.R.S. 278.330. THIS FINAL MAP SUBSTANTIALLY COMPLIES WITH SAID TENTATIVE MAP AND ALL CONDITIONS PURSUANT THERETO HAVE BEEN MET.

CHAIRMAN, CITY OF ELKO PLANNING COMMISSION

DATE

APPROVAL – CITY OF ELKO CITY COUNCIL

AT A REGULAR MEETING OF THE CITY OF ELKO, NEVADA, CITY COUNCIL HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2012, THIS MAP WAS APPROVED FOR SUBDIVISION PURPOSES PURSUANT TO N.R.S. 278.461 THROUGH 278.469, INCLUSIVE, AND ALL APPLICABLE LOCAL ORDINANCES. ALL OFFERS OF DEDICATION, AS SHOWN HEREON, WERE ACCEPTED FOR PUBLIC USE.

MAYOR, CITY OF ELKO, NEVADA

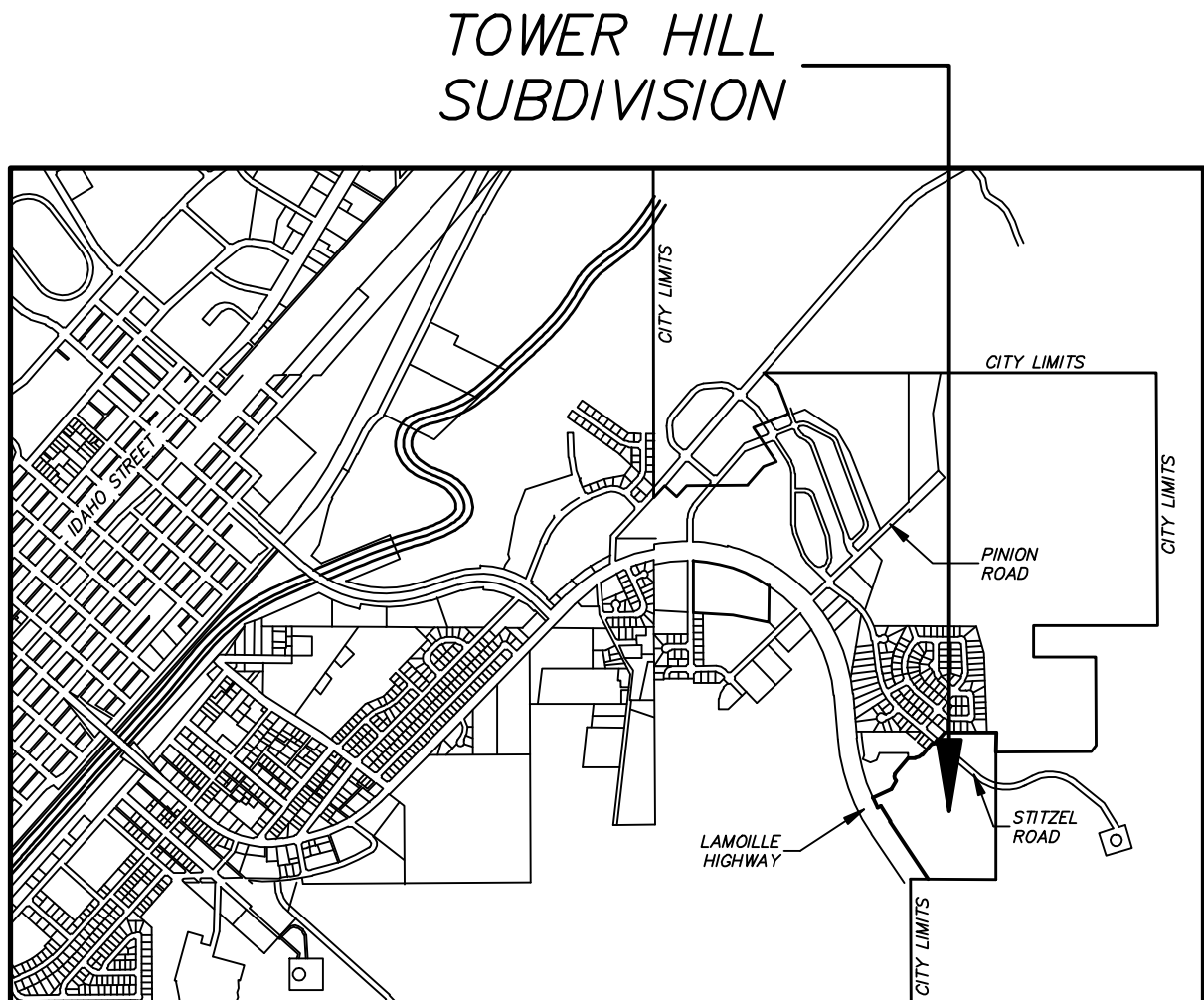
DATE

ATTEST: CITY CLERK, CITY OF ELKO, NEVADA

DATE

LEGAL DESCRIPTION:

PARCEL NUMBER 1 AS SHOWN ON THE PARCEL MAP FOR GLEN GREENWOOD, ELON GREENWOOD AND MARY CULLEY FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AT FILE NUMBER 666870.



VICINITY MAP

APPROVAL – NEVADA DIVISION OF WATER RESOURCES

THIS FINAL MAP IS APPROVED BY THE DIVISION OF WATER RESOURCES OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES CONCERNING WATER QUANTITY SUBJECT TO REVIEW OF APPROVAL ON FILE AT THIS OFFICE.

NEVADA DIVISION OF WATER RESOURCES

DATE

APPROVAL – NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

THIS FINAL MAP IS APPROVED BY THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES. THIS APPROVAL CONCERNS SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY AND WATER SUPPLY FACILITIES AND IS PREDICATED UPON PLANS FOR A PUBLIC WATER SUPPLY AND A COMMUNITY SYSTEM FOR DISPOSAL OF SEWAGE.

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATER POLLUTION CONTROL

DATE

ASSESSOR'S CERTIFICATE:

I, KATRINKA RUSSELL, CERTIFY THAT THE ASSESSOR'S PARCEL NUMBER SHOWN ON THIS PLAT IS CORRECT AND THAT THE PROPOSED PARCELS ARE A DIVISION OF SAID ASSESSOR'S PARCEL NUMBER 001-920-079.

ELKO COUNTY ASSESSOR

DATE

TREASURER'S CERTIFICATE:

I, REBECCA ERICKSON, CERTIFY THAT ALL PROPERTY TAXES ON ASSESSOR'S PARCEL NUMBER 001-920-079 HAVE BEEN PAID FOR THIS FISCAL YEAR.

ELKO COUNTY TREASURER

DATE

OWNER'S CERTIFICATE:

KNOWN OF ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, SCOTT A. MACRITCHIE, MANAGING DIRECTOR OF JORDANELLE THIRD MORTGAGE, LLC, BEING THE OWNER OF THOSE PARCELS AS SHOWN ON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP AND OFFERS FOR DEDICATION ALL OF THE RIGHTS-OF-WAY AND EASEMENTS FOR PUBLIC ACCESS, PUBLIC UTILITY AND PUBLIC DRAINAGE PURPOSES AS DESIGNATED HEREON. IN WITNESS I, SCOTT MACRITCHIE, SET MY HAND ON THE DATE SHOWN.

JORDANELLE THIRD MORTGAGE, LLC

BY: SCOTT MACRITCHIE, MANAGING DIRECTOR

DATE

STATE OF NEVADA }  
COUNTY OF ELKO } S.S.

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY SCOTT MACRITCHIE, MANAGING DIRECTOR OF JORDANELLE THIRD MORTGAGE, LLC.

NOTARY PUBLIC IN AND FOR ELKO COUNTY, NEVADA

MY COMMISSION EXPIRES: \_\_\_\_\_

APPROVAL – PUBLIC UTILITY EASEMENTS

THE PUBLIC UTILITY EASEMENTS, AS DESIGNATED HEREON, ARE APPROVED BY THE RESPECTIVE PUBLIC UTILITIES EXECUTING BELOW.

