



CITY OF ELKO  
CITY MANAGER  
1751 COLLEGE AVENUE  
ELKO, NEVADA 89801  
(775) 777-7110/FAX (775) 777-7119

### PUBLIC MEETING NOTICE

The Elko City Council will meet in regular session on Tuesday, September 22, 2020  
at 4:00 P.M.–7:00 P.M., P.D.T. utilizing **GoToMeeting.com**

Please join my meeting from your computer, tablet or smartphone.

GoToMeeting.com

**<https://global.gotomeeting.com/join/223532117>**

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

#### ELKO CITY HALL

1751 College Avenue, Elko, NV 89801

**Date/Time Posted: 8:30 a.m., P.D.T., Thursday, September 17, 2020**

**Posted by: Kim Wilkinson, Administrative Assistant** 

The public may contact Kim Wilkinson by phone at (775) 777-7110 or email at **[kwilkinson@elkocitynv.gov](mailto:kwilkinson@elkocitynv.gov)** to request supporting material for the meeting described herein. The agenda and supporting material is available on the City website at **<http://www.elkocity.com>**

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: **<https://global.gotomeeting.com/join/223532117>** You can also dial in using your phone at **+1 (408) 650-3123** the Access Code for this meeting is **223-532-117**. Public Comment and questions can be received by calling (775) 777- 0590 or by emailing: **[cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)**

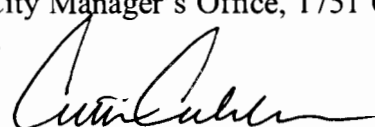
New to GoToMeeting? Get the app now and be ready when your first meeting starts:

**<https://global.gotomeeting.com/install/223532117>**

*Dated this 17<sup>th</sup> day of September, 2020*

### 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, City Manager's Office, 1751 College Avenue, Elko, Nevada, 89801, or by calling (775) 777-7110.

  
Curtis Calder, City Manager  
Elko, Nevada

**CITY OF ELKO**  
**CITY COUNCIL AGENDA**  
**REGULAR MEETING**  
**4:00 P.M., P.D.T., TUESDAY, SEPTEMBER 22, 2020**  
**GoToMeeting.com**  
**<https://global.gotomeeting.com/join/223532117>**

**CALL TO ORDER**

*The Agenda for this meeting of the Elko City Council has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone by registering at the link above.*

**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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

<b>APPROVAL OF MINUTES:</b>	<b>September 8, 2020</b>	<b>Regular Session</b>
	<b>August 25, 2020</b>	<b>Special Session</b>

**I. APPROPRIATIONS**

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review and possible approval of Print n' Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- C. Consideration and possible approval of an Interlocal Agreement for the Grant of Funds Pursuant to the Coronavirus Aid, Relief and Economic Security Act between the City of Elko and the County of Elko in the amount of \$1,095,919.16, and matters related thereto. **FOR POSSIBLE ACTION**

Council previously authorized Staff to accept the CARES Act funding, determine eligible expense and purchases to be reimbursed or expended from CARES Funding, and to consider the possible allocation of the CARES Funding not utilized by the City of Elko to Elko County for the business Grant Cares Grant Program subject to an Interlocal Agreement with Elko County. An Interlocal Agreement was

prepared by David Stanton, City Attorney. The County is requesting changes as outlined in the attached red lined agreement, Page 4, Paragraph 3. Specifically, the County is requesting that the original language of: “as well as any subsequent emergency directives or executive orders related to the COVID-19 health crisis capacity” be changed to “as of September 3, 2020 related to the COVID-19 health crisis capacity.” This is a substantive change to the proposed Interlocal Agreement which does not align with the original Coronavirus Relief Fund Eligibility Certification approved by the City Council and certified by the City Manager. JB

- D. Review, consideration, and possible rejection of all bids for the Water Tank Interior Coating Project-2020, and matters related thereto. **FOR POSSIBLE ACTION**

Bids were opened September 11, 2020. Only one complete bid was submitted for the project, with four bids being incomplete. All of the bids were above the \$500,000.00 budgeted amount for the project. A Bid Tally Sheet has been provided for review. DJ

- E. Review, consideration, and possible ratification of Staff’s approval for Change Orders related to unforeseen conditions with the Re-roofing Project at the City of Elko Swimming Pool, and matters related thereto. **FOR POSSIBLE ACTION**

Due to various un-known conditions related to the City of Elko Swimming Pool re-roof and ceiling demolition project it was necessary for Staff to approve Change Orders currently totaling \$50,719.28. Change Orders pertain to asbestos mitigation measures, placement of additional roof decking, and the demolition and reconstruction of the rotted wood curb for the roof mounted air handler unit. JW

## **II. NEW BUSINESS**

- A. Review, consideration, and possible action to conditionally approve Parcel Map No. 7-20, filed by City of Elko, for the division of approximately 49.98 acres into three parcels, located generally along the Humboldt River from approximately 9<sup>th</sup> Street to approximately 1,200 feet west of Errecart Blvd., and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko is the applicant of the parcel map, therefore must have City Council approval. The parcel map will create the 2,800 sq. ft. parcel in which City Council approved to sell to Anthem Broadband of Nevada. CL

- B. Review, discussion, and possible approval for payment to the Boys and Girls Club of Elko for COVID-19 related expenses (for example PPE and COVID-19 testing) incurred as a result of the COVID-19 pandemic, and matters related thereto. **FOR POSSIBLE ACTION**

The City received Cares Relief Funds from the State of Nevada in August, 2020. As outlined in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada a sub-grant to reimburse the Boys and Girls

Club of Elko for direct costs associated with COVID-19 which include, but are not limited to, COVID-19 testing and PPE are eligible expenditures.

The City would like to sub-grant Cares Relief Funds to the Boys and Girls Club of Elko for direct COVID-19 related expenses. The payment of these funds would be subject to the Boys and Girls Club of Elko providing a specific list of COVID-19 related expenses along with invoices as well as the Boys and Girls Club of Elko agreeing to the terms specified in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada; including adhering to Nevada Governor's Directives.

The current list of expenses provided by the Boys and Girls Club of Elko is \$16,253.21. JB

- C. Review, discussion, and possible direction to Staff regarding CARES Act funding, including the possible initiation of the closeout process, and matters related thereto. **FOR POSSIBLE ACTION**

Based upon the outcome of related agenda items, City Staff may recommend that ongoing compliance with the terms and conditions imposed by the State of Nevada is no longer feasible and/or Cares Act funding is no longer necessary. CC

### **III. RESOLUTIONS AND ORDINANCES**

- A. Review, consideration, and possible approval of Ordinance No. 856, an Emergency Ordinance Reducing the Amount and Deferring Payment of Brothel License Fees, and matters related thereto. **FOR POSSIBLE ACTION**

On June 23, 2020, City Council approved Ordinance No. 855, which deferred payment for Brothel License Fees until September 30, 2020 due to the COVID-19 pandemic. This ordinance extends the date to within thirty (30) days of the date the licensee is permitted to reopen by order of the Office of the Governor or upon termination of this Ordinance, whichever occurs first. KW

### **IV. PETITIONS, APPEALS, AND COMMUNICATIONS**

- A. Review, consideration and possible approval of a request from Attorney David Lockie, representing Mr. Louis Goldberg. Mr. Goldberg is requesting to modify conditions on the business licenses for Mona's Ranch and Inez's D & D, and matters related thereto. **FOR POSSIBLE ACTION**

On August 14, 2018, City Council approved the Brothel License Application for Louis Goldberg, with the restriction that he is on site twenty days a month and this is subject to audit from the Police Department. Mr. Goldberg is requesting to modify this condition to 10 days per month. KW

- B. Review, consideration, and possible approval of a request by Mr. and Mrs. Barris for reimbursement for damages resulting from sewer leak at their residence, and matters related thereto. **FOR POSSIBLE ACTION**

On July 30, 2020 Kimberly and James Barris, 3505 Forest Court, contacted the on-call regarding a water leak. The on-call went out and suggested the homeowner turn the water off. The house flooded again the next morning and the Water Department Supervisor responded who determined it was actually a sewer leak on the City side of the pipes not a water leak. The City of Elko insurance (Alternative Services Concepts) denied the claim. The City Sewer Policy allows for reasonable cost of the initial clean up and does not include removal of property, replacement of carpeting, tile or furnishings, new construction, disposal or any other costs and/or damages. The Barris's are requesting payment for lost items and other damage. KW

- C. Review, consideration, and possible action to accept a petition requesting the lease of City owned property pursuant to NRS 268.062, approximately 1.126 acres, identified as Lease Area N1 located at the Elko Regional Airport, at public auction, and authorize Staff to obtain the required appraisal, and matters related thereto. **FOR POSSIBLE ACTION**

Classic Air Care dba MedX AirOne has petitioned the City of Elko to lease airport owned property identified as Lease Area N1 located on the Elko Regional Airport. If Council accepts the petition, an appraisal will be obtained and Council will hold a meeting on the fair market value of the property and adopt a resolution declaring its intention to lease the property at public auction. JF

**V. 5:30 P.M. PUBLIC HEARINGS**

- A. Review, consideration, and possible action to adopt Resolution No. 23-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from C (General Commercial) to PQP (Public, Quasi-Public) Zoning District, approximately 26,061 square feet of property, filed by City of Elko, and processed as Rezone No. 1-20, and matters related thereto. **FOR POSSIBLE ACTION**  
The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 1-20. CL
- B. Review, consideration, and possible action to adopt Resolution No. 24-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from AG (General Agriculture) to R (Single Family and Multiple Family Residential) Zoning District, approximately 2.415 acres of property, filed by Legion Construction and Development LLC., and processed as Rezone No. 5-20, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 5-20. CL

- C. Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-18(E)(3), appealing the Elko City Planning Commission's decision to deny Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would allow for a Teaching of the Creative Arts/Childcare Center within an R (Single Family and Multiple Family Residential) Zoning District, located generally on the southeast side of West Birch Street (675 W. Birch Street), and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to Elko City Code 3-2-25, the Council may affirm, modify or reverse the decision of the Planning Commission.

The Planning Commission considered the subject conditional use permit on August 4, 2020 and took action to deny the conditional use permit. CL

## **VI. REPORTS**

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

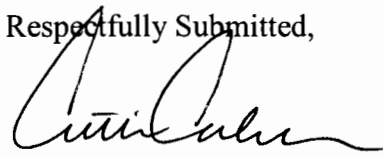
## **COMMENTS BY THE GENERAL PUBLIC**

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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

**NOTE:** The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council 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,

A handwritten signature in black ink, appearing to read "Curtis Calder", written over the printed name.

Curtis Calder  
City Manager

City of Elko            )  
County of Elko        )  
State of Nevada        )

SS      September 8, 2020

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, September 8, 2020. Due to the COVID-19 pandemic the meeting was held via GoTo Webinar.

## **CALL TO ORDER**

This meeting was called to order by Mayor Reece Keener. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can participate by phone, tablet, laptop, or computer by registering with the Goto Meeting link provided in the agenda, or calling 775-777-0590. Questions can be sent to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov).

## **ROLL CALL**

**Mayor Present:**       Reece Keener

**Council Present:**    Councilwoman Mandy Simons  
                          Councilman Robert Schmidlein  
                          Councilman Chip Stone  
                          Councilman Bill Hance

**City Staff Present:**  Curtis Calder, City Manager  
                          Scott Wilkinson, Assistant City Manager  
                          Kelly Wooldridge, City Clerk  
                          Candi Quilici, Accounting Manager  
                          Jan Baum, Financial Services Director  
                          Candi Quilici, Accounting Manager  
                          Susie Shurtz, Human Resources Manager  
                          Dale Johnson, Utilities Director  
                          Bob Thibault, Civil Engineer  
                          James Wiley, Parks and Recreation Director  
                          Cathy Laughlin, City Planner  
                          Michele Rambo, Development Manager  
                          Jim Foster, Airport Manager  
                          Matt Griego, Fire Chief  
                          Jack Snyder, Deputy Fire Chief  
                          Dave Stanton, City Attorney  
                          Ty Trouten, Police Chief  
                          Jeff Ford, Building Official  
                          Diann Byington, Recording Secretary



## 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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

Danny Story read a letter he wrote.

*To Whom It May Concern,*

*The Elko Adult Softball Board and members have been the leaders in responsible outdoor recreation and events since the beginning of the COVID crisis. Since the very beginning, I met with most top ranking local officials, including Sheriff Aitor Narvaiza, Chief Ty Trouten, State Assemblyman John Ellison, Mayor Reece Keener and beyond. All of the conversations we had were effective, constructive and positive. Every step of the way, Elko Adult Softball has been transparent on the requests and intentions. Attached (not available right now but available upon request) is a copy of our safety and mitigation plan, along with a copy of the approval letter and email correspondence from City Manager Curtis Calder dated May 29<sup>th</sup>, which clearly states that we are in Phase 2 under Directive 021. Our plan meets the guidelines to participate in the type of functions that we run. In fact, Elko Adult Softball has went above and beyond CDC and Whitehouse restrictions with our safety and mitigation plans, not to mention we had a plan when almost no organization, public or private, to release one in the State of Nevada.*

*We ran stuff with Nevada Gold Mine from the onset and we have proven we can operate events with very little risk or exposure and the results cannot be ignored. We have been involved with four events in Elko with numerous amounts of participants and our mitigation plan, which exceeds all guidelines, especially concerning crowd control, has not created an outbreak or anything close. In fact, I would argue that it has actually done the opposite and reduced the spread of COVID-19. We have tracked the number of positive cases within the league and not only have half the cases come back false positive, but no cases can be tracked back to our field. In addition, our mitigation plan has been used in communities all over the State of Nevada and in parts of Utah and Idaho and all communities have the same positive results. I understand the argument these events took place prior to us being in the Red Zone to a point, except the fact that my plans have a solid track record through this entire crisis.*

*Moving on to the actual event that I am more here to discuss, Stephanie's Last At Bat, The Message of Domestic Violence Awareness Softball Tournament. For those of you that may not be aware, this tournament started ten years ago after the tragic loss of a beautiful woman to domestic violence right here in Elko. At the very first event, the community of Elko and softball families raised over \$12,000 for the family. Since then, the event has turned over to be the main event draw of the year. Not just from out of town teams, but many locals that come out to play and support the cause. It's truly much more than just a softball tournament, it's a family weekend, 100%. The message is clear and*

*advice is solid, love and respect between all and even for some, a chance to feel safe in public or maybe just one weekend. This year's event will add a 9-11 tribute for Friday night, but we plan on recognizing local law enforcement, first responders, active military and veterans, which will displaying our colors. We were hoping to have the grand opening of the Elko Sports Complex as well, but mother nature had other plans.*

*After last week's meeting, we decided to remove beer sales from the event to make sure we comply with all local and state guidelines. We wanted to move forward under our current field use permit. Why is it different than these other events? Because we have a field use permit for 2020 and have paid our fees, which includes this event. We are not serving alcohol. For those two reasons, we feel we should be allowed to continue to move forward and put a couple heads in beds and breathing a little life in the community financially, and even more importantly, emotionally. Any other questions regarding social distancing guidelines and other mitigation procedures and be answered within our plan. If not, I am more than open to answer specific questions regarding how we have achieved such great success or any other specific concerns.*

*In closing, we are not asking for any special requests or considerations. We are simply asking for the right to continue to operate under our 2020 field use permit signed off for play June through October. Thanks for your time and consideration.*

*Danny Story, Team Rep, Board Member, and President of Elko Adult Softball, Vice President Baseball Elko Little League. Thank you.*

Mayor Keener stated he was sorry but the decision was not Council's. It is an emotional thing for everyone involved in the softball league community. We are living in strange times and the Governor has come down with a strong hammer on us.

**APPROVAL OF MINUTES:            August 25, 2020            Regular Session**

***The minutes were approved by general consent.***

**I.       PERSONNEL**

- A.       Review, consideration, and possible approval of the revised position description for Part-Time City Sexton (appointed official), and matters related thereto. **FOR POSSIBLE ACTION**

The City Sexton position description has been revised and updated to more accurately reflect the duties of the position. The reorganization and realignment of the City Sexton duties was approved during the June 23, 2020 City Council Meeting. SS

Susie Shurtz, Human Resources Manager, explained they have made some changes to the position description to include specific duties for City Staff, as well as, City Sexton.

Mayor Keener thought an annual report from the City Sexton should be included in the job description.

**\*\* A motion was made by Councilman Schmidtlein, seconded by Councilwoman Simons, to approve the revised City Sexton position description as presented and effective September 8, 2020, with the understanding that an annual report will be added.**

*The motion passed unanimously. (5-0)*

## **II. APPROPRIATIONS**

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the general warrants.**

*The motion passed unanimously. (5-0)*

- B. Review and possible approval of Print n' Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the Print 'N Copy warrants.**

*The motion passed. (4-0 Mayor Keener abstained.)*

- C. Review and possible approval of Great Basin Engineering Contractors Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Hance, to approve the Great Basin Engineering Contractors warrants.**

*The motion passed. (4-0 Councilman Schmidtlein abstained.)*

- D. Review and possible approval of Ruby Mountain Lock & Safe Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the Ruby Mountain Lock & Safe warrants.**

*The motion passed. (4-0 Councilman Hance abstained.)*

## **VI. PETITIONS, APPEALS, AND COMMUNICATIONS**

- C. Ratification of the Police Chief issuing a 45-day Temporary Retail and Caterer's Liquor License and issue a Regular Retail and Caterer's Liquor License, to Mandy Quintana, DBA The Punch Bowl, LLC, located at 449 Railroad Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Trouten explained Ms. Quintana made application back in June and the fingerprints were slow to get back to him. He recommended approval. He has met with the applicant and she is aware of the rules, regulations and expectations of a liquor license holder.

Mayor Keener called for public comment without a response.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Stone, to approve the ratification of the Police Chief issuing a 45-day temporary retail and caterer's liquor license and issue a Regular and Caterer's Liquor License to Mandy Quintana, dba The Punch Bowl, LLC, located at 449 Railroad Street, Elko, Nevada, 89801.**

*The motion passed unanimously. (5-0)*

## **II. APPROPRIATIONS (Cont.)**

- E. Review, discussion, and possible approval to authorize the Parks Department to purchase mowing equipment via the State of Nevada's contract with NASPO (National Association of State Procurement Officials), in accordance with NRS 332.195, Joinder or Mutual use of contracts, and matters related thereto. **FOR POSSIBLE ACTION**

The Parks Department was approved to purchase mowing equipment for the current fiscal year with a budget of \$102,000. NRS 332.195 authorizes the use of joinder contracts within or outside the State of Nevada for the acquisition of equipment with the authorization of the contracting vendor. Toro has provided authorization for the use of the Nevada NASPO contract to the City of Elko for the purchase of a Toro Groundmaster 5900 (T-4) mower. A copy of the purchase amount has been included in the packet. JW

James Wiley, Parks and Recreation Director, explained the purchase request.

**\*\* A motion was made by Councilman Stone, seconded by Councilwoman Simons, to authorize the Parks Department to purchase a Toro Groundmaster 5900 (T-4) mower via the State of Nevada's contract with NASPO in the amount of \$101,549.38.**

*The motion passed unanimously. (5-0)*

## **III. SUBDIVISIONS**

- A. Review, consideration, and possible acceptance of Public Improvements for the Great Basin Estates Unit 3 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

The City Council approved Final Map 11-18 on June 25, 2019. A Performance and Maintenance Agreement was entered into on that same day.

The Developer has completed the Public Improvements in accordance with the approved plans. The City is in receipt of the required Certification of the project by the Engineer of Record. Upon acceptance of the Public Improvements by the Council, the Developer is required to provide maintenance security in the amount of \$77,636.93 for a 12-month maintenance period, which has already been received.  
MR

Michele Rambo, Development Manager, explained they have inspected the improvements for Great Basin Phase 3 and they have been found to be in compliance. She recommended approval.

Mayor Keener called for public comment without a response.

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilwoman Simons, to accept the public improvements for the Great Basin Estates Phase 3 subdivision.**

*The motion passed unanimously. (5-0)*

#### **IV. UNFINISHED BUSINESS**

- A. Review, consideration, and possible approval of the 2020 Gold Rush Challenge Bull Riding special event permit and special event liquor license, and matters related thereto. **FOR POSSIBLE ACTION**

Benavides Bucking Bulls, LLC is requesting a special event liquor license for the Bull Riding Event to be held September 12<sup>h</sup> at the Elko County Fairground. This item was tabled at the last City Council meeting. Information regarding the event was included in the Elko County assessment for the State Covid Task Force Assessments Committee. They referred special events to the LEAP (Local Empowerment Advisory Panel). KW

Kelly Wooldridge, City Clerk, explained the LEAP Committee approved the special event itself. We need to talk about the Special Event Liquor License. Cooks from Spring Creek will be doing the food and liquor if approved. When we look at the Governor's Directive 027, the directive specifically states that bar tops and bar areas in any establishment a county with an elevated disease transmission, shall be closed to customers but bar beverages may be served at tables for onsite consumption. Customers must only be served via table services and may not order from bar top areas. The information put out by the LEAP Committee does not discuss bar tops at all. She has spoken to Cooks and they will do whatever is necessary. Efran Benavides has also said they will do whatever they need to do.

Efran Benavides, Benavides Bucking Bulls, LLC, stated he will do whatever is needed in order to hold the event and serve liquor.

Councilman Stone said he was at the fairground this weekend observing how they have things separated with the clear plastic. The liquor part of it, if it is essential there is probably a way to do it. The Governor seems concerned about open drinks rather than closed beverages. They will do

whatever they can do to make this happen. If it's not essential, then make the necessary adjustments to make these events work. He was good either way.

Councilwoman Simons thought it would be good to do it restaurant style. That way they would be in compliance and we would have the go-ahead.

Councilman Hance agreed but he can't see the difference handing someone a can of Pepsi across a counter along with a hot dog vs. handing them a can of beer across there. If they were doing open drinks then do it restaurant style. Closed beverages should be able to be handed over the counter with the food. It's no different than a food truck.

Councilman Schmidlein said he was onboard with this as well. They need to follow their operational plan and make sure they stick to the plan. If they defer from their plan there could be repercussions from the State.

Mr. Benavides agreed to enforce their operational plan and do their best. They don't want to ruin it for everybody.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve the Special Event Permits for the 2020 Gold Rush Challenge Bull Riding contingent upon the event organizer following their operational plans as submitted and reviewed by OSHA, and while serving alcohol, they must be in compliance with the Governor's Directives.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration, and possible approval of the annual Rides and Rods Special Event Permit, Park Permit, Street Closure, and Special Event Liquor License, and matters related thereto. **FOR POSSIBLE ACTION**

Rides and Rods is requesting to have the annual car show event in the City Park. This item was tabled at the last City Council meeting. Information regarding the event was included in the Elko County assessment for the State Covid Task Force Assessments Committee. They referred special events to the LEAP (Local Empowerment Advisory Panel). KW

Ms. Wooldridge explained this event has been approved by the LEAP Committee but there are lots of things they have to do.

Councilman Stone disclosed that he is a vendor at the event but he has no problem with anything with it.

Mayor Keener stated he knew Mr. Calder spent a lot of time working on this project. He thanked him for his work in getting clearance for this.

Curtis Calder said this took place over a number of days last week. Up to Friday morning, he wasn't feeling positive that it would get approved but it was approved Friday afternoon. It is

imperative that these special events that get approved follow their operational plans. It is one thing to put something down in an operational plan, it's another to execute because it is a special event with lots of people. He wouldn't be surprised if OSHA didn't show up at this event to make sure the organizers were enforcing their plan.

Ms. Wooldridge read an email into the record (Exhibit "B").

Jeff Remington, Rides and Rods, said they have been putting this event on for ten years. They started down at the end of the Jamboree. They haven't been putting the event on in the park this whole time but they were doing it in the corridor as part of the Jamboree. He said thank you for everything staff has done to help them put this event on.

Mr. Calder said the Remingtons have put together a comprehensive operational plan. He thought this should be approved contingent upon them following their operational plan, which has been reviewed and approved by OSHA.

Mr. Remington added they will check temperatures of the entrants as they go in to register.

Mayor Keener didn't want to discount the email from Ms. Hire but we do live on the I-80 corridor and we have people coming into our community every day.

Councilman Stone stated that the Remingtons have gone far and above to address anything that could be of issue. He commended them on how hard they have worked on this.

**\*\* A motion was made by Councilman Hance, seconded by Councilman Schmidlein, to approve the Annual Rides and Rods Special Event Permit, Street Closure, and Special Event Liquor License with the contingency of the event organizer following their operational plan as submitted and reviewed by OSHA.**

*The motion passed unanimously. (5-0)*

Mr. Remington asked for clarification on how they handle the liquor. Can they serve draft beer or canned? It wasn't clear to him.

Mr. Calder answered unless the directive changes before the event, table seating only. Six or less at a table. It doesn't specify if it is open beverages or canned but it has to be table service. They will have to figure that out.

## **V. NEW BUSINESS**

- A. Review, consideration, and possible action to accept a letter of resignation from Ms. Evi Buell from the Planning Commission, and to further authorize Staff to commence with the standard recruitment process to fill the vacancy on the Planning Commission, and matters related thereto. **FOR POSSIBLE ACTION**

Cathy Laughlin, City Planner, explained they received the letter of resignation from Evi Buell and they would like to go out to advertise to fill that vacancy.

Mayor Keener said Council will have to thank her for her work on the board.

**\*\* A motion was made by Councilman Stone, seconded by Councilwoman Simons, to accept the resignation of the Planning Commissioner Evi Buell, and direct staff to begin the recruitment process.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and Syringa Networks, LLC for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

The proposed term of the agreement is 10 (ten) years and provides for a 5 (five) year renewal provided the terms and conditions remain the same. The proposed franchise fee is 5 (five) percent of the gross revenues actually collected from customers located within the corporate limits of the City. SAW

Scott Wilkinson, Assistant City Manager, explained the agreement presented is similar to what has been approved for other providers. They made some minor changes based on Syringa's recommendations. He reminded Council that there is a resolution exempting the payment of franchise fees for a period of time.

Mayor Keener called for public comment without a response.

**\*\* A motion was made by Councilman Stone, seconded by Councilwoman Simons, to approve the Non-Exclusive Franchise Agreement between the City of Elko and Syringa Networks, LLC, for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko.**

*The motion passed unanimously. (5-0)*

## **VI. PETITIONS, APPEALS, AND COMMUNICATIONS (Cont.)**

- A. Review, consideration, and possible approval of the Special Event Permit, and Special Event Liquor License, for the Monster Truck Insanity tour to be held at the Elko County Fairgrounds on September 25 - 26, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

The event organizer has included a detailed mitigation plan and reports they have had 5 of these events in Utah and Idaho since the start of COVID. This event will not conform to the Governor's Directive 027 and 021. KW

Kelly Wooldridge, City Clerk, explained the event organizer was on the line. This has not gone to the LEAP Committee yet because it had not been heard by City Council yet. In discussions with the LEAP Committee, they will be following the Governor's Directives. We were able to



approve the Bull Riding event because it is a sports equine event, and equine events have been approved by the LEAP Committee.

Skylar Neibaur spoke about the company and the proposed event. Their COVID plan is a combination of all the different areas and states that they have put shows on. So far their plan has worked very well. He did understand the Governor's Directives and the restrictions.

Curtis Calder, City Manager, said given the current direction from the LEAP Committee, he didn't think it will fly. He will submit it for approval. He recommended tabling the item so it can be submitted to LEAP.

Mayor Keener was on board with that.

Councilman Stone suggested approving this with the contingency of LEAP approval.

Councilman Hance agreed with Councilman Stone's suggestion.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Schmidlein, to approve the Special Event Permit and Special Event Liquor License for the Monster Truck Insanity Tour to be held at the Elko County Fairgrounds on September 25-26, 2020, contingent upon it being approved by the LEAP Committee with their guidelines.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration, and possible approval of the special event permit and special event liquor license for the Van Norman and Friends Production Sale, LLC to be held at the Elko County Fairgrounds September 18-19, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

Van Norman and Friends Production Sale Horse Auction is requesting a special events permit, auction permit, and liquor license. KW

Ms. Wooldridge explained this has not gone to LEAP Committee either but she didn't think we needed to send this to the LEAP Committee because it is an equine event. Ms. Bunch has sent what they are doing for COVID but it didn't really address how they were going to enforce it. They are planning on having The Star do the food and liquor and they will need to get a Special Event Liquor Permit and have table service. This can be approved as long as they follow Directive 027.

Linda Bunch, Van Norman and Friends Production Sale, offered to answer questions.

Mayor Keener called for public comment without a response.

**\*\* A motion was made by Councilman Stone, seconded by Councilwoman Simons, to approve a Special Event Permit and Special Event Liquor License for the Van Norman and Friends Production Sale, LLC, to be held at the Elko County Fairgrounds September 18-19,**

2020, contingent upon following Governor's Directive 027 regarding their food and beverage service.

*The motion passed unanimously. (5-0)*

## VII. REPORTS

### A. Mayor and City Council

*Mayor Keener sent a shout out to Randy and Sheri Eklund-Brown for donating an Elko Centennial Tower Sign that is presently in the City Manager's Office. He got a call, a very nice call, from a woman in Ely who had been in Elko for a birthday party in the park. She said the park was lovely and the staff were great. He has heard some concerns from the public regarding the condition of the golf course.*

*James Wiley stated he has received numerous emails with concerns. He will work out a response with Curtis Calder to send to them regarding what is going on at the Golf Course.*

*Mayor Keener thanked Councilwoman Simons for taking the Elko Live today.*

*Councilwoman Simons said the interview went well.*

*Councilman Hance said Frontier is still collecting their Franchise Fees as of the last billing.*

*Scott Wilkinson said he has reached out to Frontier a second time. The proposed amendment to their Franchise Agreement has been kicked up to an individual named Todd Wiseman. He's a regional manager and he has not received a response from him. He did put Frontier on notice that they were still collecting the Franchise Fees as a line item. He cautioned Council because the action taken was to waive the Franchise Fees but Council did not include that the fees charged to the customer had to be reduced accordingly. Frontier may have some legal issue as to why they are still collecting the franchise fees.*

*Councilman Stone said this weekend he had the opportunity to watch the 4H auction. There were a few tears and the animals went to their new owners. The kids did a great job.*

### B. City Manager

*Curtis Calder wanted to address the comments made earlier regarding the Softball Tournament. That was an extreme disappointment to the City as well as the event organizer. James Wiley and his staff had been reaching out to the LEAP Committee for approximately a month to get clarification on the guidance documents. It was unfortunate that the event organizer only had a couple of days to cancel the event. He was troubled to hear that the No Fair event served alcohol at their event when they expressly told City staff that they were not going to have alcohol. We will be working with the Fair Board to make sure they understand how the Special Event Liquor Licenses operate. Whether that was a mistake or not, that needs to be clarified because the City of Elko is under an extreme amount of scrutiny from the State.*

*Councilman Schmidtlein asked regarding sporting events not being allowed, are they going to shut down all the sporting events in Las Vegas such as the Raiders.*

*Mr. Calder answered the guidance document that we fall under will be different from a professional sporting event. The professional events can still go on but they are not allowed spectators at the events.*

C. Assistant City Manager

*Scott Wilkinson reported on the progress with Union Pacific. We have the official documents to process the easement for VFW Drive so we are working on cutting a check to acquire the easement. The sound wall is still pending. UP recognizes that is their infrastructure. The City needs to finish up with the PSA.*

D. Utilities Director

*Dale Johnson reported the contractor for the Golf Course Pond is still removing mud out of pond 1 and has started working on pond 2. He has not received a BIO-BOT test result for this week. The Water/WRF shop is moving along well.*

E. Public Works

F. Airport Manager

G. City Attorney

H. Fire Chief

*Chief Griego stated the fire danger is very high, especially due to the winds.*

I. Police Chief

*Chief Trouten reported the injured officer is doing well. He will still be out several months. The POST Academy officer is doing well. They did some testing today. Out of all those applications, they only had 5 people showed up.*

J. City Clerk

K. City Planner

*Cathy Laughlin reported that an appeal came in for a Conditional Use Permit that will be on the next meeting.*

L. Development Manager

*Michele Rambo said a couple of weeks ago we were audited by the State Department of Environmental Protection and the EPA on our Storm Water Program. She is waiting for their report and she will do a presentation when she gets it.*

M. Financial Services Director

*Jan Baum reported she will be bringing to Council at the next meeting, a couple of things having to do with the CARES Act funding. The County had some changes to the Interlocal Agreement. She went over what has been spent from the CARES Act Funding for July and August. The auditors are here and they will be here all week. There is a request for CARES Act Funding from the Boys and Girls Club she will be bringing to Council too.*

N. Parks and Recreation Director

*James Wiley reported the Pool Roof project is on schedule. The bids are due tomorrow for the Pool Re-Plastering Project.*

*Mayor Keener stated he saw an email that came in from an avid golfer.*

*Mr. Wiley said he has not responded to that message but he will be addressing that this week. He explained the work being done at the Golf Course and why the grass isn't as green as it usually is. He said the grass is growing slower than he wanted at the Sports Complex. The fields are playable but not where he would like them to be. They have been fighting a fungus outbreak.*

- O. Civil Engineer
- P. Building Official

#### **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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

There being no further business, Mayor Reece Keener adjourned the meeting.

---

Mayor Reece Keener

---

Kelly Wooldridge, City Clerk

City of Elko           )  
County of Elko        )  
State of Nevada       )

SS     August 25, 2020

The City Council of the City of Elko, State of Nevada met for a special meeting beginning at 2:00 p.m., Tuesday, August 25, 2020. Due to the COVID-19 pandemic the meeting was held in Chambers and via GoTo Webinar.

## **CALL TO ORDER**

This meeting was called to order by Mayor Reece Keener. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can participate by phone, tablet, laptop, or computer by registering with the Goto Webinar link provided in the agenda. Questions can be sent to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). Due to COVID-19 restrictions, physical attendance at this Special Meeting will be limited to only those individuals necessary to conduct the hearing.

## **ROLL CALL**

**Mayor Present:**     Reece Keener

**Council Present:**   Councilman Robert Schmidlein  
                          Councilman Chip Stone  
                          Councilman Bill Hance

**Council Absent:**    Councilwoman Mandy Simons

**City Staff Present:** Curtis Calder, City Manager  
                          Kelly Wooldridge, City Clerk  
                          Dave Stanton, City Attorney  
                          Tom Coyle, Deputy City Attorney  
                          Ty Trouten, Police Chief  
                          DJ Smith, Computer Information System Coordinator  
                          Diann Byington, Recording Secretary

## **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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

**The following agenda item contains detailed testimony regarding an appeal to Council. Attention was given to include as much discussion on this item as possible, but the wording is not verbatim.**

## **I. PETITIONS, APPEALS, AND COMMUNICATIONS**

- A. Consideration of an appeal filed by Ron Goldie regarding the City Manager's approval of the City Clerk's decision to revoke the City of Elko business license issued to Goldie's pursuant to City of Elko Code, Section 4-1-14, effective August 7, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

On August 6, 2020, the City of Elko conducted a hearing before the City Manager pursuant to Elko City Code (ECC) Section 4-1-14(B) to determine whether to approve or deny the City Clerk's proposed revocation of Goldie's business license.

At the hearing, testimonial and physical evidence was presented, including the testimonies of the City Clerk, the Elko Police Chief, and representatives of the State of Nevada, Department of Health and Human Services (DHHS). Mr. Goldie personally testified and presented several witnesses on his behalf.

Based upon the testimonies of the witnesses and documents provided, the City Manager made fourteen (14) individual findings of fact, and a subsequent analysis determined Goldie's to be in direct violation of Emergency Directive 027, NRS 199.280, NRS 202.450(3), ECC 4-1-12(A)(1). CC

Mayor Keener went over the procedures for the hearing.

Mayor Keener called Mr. Ron Goldie to the podium and asked him if anything had changed in the status since August 6, 2020 with the City manager.

Ron Goldie, 182 W. Bullion Rd. #13 Elko, NV, said he got the approval from the State for a license from the division of Public and Behavioral health (Exhibit A). He was sworn in for testimony. Mr. Goldie continued to say that he thought he had a food establishment license and on the license it said no restrictions. He has operated under this license for over 28 years and had never been a problem until now. He advised the council that he closed immediately after the hearing with the City manager. He has closed Goldie's Bar two times and did not defy the governor's mandate intentionally and thought he was operating according to the mandate to stay open. The decision to have the license revoked is not only going to affect him but also the employees that work there. Goldie's now has the correct license. He advised the police were not let in on April 29, 2020 and apologized for not allowing the police in. He admits it was an isolated decision that was bad. He will not allow it to happen in the future.