FRONTIER COMMUNICATIONS

DATE

SIERRA PACIFIC POWER COMPANY d/b/a NV ENERGY

DATE

SATVIEW BROADBAND

DATE

SOUTHWEST GAS CORPORATION

DATE

ELKO COUNTY RECORDER:

FILE NUMBER: \_\_\_\_\_

FILED AT THE REQUEST OF: \_\_\_\_\_

DATE: \_\_\_\_\_

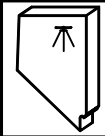
TIME: \_\_\_\_\_

D. MIKE SMALES, ELKO COUNTY RECORDER

SHEET 1 OF 2

FINAL MAP  
OF  
TOWER HILL SUBDIVISION  
UNIT NUMBER 1

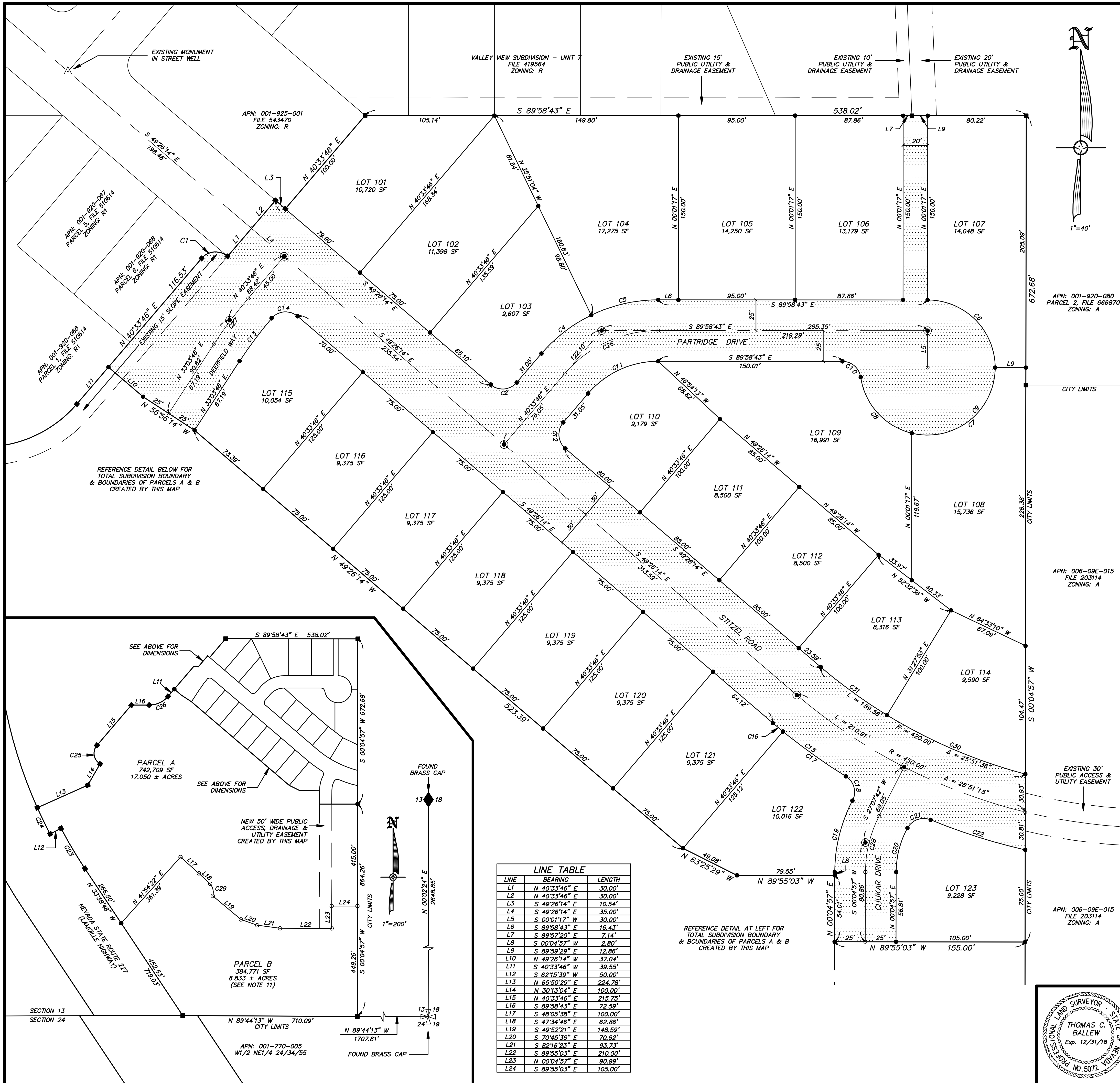
LOCATED IN:  
SECTION 13, T.34 N., R.55 E., M.D.B.& M.  
ELKO ELKO COUNTY NEVADA



HIGH DESERT  
ENGINEERING  
LLC

640 IDAHO STREET  
ELKO, NEVADA 89801  
(775) 738-4053

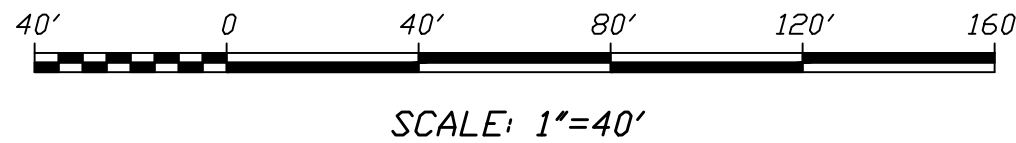
213045



CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	90°00'00"	15.00	23.56	21.21
C2	90°00'00"	15.00	23.56	21.21
C3	49°27'31"	125.00	107.90	104.58
C4	23°15'10"	125.00	51.46	51.09
C5	25°52'21"	125.00	56.44	55.97
C6	90°03'40"	55.00	86.45	77.82
C7	103°27'41"	55.00	99.32	86.36
C8	68°15'51"	55.00	65.53	61.72
C9	281°47'12"	55.00	291.30	83.15
C10	81°27'12"	15.00	21.41	19.64
C11	49°27'31"	75.00	64.74	62.75
C12	90°00'00"	15.00	23.56	21.21
C13	7°30'00"	332.35	43.50	43.47
C14	90°00'00"	15.00	23.56	21.21
C15	8°48'02"	480.00	73.73	73.66
C16	17°25'4"	480.00	10.88	10.88
C17	7°30'08"	480.00	62.85	62.81
C18	86°01'42"	15.00	22.52	20.47
C19	27°42'28"	125.00	60.45	59.86
C20	28°35'36"	75.00	37.43	37.04
C21	83°48'53"	15.00	21.94	20.04
C22	9°38'55"	480.00	80.83	80.74
C23	5°54'28"	1850.00	190.75	190.67
C24	1°44'42"	1900.00	118.73	118.71
C25	100°20'42"	50.00	87.57	76.80
C26	49°27'31"	100.00	86.32	83.67
C27	7°30'00"	357.35	46.78	46.74
C28	27°02'45"	100.00	47.20	46.77
C29	54°45'04"	55.00	52.56	50.58
C30	16°45'43"	420.00	122.87	122.43
C31	9°05'53"	420.00	66.69	66.62

- NOTES:
1. BASIS OF BEARINGS: THE LINE BETWEEN THE SOUTHEAST CORNER AND THE EAST 1/4 CORNER OF SECTION 13, TOWNSHIP 34 NORTH, RANGE 55 EAST, M.D.B. & M., TAKEN AS N 00°02'24" E AS SHOWN ON THE PARCEL MAP FOR GLEN GREENWOOD, ELON GREENWOOD AND MARY CULLEY FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AT FILE NUMBER 666870.
  2. THIS MAP SUBDIVIDES PARCEL NO. 1 AS SHOWN ON THE PARCEL MAP FOR GLEN GREENWOOD, ELON GREENWOOD AND MARY CULLEY FILED IN THE OFFICE OF THE ELKO COUNTY RECORDER, ELKO, NEVADA, AT FILE NUMBER 666870.
  3. THE TOTAL SUBDIVIDED AREA ON THIS MAP IS 33.804 ± ACRES.
  4. THE TOTAL AREA OF UNIT NUMBER 1 IS 7.920 ± ACRES.
  5. THE TOTAL DEDICATED STREET AREA WITHIN UNIT NUMBER 1 IS 2.116 ± ACRES.
  6. A PUBLIC UTILITY EASEMENT IS HEREBY GRANTED SPECIFICALLY TO NV ENERGY WITHIN EACH PARCEL FOR THE EXCLUSIVE PURPOSE OF INSTALLING AND MAINTAINING UTILITY SERVICE FACILITIES TO THAT PARCEL, WITH THE RIGHT TO EXIT THAT PARCEL WITH SAID UTILITY FACILITIES FOR THE PURPOSE OF SERVING ADJACENT PARCELS, AT LOCATIONS MUTUALLY AGREED UPON BY THE OWNER OF RECORD AT THE TIME OF INSTALLATION AND THE UTILITY COMPANY.
  7. A PUBLIC UTILITY EASEMENT IS HEREBY GRANTED SPECIFICALLY TO SOUTHWEST GAS CORP. WITHIN EACH PARCEL FOR THE EXCLUSIVE PURPOSE OF INGRESS/EGRESS, INSTALLING, MAINTAINING, INSPECTING AND REPAIRING UTILITY FACILITIES WHICH PROVIDE SERVICE TO THAT PARCEL, WITH THE RIGHT TO EXIT THAT PARCEL WITH ADDITIONAL UTILITY FACILITIES FOR THE PURPOSE OF SERVING ADJACENT PARCELS. RIGHTS ARE ALSO GRANTED TO USE EXISTING PUBLIC RIGHTS-OF-WAY FOR THE PURPOSE OF MAINTAINING, INSTALLING, INSPECTING AND REPAIRING SAID UTILITY FACILITIES.
  8. IN ADDITION TO THE EASEMENTS SHOWN, SLOPE EASEMENTS ARE OFFERED FOR DEDICATION ALONG ALL REAR AND SIDE LOT LINES AT THE LOCATION OF THE FINISHED GRADE SLOPE ALONG SAID LINES.
  9. IN ADDITION TO THE EASEMENTS SHOWN, PUBLIC UTILITY AND PUBLIC DRAINAGE EASEMENTS ARE OFFERED FOR DEDICATION AS FOLLOWS:  
STREET FRONTAGE: 7.5' DRAINAGE & UTILITY EASEMENT  
SIDE LOT LINES: 5.0' DRAINAGE & UTILITY EASEMENT  
REAR LOT LINES: 5.0' DRAINAGE EASEMENT
  10. ACCESS IS RESTRICTED ONTO PUBLIC STREETS AS FOLLOWS:  
LOTS 103 & 110: PARTRIDGE DRIVE ONLY  
LOT 115: DEERFIELD WAY ONLY  
LOT 123: CHUKAR DRIVE ONLY
  11. PARCEL B CANNOT BE DEVELOPED UNTIL SUCH TIME AS THE CITY OF ELKO HAS THE ABILITY TO SERVE WATER TO THIS PARCEL.