Mayor Keener said the document that was presented (Exhibit A) is an inspection report.

Mr. Goldie said that was correct. The actual license will not be available immediately and is mailed upon approval. He would like to have Goldie's employees testify as witnesses.

Mayor Keener advised that he would allow the witnesses and asked if there could be a group swear in.

Mr. Coyle advised he was ok with the group and would like to ask Mr. Goldie more questions before the other witnesses are called.

Mr. Coyle asked Mr. Goldie what type of permit was provided to the Council.

Mr. Goldie advised it was from the State Health Department for a Food/Snack Bar license.

Mr. Coyle asked if it was Mr. Goldie's understanding that he has a Snack/Bar license now and when it was issued.

Mr. Goldie responded yes and it was issued last Friday on August 21, 2020.

Mayor Keener pointed out that it appeared to be an inspection report at the top of the paper.

Mr. Goldie said that they needed to have an inspection to approve the license and they approved the license.

Councilman Schmidtlein asked what the other paper was in his hand.

Mr. Goldie responded that was the old license that was issued.

Councilman Stone advised that when he had acquired his license, he received the same form. The other license came later and was a two-step process.

Mr. Coyle advised Mayor Keener he would like the witness to be recalled at a later time.

Mayor Keener advised that was acceptable.

Mr. Goldie called his witnesses.

Barry Simmons was sworn in, 658 Ranger Road Elko, NV 89801. He has worked for Mr. Goldie for 15 years. They were under the impression that they were doing everything right by following the rules for the City. He was surprised because they did social distancing, mask mandates and everything that included to following COVID19.

Mr. Coyle dismissed the witness.

Maddie Bushard was sworn in, 624 Willington Drive Spring Creek, NV. She works for Goldie's and thought they were doing everything right by following the mandate by the governor. She was present for the inspections and when Chief Trouton came in.

Mr. Coyle dismissed the witness.

Mayor Keener advised everyone that this is not the City's mandate and is a direct mandate from the governor's office that the City is compelled to observe and enforce.

Melanie Layton was sworn in, 668 Smokey Drive Spring Creek, NV. Her experience with working with the owner of Goldie's Bar, Ron Goldie, has been a very good experience. She explained that they would sit together as a team to improve Goldie's and would like to get back to her job.

The witness was dismissed.

Michael Doughety was sworn in, 1910 Idaho Street Elko, NV. He has worked for Mr. Goldie maintaining the building and has witnessed Mr. Goldie trying to abide by the mandate and felt that Goldie's Bar should remain in business.

The witness was dismissed.

Tony Cisco was sworn in, 2415 Rodeo Court Elko, NV. He has been negotiating with Mr. Goldie to purchase Goldie's Bar. He had reviewed the license with Mr. Goldie and it stated food establishment with no restrictions. Mr. Goldie decided to remain open since the license said food establishment with no restrictions. They did not feel they were doing anything wrong. He brought attention to the type of license to the Health Department. He would like the license to be reinstated and to have a second chance.

Mr. Coyle asked Mr. Cisco when the attention was brought to the Health Department and if that was after they received the letter of intent to revoke.

Mr. Cisco replied yes because he did not understand the letter and went to the health department to get clarification. He first had a health inspection prior saying they were good to go and the letter said it was the wrong license. Once they found out it was the wrong license, Mr. Goldie applied for the correct one.

Mr. Coyle asked if he was aware that every bar in Nevada was supposed to have the Bar/Food establishment permit.

Mr. Cisco replied no he did not know until he went to the health department.

Mr. Coyle asked how long he was advising Mr. Goldie on the license and if it was before COVID19.

Mr. Cisco replied he was advising Mr. Goldie since the governor passed the mandate.

Mr. Coyle asked if he knew the scope of what he could and could not do under the bar/service bar permit.

Mr. Cisco said that he did not know it existed.

Mr. Coyle asked if he knew what it meant by the license stating food establishment/bar/service bar.

Mr. Cisco stated the license said food establishment with no restrictions. They were not aware of any other license until he spoke to the health inspector.



Mr. Coyle offered the following into evidence; exhibits from the hearing, decision letter from the City Manager, minutes, and notice of this appeal hearing. He provided the evidence to Mr. Cisco and City Clerk, Kelly Wooldridge (included in packet agenda).

Mayor Keener advised the public and online listeners the evidence is available on the City of Elko website under the City Council meeting in the agenda packet.

Mr. Coyle advised in the packet "Exhibit C" there is a copy of the Health Department license. In the permit description it says Bar/Service Bar which is the type of license Goldie's had.

Mr. Cisco replied yes.

Mr. Coyle read the license and pointed out underneath the conditions of permit it stated no restrictions.

Mr. Cisco replied that is correct.

Mr. Coyle said prior to going over to the Health Department Mr. Cisco did not understand what those descriptions meant.

Mr. Cisco stated that was correct.

Mr. Coyle said that the Health Department advised Mr. Cisco that he was not allowed to serve food under the governors order.

Mr. Cisco replied that was correct.

Mr. Coyle said that they continued to operate until August 6, 2020.

Mr. Cisco replied that is not correct.

Mr. Coyle asked if he had terminated the business operation after the Health Department had advised him of not having the correct permit.

Mr. Cisco said they did not terminate the business operation because they did not understand when the license said food establishment Bar/Service Bar, no restrictions. Goldie's Bar thought they had the correct license.

Mr. Coyle stated despite what he was told by the Health Department, Goldie's continued operation until Mr. Calder's letter stated the license was withheld.

Mr. Cisco said that was correct. He did not know what was going on. His interpretation of Bar/Service Bar with no restriction was that Goldie's Bar was able to operate. He spoke to his sister, whom is a lawyer and other lawyers. They had the same impression and he did not know until he spoke to the Health Department. They informed him Goldie's needed a separate license that stated they could serve food.

Mr. Coyle asked if they continued to contest that license until the City Manager, Curtis Calder, made his decision.

Mr. Cisco stated that was correct.

Mr. Coyle had no further questions for Mr. Cisco.

Councilman Schmidlein asked Mr. Cisco when did he meet with the Health Department.

Mr. Cisco replied when they received the letter from the City, he went to the Health Department the same day.

Councilman Stone asked how long it was till the bar was shut down.

Mr. Cisco replied on August 6, 2020 when the hearing took place, Mr. Goldie closed the bar immediately due to not having the correct permit.

Mayor Keener advised there were online listeners that wanted to weigh in on comments. There are two people that are holding on the call-in line. He advised when they speak to state their name and address for the record. They would also need to be sworn in.

Don Knight was sworn in, 772 Elm Street Elko, NV. He stated that small business have a huge impact in our community. COVID19 has effected a lot of small businesses and Elko needs to do everything in their power to protect small business for the community. He asks they do everything they can because the entire City relies on small business.

Mayor Keener thanked Mr. Knight and stated everyone on the Council owns a small business. He moved on to the next caller.

Heather Scott was sworn in, 5527 Gunpowder Drive Elko, NV. She does not want to see another business go out of business. She thought Mr. Goldie needs to have another chance.

Mayor Keener thanked Ms. Scott for her comments and asked if anyone else had additional comments.

Ms. Wooldridge read a letter (Exhibit B) from Mr. Kevin Sur.

Mayor Keener moved onto the next witness.

Andrea Nicely was sworn in, 1326 W. 320 N. St. George, UT. She has known Mr. Goldie for many years and he had always worked with the City and the police. There were restrictions that were set in place from COVID19 and closed once. They re-opened and another mandate was issued to close bars unless they served food. As the license states food establishment, service bar with no restrictions. She stated anyone looking at the license would assume he is allowed to serve food. He was not trying to defy anyone when he was notified and imminently applied for the correct license. It would not benefit anyone to close his business.

Kristine Gregerson was sworn in, 1049 Sewell Drive Elko, NV. She is a former employee of Goldie's and said they are great people. There are a lot of regulars that come to the bar. She does not agree with the City's decision and feels they are bullying him.

Mr. Coyle called Matthew Lawstemma as a witness.

Matthew Lawstemma, Environmental Health Specialist with the Department of Health, was sworn in. He stated that Teresa Hayes is on the phone who is his supervisor. He has been employed over a year as an Environmental Health Specialist. He inspects various food establishments in Elko County.

Mr. Coyle asked if he is familiar with the governor's directive 027 of closing bars, with the exception of bars that serve food, and if he was familiar with Goldie's bar.

Mr. Lawstemma responded yes he is familiar with the governor's directive 027 and Goldie's bar.

Mr. Coyle asked if he was familiar with the license (Exhibit A) that was presented by Mr. Goldie.

Mr. Lawstemma advised he is familiar with the document. It was from their pre-opening inspection report.

Mr. Coyle asked if that document is a snack bar permit that Goldie's Bar now has.

Mr. Lawstemma advised that was not the actual permit and is a general form where he can write information on and leave it with the operators.

Mr. Coyle asked if Mr. Goldie has a snack bar permit at this time.

Mr. Lawstemma advised it was based on the outcome of today's hearing. Goldie's has completed all the necessary steps and passed the pre-opening inspection. Goldie's would need to have the business license with the City of Elko to be reinstated and allowed to resume operations. They would have the snack bar permit if those conditions are met.

Mr. Coyle asked prior to the snack bar permit approval, what license did Goldie's Bar have.

Mr. Lawstemma advised they had a bar/service bar permit.

Mr. Coyle asked if every bar in the State of Nevada required to have that permit to operate.

Mr. Lawstemma advised yes, the bar/service bar permit is required to operate in the State of Nevada.

Mr. Coyle asked if a bar/service bar permit exempts certain types of food and requires a higher permit.

Mr. Lawstemma replied yes.

Mr. Coyle asked what types of food are exempt.

Mr. Lawstemma advised commercially or canned beverages, coffee or coffee beans, prepackaged snacks or candies, prepackaged food supplements such as teas and herbs and whole fruits and vegetables in a natural and unprocessed state.

Mr. Coyle asked if that is found in one of the Nevada Administrative codes.

Mr. Lawstemma replied yes, NAC446.042. Anyone who has a bar/service bar permit would be allowed to look up that code and find the exemptions.

Mr. Coyle asked according to the Health Department's agency, does having a bar/service bar permit allow bars with that type of permit to be opened by the governor's directive 027.

Mr. Lawstemma advised no they are not allowed to be open.

Mr. Coyle asked if Mr. Lawstemma was present at the City Manager's hearing on August 6, 2020, regarding Goldie's Bar.

Mr. Lawstemma advised he was present.

Mr. Coyle asked if he recalled the menu that was presented at the prior hearing.

Mr. Lawstemma recalled the menu but not all the items listed on the menu.

Mr. Coyle handed Mr. Lawstemma a copy of the document that was admitted into evidence in the last hearing. He advised the menu is listed in the document. In the menu were the items listed not permitted under the bar/service bar permit.

Mr. Lawstemma advised he looked at the menu again. There were items that were on menu that were not permitted under the bar/service permit. Everything on the menu excluding chips, if they were prepackaged, were not permitted.

Mr. Coyle asked if the snack bar permit was the minimum to serve food under the governor's directive 027.

Mr. Lawstemma's understanding of the governor's directive 027 would left up to local authorities. The snack bar permit is the minimum for a food service permit.

Mr. Coyle asked if there are higher food permits than a snack bar permit.

Mr. Lawstemma replied yes.

Mr. Coyle asked what would be the next level after the snack bar permit.

Mr. Lawstemma referred Mr. Coyle to Teresa Hayes.

Teresa Hayes was sworn in, Environmental Health Program Manager for Nevada Public and Behavioral Health at 727 Fairview Dr. Carson City, NV. The snack bar would allow anything that is pre-cooked and reheated for service.

Mr. Coyle asked if the snack bar permit refers back to NAC 446.442.

Ms. Hayes advised the definition of a food establishment in code would be anything that is consumed. The Health Department exempts bars to allow what would be considered as incidentals, which would be prepackaged food.

Mr. Coyle asked if by putting food establishment on the food permit when it states Bar /Service bar, it allows the bar to serve food.

Ms. Hayes advised bar would be liquid beverages plus incidentals but would not allow the bar to serve food such as a hot dog.

Mr. Coyle asked after the hearing on August 6, 2020, if the Health Department issued a letter to Mr. Goldie.

Ms. Hayes and Mr. Lawstemma responded yes.

Mr. Coyle asked what the subject of the letter was.

Ms. Hayes advised based on the information that was gathered in the hearing on August 6, 2020, Mr. Goldie's permit for the Bar/Service Bar was not in his name. The letter, which was approved by the District Attorney's office, requested Mr. Goldie to apply for a permit in his own name. Mr. Goldie had applied and is tenably approved for his own bar permit under his name. The permit will be issued based on the outcome of this hearing.

Mr. Coyle had no further questions.

Mayor Keener asked the board if they had any questions for Mr. Lawstemma.

No further questions were asked.

Mr. Coyle called Mr. Goldie as a witness and reminded Mr. Goldie he is still under oath. He asked if Mr. Goldie recalls the letter that was issued after the hearing on August 6, 2020 written by the City Manager, Curtis Calder. It was the conclusion to revoke the license of Goldie's Bar.

Mr. Goldie remembered the letter and advised he was correct.

Mr. Coyle asked if he is appealing anything else in the letter other than the suspension of the license.

Mr. Goldie advised no.

Mr. Coyle asked if Mr. Calder went too far in the action of the letter.

Mr. Goldie said he was not sure if he went too far and does not agree with the determination. He voluntarily closed after the hearing on August 6, 2020 because he understood he had the wrong permit.

Mr. Coyle said when directive 027 was issued from the governor, Goldie's did not close.

Mr. Goldie advised he did not close because he thought he had the right license. After 28 years, it was a mistake on his part and he corrected the mistake by getting the correct license. He apologized for not having the correct permit.

Mr. Coyle asked prior to applying for the snack bar permit, if Mr. Goldie had a snack bar permit at any time before.

Mr. Goldie advised no, he did not because he did not know. The culpability was not only on his part but also the Health Department. He said there was a misunderstanding and miscommunication. It was never pointed out by the Health Department for 28 years.

Mr. Coyle said as a licensee, it is his duty to uphold the duties of the license.

Mr. Goldie agreed it is his duty but he is not a lawyer and took it as laymen terms. He did not know he was doing anything wrong and believed he was operating under the laws and mandate.

Mr. Coyle asked on April 10, 2020, if Mr. Goldie refused entry to law enforcement.

Mr. Goldie said yes he acknowledges the refusal of entry to law enforcement. However, it was a mistake. His bar was clearly closed with a locked door. They were in the bar painting, cleaning and working on the bar. Mr. Goldie said he should have opened the door and did not know it was a violation. He looked at it as private property when the door is closed.

Mr. Coyle asked what his understanding of the code is now.

Mr. Goldie said he should have opened the door.

Mr. Coyle asked if he acknowledges that law enforcement has the right to come in and inspect the property.

Mr. Goldie acknowledges they do and made a bad decision, which he will not do again. In the City code it stated only during business hours.

Mr. Coyle passed the witness to the council.

Councilman Schmidtlein asked if he realized that his liquor license is a privilege.

Mr. Goldie acknowledges it is a privilege.

Councilman Schmidtlein asked when the officers were at the door if they stated his liquor license was on the line.

Mr. Goldie said no they did not inform him. They told him if he did not open the door they would pull his license. He felt it was threatening and did not understand why that attitude was projected for bringing a letter to him. He acknowledged he made the wrong decision and it would not happen again.

Councilman Schmidtlein asked what he thought the consequences should be done moving forward in this hearing.

Mr. Goldie is willing to agree with the council that would be fair. That might include probation or a fine. He wants to be given a chance to comply with the City.

No other questions were asked from the council.

Mayor Keener acknowledged there were other witnesses on the line that would like to comment. He acknowledged Kristi Brady on the phone.

Kristi Brady was sworn in, 2405 Mitrey Avenue Elko, NV. She is the owner of Charlee's Bar and has known Mr. Goldie for years. As a fellow bar owner the closures have been brutal on the owners, employees, friends, family and patrons. Ms. Brady says the strain on the new laws and mandates for bars is confusing and hard to follow. She has seen Mr. Goldie's practices. She has seen sanitizers, handing out masks, sanitizing the bar completely and it would be a devastating loss for Elko to not be able to have Goldie's open. The license says he is allowed to serve food. He is an upstanding businessman and has served the community for 30 years.

Mr. Coyle asked if she has the Bar/Service Bar permit.

Ms. Brady replied yes.

Mr. Coyle asked if she voluntarily closed after the governor's directive 027.

Ms. Brady acknowledges she did.

Mr. Coyle asked if she knew of any other bar that has the same Bar/Service Bar permit that remained open.

Ms. Brady did not however, did not ask what type of license they had.

Mr. Coyle had no further questions.

Mayor Keener acknowledges Mr. Sur on the phone.

Kevin Sur was sworn in, 1880 Jennings Lane Elko, NV. He wanted to support Mr. Goldie and felt he has been persecuted. He acknowledges Mr. Goldie's testimony of admitting his wrong and the council needs to show support of local business in Elko.

Mayor Keener said he had heard a lot of support for Goldie's. He wanted to know if anyone opposed and did not support Goldie's.

Mr. Coyle called the Chief of police as a witness.

Tyler Trouton, Chief of Police was sworn in, 1448 Silver Street Elko, Nevada. Chief Trouton has been an officer for almost 21 years.

Mr. Coyle asked if he is familiar with Goldie's Bar.

Chief Trouton replied yes.

Mr. Coyle asked about July 18, 2020 and if Elko Police Department had been in contact with Goldie's concerning the governor's directive 027.

Chief Trouton said they did have contact. Sargent Locuson served Goldie's with the notice of violation of the governor's directive 027.

Mr. Coyle asked if that advised Goldie's to close due to directive 027.

Chief Trouton advised yes, the notice advised Goldie's they would need to close.

Mr. Coyle asked if they continued in operation.

Chief Trouton advised they did continue in operation.

Mr. Coyle asked about the weekend of July 25, 2020 when Chief Trouton or others if they had additional contact with Goldie's.

Chief Trouton said he was not sure about contact however, he was out during that timeframe around the 28th and observed Goldie's open through the evening and early morning hours the next day.

Mr. Coyle asked if he had gone to other City officials to determine what actions needed to be taken.

Chief Trouton said there was discussion and following the hearing. It also included a couple of phone calls and contacts to Mr. Goldie about the notice that was served.

Mr. Coyle directed attention to April 10, 2020 incident. If he recalled that incident of officers not being allowed to go onto the premises of Goldie's bar.

Chief Trouton said he watched the body cam footage from that incident.

Mr. Coyle asked the Chief to describe the incident from a law enforcement perspective.

Chief Trouton said the officers went to Goldie's and also Tiki Hut, another bar establishment that had speakers on outside. The officers did not hear voices and nothing could be viewed inside Tiki Hut. The officers proceeded to Goldie's Bar and made contact verbally through the door. Mr. Goldie advised he was not opening the door and said he was having a private gathering. The officers advised Mr. Goldie that refusing could cause issues with his liquor license. Mr. Goldie said that would be fine. The officers served the notice by leaving it at the door and then left.

Mr. Coyle asked if that was under the governor's directive 003.



Chief Trouton advised that it was during the initial shutdown.

Mr. Coyle asked with the initial shutdown if any other bar refused entry to Elko Police Department.

Chief Trouton advised no other bar refused entry. They had multiple calls from bars, many of which were doing construction within the bar.

Mr. Coyle clarified asking if the other bars were open for business.

Chief Trouton advised no.

Mr. Coyle asked if any other bars failed to close under the directive 027.

Chief Trouton said there were several bars that initially did not close. Lieutenant Palhegyi spoke to Good Time Charlie's, Tiki Hut and Goldie's bar. He spoke to the managers and educated the bars on the directive and other options that were available in State grants or grants through Nevada Gold. He had advised them pursuant to the governor's order they would need to close.

Mr. Coyle asked after contact, if anyone other bar other than Goldie's remained in operation.

Chief Trouton advised that Goldie's was the only one who stayed in operation.

Mr. Coyle asked if there were complaints about Goldie's being open.

Chief Trouton said there were competitors that complained Mr. Goldie was still open for business.

Mr. Coyle advised he had no further questions for Chief Trouton.

Mr. Coyle called Kelly Wooldridge, Elko City Clerk.

Ms. Wooldridge was sworn in. She has been employed as the City clerk since June 2018. The City Clerk's Office oversees the business licensing, liquor licensing, gaming licensing and special event permits that include special event liquor permits.

Mr. Coyle asked if she was aware of Goldie's Bar in Elko Nevada.

Ms. Wooldridge replied yes.

Mr. Coyle asked if Goldie's holds a City business license.

Ms. Wooldridge replies yes.

Mr. Coyle asked if she took action for notice to intent to revoke the business license.

Ms. Wooldridge replied yes.

Mr. Coyle asked what lead to that action.

Ms. Wooldridge advised she had after several discussions with Chief Trouton. Since COVID-19, she and Chief Trouton have worked closely to monitor the governor's directives. They have had several discussions about Goldie's bar remaining open. The City Clerk's office received daily calls in regards to complaints for businesses that remained open.

Mr. Coyle asked if some of the complaints were regarding Goldie's bar.

Ms. Wooldridge replied yes.

Mr. Coyle asked after consulting with Chief Trouton, if the determination was to take action under the City code.

Ms. Wooldridge replies yes but unfortunately the City code does not allow the Clerk to give fines or other types of conditions on the license. It will only allow for suspension or to revoke the license.

Mr. Coyle asked what Goldie's response was after it was served.

Ms. Wooldridge spoke to Mr. Goldie several times and the discussions were mainly about the Health Department's permit.

Mr. Coyle asked if she spoke to the Health Department.

Ms. Wooldridge believed Chief Trouton spoke to the Health Department but she did not directly speak to them.

Mr. Coyle asked if she was aware in general of the information he had received back from the Health Department.

Ms. Wooldridge advised yes.

Mr. Coyle asked if it was consistent with the testimony of the Health Department official today.

Ms. Wooldridge advised yes.

Mr. Coyle passed the witness.

Mayor Keener asked the board if they had any questions for Ms. Wooldridge.  
There was no further questions.

Mayor Keener asked Mr. Goldie if there was anything that he disagreed with in regards to Chief Trouton and Ms. Wooldridge's testimonies.

Mr. Goldie responded no.

Mr. Stanton advised the Council, Mr. Goldie has the right to question the witnesses if he wanted.

Mayor Keener asked if Mr. Goldie would like to question the witnesses.

Mr. Goldie advised he would not like to question and the issues had been presented on both sides clearly. He is regretful for his bad decisions and asked for another chance to do the right thing so his employees can get back to work.

Mayor Keener asked Mr. Stanton if they could move into consideration amongst the board after hearing the testimonies and evidence that was presented.

Mr. Stanton advised both parties they could move forward if they have provided all their evidence, exhibits, testimonies and arguments. In accordance the council should also ask for additional public comment.

Mayor Keener asked for public comments and would like the board to go into deliberation. He thought the description on the license was very confusing and the name of the applicant should have been corrected a long time ago. He would like to side with the appellant. He feels blocking the revocation is the right thing to do. He asked the fellow board members for their thoughts.

Councilman Hance does not believe they should be the arbiter of the governor's directive because it is not law and it has not passed through the legislature. If the State wants to enforce the mandate, then the State needs to support the revocation. He spoke with the Secretary of State's office and the State of Nevada is not revoking business license. If the governor wanted the directives to be enforced then his own people needed to enforce the directives. The Health Department never took Mr. Goldie's permit. He believes the Liquor license is a privilege and should be looked at further. However, he is against revoking the license.

Mayor Keener thanked Councilman Hance and asked for additional Council's comments.

Councilman Schmidlein agreed with Councilman Hance. Mr. Goldie admits he should have opened the doors and is not sure what to do for disciplinary actions. There are conditions that needs to be implemented. The liquor license needs to have the proper names on the license. Mr. Goldie would need to obtain proper license with the Health Department. He feels the window film would need to be removed so the officers can see inside.

Councilman Stone said he would like to renew Goldie's bar business license. The state permit needs to be in the correct name and follow the governor's guidelines. In regards to breaking laws by not allowing officers in Goldie's bar, he suggests a 30 day probation. He is concerned the view being blocked so removing the window film would need to happen for the safety of the officers.

Mayor Keener asked what 30 day probation meant.

Councilman Stone clarified by stating the probation would need to ensure they are following the liquor license guidelines and business license guidelines. He agreed with Councilman Hance that the State guidelines are the State's responsibilities.

Mr. Stanton advised the council of their options. The first option would be a suspension and that

could have conditions. Once the conditions are met then the suspension would be lifted automatically following the conditions. If the conditions are not met then the suspension would remain in place.

Councilman Stone stated rather than reinstating the license, the suspension can be handled with the explanation he gave.

Mr. Stanton advised that is correct. The council has the ability to reverse the decision of the City Manager. If it is reinstated then it will be the same as it was before. The council has the ability to affirm the decision. The third option is a suspension and how it is constructed.

Councilman Stone asked if they can still be in business with the suspension.

Mr. Stanton advised that was correct and it can have deferred implementation. If the requests that are not met then there could be something else done with the license.

Councilman Schmidtlein asked Mr. Goldie how many days he needed to remove the film on his windows.

Mr. Goldie advised it could be removed tomorrow.

Councilman Schmidtlein asked if September 1, 2020 would give him enough time.

Mr. Goldie agreed.

Councilman Schmidtlein asked Ms. Wooldridge how long it would take for the proper name to be on the business license.

Mr. Goldie advised the proper names have already been submitted to the Health Department.

Ms. Wooldridge advised that she could have Mr. Goldie update the proper names but believed he has the proper names already.

Mayor Keener asked if the liquor license had the proper names as well.

Ms. Wooldridge advised she would have to double check the name but believed it was under Mr. Goldie's name.

Councilman Hance asked the Health Department, as long as Mr. Goldie complies with all the requirements, what would be the timeframe for a certificate in hand for Mr. Goldie.

Mr. Lawstamm advised usually it takes one month from start to finish. The temporary license would be issued the same day.

Councilman Hance asked if there was anything in the inspection that would have to happen before issuing the license.

Mr. Lawstamm said there were several items that needed to be done. He advised there were

items that were not permitted under a snack bar permit and others that would not be suitable for a food establishment.

Councilman Hance notice one item being a BBQ grill. Those items needed to be removed and nothing needed to be upgraded for him to move forward on getting the snack bar permit.

Mr. Lawstemm advised the biggest issue was a household refrigerator and they are required to use commercial grade. They currently have some space upfront and depends on how much space they need.

Councilman Hance asked under the code, does the household refrigerator need to be removed.

Mr. Lawstemm replied yes.

Mr. Hance asked Mr. Goldie if he would be able to make the correction that the Health Department is asking.

Mr. Goldie replied yes.

***\*\*A motion was made by Councilman Stone, seconded by Councilman Hance, to suspend the business license subject to the following conditions; film must be removed from the windows/doors within seven days and obtain correct DHHS snack bar license within 45 days. Business operations may resume upon satisfying these conditions and the suspension will be automatically lifted, upon all proper documentation reviewed and verified by the City Clerk. Failure to comply with these conditions shall result in the suspension remaining in effect until further action of the City council, at a public hearing.***

***The motion passed unanimously (4-0).***

Mayor Keener acknowledges the community support and wished Mr. Goldie success.

#### **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. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov). **ACTION WILL NOT BE TAKEN**

***There were no public comments.***

There being no further business, Mayor Reece Keener adjourned the meeting.

---

Mayor Reece Keener

---

Kelly Wooldridge, City Clerk

NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
CARSON CITY, NEVADA 89706  
PHONE: (775) 687-7533  
<http://dphh.nv.gov>

Permit Number:  
EL- 013-  
25014

PURPOSE: ☐ Regular ☐ Follow-up ☐ Complaint ☐ Investigation ☒ Other: pre-opening

INSPECTION REPORT FOR: Goldie's Bar

OWNER OR OPERATOR NAME: Lavrie Sue Gardner

ADDRESS: 465 Railroad Street

TYPE OF ESTABLISHMENT: snack bar COUNTY: Elko

Based on an inspection this day, the items marked below identify the observation in the operation of facilities that must be corrected by the next routine inspection or within the time period specified in writing by the health authority. The opportunity for an appeal will be provided if a written request for a hearing is filed with the health authority within the period of time established in this notice for the correction of violations.

ITEM NO.	OFFICIAL NOTICE	TO BE CORRECTED BY
	<ul style="list-style-type: none"><li>• Pending the City Council Appeal Hearing next week (8/25/20), your Elko City Business license was revoked and you are not approved to operate.</li><li>• Per NAC 446.813, a permit is not transferable from one person to another. See the letter dated August 6, 2020. You still need to apply for a new bar permit with the current owner's information.</li><li>• The fridge does not appear to be commercial grade. When it stops working, replace with a commercial unit</li><li>• Replace your non commercial freezer with a commercial unit</li><li>• Remove the bbq grill from the back. You are not approved to cook on a grill.</li></ul>	

RECEIVED BY: Rm Goldie TITLE: 8-21-20

INSPECTED BY: Matthar Lawstern DATE: 8/21/2020

Page 1 of 1 Pages

## GOLDIE'S BAR APPEAL HEARING

## SIGN IN SHEET

**8/25/2020**

[illegible]

Kevin Sur  
1880 Janie Lane  
Elko Nevada 89801  
(775) 397-2794

Elko City Council  
Elko City Hall  
1751 College Ave.  
Elko Nevada 89801

August 25, 2020

Dear Sirs:

I have been a customer at Goldie's bar for many years. I have drank and eaten there many many times. I believe the Elko City Council must reinstate the Business license for Goldies at this time.

This issue is a difference of opinion with over what is allowed by which license and who issues it by what authority, which everyone who testifies is a confusing mish mash of state and local laws.

Mr. Goldie has complied with the City Councils wishes and obtained a different License so he is in compliance when serving food. The City Council must re-issue the license.

We are in the midst of the Covid -19 China virus health crisis and Elko will lose many small businesses due to the shutdowns. Why drive another small business man out of business. Doesn't Elko have enough vacant and closed stores?

Furthermore the council must recognize the chilling effect its actions will have on any new business that may possibly open in Elko. If the Council does not restore the business license here exactly what message is it sending to any potential business that is considering opening here?

The Elko City Council should show goodwill toward Mr. Goldie here and now and re-issue the business license.

Sincerely

A handwritten signature in black ink, appearing to read 'Kevin Sur', with a long horizontal flourish extending to the right.

Kevin Sur



**Elko City Council  
Agenda Action Sheet**

1. Title: **Consideration and possible approval of an Interlocal Agreement for the Grant of Funds Pursuant to the Coronavirus Aid, Relief and Economic Security Act between the City of Elko and the County of Elko in the amount of \$1,095,919.16, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **Sept. 22, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Council previously authorized Staff to accept the CARES Act funding, determine eligible expense and purchases to be reimbursed or expended from CARES Funding, and to consider the possible allocation of the CARES Funding not utilized by the City of Elko to Elko County for the business Grant Cares Grant Program subject to an Interlocal Agreement with Elko County. An Interlocal Agreement was prepared by David Stanton, City Attorney. The County is requesting changes as outlined in the attached red lined agreement, Page 4, Paragraph 3. Specifically, the County is requesting that the original language of: “as well as any subsequent emergency directives or executive orders related to the COVID-19 health crisis capacity” be changed to “as of September 3, 2020 related to the COVID-19 health crisis capacity.” This is a substantive change to the proposed Interlocal Agreement which does not align with the original Coronavirus Relief Fund Eligibility Certification approved by the City Council and certified by the City Manager. JB**
6. Budget Impact Statement:
  - Appropriation Required: **\$1,095,919.16**
  - Budget amount available:
  - Fund name: **General Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Interlocal Agreement with red lined Elko County requested changes; City of Elko Coronavirus Relief Fund Eligibility Certification; Receipt Acknowledgement to Terms and Conditions and CRF Expenditure Plan submitted to the State of Nevada by the City of Elko when requesting the first half of the Coronavirus Relief Funds of \$1,867,479.**
9. Recommended Motion: **At the pleasure of the Council**
10. Prepared By: **Jan Baum, Financial Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:



# CITY OF ELKO

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [insertname]@elkocitynv.go

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7104 • Fax (775) 777-7119

---

July 27, 2020

Governor's Finance Office  
ATTN: Coronavirus Relief Fund  
209 East Musser Street, Room 200  
Carson City, NV 89701-4298  
Digital Copy: COVID19@finance.nv.gov

RE: Coronavirus Relief Fund Required Documents  
Vendor #T40267000

Dear Sir/Madam

In accordance with the requirements of the Coronavirus Relief Fund Instructions, enclosed please find the signed Coronavirus Relief Fund Eligibility Certification; Receipt, Acknowledgement, and Agreement to Terms and Conditions and CRF Expenditure Plan for the City of Elko. Also enclosed please find proposed changes to the Coronavirus Relief Fund Eligibility Certification and Receipt, Acknowledgement, and Agreement to Terms and Conditions as submitted to the State of Nevada by our attorney David Stanton on Friday July 24, 2020. In the event the enclosed changes are not approved by the State of Nevada legal authority, the City of Elko will agree to the original documents.

Per the guidance issued by the State of Nevada Governor's office and Instructions for the Nevada Localities, the submittal and approval of the enclosed required documents will release the 1<sup>st</sup> half of the City of Elko Coronavirus Relief Funds in the amount of \$1,867,479 to the City of Elko.

If there are additional required documents or information needed, please contact me or one of the administrative contacts listed on page 4 of the Coronavirus Relief Fund Eligibility Certification.

Thank you,

Curtis Calder,  
City Manager

enclosures



# City of Elko, Nevada

## Coronavirus Relief Funding Fund Expenditure Plan - I 1<sup>st</sup> Half of Allocated Funds

In accordance with the requirements for Coronavirus Relief Fund Terms and Conditions For Local Governments; Page 10 "Fund Expenditure Plan", below is the required Fund Expenditure Plan detailed for the City of Elko, Nevada.

### 1. Statement why funds needed

As a result of the Emergency order related to COVID-19 dated March 18, 2020 the City of Elko has incurred costs to protect employees, the residents and visitors in the City of Elko and to adhere to Governor Sisolak's directives. The City of Elko is on the path to ensuring employees are able to work in a safe environment going forward; whether it be working from home or in an environment where social distancing is possible. The City of Elko supplies PPE to employees and visitors of City facilities and ensure facilities are cleaned properly. The City of Elko has members of our police department and fire department that are members of the Elko County COVID-19 task force. These employees are involved in managing City and County safety, testing, contact tracing, and proper COVID-19 care to residents when/if needed.

The City of Elko businesses, governmental divisions and non-profits have also been impacted by the COVID-19 emergency directives, which included full and partial shut-down in our jurisdiction. Organizations have incurred costs to comply with additional safety and cleaning requirements as well as lost working capital due to continued day-to-day expenses incurred despite the loss of revenue and business opportunities. The City of Elko will join Elko County to provide reimbursement and working capital grants.

### 2. Estimate of exact amount of funds required to meet this need

Spreadsheet attached

### 3. Expenditures to respond directly to the COVI-19 public health emergency

Spreadsheet attached

### 4. Eligible Expenditures

Spreadsheet attached

**5. Names of new or existing programs within the locality that will administer the use of funds**

Existing Financial Services Director and Finance Department

**6. Funds allocated to other entities**

Funds allocated to Elko County for small business grants through an inter-local agreement. Elko County will allocate funds to small businesses for COVID-19 direct expense reimbursement and working capital grants as defined in the Elko County Regional Grant Program.