- LEGEND:
- 13 18 EXISTING SECTION CORNER AS NOTED
  - 24 19 EXISTING 1/4 SECTION CORNER AS NOTED
  - EXISTING MONUMENT IN STREET WELL
  - FOUND 5/8" REBAR W/ 6203 PLASTIC CAP
  - PROPOSED MONUMENT IN STREET WELL
  - PROPOSED 5/8" REBAR W/ 5072 CAP
  - CALCULATED POINT, NOTHING SET
  - RIGHT-OF-WAY OFFERED FOR DEDICATION



SHEET 2 OF 2

FINAL MAP  
OF  
TOWER HILL SUBDIVISION  
UNIT NUMBER 1

LOCATED IN:  
SECTION 13, T.34 N., R.55 E., M.D.B. & M.

ELKO ELKO COUNTY NEVADA

HIGH DESERT  
ENGINEERING  
LLC

640 IDAHO STREET  
ELKO, NEVADA 89801  
(775) 738-4053

213045

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 40°33'46" E	30.00'
L2	N 40°33'46" E	30.00'
L3	S 49°26'14" E	10.54'
L4	S 49°26'14" E	35.00'
L5	S 00°01'17" W	30.00'
L6	S 89°58'43" E	16.43'
L7	S 89°57'20" E	7.14'
L8	S 00°04'57" W	2.80'
L9	S 89°59'29" E	12.86'
L10	N 49°26'14" W	37.04'
L11	N 40°33'46" W	39.55'
L12	S 62°15'39" W	50.00'
L13	N 65°50'29" E	224.78'
L14	N 30°13'04" E	100.00'
L15	N 40°33'46" E	215.75'
L16	S 89°58'43" E	72.59'
L17	S 48°05'38" E	100.00'
L18	S 47°34'46" E	62.86'
L19	S 49°52'21" E	148.59'
L20	S 70°45'36" E	70.62'
L21	S 82°16'23" E	93.73'
L22	S 89°55'03" E	210.00'
L23	N 00°04'57" E	90.99'
L24	S 89°55'03" E	105.00'

REFERENCE DETAIL AT LEFT FOR  
TOTAL SUBDIVISION BOUNDARY  
& BOUNDARIES OF PARCELS A & B  
CREATED BY THIS MAP

REFERENCE DETAIL BELOW FOR  
TOTAL SUBDIVISION BOUNDARY  
& BOUNDARIES OF PARCELS A & B  
CREATED BY THIS MAP



**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to initiate an amendment to the City Zoning Ordinance, specifically Sections 3-2-11 IBP, IC Industrial Districts, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: *MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS*
4. Time Required: **10 Minutes**
5. Background Information:
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information:
8. Recommended Motion: **Move to initiate an amendment to the City Zoning Ordinance, specifically Section 3-2-11 IBP, IC Industrial Districts and direct staff to bring the item back as a public hearing.**
9. Prepared By: **Cathy Laughlin, City Planner**
10. Agenda Distribution:

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 3/6**

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

Title: Initiation of Zoning Ordinance Amendment

Applicant(s): City of ELKO

Site Location: N/A

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

COMMENT: This is to initiate an Amendment to  
Section 3-2-11, IBP, IC Industrial Districts, of the  
ELKO City Code.

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

Assistant City Manager: Date: 3/1/18 recommen  
initiate amendment.

SAW

Initial

City Manager: Date: \_\_\_\_\_

Initial



# 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)

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### *Memorandum*

To: Planning Commission  
From: Cathy Laughlin—City Planner  
Date: February 28, 2018  
Meeting Date: Tuesday, March 6, 2018

#### **Agenda Item:**

1. Review, consideration, and possible action to initiate an amendment to the City Zoning Ordinance, specifically Sections 3-2-11 IBP, IC Industrial Districts, and matters related thereto. **FOR POSSIBLE ACTION**

#### **Additional Information:**

Elko City Code Section 3-2-11 was reviewed and revised in 2016 with Zoning Ordinance Amendment 3-16. At that time, staff felt that the properties should be developed to the design standards based on the use which would be either commercial or light industrial. Staff has now reviewed the previous amendment and feels that it should be a consistent development standard for both the Commercial and Light Industrial uses as it is difficult to determine how the building use was analyzed in development. Staff feels that a compromise between the commercial use setback of zero feet (0') and the light industrial use setback of ten feet (10') would be a setback requirement of the IC- Industrial Commercial zoning district of five feet (5').

#### **Staff Recommendation:**

Move to initiate an amendment to the City Zoning Ordinance, specifically Section 3-2-11 IBP, IC Industrial Districts and direct staff to bring the item back as a public hearing

Cathy Laughlin  
City Planner

### **3-2-11: IBP, IC INDUSTRIAL DISTRICTS:**

#### **A. IBP Industrial Business Park District:**

1. Intent: The purpose of the IBP zoning district is to provide and preserve high profile areas appropriate for corporate office, research and development facilities, office parks and compatible light industrial uses with emphasis on special site design features that strengthen the city's economic base and contribute to a higher quality of appearance and standard of land use, and to preclude residential uses and also extensive commercial uses and development that may be detrimental to the character or quality of the business/industrial park environment.

2. Principal Uses Permitted: The primary permitted uses in the IBP zoning district are listed as follows, plus other uses of a similar nature:

Advertising distribution.

Bakery.

Bottling plants.

Business schools, vocational and trade schools.

Catering services.

Childcare center.

Communication facilities.

Corporate and professional office, offices subordinate to and related to the principal industrial use.

Electronic manufacturing and assembly.

Financial institutions.

Indoor light manufacturing, processing, assembly, fabricating or storage of certain specified products and materials.

Laboratories, medical experimental and research.

Machine shops.

Newspaper and publishing plants.

Office supply stores.

Printing, blueprinting, photostating, and photo finishing facilities.

Recording studios.

Recreation and fitness centers.



Warehousing and distribution center.

Other commercial uses which are supportive and complementary to IBP uses and the intent of the district as determined by the planning commission.

3. Conditions:

- a. Conditional Use Permit Required: Issuance of a conditional use permit following review by the planning commission and in accordance with this chapter is required for all fully integrated and planned IBP developments as part of a concept master plan or for individual IBP uses not part of an approved master plan.
- b. Outside Storage: Any outside storage shall be suitably screened from the surrounding area by walls, planting, or other barrier to the satisfaction of the planning commission.
- c. Signs: Advertising signs shall be reviewed as part of the plans submitted for conditional use permit review. The planning commission may require the reduction of any height or size of sign suggested by the developer, if the planning commission finds such reduction to be in keeping with the intent of this section.
- d. Height Limitation: No structure may be allowed to exceed the elevation indicated in the current airport master plan of the city.
- e. Required Area And Width: Five (5) acre minimum development area with ten thousand (10,000) square feet minimum lot area within the development, one hundred fifty feet (150') average width, unless otherwise permitted by the planning commission.
- f. Yards: Yards shall be set as follows:
  - (1) Rear yard: Twenty foot (20') minimum setback unless the structure borders on an alley, in which event no setback is required.
  - (2) Interior side yard: Ten foot (10') minimum setback.
  - (3) Exterior side yard: Fifteen foot (15') minimum setback.
  - (4) Front yard: Twenty foot (20') minimum setback.
- g. Front And Exterior Side Yards: Required front yards and exterior side yards shall be limited exclusively for landscaping, driveways, internal circulation, walkways, parking, signs and other related streetscape features. Materials storage within such yards shall be prohibited.
- h. Landscaping:
  - (1) Provisions for landscaping shall be included in the development master plan to be submitted for conditional use permit approval. These shall include, but are not limited to, screen planting, lawn areas, 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 be utilized to fulfill landscape surface requirements.