**7. How City of Elko receiving funds will ensure the use of funds meet federal guidance**

- Expend funds in accordance with the City of Elko purchasing policy
- Consultation with auditor
- Consultation with legal representation
- Submit monthly and final spending reports to the State of Nevada on the CRF Activity Reporting Worksheet (SFY 2020 and SFY 2021 and FINAL)
- Retain supporting documentation of all expenditures
- Comply with Single Audit Requirements
- Return any unused funds to the State of Nevada by March 1, 2021

**City of Elko, Nevada  
Coronavirus Relief Funding  
Fund Expenditure Plan - I  
1st Half of Allocated Funds**

**Estimated COVID-19 Costs and Reimbursements**

	<u>Total</u>
<b><u>Reimbursable Expenses</u></b>	
<b><u>Payroll Expenses:</u></b>	
COVID-19 related Sick pay and Admin pay - Enable Compliance with COVID-19 public health precautions	301,637.67
COVID-19 - 2/3 Emergency Paid Sick Leave - per federal regulations	700.61
COVID-19 - Emergency Paid Sick Leave - per federal regulations	5,299.08
COVID-19 - Employee Sick time taken when "non-essentials" sent home	156,456.33
COVID-19 - Paid Admin Leave - "non-essentials" at home	138,118.94
COVID-19 - Sick Fire	1,062.71
Pay for Public Health and Public Safety Employees - services substantially dedicated to COVID-19	23,724.32
Fire Chief	9,801.95
Fire Deputy Chief	12,345.52
Police Chief	1,576.86
<b><u>COVID-19 related expenses address public health needs:</u></b>	
Fire Department - Decontamination Device and Supplies	3,500.00
Police Department - Decontamination Device	2,800.00
Public Safety measure undertaken in response - Sewer Testing for COVID-19 Detection	30,000.00
Sanitizing Products and PPE - by Dept.	22,478.15
Sneeze guards/public entry modifications - by Dept.	2,319.70
<b><u>Facilitate Compliance with COVID-19 Public Health Measures:</u></b>	
Improving social distancing measures - Large meeting location	2,500.00
Improvement of telework capabilities - Laptops	2,100.00
<b>Total Reimbursable Expenses</b>	<b>391,059.84</b>

**Expected Expenditures**

<b><u>Facilitate Compliance with COVID-19 Public Health Measures:</u></b>	
Improving social distancing measures:	18,000.00
Landfill Intercom System - result of sneeze guards	1,500.00
City Council Smart Cameras	1,500.00
Partitions/retrofits	10,000.00
Additional meeting facilities	5,000.00
Public Safety measure undertaken in response - Sewer Testing for COVID-19 Detection	20,000.00
Additional PPE/Sanitation	7,500.00
Improvement of telework capabilities for public employees	315,000.00
Laptops/docking stations - managers - accommodate remote meetings/working	12,000.00
Laptops - for checkout to at-home employees	10,000.00
Server for additional remote service/storage capacity	10,000.00
Bomgar - IT Remote assistance software	10,000.00
20 cradlepoints for telework wifi assistance	20,000.00
Portable scanners - accommodate working from home (5) - check out to employees	2,500.00
Generator for Remote microwave power backup	30,000.00
PoE Switch	4,000.00
Microwave Radios for wireless service to landfill, animal shelter, public works shops	54,000.00
Phone system - answer through laptop/call forward to cell phone/user control	35,000.00
Computer monitors with cameras and microphones and webcams	12,000.00
GoToMeeting software - for remote meetings	1,500.00
Agenda Management Software	60,000.00
Remote agenda hardware for Council Members	6,000.00
Adobe electronic signature or DocuSign	2,500.00
Leave Management Software	5,500.00
Human Resources - On-boarding and Safety Training Software	40,000.00
<b><u>COVID Related Payroll</u></b>	
COVID-19 related Sick pay and Admin pay - Enable Compliance with COVID-19 public health precautions	10,000.00
Pay for Public Health and Public Safety Employees - services substantially dedicated to COVID-19	10,000.00
<b><u>Economic Support</u></b>	
Transfer to Elko County - Small Business Grants	1,095,919.16
<b>Total Expected Expenditures</b>	<b>1,476,419.16</b>

Total 1st Half CARES ACT Funding **1,867,479.00**

**CORONAVIRUS RELIEF FUND**  
**ELIGIBILITY CERTIFICATION**

I, Curtis Calder, am the chief executive of The City of Elko, and I certify that:

1. I have the authority on behalf of The City of Elko to request direct payment from the allocation of funds to the State of Nevada from the federal Coronavirus Relief Fund, pursuant to section 601 (a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).
2. I understand that the State of Nevada will rely on this certification as a material representation in making a direct payment to The City of Elko.
3. I understand that as a local government entity (a county, city, or municipality) outside of Clark County below the State level with a population under 500,000, The City of Elko will receive payment based on Title V, Section 5001, Subsection (c), paragraph (5) of the CARES Act and the Department of Treasury per capita allocation formula, that governs payments to larger local governments. I understand this funding formula is being used as a benchmark, and specific payments will be disbursed in two allocation phases, with the first phase releasing 50 percent of funds immediately and the second phase releasing the remaining 50 percent of funds on a reimbursement basis or upon providing a detailed spending proposal. Phase one funding is required to be spent, or planned to be spent, in a detailed spending proposal by September 1, 2020 in order to request a second allocation. I also understand that allocation amounts may vary based on overall state and regional requirements and it will be at the discretion of the State of Nevada to determine whether subsequent payments will be issued.
4. I will coordinate with the State of Nevada, Governor's Finance Office (GFO) in optimizing federal funds from the CARES Act and other potentially available federal sources. In particular, I will prioritize and coordinate application for FEMA reimbursement where available.
5. The City of Elko's proposed uses of the funds provided as payment under section 601 (a) of the Social Security Act will be used only to cover those costs that -
  - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) ("necessary expenditures");
  - b. were not accounted for in the budget most recently approved as of March 27, 2020, for The City of Elko; and
  - c. Were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.
6. To the extent actual qualified expenditures are less than the amount allocated to The City of Elko and/or if funds have not been used to cover necessary expenditures pursuant to this certification by December 30, 2020, The City of Elko agrees to return the balance of unspent funds to the State of Nevada on or before March 1, 2021.

7. Funds provided as a direct payment from the State of Nevada pursuant to this certification will adhere to the *Coronavirus Relief Fund Terms and Conditions for Local Governments* and official federal guidance issued or to be issued, on what constitutes a necessary expenditure (current guidance provided in Appendix A and <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>). Any funds expended by The City of Elko or its grantee(s) that fail to comply in any manner with official federal guidance shall be booked as a debt owed to the State of Nevada and subsequently collected and returned to the Federal Government. Amounts recovered shall be returned to the State of Nevada through deposit into the State's General Fund. The City of Elko further agrees that any determination by the Federal Government that it or its grantee(s) failed to comply with federal guidance shall be a final determination binding on itself and its grantee(s).
8. Funding provided as a direct payment from the State of Nevada pursuant to this certification is contingent on The City of Elko's adherence to the Governor's emergency directives and guidance from the Local Empowerment Advisory Panel (LEAP), including, but not limited to, the State's face-covering mandate, restrictions on social and public gatherings, social distancing mandates, and restrictions on the occupancy of businesses and restaurants, as well as any subsequent emergency directives or executive orders related to the COVID-19 health crisis capacity. The City of Elko hereby acknowledges the requirements of this section and certifies ongoing compliance with this section as a requirement for allocation of funding set forth in this certification.
9. Prior to The City of Elko receiving the initial and subsequent Coronavirus Relief Fund allocations from the State of Nevada, The City of Elko will be required to submit a plan to GFO summarizing the process and criteria they will use for expending funds within its organization and/or awarding to any grantee(s). Prior to payment, GFO will provide guidance on specific plan requirements to be submitted.
10. The City of Elko and its grantee(s) receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts and documentation of how payments meet federal criteria for necessary expenditures incurred due to the public health emergency with respect to COVID-19. I acknowledge that all records and expenditures are subject to audit by the United States Department of Treasury's Inspector General, the State of Nevada, or designee and I agree that The City of Elko will provide and cooperate with any information and documentation requests necessary to evaluate compliance and will require any and all grantee(s) to also provide and cooperate with any such requests.
11. The City of Elko will report monthly on incurred expenses in a form prescribed by the GFO, and will cooperate in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 601 (a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Additionally, documentation will be produced to the State of Nevada on March 1, 2021 showing all CRF expenses and a reconciliation of the funding received.
12. The City of Elko understands that payment from the CRF is considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments are subject to the following requirements in the

Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F regarding audit requirements. Subrecipients are subject to a single audit or program specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

13. The City of Elko understands that any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected tax or other revenue collections and will notify each grant applicant of this obligation.
14. The City of Elko understands that funds received pursuant to this certification cannot be used for expenditures for which a local government entity, political subdivision or its grantee(s) has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense and will notify each grant applicant of this obligation.
15. I acknowledge that The City of Elko has an affirmative obligation to identify and report any duplication of benefits. I understand that the State of Nevada has an obligation and the authority to deobligate or offset any duplicated benefits.
16. The City of Elko understands that it may use funds received pursuant to this certification to provide assistance to any other political subdivision within its jurisdiction. The City of Elko will notify each applicant that such assistance shall be used solely for necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19), that were not accounted for in the budget most recently approved as of March 27, 2020, and that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. The City of Elko is responsible for the documentation requirements in section 10 of this certification.
17. The City of Elko understands that the State of Nevada may amend this Certification at any time provided that such amendments make specific reference to the Certification, and are executed in writing, and signed by a duly authorized representative of The City of Elko and the State of Nevada. Such amendments shall not invalidate the Certification, nor relieve or release either party from any obligations under the Certification. I understand the amendment will be used whenever there are changes to the originally approved terms and conditions resulting from but not limited to issues arising from additional Department of Treasury or federal compliance requirements or guidance.
18. The City of Elko understands that the following administrative provisions apply to this award:
  - a. **LEGAL AUTHORITY:** As the chief executive of The City of Elko, Currie Calder has the legal authority to enter into this agreement and the institutional managerial and financial capability to ensure proper planning, management and completion of the intended fund use.
  - b. **PRINCIPAL CONTACTS:** Individuals listed below are authorized to act in their respective areas for matters related to the transfer and administration of this fund payment.

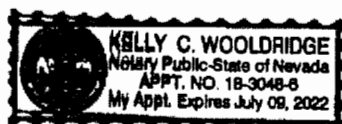


Principal County or City Administrative Contact	Principal State of Nevada Administrative Contact
<b>Name:</b> Curtis Calder <b>Title:</b> City Manager <b>Locality Name:</b> The City of Elko <b>Department:</b> City Manager <b>Address:</b> 1751 College Avenue  <b>Telephone:</b> 775-777-7100 <b>Email:</b> ccalder@elkocitynv.gov <b>Vendor #:</b> T40267000 <b>DUNS #:</b> 88-6000190	<b>Name:</b> State of Nevada, Governor's Finance Office <b>Address:</b> 209 E. Musser, Room 200 Carson City, NV, 89701 <b>Telephone:</b> 775-684-0222 <b>Email:</b> covid19@finance.nv.gov  <b>Fed. Awarding Agency:</b> US Dept. of Treasury <b>CFDA #:</b> 21.019 - Coronavirus Relief Fund (CRF) <b>Period of Performance:</b> 03/01/2020 - 12/30/2020

I certify under the penalties of perjury, that I have read the above certification and my statements contained herein are true and correct to the best of my knowledge.

By: Curtis Calder  
Signature: Curtis Calder  
Title: City Manager  
Date: 7/28/2020

Subscribed and sworn to before me this 28<sup>th</sup> day of July, 2020.



Kelly Wooldridge  
Notary Public

My commission expires July 9, 2022.

Additional Administrative Contacts:

Scott Wilkinson, Assistant City Manager  
swilkinson@elkocitynv.gov  
775-777-7100

Kelly Wooldridge, Elko City Clerk  
kwooldridge@elkocitynv.gov  
775-777-7100

Jan Baum, Financial Services Director  
jbaum@elkocitynv.gov  
775-777-7100

# **Coronavirus Relief Fund Terms and Conditions For Local Governments**

State of Nevada

*Administered by the Governor's Finance Office, Budget Division*

*July 10, 2020*

## **Table of Contents**

<i>Overview .....</i>	<i>3</i>
<i>About This Document.....</i>	<i>3</i>
<i>Eligible Uses .....</i>	<i>4</i>
<i>Definitions (as reference above).....</i>	<i>4</i>
<i>Available Funds .....</i>	<i>5</i>
<i>Period of Performance.....</i>	<i>5</i>
<i>Eligible Costs .....</i>	<i>5</i>
<i>FEMA and Federal Reimbursements.....</i>	<i>7</i>
<i>Ineligible Costs .....</i>	<i>8</i>
<i>Cost Test.....</i>	<i>9</i>
<i>Fund Expenditure Plan .....</i>	<i>10</i>
<i>Dispersal of Funds .....</i>	<i>10</i>
<i>Amendments and Changes .....</i>	<i>12</i>
<i>Intersection with Other Funding Sources.....</i>	<i>12</i>
<i>Compliance .....</i>	<i>12</i>
<i>Audit Provisions and Documentation .....</i>	<i>15</i>
<i>Close Out.....</i>	<i>16</i>
<i>APPENDIX A .....</i>	<i>17</i>

### Overview

Under the federal Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), the Coronavirus Relief Fund (“Fund”) may be used to reimburse local governments in response to the COVID-19 public health emergency. The federal awarding agency is the U.S. Department of Treasury. The Inspector General of the United States Department of the Treasury (“Treasury”) conducts monitoring and oversight of the receipt, disbursement and use of these funds.

The CARES Act authorized \$150 billion through the Fund for state and local governments, including \$1.25 billion for Nevada. A portion of the State’s total allotment was reserved for local governments that have a population in excess of 500,000. As a result, the City of Las Vegas and Clark County elected to receive direct allocations from the Treasury. The State of Nevada received \$836 million from the Fund, of which \$148.5 million will be allocated to counties and incorporated cities outside of Clark County with populations of less than 500,000.

**Funds may NOT be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.**

### About This Document

In this document, local governments will find the terms and conditions applicable to payments distributed in the form of “other financial assistance” under 2 C.F.R. § 200.40 from the Coronavirus Relief Fund (CFDA 21.019), established within section 601 (a) of the Social Security Act, as added by section 5001 of the CARES Act.

The agreement is subject to additional terms, conditions, and requirements of other laws, rules, regulations and plans recited herein. It is intended to be the full and complete expression of and constitutes the entire agreement between the parties. All prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this agreement. Notwithstanding any expiration or termination of this agreement, the rights and obligations pertaining to the close-out, cooperation and provision of additional information, return of funds, audit rights, records retention, public information, and any other provision implying survivability shall remain in effect after the expiration or termination of this agreement.

To the extent the terms and conditions of this agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this agreement and in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed this agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement. Any vague, ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the agreement.

### Eligible Uses

Under the CARES Act, the Coronavirus Relief Fund (CRF) may be used to cover costs that:

1. Were **incurred** during the period that begins on March 1, 2020, and ends on December 30, 2020.
2. Are **necessary expenditures** incurred due to the public health emergency with respect to COVID-19.
3. Are NOT accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government. The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government. A cost meets this requirement if:
  - a. The cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; OR
  - b. The cost is for a **substantially different use** from any expected use of funds in such a line item, allotment, or allocation.
  - c. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

### Definitions (as reference above)

**“Incurred”**: A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

**“Substantially different use”**: a cost incurred for a “substantially different use” includes but is not limited to:

1. Costs of personnel and services that were budgeted for in the most recently approved budget as of March 27, 2020 but which, due entirely to COVID-19 have been diverted to substantially different functions. Examples include but are not limited to the costs of:
  - a. redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures;
  - b. redeploying police to support management and enforcement of stay-at-home orders;
  - c. diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.
2. A public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. An example is:
  - a. developing online instruction capabilities may be a substantially different use of funds, however online instruction itself is not a substantially different use of public funds than classroom instruction.

### Available Funds

Per Federal guidelines, the CRF has been allocated in proportion to population.

Note that to the extent actual expenditures are less than the amount requested, local governments will be required to return the balance of unspent funds to the State of Nevada on or before March 1, 2020 (within sixty 60 calendar days of the end of the period of performance).

This approach is intended to get money out to the local governments quickly, and to allow adjustments over the coming months.

Funds can be transferred to another unit of government provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act, as outlined in Treasury guidance. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State. Jurisdictions are not required to transfer to smaller constituent units with borders (e.g. county does not have to transfer funds to smaller cities within the county's borders).

Local governments shall adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS).

### Period of Performance

The Coronavirus Relief Funds may only be used for costs incurred by local governments in response to the COVID-19 public health emergency during the period of March 1, 2020 through December 30, 2020.

### Eligible Costs

There are seven (7) primary eligible cost categories. These cost categories and their eligible cost sub-categories are as follows:

1. COVID-19 related expenses to address **medical needs** of:
  - a. Public hospitals, clinics and similar facilities
  - b. Providing COVID-19 testing, including serological testing
  - c. Emergency medical response, including emergency medical transportation related to COVID-19
  - d. Establishing and operating public telemedicine capabilities for COVID-19-related treatment
  - e. Establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs

2. COVID-19 related expenses to address **public health needs** including:
  - a. Communication and enforcement by State, territorial, local, and Tribal governments of public health orders
  - b. Acquisition and distribution of medical and protective supplies:
    - i. sanitizing products
    - ii. personal protective equipment (PPE) for:
      1. medical personnel
      2. police officers
      3. social workers
      4. child protection services
      5. child welfare officers
      6. direct service providers for older adults and individuals with disabilities in community settings
      7. other public health or safety workers in connection with the COVID-19 public health emergency
  - c. Disinfection of public areas and other facilities, e.g., nursing homes
  - d. Technical assistance (knowledge transfer) to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety
  - e. Public safety measures undertaken in response to the COVID-19 public health emergency
  - f. Quarantining individuals
  - g. Contact tracing
3. **Payroll expenses** for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
  - a. Providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions
4. Expenses of actions **to facilitate compliance** with COVID-19-related public health measures, such as:
  - a. Food access and delivery to residents (e.g. senior citizens and other vulnerable populations)
  - b. Distance learning, including technological improvements, in connection with school closings
  - c. **Improvement of telework capabilities for public employees**
  - d. Maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures
  - e. Care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions
  - f. **Improving social distancing measures**

5. Expenses associated with the provision of **economic support** in connection with the COVID-19 public health emergency, such as:
  - a. Grants to small businesses to reimburse the costs of business interruption caused by required closures or decreased customer demand as a result of the COVID-19 public health emergency
  - b. Emergency financial assistance to individuals and families directly impacted by a loss of income
  - c. A state, territorial, local, or Tribal government payroll support program
  - d. A consumer grant program or rent relief program to prevent eviction and assist in preventing homelessness (if grant is considered to be a necessary expense due to COVID-19 and it meets the other Fund requirements)
  - e. Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Expenses to **respond to secondary effects** of the current COVID-19 public health emergency including:
  - a. Creating a reserve of PPE or developing increased Intensive Care Unit capacity to support regions not yet affected but likely to be impacted by the current pandemic
  - b. Addressing increases in solid waste (e.g. more disposal of PPEs) as a result of the COVID-19 public health emergency
  - c. Remarketing convention facilities and tourism industry to publicize the resumption of activities and steps to ensure safe experience.
  - d. Continuation of equipment previously scheduled to be decommissioned in order to respond to the public health emergency (costs associated with continuing to operate the equipment)
  - e. Continuation of a lease on office space or equipment that would not have been renewed in order to respond to the public health emergency (costs associated with the ongoing lease payments through December 30, 2020)
7. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

#### **FEMA and Federal Reimbursements**

Treasury Guidance clarifies that government entities may use the CRF to pay for FEMA's cost share requirements for the Stafford Act assistance. It can only be used for COVID-19-related costs that satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act. As with all expenses that have been or will involve other federal programs, local governments should be diligent in understanding limitations with other federal funding to evaluate if there will be any potential issues.



### Ineligible Costs

Non-allowable expenditures include, but are not limited to:

1. Filling shortfalls in government revenue. Revenue replacement is NOT a permissible use of Fund payments
2. Expenses for the state share of Medicaid
3. Damages covered by insurance
4. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency
5. Expenses that have been or will be reimbursed **under any other federal program\*** (e.g. reimbursement by the federal government pursuant to the CARES Act of contributions by states to state unemployment funds)
6. Reimbursement to donors for donated items or services
7. Workforce bonuses (other than hazard pay or overtime for employees who were substantially dedicated to responding/mitigating the COVID-19 public health emergency)
8. Severance pay
9. Legal settlements
10. Assisting impacted property owners with payment of property taxes
11. Replacement of government revenue due to unpaid utility fees
12. Expenditures to prepare for a future COVID-19 outbreak past December 30, 2020
13. Stipends to employees for eligible expenses (e.g. to improve telework capabilities)
14. Payroll or benefit expenses of private employees contracted to work for the local government entity, unless they are substantially dedicated to mitigating or responding to the COVID-19 public health emergency
15. Prepayments on contracts using the Fund to the extent that doing so would not be consistent with ordinary course policies and procedures (e.g. pre-paying for one or two-year facility lease to house staff hired in response to COVID-19 public health emergency)
16. Capital improvement projects that broadly provide potential economic development in a community (if not directly necessary due to the COVID-19 public health emergency)
17. Per Treasury Guidance: "In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death...Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions." Please see the footnote on Page 3 of Treasury Guidance for full information on this provision.

*\* Per Treasury guidance, CRF recipients are NOT required to use other federal funds or seek reimbursement under other federal programs first before using fund payments (The CRF is NOT required to be used as the source of funding of last resort). However, recipients may NOT use the CRF to cover expenditures for which they will receive reimbursement. Local governments need to consider the applicable restrictions and limitations of other sources of funding, such as combining a transaction supported with CRF payments with other CARES Act or COVID-19 relief federal funding. They also need to consider time constraints and other limitations that exist within various forms of federal COVID-19 relief funding.*

### Cost Test

Local governments are charged with determining whether or not an expense is eligible based on the U.S. Treasury's Guidance. Specific documents can be reference:

- Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (06/30/2020)
- Coronavirus Relief Fund Frequently Asked Questions (06/24/2020)

To assist with this determination, an eligibility cost test has been developed. This test gives each local government full authority to make the appropriate call for each circumstance.

**TEST** – If all responses for the particular incurred cost are “true” for all six statements below, then a jurisdiction can feel confident the cost is eligible, if it is also within other limitations set forth in the Treasury Guidance and Frequently Asked Questions documents:

1. The expense occurs between March 1 and December 30, 2020
2. The expense is connected to the COVID-19 emergency
3. The expense is “necessary”
4. The expense is not filling a shortfall in government revenues
5. The expense is not funded through another budget line item, allotment or allocation, as of March 27, 2020 **OR** is funded, but the cost is for a substantially different use from any expected use of funds (e.g. base salary funded but duties become substantially different to respond to COVID-19 emergency)
6. The expense wouldn't exist without COVID-19 **OR** would be for a “substantially different” purpose

It is the responsibility of each locality to define “necessary” or “substantially different,” giving the jurisdiction the authority and flexibility to make their own determination using the Treasury Guidance and Frequently Asked Questions documents.

**Additional consideration** – The intent of these funds is to help localities cover the immediate impacts of the COVID-19 emergency, both direct costs to the local government and costs to their communities. There are many possible eligible costs.

Many costs are clearly eligible, and others fall into a more “grey area”. The “grey area” costs could be justified based on the test; however, it must be determined if they directly address the immediate impacts as well. If the answer is questionable, it may be safer and more appropriate to utilize the funds in one of the many other eligible cost categories that more clearly meet the intent of the funds. Each locality has the authority to make decisions based on their circumstances and justification.

It is important to keep in mind however, that any funds expended by a local government entity or its grantee(s) that fail to comply in any manner with official federal guidance shall be booked as a debt owed to the State of Nevada and subsequently collected and returned to the Federal government.

### *Fund Expenditure Plan*

Prior to receiving any Fund allocation from the State of Nevada, local governments will be required to submit a brief high-level plan to the State of Nevada, Governor's Finance Office (GFO) summarizing the process and criteria they will use for expending funds within its organization and/or allocating to any grantee(s). Plans should be no more than 4 pages in length and include:

- brief problem statement(s) explaining why funds are needed
- estimate or exact amount of funds required to meet this need
- if funds are expected to be used to respond directly to the COVID-19 public health emergency or for secondary effects, and a brief overview of how they will be used
- if funds are expected to be used for eligible expenditures in any of the following categories below (as described in the previous *Eligible Cost* section of this document), an estimate or exact amount of funds required, and a brief overview for each category on how the Fund will be used:
  - medical expenses
  - public health expenses
  - payroll expenses
  - to facilitate compliance with public health measures
  - economic support
  - respond to secondary effects
  - any other expense reasonably necessary to the function of government as outlined in federal guidance
- names of new or existing programs within the locality that will administer the use of funds (e.g. administrative services dept., public safety dept., county senior center)
- if funds are expected to be allocated to other entities, how funds will be allocated and the nature of their work (e.g. food bank, home care providers)
- how the local government, political subdivision or its grantee(s) receiving funds will ensure the use of funds meet federal guidance

**Plans must be submitted to the Governor's Finance Office prior to Fund payment.** Plans can be emailed to [covid19@finance.nv.gov](mailto:covid19@finance.nv.gov).

### *Dispersal of Funds*

Nevada counties and incorporated cities outside of Clark County that have a population of less than 500,000 (those listed on the document "[Breakdown of CARES Act funding distributed to local governments to assist with COVID-19 expenses](#)") can request a CRF payment from the State, to be disbursed in two allocations. The first allocation will release 50 percent of funds immediately and the second allocation will release the remaining 50 percent of funds on a reimbursement basis, or upon providing a detailed spending proposal. Funds from the first allocation must be spent or planned to be spent in a detailed spending proposal by September 1, 2020 in order to request a second CRF payment. For the initial allocation, the Chief Executive

Officer of eligible local governments will receive a submittal “packet” from the State of Nevada, Governor’s Finance Office (GFO) which includes:

- CRF Cover Letter
- *Nevada CRF Allocation Amounts for Local Governments*
- *Coronavirus Relief Fund Eligibility Certification* letter
- *Coronavirus Relief Fund Terms and Conditions for Local Governments*
- CRF Activity Reporting Worksheet

The submittal packet will also be available to download from the GFO website at <http://budget.nv.gov/CRF>. City governments, school districts and other government entities not named in the *Nevada CRF Allocation Amounts for Local Governments* must request funds directly from the county or city in which they reside.

The Chief Executive officer of a local government entity must sign and notarize the *Coronavirus Relief Fund Eligibility Certification* letter to receive funds. The Chief Executive officer must also review a copy of the *Coronavirus Relief Fund Terms and Conditions for Local Governments* document and provide a signed acknowledgement of understanding (in Appendix A of the document). The local government must also submit a CRF Expenditure Plan as described in the previous “Fund Expenditure Plan” section of this document.

A digital copy of these completed forms and the expenditure plan can be emailed to [covid19@finance.nv.gov](mailto:covid19@finance.nv.gov) to expedite the transfer process. Additionally, a hard copy of the signed forms must be mailed to the address below:

Governor’s Finance Office  
ATTN: Coronavirus Relief Fund  
209 East Musser Street, Room 200  
Carson City, NV 89701-4298

In order to receive funds, a local government must be registered as a vendor for the State of Nevada and a vendor number must be provided on the Certification letter. If a county or city has multiple vendor numbers, please provide the appropriate one that will be used for the fund transfer. If the county or city is not yet registered as a vendor with the State of Nevada, please contact the Nevada State Controller’s Office to register, or go online at: <http://controller.nv.gov/Buttons/ElectronicVendorReg/>

Once all required items are received by GFO, the allocation will be transferred to the local government. Below is a checklist of items local governments must submit to receive funds.

- ✓ *Coronavirus Relief Fund Eligibility Certification* letter  
***signed and notarized hard copy mailed to GFO; must include correct vendor number***
- ✓ *Receipt, Acknowledgement, and Agreement to Terms and Conditions*  
***signed form located in Appendix A of the Terms and Conditions; can email it to GFO***
- ✓ *CRF Expenditure Plan*  
***document should be no more than 4 pages; can email it to GFO***

**\*Note: a hard copy, notarized Coronavirus Relief Fund Eligibility Certification letter must be received prior to fund payment.**

### **Amendments and Changes**

The State may amend this agreement at any time provided such amendments make specific reference to this agreement, and are executed in writing, and signed by a duly authorized representative of the local government and the State. Such amendments shall not invalidate the agreement, nor relieve or release the local government or the State from any obligations under the agreement.

The State and local government agree that any act, action or representation by either party, their agents or employees that purports to waive or alter the terms of this agreement is void unless a written amendment to this agreement is first executed and documented. The local government agrees that nothing in this agreement will be interpreted to create an obligation or liability of the State.

Notwithstanding this requirement, it is understood and agreed by parties, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this agreement and that any such changes shall be automatically incorporated into this agreement without written amendment, and shall become a part hereof as of the effective date of the rule, regulation or law.

### **Intersection with Other Funding Sources**

Eligible uses of the federal Coronavirus Relief Fund may overlap with allowable uses of other federal grants and reimbursements. Federal dollars cannot under any circumstances be claimed twice for the same spending. Local governments are responsible for ensuring they are aware of Treasury guidance and that this will not occur with any allocated funds.

### **Compliance**

Localities will comply with all applicable federal laws, regulations, executive orders, policies, procedures, and directives.

#### **Conflicts of Interest**

Fund recipients must establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain, whether for themselves or others, particularly those with ties. Fund recipients must operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to its performance under this agreement. The local government certifies as to its own organization, that to the best of knowledge and belief, no member, employee, or person, whose salary is payable in whole or in part by a member of the local government, has direct or indirect financial interest in the allocation of the Fund, or in the services to which this agreement relates, or in any of the profits, real or potential, thereof. If at any time during the allocation process and upon any suggestion, inquiry, or indication that a

conflict of interest may exist, the local government will disclose that conflict immediately to the State of Nevada.

#### Fraud, Waste or Misuse of Funds

The State does not tolerate any type of fraud, waste, or misuse of funds received from the State. Any violations of the law, State policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Localities agree that misuse of funds may result in a range of penalties, including suspension of current and future funds, recoupment of the funds allocated, and civil and/or criminal penalties. In the event a local government becomes aware of any allegation or a finding of fraud, waste, or misuse of the Fund, the local government is required to immediately notify the State of Nevada Governor's Finance Office of said allegation or finding and continue to inform the State of the status of any such on-going investigations. Any credible evidence must be provided to the State.

#### False Statements or Claims

No local government receiving these funds shall submit a false claim. If any of the statements, representations, certifications, affirmations, warranties or guarantees are false, or if the local government recipient signs or executes the agreement with a false statement or it is subsequently determined that the locality has violated any of the statements, representations, warranties, guarantees, certificates or affirmations included in this agreement, then the State may consider this act a possible default under this agreement and may terminate or void it for cause. False statements or claims made in connection with these funds may result in, but are not limited to, suspension of current and future funds, recoupment of the funds allocated, and civil and/or criminal penalties

#### Reporting

As part of the application packet given to the local government, a "CRF Activity Reporting Worksheet" has been provided. This document can also be found on the GFO website at <http://budget.nv.gov/CRF>. The Excel worksheet contains three tabs – "SFY2020", "SFY2021" and "Final". SFY refers to the State fiscal year (July 1 – June 30).

#### SFY2020 Tab

Local governments may need to recover COVID-19-related expenditures that were incurred March 1, 2020 through June 30, 2020. All expenditures during this timeframe that are reimbursed using the CRF allocation must be reported on the "CRF Activity Reporting Worksheet", SFY2020 Tab. Expenditures must be reported by Eligible Expenditure categories listed on the spreadsheet. For example:

*A local government has the following total expenditures from March 1, 2020 through June 30, 2020 it will be reimbursing with the CRF:*

- \$5000 per month for COVID-19 testing in April, May and June (for a total of \$15,000)
- \$3000 for PPE purchased in April

- \$2,000 for paid sick/family sick leave for public employees in March and \$1,000 in May

*The expenditures will be reported on the SFY2020 tab as shown below:*

Eligible Expenditures	Actuals from FY2020 March June	Brief Description of Use of Funds
<b>1. Medical Expenditures</b>		
a. Public hospitals, clinics and similar facilities	\$	
b. Temporary public medical facilities & increased capacity	\$	
c. COVID-19 testing, including serological testing	\$ 13,000.00	COVID-19 Testing at "East" Clinic, "West" Clinic for April, May and June
d. Emergency medical response	\$	
e. Telemedicine capabilities	\$	
f. Other:	\$	
<b>Sub Total</b>	<b>\$ 13,000.00</b>	
<b>2. Public Health Expenditures</b>		
a. Communication and enforcement of public health measures	\$	
b. Medical and protective supplies, including sanitation and PPE	\$ 1,000.00	PPE (masks/face shields) for COVID-19 mitigation for employees at City Hall and "West" clinic purchased in April
c. Disinfecting public areas and other facilities	\$	
d. Technical assistance on COVID-19 threat mitigation	\$	
e. Public safety measures undertaken	\$	
f. Quarantining individuals	\$	
g. Contact tracing	\$	
h. Other:	\$	
<b>Sub Total</b>	<b>\$ 1,000.00</b>	
<b>3. Payroll Expenses for Public Employees Dedicated to COVID-19</b>		
a. Public safety	\$	
b. Public health	\$	
c. Health care	\$	
d. Human services	\$	
e. Paid sick and paid family and medical leave to public employees	\$ 3,000.00	COVID-19 related sick and family leave for City employees: \$2,000 in March; \$1,000 in May
f. Other:	\$	
<b>Sub Total</b>	<b>\$ 3,000.00</b>	

A completed SFY 2020 worksheet must be submitted to the State of Nevada by August 1, 2020.

#### SFY2021 Tab

Starting in July for SFY 2021, a monthly reporting process will be required by local governments that received CRF allocations to monitor spending as it occurs to maintain transparency, ensure documentation is adequate, and to minimize compliance risk.

Reports should document all costs clearly with respect to the date and nature of the expense incurred so that together resources can be best managed in the interest of the residents of Nevada. The monthly Activity Report must be submitted using the "CRF Activity Reporting Worksheet", SFY2021 Tab. The report must:

- Be submitted as an Excel spreadsheet, not a PDF, within ten (10) calendar days of the end of each month during the reporting period.
- Include a detailed breakdown of the individual eligible expenditures reported by each sub-category of the seven (7) primary budget categories (as shown above in the SFY2020 example). Each primary budget category includes sub-categories and provides an option to add "other" sub-categories
- Include the total amount of all eligible expenditures for each applicable sub-category and the grand total spent (template automatically calculates this)
- Include a brief description of the use of the funds for each applicable sub-category. Keep descriptions as concise as possible but include adequate context to demonstrate how these funds addressed the COVID-19 emergency. If applicable, please consider:
  - Providing a brief description of the specific activities performed
  - Identifying specific populations served

- Identifying specific programs created or utilized
- Including any known or intended outcomes, results, or community impacts
- If there were no expenditures for the month and the funds have not been completely spent, a report must be submitted noting zero expenditures
- Include information in a “Expenditures Previously Reported” column that is a total of SFY20 amounts and SFY21 year-to-date amounts (excluding current reporting month)

#### Final Tab

A final report is required as a summary of all periods included for the CRF allocation. This report should contain actual expenditures for SFY20 and each individual month from July 2020 through December 2020. It should also calculate the amount of any unspent funds. A template worksheet is included in the “CRF Activity Reporting Worksheet”, Final Tab. This report is due to GFO by email on or before March 1, 2021.

#### Audit Provisions and Documentation

Federal Coronavirus Relief Fund expenditures and records are subject to audit by the Office of Inspector General (OIG) within the U.S. Department of the Treasury. Treasury OIG also has authority to recover funds if it is determined a CRF recipient failed to comply with requirements. Documenting that costs are eligible uses is essential to managing compliance risk and to minimizing the possibility that costs are deemed ineligible, thereby requiring the local government and the State to return funds to the federal government. All funds that are distributed by local governments must have a documented statement or certification that the funds are needed due to the COVID-19 public health emergency (e.g. a rental program should have a check box with a statement that says “I certify that I need access to the funds in this program due to the COVID-19 public health emergency.”)

Funds received from the CRF are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F regarding audit requirements. Subrecipients are subject to a single audit or program specific audit pursuant to 2 C.F.R. § 200.501(a) when subrecipients spend \$750,000 or more in federal awards during their fiscal year.

If any audit, monitoring, investigations, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this agreement, applicable laws, regulations, or the local government’s obligations hereunder, the local government agrees to propose and submit to the State a correction action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the receipt of findings.



The corrective action plan is subject to approval by the State. Fund recipients understand and agree that the local government entity must make every effort to address and resolve all outstanding issues, findings, or actions identified by the corrective action plan. Failure to promptly and adequately address these findings may result in funds being returned, other related requirements being imposed, or other sanctions and penalties. Local governments agree to complete any corrective action approved by the State within the time period specified by the State and to the satisfaction of the State, at the sole cost of the local government. The local government entity shall provide to the State periodic status reports regarding the resolution of any audit, corrective action plan, or other compliance activity for which it is responsible.

Recipients of CRF payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). An appropriate audit trail must be maintained to provide accountability for all expenditures of funds, reporting measures and funds received under this agreement.