(2) Minimum landscape area shall be provided equal to twenty five percent (25%) of the required front yard and exterior side yard equal to two and one-half (2½) square feet per linear foot of street frontage.

(3) It shall be the responsibility of the owner or developer to carry out this program and to provide such maintenance and care as is required to obtain the effect intended by the original plan. All landscaping shall be planned and maintained to the satisfaction of the planning commission. A screen wall as set forth in subsection 3-2-3J of this chapter is required for all IBP uses within one hundred fifty feet (150') of an R district.

#### B. IC Industrial Commercial District:

1. Intent: The purpose of the IC zoning district is to provide and preserve transitional areas characterized by surrounding commercial and industrial districts appropriate for a mixture of commercial uses and small scale industrial uses which are not associated with excessive levels of noise, dust, odor, vibration or smoke.

#### 2. Principal Uses Permitted:

All general commercial principal permitted uses listed in subsection 3-2-10B of this chapter.

All light industrial principal permitted uses listed in subsection 3-2-12A of this chapter.

3. Conditional Uses Permitted: Any of the following uses may be permitted upon approval of a conditional use permit in accordance with provisions of this subsection and as set forth in section 3-2-18 of this chapter:

Gas service stations.

Mixed uses. Structures containing one or more residential dwelling units in which a significant portion of the space within the structure includes one or more principal commercial permitted uses.

Recreational vehicle parks.

#### 4. Development Standards:

a. For industrial uses, the area and setback requirements set forth in subsection 3-2-12A2 of this chapter shall apply.

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b. For commercial uses, all standards set forth in section 3-2-10 of this chapter shall apply.

c. For an unspecified use at the time of development, the stricter of the two (2) standards set forth in subsection 3-2-12A2 or section 3-2-10 of this chapter shall apply.

a. Minimum Area: There is no required minimum lot area.

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b. Minimum Lot Width: There is no required minimum lot width.

c. Minimum Front and Rear Yard Setback: Required minimum front and rear yard setback shall be five feet (5').

d. Minimum Side Yard Setback: Required minimum side yard setback shall be five feet (5').

5. Height Restrictions: In addition to all other applicable requirements, all structures within the IC industrial 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.
6. IC Industrial Commercial Zone Abutting Residential Zone: A conditional use permit pursuant to section 3-2-18 of this chapter is required for every new development on a lot or parcel in the IC industrial commercial zoning district which abuts a residential zoning district. All such developments are subject to the screen wall requirements set forth in subsection 3-2-3J of this chapter.
7. Outside Storage: Any outside storage of materials shall be suitably screened from surrounding area by fencing, walls, planting, or other comparable barrier.
8. Landscaping:
  - a. For every new construction in the IC industrial 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, structures and the adjacent street right of way line. The landscaping may include, but is not limited to, 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.
  - b. It shall be the responsibility of the owner or developer to carry out the requirements of this section and to provide proper maintenance and care of the landscaping. (Ord. 805, 12-13-2016)

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Election of officers, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **March 6, 2018**
3. Agenda Category: ***MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS***
4. Time Required: **10 Minutes**
5. Background Information: **Pursuant to Section 3-4-3 A. of the City Code, the Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary in January every year. Staff overlooked the requirement for the agendas in January and February.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information:
8. Recommended Motion:
9. Findings:
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution:



# Zoning Bulletin

## in this issue:

Review/Use—Town finds proposed community therapeutic residence is a “health care facility” permitted as a conditional use	2
Nonconforming Use— ZBA determines that hosting live concerts is consistent with property’s prior, legal nonconforming use as a campsite	6
Variance—Church challenges District of Columbia’s grant of an area variance to synagogue	8
Zoning News from Around the Nation	11



## Review/Use—Town finds proposed community therapeutic residence is a “health care facility” permitted as a conditional use

Neighbors challenge grant of conditional use permit, contending that proposed facility is a “residential facility,” prohibited in the zoning

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Contributors

Corey E. Burnham-Howard

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## district

Citation: *In re Confluence Behavioral Health, LLC*, 2017 VT 112, 2017 WL 6102805 (Vt. 2017)

VERMONT (12/08/17)—This case addressed the issue of whether a community therapeutic residence qualified as a “health care facility” under a town’s zoning bylaws and thus was a permitted use in the applicable zoning district. The case also addressed the issue of whether the Supreme Court of Vermont, when reviewing the Superior Court, Environmental Division’s interpretation of permit conditions and local zoning ordinances, reviews with or without deference to the Environmental Division.

**The Background/Facts:** Confluence Behavioral Health, LLC (“CBH”) proposed to operate a therapeutic community residence (“Project”) on property zoned “Rural Residential” in the Town of Thetford (the “Town”). CBH’s Project was licensed by the Vermont Department of Disabilities, Aging and Independent Living (“DAIL”). The Project was to be “a short-term wilderness therapy program designed to treat young male adults,” through the combination of “clinical therapeutic services with adventure-based wilderness therapy and agrarian living to help clients address mental-health diagnoses, as well as emotional, behavioral, and relational challenges.” The Project was to house 48 patients and 37 staff at any one time.

The Town’s Development Review Board (“DRB”) issued a conditional-use and site-plan approval for CBH’s Project. The DRB based its approval on its finding that the Project was a “health care facility,” permitted as a conditional use under the Town’s Zoning Bylaws (the “Bylaws”).

Under the Bylaws, the Rural Residential zoning district was intended to “maintain an area of low average density that is compatible with clusters of high-density, remaining primarily a district of open space, farms, residences, and woodlands, with scattered commercial uses that are either home-based or dependent on natural resources.” Under the Bylaws, health care facilities were allowed as conditional uses in the Town’s Rural Residential areas.

A group of Project neighbors (the “Neighbors”) appealed the DRB’s decision to the Superior Court, Environmental Division. The Neighbors argued that the Project was not a “health care facility” for purposes of the Bylaws. Rather, they argued, the Project was a “residential facility,” “community residence,” or “group living facility,” which was prohibited in the Town’s Rural Residential district. Alternatively, the Neighbors argued that even if the Project was a “health care facility,” its additional use as a residential facility was precluded under the Bylaws.



The Environmental Division concluded that the Project was a “health care facility.”

The Neighbors appealed.

**DECISION: Judgment of Superior Court affirmed.**

The Supreme Court of Vermont concluded that CBH’s Project was a “health care facility” under the Town’s Bylaws and, thus, CBH was entitled to a conditional use permit.

In so concluding, the court first addressed the parties’ disagreement about the level of deference the Supreme Court of Vermont should give to the Environmental Division’s interpretation of municipal zoning ordinances. The Neighbors contended that the interpretation of a zoning ordinance presents a legal issue that the court should review *de novo* (i.e., starting from the beginning; anew) without deference to the Environmental Division. In contrast, CBH asserted that the deference the court had historically given to the Environmental Division with respect to findings of fact extended to the court’s interpretation of zoning ordinances.

The court admitted that, in prior case law, it had made “arguably inconsistent statements on the subject [of deference to the Environmental Division].” Overruling some of its prior holdings in several cases, here, the court determined that it would “[h]enceforth . . . review the Environmental Division’s interpretation of permit conditions and local zoning ordinances without deference.” The court explained the basis for that determination:

[W]here the outcome of the matter turns not on findings of fact, but on interpretation of a statutory term, and where we are not reviewing a decision by an agency charged with promulgating and interpreting its own rules, we employ the familiar *de novo* standard of review for matters of law.

In sum, the court stated that it reviews zoning ordinances and municipal permit conditions according to the principles of statutory construction, approaching the interpretation of such ordinances and permits “as a legal question that we resolve without deference to the trial court.” Thus, here, the court concluded that it must review the Environmental Division’s determinations regarding CBH’s Project *de novo*.

In concluding that the Project was a “health care facility,” the court looked at the language and intent of the Bylaws. Because the Bylaws did not define the term “health care facility,” the court looked to: the common definitions of “health care facility”; a Vermont statute defining “health care facility”; and prior caselaw that addressed whether therapeutic community residences were facilities used for “health purposes.” The court found that CBH’s Project “comport[ed]” with and “align[ed]” with those definitions. The court also noted that under DAIL’s licensing authority, CBH’s Project would be recognized as a subcategory of “health care facility.”



Notably, the Neighbors had argued that the Project was a “therapeutic community residence,” and, consequently, could not be a “health care facility.” The court responded to that argument noting that “simply because a particular use, or an aspect of a use, is not expressly listed as permitted in the Bylaws does not mean that use is prohibited.” “Moreover,” the court explained that there was “no reason to conclude that the Project’s use as a ‘therapeutic community residence’ and its use as a ‘health care facility’ [were] mutually exclusive.” A “therapeutic community residence” can be a subcategory of “health care facility,” said the court. Here, the Project was to provide professional mental-health counseling and treatment through on-site, inpatient programs—services commonly associated with “health care facilities.” Therefore, the court concluded that the purpose and plain language of the Town Bylaws provided support for the contention that CBH’s Project was a “health care facility” and allowed as a conditional use.

In a related argument, the Neighbors had further asserted that each of the proposed facility’s uses—as a therapeutic community residence, recreation, and health care facility—must be allowed within the project’s zoning district in order for the facility to be permitted. The court agreed that each of CBH’s potential uses—therapeutic community residence, recreation, and health care facility—must be allowed under the Bylaws, but noted that the Project did not require conditional-use and site-plan approval for every use. “Where one use is a component of another allowed use, additional permitting via conditional-use and site-plan review is not necessary,” said the court. Therefore, the court explained, here, the residential use component of the Project did not require separate permitting above and beyond the Project’s conditional-use and site-plan approval as a “health care facility.”

See also: *Fletcher Farm, Inc. v. Town of Cavendish*, 137 Vt. 582, 409 A.2d 569 (1979) (determining that a licensed therapeutic community residence, which included “group therapy, work, recreation, family-style meals and other related programs,” was being used for “health purposes,” and was therefore not exempt from real property tax under Vermont law).

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#### **Case Note:**

*The Neighbors had also argued that the Project “impermissibly reestablished the ‘therapeutic retreats, conferences, and events’ previously hosted [on the same property by a church],” which, the Neighbors asserted were nonconforming uses. Finding the Project was a conditionally approved “health care facility” in its own right, the court determined that it need not consider that argument.*

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**Case Note:**

*With regard to the holding on deference to the Environmental Division, the court's decision here overruled the following cases: overruling In re Willowell Foundation Conditional Use Certificate of Occupancy, 201 Vt. 242, 2016 VT 12, 140 A.3d 179 (2016); In re Wagner & Guay Permit, 2016 VT 96, 153 A.3d 539 (Vt. 2016); In re Group Five Investments CU Permit, 195 Vt. 625, 2014 VT 14, 93 A.3d 111 (2014); and In re Champlain College Maple Street Dormitory, 186 Vt. 313, 2009 VT 55, 980 A.2d 273, 249 Ed. Law Rep. 284 (2009).*

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## **Nonconforming Use— ZBA determines that hosting live concerts is consistent with property's prior, legal nonconforming use as a campsite**

Group of individuals challenge that determination, contending that the use of the property as a campsite did not equate to hosting commercial concerts

Citation: *Cleere v. Frost Ridge Campground, LLC*, 155 A.D.3d 1645, 65 N.Y.S.3d 405 (4th Dep't 2017)

NEW YORK (11/17/17)—This case addressed the issue of whether the use of property owned by campsite operators to host live concerts was a preexisting nonconforming use.

**The Background/Facts:** Since the 1950s, Frost Ridge Campground, LLC, individually and doing business as The Ridge N.Y. Recreation & Camping ("Frost Ridge") owned a parcel of land (the "Property") in the Town of Leroy (the "Town"), which functioned as a campsite and provider of recreational activities since the 1950s. In 2010, Frost Ridge began selling tickets for admission to concerts hosted on the Property as part of its summer concert series. In 2015, Frost Ridge sought from the Town an interpretation of certain provisions of the Code of the Town of LeRoy (the "Code") pertaining to the Property. In particular, Frost Ridge asked whether camping and attendant recreational activities, including live and recorded amplified music and limited food ser-

vice, constituted a preexisting nonconforming use under section 165-13 of the Code—thus allowing its music concerts to continue without Town permit. After a hearing, the Town’s Zoning Board of Appeals (the “ZBA”) issued a determination that camping and attendant recreational activities on Frost Ridge’s Property, including live and recorded amplified music and limited food service, constituted a preexisting nonconforming use under the Code.

Thereafter, David Cleere, Marny Cleere, W. Scott Collins, and Betsy Collins (the “Petitioners”) commenced a legal action to annul the ZBA’s determination. The Petitioners argued that the ZBA’s decision was “arbitrary and capricious, made in violation of the law, and not based on substantial evidence in as much as the use of the Property to host commercial concerts was not a preexisting nonconforming use.”

The Supreme Court, Genesee County, agreed with the ZBA’s determinations, and dismissed the Petitioners’ petition.

The Petitioners appealed.

**DECISION: Judgment of Supreme Court, Genesee County, affirmed.**

The Supreme Court, Appellate Division, Fourth Department, New York, held that the use of the property to host live concerts was a preexisting nonconforming use.

In so holding, the court explained that a ZBA’s determination “must be sustained if it has a rational basis and is supported by substantial evidence.” The court also explained that “a use of property that existed before the enactment of a zoning restriction is a legal nonconforming use.”

The court explained that “[w]here, as here, a zoning ordinance permits the ZBA to interpret its requirements . . . ’specific application of a term of the ordinance to a particular property is . . . governed by the [ZBA’s] interpretation, unless unreasonable or irrational’.” The court concluded that the ZBA’s interpretation and determination that hosting live concerts was consistent with the prior use of the property as a campsite was not, as the Petitioners had argued, arbitrary and capricious. Rather, the court concluded that the ZBA “rationally interpreted the term ‘campsite’ as used in the Code as encompassing recreational activities including live music in determining that the use of the Property was a preexisting nonconforming use.” The court explained that, here, the Code did not define “campsite,” but did require any large campsite to “provide a common open area suitable for recreation and play purposes.” Thus, the court concluded that the Code “expressly contemplate[d] that a campsite is a place for recreation.” Acknowledging that the kind of recreation contemplated was “open to interpretation,” the court found it rational to conclude that live music was one “kind of recreation to be enjoyed at a campsite.” Moreover,



the court found that such an interpretation of the term “campsite,” including attendant recreational activities such as live music, was “consistent with the record evidence.” Here, the court determined that there was “substantial evidence that the Property was used for recreational activities and as a campsite prior to the adoption of the zoning ordinance.” Such evidence included: an affidavit of a former Frost Ridge employee as to recreational activities on the Property in the 1960s, including live music; the testimony of several neighbors that there was a “history of live music on the Property,” including “live, amplified bands played every summer weekend during the 1970s and 1980s.”

See also: *Toys R Us v. Silva*, 89 N.Y.2d 411, 654 N.Y.S.2d 100, 676 N.E.2d 862 (1996).

## Variance—Church challenges District of Columbia’s grant of an area variance to synagogue

Church contends three-prong test for area variance is not met by synagogue

Citation: *St. Mary’s Episcopal Church v. District of Columbia Zoning Commission*, 2017 WL 6044242 (D.C. 2017)

DISTRICT OF COLUMBIA (12/7/17)—This case addressed the issue of whether sufficient evidence supported a zoning commission’s findings that a synagogue was affected by “exceptional condition” and “practical difficulties” such that an area variance was warranted.

**The Background/Facts:** Hillel at the George Washington University (“Hillel”) is a synagogue that has the mission of providing for the needs of Jewish students at George Washington University (“GW”) in the District of Columbia. In 2014, Hillel sought to demolish its existing campus religious structure and to construct a new four-story building. Hillel asserted that it needed such a new facility to meet institutional and religious needs. Hillel’s proposed new facility would contain: a basement with a sanctuary, dining hall, and two kosher kitchens—separating meat and dairy; a second floor dedicated to staff offices, a student lounge, gathering space, a study area, and a library; and a third and fourth floor to be leased to GW.

Hillel’s existing campus structure (to be demolished and replaced) was located on a narrow, rectangular corner lot with a total area of 4,575 square feet. The lot was located in a “high height and medium



high density residential zone.” In order to pursue its proposed facility, Hillel needed, among other things, an area variance and special exception relief from the Zoning Commission of the District of Columbia (the “Zoning Commission”). The Zoning Commission ultimately approved Hillel’s application for zoning relief.

Thereafter, St. Mary’s Episcopal Church (“St. Mary’s”) and the West End Civic Association (“WECA”) (collectively, the “Opponents”) challenged that zoning approval in a petition to the court for review. The Opponents contended that Hillel failed to meet the District of Columbia Court of Appeal’s “three-prong test for an area variance.”

Under that test, District of Columbia zoning authorities (such as the Zoning Commission here) are authorized to grant an area variance (such as that sought by Hillel here) if they find that: “(1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.”

Here, with respect to the first prong of the test, the Zoning Commission had concluded that Hillel was “affected by an exceptional condition arising from a confluence of factors,” including: “(1) the size, shape, and configuration of its lot; and (2) its demonstrated need to improve and expand its facility and maintain its location near the [GW] campus where it [could] best serve its primary constituency—students.” The Zoning Commission had further found that Hillel was “an organization with unique institutional and religious needs that are not related to general conditions in the neighborhood” but “uniquely tied to” GW and its 4,500 Jewish students; and the existing facility could not “accommodate existing demand for certain events” and anticipated future growth. With respect to the second prong of the test, the Zoning Commission had concluded that Hillel would face “practical difficulties” if the zoning regulations were strictly enforced. And, with regard the third prong of the test, the Zoning Commission concluded that the Opponents had failed to “convincingly show that [Hillel’s new facility] [would] be detrimental to the public good.”