Records to support compliance may include, but are not limited to: general ledger and subsidiary ledgers used to account for the receipt and disbursement of CRF payments; budget records for 2019 and 2020; payroll, time, and human resource records to support costs incurred for COVID-19-related payroll expenses; receipts of purchases made to address the COVID-19 emergency; contracts and subcontracts entered into using CRF payments and all related documents; grant agreements and grant subaward agreements entered into using CRF payments and all related documents; all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients; all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards; all internal and external email/electronic communications related to use of CRF payments; and all investigative files and inquiry reports involving CRF payments.

Records shall be maintained for a period of five (5) years after final payment is made using CRF monies. These record retention requirements are applicable to all recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of CRF payments. The State may direct local government entities to retain documents for a longer period of time or to transfer certain records to the State or federal custody when it is determined that the records possess long term retention value.

### Close Out

The State of Nevada will close-out the allocation when it determines that all applicable administrative actions and all required work has been completed. Local governments must submit all financial, Fund use, and other reports as required by the *Coronavirus Relief Fund Eligibility Certification* letter and this Terms and Conditions document. Local governments must promptly refund any balances of unspent cash not used for eligible expenses during the period of March 1, 2020 through December 30, 2020. Unspent funds are to be returned to the State of Nevada no later than March 1, 2021.

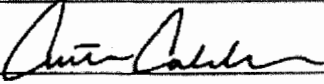
## APPENDIX A

### Receipt, Acknowledgement, and Agreement to Coronavirus Relief Fund (CFDA # 21.019) Terms and Conditions

I, Curtis Calder as City Manager  
(Chief Executive Officer) (Title)

for the City of Elko, acknowledge and certify that I:  
(Name of County, City or Municipality)

1. Have read and agree to the Coronavirus Relief Fund Terms and Conditions for Local Governments,
2. understands its terms and conditions,
3. had the opportunity to consult with independent legal counsel, and
4. sign this agreement voluntarily.

Printed Name: Curtis Calder  
Signature:   
Title: City Manager  
Date: 7/28/2020

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible rejection of all bids for the Water Tank Interior Coating Project-2020, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Bids were opened September 11, 2020. Only one complete bid was submitted for the project, with four bids being incomplete. All of the bids were above the \$ 500,000.00 budgeted amount for the project. A Bid Tally Sheet has been provided for review. DJ**
6. Budget Information:  

Appropriation Required: \$ **1,327,563.00**  
Budget amount available: \$ **562,000.00 for construction and engineering.**  
Fund name: **Water**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Bid Tally Sheet**
9. Recommended Motion: **Reject all bids and re-bid the project next year when addition funds are available.**
10. Prepared By: **Dale Johnson, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**PROJECT NAME: Water Storage Tank / Recoating & Repair Project**  
**DATE: Bid Opening 9/11/20**

**INDIANVIEW HEIGHTS TANK 1 - (100 DAYS)**



		Name		Farr Const. / Resource		Name		MMI Tank		Name		The Gateway		Name		Certified Coating		Name		Paso Robles Tank	
		Address		1050 Linda Wy.		Address		3240 S 37th Ave.		Address		1617 N. Chicago St.		Address		2320 Cordelia Rd		Address		825 26th St.	
		City State		Sparks, NV 89431		City State		Pheonix, AZ		City State		Salt Lake City, UT		City State		Fairfield, CA 94534		City State		Paso Robles, CA	
		Phone No.		775-356-8004		Phone No.		828-575-7049		Phone No.		801-633-4469		Phone No.		360-325-6191		Phone No.		805-227-1641	
13	Mobilization & Demobilization Labor, Equipment, and Materials to and from the Indian View Heights Water Storage Tank Site @ _____ Per Lump Sum Amount	1.00	LS	\$	14,600.00	\$	48,401.00	\$48,401.00		\$	28,297.00	\$28,297.00		\$	122,106.00	\$122,106.00		\$	33,560.00	\$33,560.00	
14	The Contractor shall Clean all water tank interior surfaces using high pressure water jetting equipment, or similar methods, to remove all dirt and debris from inside of the water tank @ _____ Per Lump Sum Amount.	1.00	LS	\$	3,000.00	\$	11,190.00	\$11,190.00		\$	8,000.00	\$8,000.00		\$	29,305.00	\$29,305.00		\$	33,450.00	\$33,450.00	
15	Provide and Complete Water Tank Surface Preparation of all Water Tank Steel Interior surfaces of the Indian View Heights Drive Water Storage Tank No. 1 in accordance with work specification Section 09950 of the Work Specifications @: _____ Per Square Foot of Surface Area.	47,300.00	SF	\$	8.05	\$	8.00	\$478,400.00	\$378,400.00	\$	7.58	\$358,534.00		\$	7.49	\$354,277.00		\$	2.84	\$134,332.00	
16	Provide and Complete the Water Tank Floor "Vacuum Box" Test as specified in Section 01010-Summary of work and Section 09950 - Interior Coating System for water tanks @: _____ per Sq. Ft. Surface Area.	1.00	LS	\$	5,700.00	\$	6,459.00	\$6,459.00		\$	7,590.00	\$7,590.00		\$	28,863.00	\$28,863.00		\$	7,000.00	\$7,000.00	
17	Remove and Replace Corroded 1/4-inch Thick Steel Floor Plate that failed the vacuum test and lap weld new 1/4-inch steel plates in place @: _____ Per Square Foot of Plate Area Replaced.	700.00	LS	\$	58.00	\$	10.00	\$7,000.00		\$	82.80	\$57,960.00		\$	342.00	\$239,400.00		\$	85.00	\$45,500.00	
18	Provide and complete the Water Tank Surface Preparation of the Indian View Heights Drive Water Tank No. 1 (3.0 MG) Exterior Steel Surfaces of the Tank Shell, Roof, Ladder, Manways and Access Hatches in accordance with specification Section 09960 @: _____ Per Square Foot Area.	26,900.00	LS	\$	5.40	\$	6.70	\$180,000.00	\$180,230.00	\$	4.82	\$124,278.00		\$	12.71	\$341,899.00		\$	2.31	\$62,139.00	
19	Coat all Steele Water Tank Interior Surfaces in Accordance with Section 09950 - Interior Coating System for Water Storage Tanks @: _____ Per Square Foot of Surface Area.	47,300.00	SF	\$	2.57	\$	2.72	\$128,501.00	\$128,856.00	\$	7.58	\$358,534.00		\$	4.13	\$195,349.00		\$	1.88	\$88,924.00	
20	Coat all Steele Water Tank Exterior Surfaces in Accordance with Section 09960- Exterior Coating System for Water Storage Tanks (Sub section 2.02, B. Exterior Overcoat System) @: _____ Per Square Foot of Surface Area.	26,900.00	SF	\$	2.21	\$	1.91	\$51,238.00	\$51,379.00	\$	4.76	\$128,073.00	\$128,044.00	\$	4.99	\$134,231.00		\$	1.50	\$40,350.00	
21	Provide Third Party Coating Inspection Firm (NACE Level III) to uniformly test the New Coating Dry Film Thickness (DFT) as specified in the Project Technical Specifications @: _____ Per Lump Sum.	1.00	LS	\$	10,000.00	\$	15,000.00	\$15,000.00		\$	13,800.00	\$13,800.00		\$	6,000.00	\$6,000.00		\$	6,420.00	\$6,420.00	
22	The Contractor shall contain and collect all existing spent coating material and abrasives from the interior and exterior surfaces of the water storage tanks. The contractor shall analyze the spent coating materials using EPA Method 1311-(TCLP) for arsenic, barium, chromium, lead, mercury, selenium and silver to determine the waste classification (RCRA) of the materials, as specified in Section 01010 Summary of work @ _____ Per Lump Sum.	1.00	LS	\$	7,300.00	\$	1,500.00	\$1,500.00		\$	5,000.00	\$5,000.00		\$	16,500.00	\$16,500.00		\$	5,350.00	\$5,350.00	
23	The Contractor shall provide the materials, labor, and equipment to properly transport and dispose of the old pain material removed from the water storage tank surfaces, as specified @: _____ per Lump Sum Amount	1.00	LS	\$	1,400.00	\$	-	\$0.00		\$	8,000.00	\$8,000.00		\$	5,850.00	\$5,850.00		\$	2,140.00	\$2,140.00	
24	Project Cleanup - Provide all materials, labor and equipment required to clean up the Jobsite after completion of the work @: _____ Per Lump Sum Amount.	1.00	LS	\$	15,000.00	\$	-	\$0.00		\$	2,000.00	\$2,000.00		\$	24,421.00	\$24,421.00		\$	2,140.00	\$2,140.00	
	TOTALS					\$804,835.00		\$925,889.00				\$1,100,088.00			\$1,496,201.00				\$461,305.00		

ALL BIDS CAME IN OVER THE EXPECTED BUDGET

RUBY VIEW TANK - TOTAL	\$522,928.00	RUBY VIEW TANK - TOTAL	\$534,838.00	RUBY VIEW TANK - TOTAL	\$660,030.00	RUBY VIEW TANK - TOTAL	\$1,014,553.00	RUBY VIEW TANK - TOTAL	\$333,189.00
INDIAN VIEW HEIGHTS TANK - TOTAL	\$804,835.00	INDIAN VIEW HEIGHTS TANK - TOTAL	\$925,889.00	INDIAN VIEW HEIGHTS TANK - TOTAL	\$1,100,098.00	INDIAN VIEW HEIGHTS TANK - TOTAL	\$1,496,201.00	INDIAN VIEW HEIGHTS TANK - TOTAL	\$481,305.00
<b>GRAND TOTAL</b>	<b>\$1,327,583.00</b>	<b>GRAND TOTAL</b>	<b>\$1,460,527.00</b>	<b>GRAND TOTAL</b>	<b>\$1,760,098.00</b>	<b>GRAND TOTAL</b>	<b>\$2,510,754.00</b>	<b>GRAND TOTAL</b>	<b>\$794,494.00</b>

Name	<b>Farr Const. / Resource</b>
	<b>Deve.</b>
Address	1050 Linda Wy.
City State	Sparks, NV 89431
Phone No.	775-356-8004

NOTES

COMPLETE BID

Name	<b>MMI Tank</b>
Address	3240 S 37th Ave.
City State	Pheonix, AZ
Phone No.	828-575-7049

NOTES

Did not have numerical numbers written in work description on bid tab.  
Did not use the updated Bid Tab Form  
Several Mathematical errors.

Name	<b>The Gateway</b>
Address	1617 N. Chicago St.
City State	Salt Lake City, UT
Phone No.	801-633-4469

NOTES

Mathematical Errors  
Missing Exhibit 7 -Finge Benefit form  
Missing Exhibit 19 -Preferential Bidder Form

Name	<b>Certified Coating</b>
Address	2320 Cordelia Rd
City State	Farfield, CA 94534
Phone No.	360-325-6191

NOTES

Did not self list on the 1% list

Name	<b>Paso Robles Tank</b>
Address	825 26th St.
City State	Paso Robles, CA
Phone No.	805-227-1641

NOTES

1% & 5% list were not correct. (56%)  
No Sec. Of State form included  
Missing the Boycott of Israel form

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible ratification of Staff's approval for Change Orders related to unforeseen conditions with the Re-roofing Project at the City of Elko Swimming Pool, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Due to various un-known conditions related to the City of Elko Swimming Pool Re-roof and Ceiling Demolition Project, it was necessary for Staff to approve Change Orders currently totaling \$50,719.28. Change Orders pertain to asbestos mitigation measures, placement of additional roof decking, and the demolition and reconstruction of the rotted wood curb for the roof mounted air handler unit. JW**
6. Budget Information:
  - Appropriation Required: **\$50,719.28**
  - Budget amount available: **\$50,719.28**
  - Fund name: **Ad Valorem**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copies of Staff approved change orders.**
9. Recommended Motion: **Ratification of Staff approved change orders pertaining to the Swimming Pool re-roof and ceiling demolition project totaling \$50, 719.28**
10. Prepared By: **James Wiley, Parks and Recreation Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:



Braemar Construction LLC  
717 W Idaho Street  
Suite A  
Elko, NV 89801

## CHANGE ORDER #1

Bill To:  
City of Elko  
1751 College Avenue  
Elko, NV 89801

Project: Elko Municipal Swimming Pool  
Ceiling and Roof Repair

Description	Qty.	Rate	Total
Change Order for installing plastic and barriers for the pool area due to asbestos. Provide personal air monitoring per converses report (See attached backup from subcontractor). This is outside of the original bid documents, as this was intended to be a standard demolition project. Braemar was made aware of the asbestos situation Tuesday, August 11, 2020, once we were provided the third party inspection report.		4,244.00	4,244.00
Labor - 3 men / 2 days at \$78.00 (PW) per hour -- \$3788.00			
Material - Plastic, glue, tape, etc. -- \$500.00			
Braemar's overhead and profit -- 15%		\$636.60	\$636.60
*This will add two (2) calendar days to the contract. Braemar will wave the two (2) additional days of supervision to reduce this additional expense to the City of Elko.			
Please remit all payments to 1910 Idaho Street, Ste 102-511, or drop off to our office at 717 W Idaho St, Ste. A, at your earliest convenience. We accept Credit Cards. Any invoice not paid after 30 days are subject to a 15% APR. If you have any questions, or concerns, we can be reached at 775-777-2949. Thank you for your business!		Total	\$4,880.60



**Braemar Construction LLC**

717 W Idaho Street  
Suite A  
Elko, NV 89801

**BRAEMAR****Bill To:**

City of Elko  
1751 College Ave  
Elko, NV 89801

**CHANGE ORDER #7**

*Amelia*  
9/15/2020

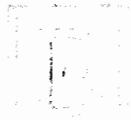
*Jan J...*  
City of Elko

☐ PT AS NOTED  
☐ ED & RESUBMIT  
☐ SL  
☐ TRANSMITTAL

BY MCC DATE 9/14/20

Project: Elko City Pool Ceiling and Roof Re..

Description	Qty.	Rate	Total
<p>This change order is to provide labor, materials and equipment to remove the existing HVAC unit and curb off of the existing roof with a crane. Demo the existing rotted wood curb and rebuild the existing curb in wood: Then the roofer will install roofing membrane over the new curb to weather tight the entire area. Next we will use the crane to reset the unit, mount it to the curb, reconnect the plumbing and electrical.</p> <p>Excludes: Start up, servicing, diagnosing the existing unit and any existing issues with the unit that may currently exist.</p> <p>*Note: This will add 14 calendar days to the contract.</p> <p>100 Ton crane HVAC Labor &amp; electrical HVAC Materials Disconnect, reconnect plumbing and insulation 8 Days added general conditions Roofing large new curb area Braemar overhead and profit 15% Added Bonding costs 3%</p>			0.00
		1,927.80	1,927.80
		17,915.94	17,915.94
		2,500.00	2,500.00
		3,796.00	3,796.00
		3,987.50	3,987.50
		6,132.00	6,132.00
		5,438.89	5,438.89
		1,250.95	1,250.95
Please remit all payments to 1910 Idaho Street, Ste 102-511, or drop off to our office at 717 W Idaho St, Ste. A, at your earliest convenience. We accept Credit Cards. Any invoice not paid after 30 days are subject to a 15% APR. If you have any questions, or concerns, we can be reached at 775-777-2949. Thank you for your business!		<b>Total</b>	<b>\$42,949.08</b>



**Braemar Construction LLC**  
717 W Idaho Street  
Suite A  
Elko, NV 89801

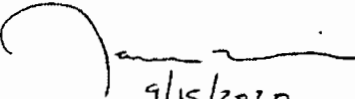
**BRAEMAR**

## CHANGE ORDER #13

Change Order #
3

**Bill To:**

City of Elko  
1751 College Ave.  
Elko, NV 89801

  
9/15/2020

Project: Elko City Pool Ceiling and Roof Rep.

Description	Qty.	Rate	Total
<p>This Change Order is to provide labor and materials to remove approximately 21 additional 4'x8' sheets (21' x 32' per sheet = 672sqft) of 1/2" CDX over the pool area. This is based on the contracted unit cost rate of \$4.30 per square foot (\$2.15 to remove and \$2.15 to replace.)</p> <p>*Our base bid contract with alternate additions included a project total of 99 total sheets. This change order brings the current total to 120 sheets.</p> <p>*Note: This will add 2 calendar days to the contract.</p>		2,889.60	2,889.60
Please remit all payments to 1910 Idaho Street, Ste 102-511, or drop off to our office at 717 W Idaho St. Ste. A, at your earliest convenience. We accept Credit Cards. Any invoice not paid after 30 days are subject to a 15% APR. If you have any questions, or concerns, we can be reached at 775-777-2949. Thank you for your business!		<b>Total</b>	<b>\$2,889.60</b>

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to conditionally approve Parcel Map No. 7-20, filed by City of Elko, for the division of approximately 49.98 acres into three parcels, located generally along the Humboldt River from approximately 9<sup>th</sup> Street to approximately 1,200 feet west of Errecart Blvd., and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko is the applicant of the parcel map, therefore must have City Council approval. The parcel map will create the 2,800 sq. ft. parcel in which City Council approved to sell to Anthem Broadband of Nevada. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Map, Staff reports and related correspondence**
9. Recommended Motion: **Conditionally approve Parcel Map No. 7-20 with conditions stated in staff report dated September 14, 2020.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