The Opponents strongly disagreed with the Zoning Commission’s findings and conclusions. They argued that Hillel merely preferred a new facility as “more cost-effective and beneficial.” They maintained that the Zoning Commission incorrectly concluded that Hillel met the court’s three-prong test for an area variance.

**DECISION: Zoning Commission decision affirmed.**

The District of Columbia Court of Appeals affirmed the order of the Zoning Commission, concluding that Hillel did meet the three-prong test for an area variance.

Addressing the first prong of the test—that there must be an exceptional condition affecting the property—the court explained that such an exceptional condition or “hardship” must be due to “unique circumstances peculiar to [Hillel’s] property and not to the general conditions in the neighborhood.” The court concluded that the Zoning Commission’s findings that there were exceptional conditions here was based on “substantial” and “sufficient” evidence, including: the feasibility of renovating the existing building; testimony from GW students “emphasizing the uninviting and fortress-like condition of the existing building”; “increasing numbers of students and others seeking to participate in Hillel’s activities and services”; “the exceptional configuration of the lot”; and “Hillel’s institutional mission and needs.”

Regarding the second prong of the test—that practical difficulties would occur if the zoning regulations were strictly enforced, the court explained that Hillel had to show: “(1) that the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought.” Again, the court found that there was “sufficient” and “substantial” evidence that Hillel would face practical difficulties if zoning regulations (namely, the lot occupancy and rear yard requirements) were strictly enforced. Given Hillel’s “institutional need for a single contiguous worship space and dining space of a certain size,” the court found that strict enforcement of the zoning regulations “would result in an inefficient and uneconomical building” that “would not yield enough useable space for the worship, dining, and program space required by Hillel.”

The court also found that the third prong of the variance test was met; the requested relief of the area variance could be granted “without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” The Opponents’ argument had focused on allegations that the construction of the proposed new facility would damage St. Mary’s church building. But the court explained that the proper standard in addressing the third prong should not be on “whether harm will result from the construction of the facility, but whether harm will result from the structure as built with the variance.” Focusing on the latter, the court found no reason to disturb the Commission’s findings that: “(1) the new facility’s impact on light and air was less significant than what Hillel was entitled to as a matter of right[;] and (2) Hillel’s revised facility design further reduced the impact on light and air [on St. Mary’s]. . . .”; and that “provision of an easement memorializing [St. Mary’s] right of access across [another GW] property” adequately addressed St. Mary’s concern of loss of access across Hillel’s rear yard.

See also: *Ait-Ghezala v. District of Columbia Board of Zoning Adjustment*, 148A.3d 1211 (D.C. 2016).

See also: *Washington Canoe Club v. District of Columbia Zoning Com'n*, 889 A.2d 995 (D.C. 2005).

## Zoning News from Around the Nation

### MASSACHUSETTS

Governor Charlie Baker recently announced “\$10 million in incentives to encourage cities and towns to promote development within their borders.” He also proposed legislation—“An Act to Promote Housing Choices”—that would make it easier for municipalities to change their zoning to promote multifamily developments, reduce their parking requirements, and make other changes to smooth the way for more housing. These initiatives are reportedly modeled on Massachusetts’ Green Communities program, which rewards cities and towns for taking climate-friendly steps. Specifically, the Governor’s bill would allow municipalities to “adopt certain zoning changes by a simple majority vote rather than the existing requirement of a two-thirds vote.” The administration also announced “\$1.3 million in grant funding for 37 projects through the Planning Assistance Grant Program, which encourages land conservation, reduced energy consumption and the housing production.”

Source: *Lowell Sun*; [www.lowellsun.com](http://www.lowellsun.com)

### PENNSYLVANIA

Pending in the state Legislature is House Bill 1620, which “would allow wireless carriers to forego local zoning review or approval in placing or modifying most facilities in public rights of way.” The bill would also prohibit municipalities “requiring wireless carriers to justify installing or modifying wireless facilities, and from charging fees beyond \$1,000 for regular facilities or \$100 for ‘small cell’ antennas.” Reportedly, several municipalities have passed resolutions opposing the bill, including Doylestown Borough, Plumstead, Upper Southampton, and Warrington. Proponents of the bill maintain that it is “intended as a check against municipalities that might pursue fees from wireless carriers as a moneymaking venture during the zoning process.” The bill is currently awaiting review in the House Consumer Affairs Committee.

Source: *The Intelligencer*; [www.theintell.com](http://www.theintell.com)

### WISCONSIN

Governor Scott Walker has signed into the law the “Mining for

America” bill. The bill is aimed at bringing the mining industry back to Wisconsin. Among other things, the bill includes “a six-month provision to allow local governments to be able to adjust their zoning laws” in response to the bill’s passage.

Source: *The Lakeland Times*; [www.lakelandtimes.com](http://www.lakelandtimes.com)



# Zoning Bulletin

## in this issue:

Proceedings/Jurisdiction—State court finds challenge to constitutionality of zoning ordinance is time barred under state law	2
Use/Interpretation of Zoning Regulations—County Planning Director authorizes mining operation under construction permit	5
Accessory Use—Nursery operators are cited for illegal “industrial manufacturing” of compost in violation of zoning ordinance	8
Standing—Nonprofit organization challenges rezoning of developers’ parcels in city	10
Zoning News from Around the Nation	11



## Proceedings/Jurisdiction—State court finds challenge to constitutionality of zoning ordinance is time barred under state law

Property owner then brings same challenge to federal court

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Contributors

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Citation: *May v. Morgan County Georgia*, 2017 WL 6521296 (11th Cir. 2017)

*The Eleventh Circuit has jurisdiction over Alabama, Florida, and Georgia.*

ELEVENTH CIRCUIT (GEORGIA) (12/21/17)—This case addressed the issue of whether the constitutionality of a zoning ordinance that is challenged in state court can later be challenged in federal court.

**The Background/Facts:** Christine May (“May”) purchased lakefront property in Morgan County, Georgia (the “County”) on which she constructed a vacation home. In order to allay the cost of construction, May planned to (and did) use the home for short-term vacation rentals. At the time, the County’s zoning ordinance only allowed uses that were listed as “permitted” or “conditional.” Short-term rental of single family dwellings (such as May’s) were not listed as “permitted” or “conditional.”

In 2010, the County adopted Regulation 15.35. That regulation explicitly banned rentals of single family dwellings for less than 30 consecutive days in the zoning district in which May’s property was located.

May continued to rent her property on a short-term basis. In August 2011, the County issued to May a criminal citation for violating Regulation 15.35.

In April 2012, May filed a lawsuit in Georgia state court. In her lawsuit, she argued that she had a “grandfathered” right under the County zoning ordinances to continue offering short-term rentals on her property. She also argued that application of Regulation 15.35 to her property was unconstitutional under the due process and equal protection clauses of the United States and Georgia Constitutions, and the privileges and immunities clause of the Fourteenth Amendment of the United States Constitution.

Ultimately, the state trial court concluded that May’s action was barred because: (1) she had failed to exhaust her administrative remedies by not seeking a rezoning and conditional use permit from the County before filing suit; and (2) Georgia Code § 5-3-20(a) barred May’s claims because she failed to challenge the adoption of Regulation 15.35 (on its face, or as applied to her property) within 30 days of its passage.

May appealed. The Georgia Court of Appeals denied her application for a discretionary appeal. May again appealed, and the Supreme Court of Georgia also denied review.

May then attempted an administrative remedy. She filed an application for rezoning with the County, which would allow her property to be rezoned for short-term rentals. She also asked the County to amend the zoning ordinance to allow short-term rentals by property owners who rented before enactment of Regulation 15.35. She also requested that the County declare her right to continue offering short-term rentals on her property. The County denied her request and her applications.

In May 2015, May filed a lawsuit against the County in federal district court. In that action, she again argued that she had a grandfathered right to



offer short-term rentals on her property. She brought a claim against the County under federal statute (42 U.S.C.A. § 1983), contending that Regulation 15.35 violated her “grandfathered constitutional rights.” She also challenged the County’s denial of her applications for rezoning or amendment and her request for a declaration of rights.

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 County on May’s request for a declaration that she had a grandfathered right to rent her property. The district court found that issue had already been litigated and decided in May’s August 2011 criminal citation case. The district court also declined to exercise supplemental jurisdiction over May’s claims related to the County’s denial of her application for rezoning and amendment and her request for a declaration (leaving those only to be challenged in state court). Finally, as to May’s § 1983 claims that the County’s Regulation 15.35 violated her “grandfathered constitutional rights,” the district court determined that the *Rooker-Feldman* doctrine barred its review of May’s § 1983 claims.

The *Rooker-Feldman* doctrine provides that federal district courts and courts of appeal do not have jurisdiction to review state court decisions. The doctrine “applies both to federal claims raised in the state court and to those ‘inextricably intertwined’ with the state court’s judgment.” It applies as long as the party bringing the claims had a “reasonable opportunity” to raise the federal claims in state proceedings.

May appealed. She argued that the *Rooker-Feldman* doctrine did not apply here because her state court case was an “as applied” challenge to Regulation 15.35, while the federal challenge she was making differed in that in federal court she was now claiming that the enactment of Regulation 15.35 could not limit her “constitutional grandfathered right.”

**DECISION: Judgment of District Court for the Middle District of Georgia affirmed.**

The United States Court of Appeals, Eleventh Circuit, held that the *Rooker-Feldman* doctrine barred May’s § 1983 claim and her declaratory judgment request “because the crux of [her claim] was addressed in the first [state] civil case.” The court noted that “[e]ven if her § 1983 claim that she ha[d] a ‘vested constitutional right to continue renting [her property] on a short-term basis,’ [was] somehow distinct from an as applied challenge to the constitutionality of the Regulation 15.35 bar against her enjoyment of that right, that claim [was] inextricably intertwined with her claims from her first civil case. And so [was] her request for a declaratory judgment.” The court explained that both her § 1983 claim and her claim for declaratory relief were “based on her assertion that she ha[d] a ‘grandfathered right’ to rent her property on a short[-]term basis.” Thus, both claims would require finding that her claim of a “vested constitutional right” was not time barred under Georgia law for her failure to challenge Regulation 15.35 within 30 days of its passage. In other words, it would require a finding in federal district court “on the same claims that she



brought, and lost, in state court.” “So she [was] complaining of the same injury in both cases, and [was] implicitly seeking a rejection of the state court’s judgment that [Georgia Code § 5-3-20(a)] barred her request for relief.” Thus, although not “bill[ed]” as an “appeal of the state court judgment,” her federal court claims were “in substance just that,” found the court. The court concluded that *Rooker-Feldman* therefore barred federal review of May’s claims because all of her claims here were “inextricably intertwined” with those from the first state civil case.

See also: *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983).

See also: *Nicholson v. Shafe*, 558 F.3d 1266, 89 U.S.P.Q.2d 1911 (11th Cir. 2009).

See also: *Casale v. Tillman*, 558 F.3d 1258 (11th Cir. 2009).

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**Case Note:**

*May had alternatively argued that the court should adopt an exception to **Rooker-Feldman**, and find that it did not apply because the state court in the first civil case lacked subject matter jurisdiction (i.e., the authority to hear the specific subject matter of May’s case). The court concluded that even if it were to adopt such an exception, it would not apply here because the court in May’s first civil case had subject matter jurisdiction to determine that the 30-day state law time bar (Georgia Code § 5-3-20(a)) applied to May’s claims.*

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## **Use/Interpretation of Zoning Regulations—County Planning Director authorizes mining operation under construction permit**

**County Board reverses, maintaining that a mining permit is instead required**

Citation: *Croell Redi-Mix, Inc. v. Pennington County Board of Commissioners*, 2017SD87, 2017WL6381344 (S.D. 2017)

**SOUTH DAKOTA (12/13/17)**—This case addressed the issue of whether, under a county ordinance, a mining operation was properly permitted under a construction permit. The case also addressed the issue of whether the mining operation was exempt from permit requirements as a legal nonconforming use.

**The Background/Facts:** Since the 1970s, Perli Quarry (the “Quarry”) had been in operation in Pennington County (the “County”). The Quarry was a mining operation that extracted sand, gravel, and construction aggregate. At the time the Quarry began operating, the County had not yet adopted zoning ordinances. Zoning ordinances were eventually adopted and amended and updated, including in 2001 and 2010. Under those ordinances, the Quarry was designed an “A-1 General Agriculture District,” which allowed, among others, the following relevant uses: “[t]emporary quarries”; “the extraction of sand, gravel, or minerals,” provided that a Construction Permit is obtained in accordance with [the zoning ordinances]; and “[m]ining provided a Construction Permit is obtained in accordance with [the zoning ordinances].” The provision of a construction permit was governed by § 507(A) of the County zoning ordinance. Section 507(B) also permitted mining as authorized by a mining permit.

In 2015, Croell Redi-Mix Inc. (“Croell”) acquired the Quarry. Croell sought to “continue and expand mining operations” at the Quarry. The County Planning Department advised Croell to obtain a construction permit pursuant to § 507(A) of the County zoning ordinance. Croell applied for a construction permit to continue and expand its mining operation. The County Planning Commission approved the application and the Planning Director issued the construction permit.

Subsequently, area residents appealed the approval of the construction permit to the County Board of Commissioners (the “Board”). The County Board of Commissioners (the “Board”) reversed the approval of the construction permit.

Croell then appealed the Board’s reversal to circuit court. The circuit court found that the Board’s decision to reverse the issuance of the construction permit was “arbitrary” because it was based on “unfounded” assertions of area residents.

The Board appealed. On appeal, the Board argued that Croell’s proposed use of the Quarry in the A-1 General Agriculture District could not be authorized under a construction permit. The Board argued that, under the plain language of the zoning ordinance, a construction permit could not be issued for a quarry of the scope and duration intended by Croell. The Board argued that the mining of such a scope as proposed could only be permitted if a mining permit was obtained.

Again, § 507(A) of the County zoning ordinance allowed mining under a construction permit, subject to “any other” “more restrictive” provision that took precedent. Section 507(B) was a more restrictive provision, requiring a mining permit for extraction of any mineral or substance exceeding 100 cubic yards. Croell extracted more than 100 cubic yards.

Croell responded by noting the “historical interpretation, application, and implementation of the [County zoning ordinance] by staff and legal counsel,” which “historically and consistently” interpreted the zoning ordinance to allow mining such as Croell’s with only a construction permit and without obtaining a mining permit. Croell argued that historical inter-

pretation was entitled to deference here. Croell also contended that the mining-permit requirement of the zoning ordinance did not apply to the Quarry since it had been in operation prior to adoption of the zoning ordinance and was thus a legal nonconforming use.

**DECISION: Judgment of circuit court reversed.**

The Supreme Court of South Dakota rejected Croell's arguments and agreed with the Board. The court found that under the plain language of the zoning ordinance (§ 507(B)), Croell's intended use of the land required a mining permit. Thus, the court concluded that the Board had properly reversed the Planning Director's issuance of the construction permit for Croell's mining operation use at the Quarry.

In so concluding, the court explained that since Croell extracted more than 100 cubic yards, "[u]nder the clear language of § 507(B), Croell's intended use could not be authorized under a construction permit; a mining permit was required." Therefore, the court held that the Board "properly declined to issue a construction permit for the purpose of doing that which [was] prohibited under § 507(B), and the circuit court erred by reversing the Board's decision."

Rejecting Croell's argument that the Planning Commission and Planning Director's "historical interpretation" of the zoning ordinance—allowing mining with a construction permit—should be given deference, the court said that when the meaning of an ordinance is "unambiguous"—as the court found it was here—"the contrary interpretation of those administering the ordinance is not entitled to deference."

Regarding Croell's legal nonconforming use argument, the appellate court concluded that it was "not relevant." Croell's construction permit application did not simply seek to continue a nonconforming use, but sought to expand its operation to convert additional acres of land to use as a quarry that had not previously been used as a quarry. Thus, a mining permit was required, concluded the court.

See also: *Wegner Auto Co., Inc. v. Ballard*, 353 N.W.2d 57 (S.D. 1984).

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**Case Note:**

*On appeal, Croell had also challenged the standing (i.e., legal right to appeal) of the area residents to appeal the issuance of the construction permit. The court found that, under the zoning ordinance, anyone "affected" by "any action taken by the Planning Director in administering . . . Section 507(A) [of the County zoning ordinance, which governs construction permits,]" had standing to appeal to the Board. Here, the court found that the residents that had appealed to the Board were "affected" by the Planning Director's decision as they had claimed the mining operations affected them in the following ways: negatively impacted their enjoyment of their properties; contaminated local wells; ejected large amounts of dust onto their properties; decreased traffic safety; and reduced local tourism.*

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## Accessory Use—Nursery operators are cited for illegal “industrial manufacturing” of compost in violation of zoning ordinance

Nursery operators claim composting was not “manufactured,” and, in any case, was an authorized accessory use of their property

Citation: *State ex rel. Town of Tiverton v. Pelletier*, 2017 WL 6395807 (R.I. 2017)

RHODE ISLAND (12/15/17)—This case addressed the issue of whether composting activities on residential property amounted to “manufacturing” of compost on residential property, which was prohibited under the local zoning ordinance. The case also addressed the issue of whether the manufacture of compost on residential property was permitted as an “accessory use,” despite the local ordinance prohibiting such manufacturing activities in a residential zoning district.

**The Background/Facts:** James and Melissa Pelletier (the “Pelletiers”) owned a 30-acre property (the “Property”) in a residential zoning district in the Town of Tiverton (the “Town”). In their R-80 zoning district, raising crops commercially, including an associated greenhouse or nursery, was a permitted use. The Pelletiers operated a nursery on their Property.

In March 2009, the Pelletiers were served with a summons and complaint charging them with violating the Town’s zoning ordinance by manufacturing compost on the Property. Under the Town’s zoning ordinance, “industrial manufacturing, storing, processing, and fabricating activities” were prohibited uses in an R-80 zone. After a trial, the Pelletiers were found liable for manufacturing compost in an R-80 zone in violation of the zoning ordinance.

The Pelletiers appealed. They argued that the evidence did not establish that they “manufactured” compost on their Property. The Pelletiers admitted that materials (such as grass clippings, yard waste, and horse manure) were shipped from off-site to the Property for the purpose of composting. Witnesses for the Town had testified to, among other things, observing large piles of compost and the mixing of material with industrial equipment. However, the Pelletiers contended that their composting actions could not be categorized as “industrially manufacturing” because “once the material [was] mixed together, ‘nature takes over’ and compost develops naturally.” They also argued that the composting activities did



not amount to “industrial manufacturing” because the compost was not being packaged and sold as a product off-site. Alternatively, the Pelletiers contended that the processing of compost on their Property was a permitted accessory use because compost was used in the operation of a nursery, which was a permitted use in the R-80 zone.

**DECISION: Judgment of superior court affirmed.**

The Supreme Court of Rhode Island held that the Pelletiers’ conviction of violating the Town zoning ordinance by manufacturing compost on residential property was supported by sufficient evidence. Although the zoning ordinance did not define “manufacturing,” the court noted that it has been defined as “the production of articles for use from raw or prepared materials by giving the materials new forms, qualities, properties or combination whether by hand labor or machines.” The court found that the evidence established that the Pelletiers: procured truckloads of waste materials from off-site to be transported to their Property; actively combined those waste materials with heavy industrial equipment; and produced large quantities of finished compost that was ultimately used off-site through the Pelletiers’ landscaping business. The court emphasized that it found that the use of “heavy, noise-emitting industrial equipment coupled with delivery of truckloads of organic material . . . on a daily basis,” established the elements of “manufacturing” and “processing” that set the Pelletiers composting activities apart from the “average homeowner who engages in composting.”

In so holding, the court rejected the Pelletiers’ arguments that their composting activities could not be categorized as “industrial manufacturing.” The court said that, whether or not the Pelletiers were selling their compost for profit was “immaterial.” The court noted that the Town zoning ordinance entitled “Industrial uses” was devoid of any requirement that manufactured products be “packaged, shipped, and sold for profit.” Moreover, the court found that the plain meanings of “manufacturing” and “industrial” did “not necessarily involve retail activity.”

The court also rejected the Pelletiers’ argument that the processing of compost on their Property was a permitted accessory use because compost was used in the nursery, which was a permitted use in the R-80 zone. The Town zoning ordinance defined accessory use as a use of land or building “customarily incidental and subordinate to the principal use of the land or building . . . .” The court acknowledged that the use of compost in connection with a nursery use was allowed as an accessory use. However, the court distinguished such an accessory use of compost from “the [industrial] manufacturing, storing, and processing of compost” performed on a “large scale” by the Pelletiers. The “industrial manufacturing” of compost by the Pelletiers, found the court, was not allowed even as an accessory use since the zoning ordinance expressly prohibited “manufacturing, storing, processing, and fabricating activities” in an R-80 zone. Accordingly, the court held that manufacturing compost on the Pelletiers’ Property was not a permitted accessory use.

## Standing—Nonprofit organization challenges rezoning of developers' parcels in city

Developer and city argue that nonprofit failed to prove it would suffer special damages from rezoning and therefore lacks standing to bring the challenge

Citation: *Cherry Community Organization v. City of Charlotte*, 2017 WL 5580339 (N.C. Ct. App. 2017)

NORTH CAROLINA (11/21/17)—This case addressed the issue of whether a nonprofit organization showed that it would suffer special damages from a proposed rezoning such that it had standing (i.e., the legal right) to seek declaratory judgment against the city and a developer challenging the rezoning.

**The Background/Facts:** Midtown Area Partners II, LLC (“MAP”) owned four parcels in and around the Cherry Community (“Cherry”) in the City of Charlotte (the “City”). Cherry was an historically African American neighborhood located in the Midtown Morehead Cherry District of the City. In August 2014, MAP submitted an application to the City to rezone the four parcels from general-use districts to mixed development-districts in furtherance of its plans to construct a mixed-use development.

The Cherry Community Organization (“CCO”) was a nonprofit organization that sought to “protect the residential character, safety, and stability of, as well as the affordable housing within [Cherry].” CCO opposed MAP’s rezoning application. CCO owned real property immediately adjacent to and/or in close proximity to MAP’s parcels. CCO complained that it would suffer from “special damages” from the rezoning “in the form of increased noise, traffic and parking, decreased visibility due to the height of the proposed project, diminution in the peaceful residen[tial] character of the Cherry neighborhood, and a reduction in the value of [CCO’s] real property.”

The City Council ultimately approved MAP’s rezoning applications. CCO petitioned the superior court, seeking declaratory judgment against the City and MAP. Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the trial court granted summary judgment in favor of the City and MAP, and dismissed the case with prejudice.

CCO appealed. As a threshold matter, the City and MAP asserted that CCO lacked standing (i.e., the legal right) to bring the declaratory judgment action.

**DECISION:** Judgment of superior court affirmed as modified.

The Court of Appeals of North Carolina agreed with the City and MAP, concluding that CCO lacked standing to bring the declaratory judgment action against the City and MAP.

In so concluding, the court explained that a party only has standing to challenge a zoning ordinance in an action for declaratory judgment when it “has a specific personal and legal interest in the subject matter affected by the zoning ordinance and . . . is directly and adversely affected thereby.” The court noted that although owning property immediately adjacent to or within close proximity to the subject property (as CCO did here with regard to the parcels MAP sought to rezone) did “bear some weight on the issue of whether the complaining party ha[d] suffered or [would] suffer special damages distinct from those damages to the public at large,” that was not “in and of itself sufficient to plead special damages.”

Here, examining the evidence submitted by CCO, the court found it was “insufficient to show that CCO ha[d] or [would] suffer any individual harm as a result of the rezoning such that CCO” could prove standing and survive the motion for summary judgment that had been brought by the City and MAP. Although CCO had alleged special damages, the court found that there was no “actual proof” of special damages. The court found that “CCO’s forecast of evidence of special damages consist[ed] of nothing more than conclusory, unsupported allegations that certain damages [would] ensue . . . .”

Having found that CCO failed to meet its burden of production of evidence that it would suffer special damages distinct from the rest of the community because of MAP’s rezoning, the court concluded that CCO failed to establish that it had standing to maintain its action for declaratory judgment. Accordingly, the court did not reach CCO’s remaining contentions and the merits of CCO’s appeal.

See also: *Cherry v. Wiesner*, 781 S.E.2d 871 (N.C. Ct. App. 2016), review denied, 369 N.C. 33, 792 S.E.2d 779 (2016).

## Zoning News from Around the Nation

### MASSACHUSETTS

The Woburn City Council recently voted to modify local regulations to extend to 12-months the immunity period that shields builders from having to modify construction plans to reflect recently adopted zoning ordinances. Previously, the exception was for a six-month period of time, which conflicted with a superseding state law.

Source: *Daily Times Chronicle*; <http://homenewshere.com>

### OHIO

The Newark City Council has passed a zoning ordinance allowing for



medical marijuana businesses in the city. The new ordinance applies to medical marijuana cultivators, processors, and dispensaries. Under the ordinance, any dispensary must be approved by the Newark Board of Zoning Appeals. The ordinance also limits the location of dispensaries by restricting them to “medium intensity business districts” and from within 1,000 feet of a school, church, public library, public playground or public park. A variance from the Board of Zoning Appeals could reduce that distance to 750 feet away from the restricted areas. The location of medical marijuana cultivators and processors would be limited to industrial districts. The businesses are also required to obtain a license from the City and pay an annual \$500 fee.

Source: *Newark Advocate*; [www.newarkadvocate.com](http://www.newarkadvocate.com)

## WISCONSIN

In late November, Governor Scott Walker signed into law the “Homeowners’ Bill of Rights.” The new legislation, consists of two bills: One bill “allows property owners to build on and sell lots of ‘substandard’ size if they were legal when created.” That bill also “prohibits local governments from merging adjacent lots that share the same owner without the owner’s permission and makes it easier for property owners to get conditional-use permits and variances, maintain nonconforming structures, and dredge private ponds.” The second bill “allows homeowners to appeal assessments when a homeowner refuses to let the assessor inside the house, and to hang the American flag even if condominium or homeowner association rules would prohibit it.”

Source: *The Heartland Institute*; [www.heartland.org](http://www.heartland.org)