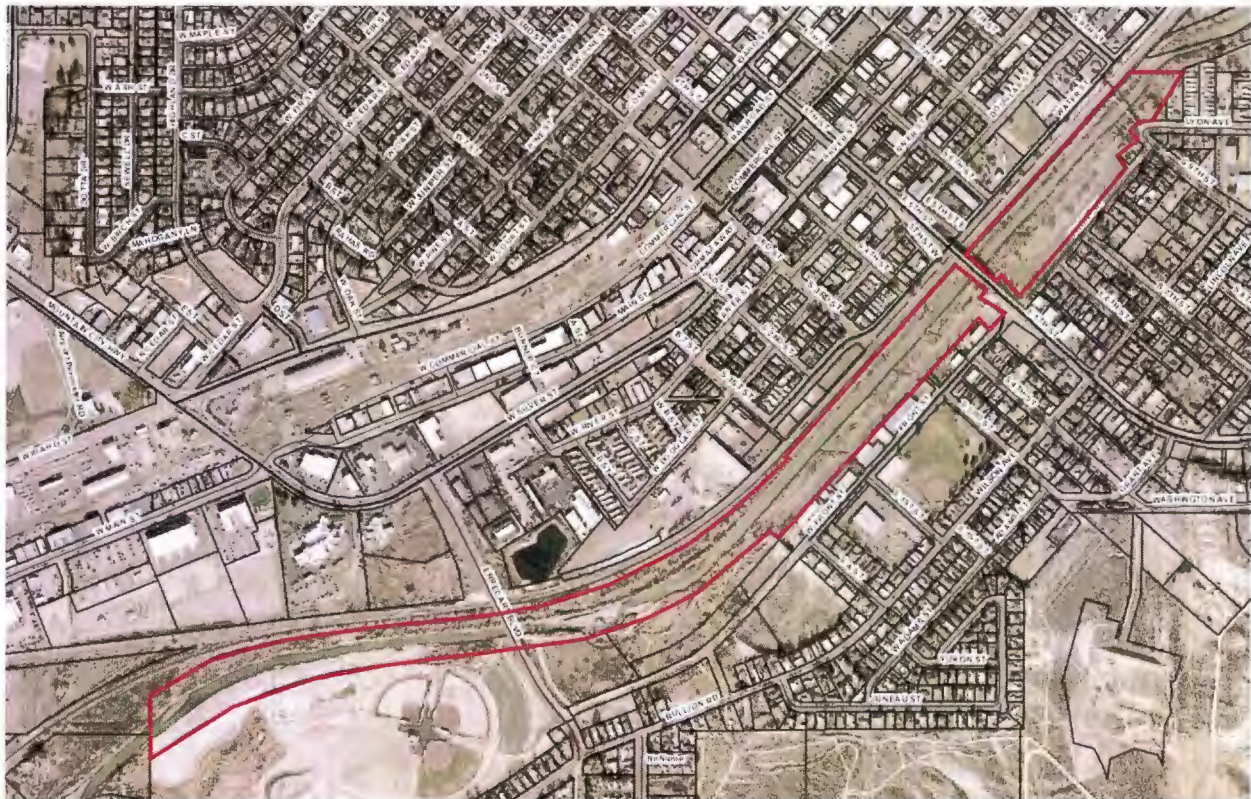


**CITY OF ELKO**  
**DEVELOPMENT DEPARTMENT**  
**1755 COLLEGE AVENUE**  
**ELKO, NEVADA 89801**  
**(775)777-7210**  
**(775)777-7219 FAX**

To: Cathy Laughlin, City Planner  
From: Michele Rambo, AICP, Development Manager  
Re: Parcel Map 1-20, M&M Tile, 815 S. 5<sup>th</sup> Street  
Date: March 10, 2020

The City of Elko, Development Department has reviewed the proposed parcel map under existing conditions. 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 Code – Section 2-13-3 Sidewalk, Curb and Gutter Construction
- City of Elko Code – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Code – Section 3-2-8 Public/Quasi-Public District
- City of Elko Code – Section 3-2-12(A) Light Industrial District
- City of Elko Code – Section 3-8 Flood Plain Management
- City of Elko Code – Section 3-3-24 Parcel Maps
- City of Elko Code – Section 3-3-28 Mergers and Resubdivision of Land



The City of Elko, Development Department finds, the parcel map is **NOT** in general compliance with the above referenced Master Plan Components and Sections of City Code. A Master Plan Amendment is required for proposed Parcel 3. The parcel map was evaluated based on the existing conditions and current development of the property.

### **BACKGROUND INFORMATION**

1. The proposed map is a division of one parcel, 001-01R-001 into three new parcels.
2. The proposed parcels have an area approximately
  - a. Parcel 1: 37.3 Acres
  - b. Parcel 2: 12.62 Acres
  - c. Parcel 3: 2,800 Square Feet
3. The area is currently zoned (PQP) Public/Quasi-Public. However, a Rezone from PQP (Public/Quasi-Public) to LI (Light Industrial) is underway.
4. The property is currently undeveloped and consists of the Humboldt River and Harp Trail.
5. The area is generally located along the Humboldt River from the Sports Complex to S. 9<sup>th</sup> Street.
6. Public improvements are not in place with the exception of the Front Street frontage which does have curb and gutter.

### **MASTER PLAN:**

#### **Land Use:**

- The land use is identified as Parks and Open Space.
- Public/Quasi-Public is a corresponding Zoning designation under the Parks and Open Space category.
- The proposed Zoning designation on Parcel 3 of Light Industrial is not a corresponding Zoning designation under the Parks and Open Space category. Per the Master Plan, Light Industrial is only an allowable zoning under the following categories:
  - General Industrial
  - Business Park Industrial
- A Master Plan Amendment is required to bring the proposed Parcel 3 into conformance with the Master Plan. It is recommended that the Master Plan designation for proposed Parcel 3 be changed to General Industrial to match the properties to the southwest along Front Street.
- Objective 4: Consider a mixed-use pattern of development for the downtown area, and for major centers and corridors, to ensure the area's adaptability, longevity, and overall sustainability. The project complies with this objective of the Master Plan.
- Objective 7: Promote high quality and visually appealing industrial uses, where appropriate, to promote economic sustainability and strengthen the community's image. The project complies with this objective of the Master Plan.
- **Until a Master Plan Amendment is completed, the project is not consistent with the Land Use Section of the Master Plan.**

### **Transportation:**

- Proposed Parcels 1 and 2 will maintain their current limited access points.
- Proposed Parcel 3 will have access from Front Street through an access easement granted by the City (shown on the Parcel Map).

### **ELKO REDEVELOPMENT PLAN:**

- Proposed Parcel 2 is located within the Redevelopment Area, but no development is proposed

for this parcel.

- Proposed Parcels 1 and 3 are not located within the Redevelopment Area.

**ELKO WELLHEAD PROTECTION PLAN:**

- The property is located outside of any 30 year capture zone.

**SECTION 2-13-3 SIDEWALK, CURB AND GUTTER CONSTRUCTION**

- This section of code states sidewalks, curbs and gutters shall be required on all vacant lots or parcels of land which are hereafter ... merged or divided.
- Proposed Parcels 1 and 2 have no street frontage that would require public improvements.
- Parcel 3 does not have any street frontage on Front Street. Therefore, no public improvements are required.

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

- Section 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS states that no yard or lot area can be reduced below the minimum requirements set forth in Title 3 (zoning).
- Neither Public/Quasi-Public nor Light Industrial have minimum lot size requirements.

**Section 3-2-8 PUBLIC/QUASI-PUBLIC DISTRICT**

- Compliance with this section of code is required for Parcels 1 and 2.

**Section 3-2-12 (A) LIGHT INDUSTRIAL DISTRICT**

- Compliance with this section of code is required for Parcel 3 once the Rezone is approved.

**SECTION 3-8 FLOODPLAIN MANAGEMENT:**

- Parcels 1 and 2 are located within the Floodway of the Humboldt River. No development is proposed for these parcels.
- A portion of Parcel 3 is located within a designated FEMA Floodzone AE. Any future development within this portion of the site will require the submittal of a Floodplain Development Permit application to the City of Elko Development Department.
- With the submittal of the previously mentioned Floodplain Development Permit, this Parcel Map and any future development of Parcel 3 will not increase the potential of flooding above what already exists.

**SECTION 3-3-24 PARCEL MAPS**

**Parcel Maps (A)** – The proposed Parcel Map has been submitted as required.

**Parcel Maps (B)** – Public improvements have been shown on the Parcel Map as required.

**Parcel Maps (C)** – The required condition of approval has been added.

**Parcel Maps (D)** – The map does not include any offers for dedication of Rights of Way.



**Parcel Maps (E)** – The map complies with all zoning requirements.

**Parcel Maps (F)** – Construction plans have not been submitted for site improvements.

**Parcel Maps (G)** – This section does not apply because this is not a subsequent Parcel Map.

**Parcel Maps (H)** – Application has been made through the Planning Department to be processed as required by this section.

**Parcel Maps (I)** – No exceptions apply to this site. A Parcel Map is required.

**Parcel Maps (J)** – A survey was done as part of the Parcel Map preparation.

**Parcel Maps (K)** – The required filing fee was paid to the Planning Department.

**Parcel Maps (L)** – All required information has been shown on the Parcel Map.

**Parcel Maps (M)** – The applicant is responsible for recording the Parcel Map within the required timeframe. A condition of approval has been included.

**Parcel Maps (N)** – None of the listed prohibitions apply to the proposed Parcel Map.

### **SECTION 3-3-28 MERGERS AND RESUBDIVISIONS OF LAND**

**Mergers (A)** – All lots are owned by the applicant.

**Mergers (B)** – The map shall be recorded in accordance with NRS 278.320 - .4725

**Mergers (C)** – All easements are clearly identified on the map.

**Mergers (D)** – No security is being held by the city.

### **RECOMMENDATION**

The City of Elko **Development Department** recommends conditional approval of the parcel map with the following conditions.

1. A Master Plan Amendment is required for Parcel 3 to change the Master Plan designation from Parks and Open Space to one of the appropriate industrial designations.
2. The Parcel Map shall be recorded by Elko County within two (2) years of this approval.
3. Any/All new public utility services needed in the future (water and sewer) to Parcel 3 must be through new lateral lines and cannot be continued under/from the existing adjacent building.
4. Development of Parcel 3 will require the submittal of a Floodplain Development Permit application to the City of Elko Development Department.



## CITY OF ELKO PLANNING DEPARTMENT

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

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

### APPLICATION FOR PARCEL MAP APPROVAL

APPLICANT(s):	City of Elko		
MAILING ADDRESS:	1751 College Avenue, Elko, Nevada 89801		
PHONE NO (Home):		(Business):	775-777-7210
NAME OF PROPERTY OWNER (If different):			
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:			
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-01R-001	Address:	none
Lot(s), Block(s), & Subdivision			
Or Parcel(s) & File No.	Quit Claim Deed file no. 229070 in Book 561 at Page 499.		
APPLICANT'S REPRESENTATIVE OR ENGINEER:			

#### FILING REQUIREMENTS:

**Complete Application Form:** In order to begin processing the application, an application form must be complete and signed. A complete application must include the following:

1. One .pdf of the entire application, and one (1) copy of a 24" x 36" sized parcel map provided by a properly licensed surveyor as well as one (1) set of reproducible plans 8 1/2" x 11" in size of the site drawn to scale showing proposed division of property prepared in accordance with Section 3-3-60 of the Elko City Code along with any supporting data to include:
  - a. Name, address and telephone number of the person who prepared the parcel map.
  - b. Proposed use of each parcel.
  - c. A certificate of execution (signature block) for the Elko City Planning Commission or duly authorized representative.
  - d. Source of water supply and proposed method of sewage disposal for each parcel.
  - e. A copy of all survey computations
  - f. A vicinity map.
2. If the property is improved, a plot plan depicting the existing conditions drawn to scale showing proposed property lines, existing buildings, building setbacks, parking and loading areas and any other pertinent information.

**Fee:** \$400.00 + \$25.00 per lot for Planning Commission and City Council Review; dedication of street right of way or modification of subdivision ordinance standards or regulations.  
\$200.00 + \$25.00 per lot for administrative review only; no dedications or modifications.  
Fees are non-refundable.

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

RECEIVED



1. Identify the existing zoning of the property:

Public / Quasi Public

2. Explain in detail the type and nature of the use proposed on each parcel:

A zone change to Light Industrial is currently being processed for the area shown as proposed Parcel 3, to allow for a small equipment building for an Internet service provider.

Parcels 1 and 2 will be a continued use as the H.A.R.P. Trail along the river corridor.

3. Explain the source of water supply and proposed method of sewerage disposal for each parcel: These parcels are located within the City of Elko Service area for water and sewer. No water or sewer connections are proposed at this time.

**parcel:** These parcels are located within the City of Elko Service area for water and sewer. No water or sewer connections are proposed at this time.

**This area intentionally left blank**

**By My Signature below:**

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

Bob Thibault

(Please print or type)

**Mailing Address**

1751 College Ave

Street Address or P.O. Box

Elko, NV 89801

City, State, Zip Code

Phone Number:

775-777-7210

Email address:

bthibault@elkocitynv.gov

**SIGNATURE:**

*Robert Thibault*

---

**FOR OFFICE USE ONLY**

File No.: 7-20 Date Filed: 9/9/20 Fee Paid: N/A

---

SEP 09 2020

## Anthem Parcel Map Closure Calculations

---

### Parcel 1

North: 28467572.85' East: 603012.96'

Segment #1: Line

Course: N0°23'04"E Length: 219.90'

North: 28467792.74' East: 603014.44'

Segment #2: Curve

Length: 286.38' Radius: 5479.58'

Delta: 2°59'40" Tangent: 143.22'

Chord: 286.35' Course: N57°24'40"E

Course In: S34°05'10"E Course Out: N31°05'30"W

RP North: 28463254.58' East: 606085.40'

End North: 28467946.97' East: 603255.70'

Segment #3: Line

Course: N58°54'30"E Length: 181.58'

North: 28468040.74' East: 603411.20'

Segment #4: Curve

Length: 673.48' Radius: 3769.83'

Delta: 10°14'09" Tangent: 337.64'

Chord: 672.58' Course: N77°56'30"E

Course In: S17°10'35"E Course Out: N6°56'26"W

RP North: 28464439.05' East: 604524.48'

End North: 28468181.25' East: 604068.94'

Segment #5: Line

Course: N83°03'34"E Length: 1009.36'

North: 28468303.22' East: 605070.90'

Segment #6: Curve

Length: 2105.31' Radius: 2936.00'

Delta: 41°05'06" Tangent: 1100.21'

Chord: 2060.49' Course: N62°31'01"E

Course In: N6°56'26"W Course Out: S48°01'32"E

RP North: 28471217.71' East: 604716.12'

End North: 28469254.11' East: 606898.86'

Segment #7: Line

Course: N48°01'32"W Length: 27.00'

North: 28469272.17' East: 606878.79'

Segment #8: Line

Course: N41°58'28"E Length: 1554.95'

North: 28470428.18' East: 607918.73'

Segment #9: Line

Course: S48°02'13"E Length: 231.27'

North: 28470273.54' East: 608090.70'

Segment #10: Line

Course: S41°57'47"W Length: 44.43'

North: 28470240.51' East: 608060.99'

Segment #11: Line

Course: S12°15'57"E Length: 10.40'

North: 28470230.35' East: 608063.20'

Segment #12: Line

Course: S55°13'06"E Length: 169.84'

North: 28470133.46' East: 608202.70'

Segment #13: Line

Course: S41°57'34"W Length: 130.79'

North: 28470036.20' East: 608115.25'

Segment #14: Line

Course: N48°02'26"W Length: 32.00'

North: 28470057.60' East: 608091.45'

Segment #15: Line

Course: N41°57'34"E Length: 40.00'

North: 28470087.34' East: 608118.20'

Segment #16: Line

Course: N48°02'26"W Length: 70.00'

North: 28470134.14' East: 608066.15'

Segment #17: Line

Course: S41°57'34"W Length: 40.00'

North: 28470104.40' East: 608039.40'

Segment #18: Line

Course: S41°57'34"W Length: 616.20'

North: 28469646.18' East: 607627.41'

Segment #19: Line

Course: N48°02'26"W Length: 8.00'

North: 28469651.53' East: 607621.46'

Segment #20: Line

Course: S41°57'34"W Length: 328.02'

North: 28469407.61' East: 607402.14'

Segment #21: Line

Course: S48°02'26"E Length: 11.73'

North: 28469399.77' East: 607410.87'

Segment #22: Line

Course: S41°57'26"W Length: 861.94'

North: 28468758.79' East: 606834.59'

Segment #23: Line

Course: N48°02'17"W Length: 90.48'

North: 28468819.29' East: 606767.31'

Segment #24: Line

Course: S41°58'28"W Length: 13.68'

North: 28468809.12' East: 606758.16'

Segment #25: Curve

Length: 1523.77' Radius: 2125.00'

Delta: 41°05'06" Tangent: 796.30'

Chord: 1491.33' Course: S62°31'01"W

Course In: N48°01'32"W Course Out: S6°56'26"E

RP North: 28470230.32' East: 605178.35'

End North: 28468120.89' East: 605435.14'

Segment #26: Line

Course: S83°03'34"W Length: 1086.25'

North: 28467989.63' East: 604356.85'

Segment #27: Curve

Length: 1394.56' Radius: 2675.00'

Delta: 29°52'12" Tangent: 713.51'

Chord: 1378.82' Course: S68°07'28"W

Course In: S6°56'26"E Course Out: N36°48'38"W

RP North: 28465334.23' East: 604680.09'

End North: 28467475.89' East: 603077.31'

Segment #28: Line



Course: S53°11'22"W Length: 81.64'

North: 28467426.97' East: 603011.94'

Segment #29: Line

Course: N0°23'57"E Length: 145.88'

North: 28467572.85' East: 603012.96'

Perimeter: 12988.84' Area: 1624594.51 Sq. Ft. = 37.30 Acres

Error Closure: 0.00 Course: N10°22'31"W

Error North: 0.001 East: -0.000

Precision 1: 12894910000.00

\*\*\*\*\*

## Parcel 2

North: 28470238.42' East: 608293.69'

Segment #1: Line

Course: N40°51'41"W Length: 167.29'

North: 28470364.94' East: 608184.25'

Segment #2: Line

Course: N86°16'11"W Length: 10.74'

North: 28470365.64' East: 608173.53'

Segment #3: Line

Course: S41°57'47"W Length: 43.86'

North: 28470333.03' East: 608144.20'

Segment #4 : Line

Course: N48°02'13"W Length: 231.26'

North: 28470487.66' East: 607972.24'

Segment #5: Line

Course: N41°58'28"E Length: 1520.43'

North: 28471618.02' East: 608989.11'

Segment #6: Line

Course: S48°02'02"E Length: 7.21'

North: 28471613.19' East: 608994.47'

Segment #7: Line

Course: S89°31'32"E Length: 298.35'

North: 28471610.72' East: 609292.81'

Segment #8: Line

Course: S34°09'52"W Length: 360.56'

North: 28471312.39' East: 609090.33'

Segment #9: Line

Course: N89°31'32"W Length: 66.29'

North: 28471312.93' East: 609024.04'

Segment #10: Line

Course: S41°58'00"W Length: 88.01'

North: 28471247.50' East: 608965.19'

Segment #11: Line

Course: S42°01'58"E Length: 61.33'

North: 28471201.94' East: 609006.25'

Segment #12: Line

Course: S47°58'02"W Length: 140.00'

North: 28471108.20' East: 608902.26'

Segment #13: Line

Course: S39°49'02"W Length: 20.20'

North: 28471092.69' East: 608889.33'

Segment #14: Line

Course: S42°01'58"E Length: 90.43'

North: 28471025.52' East: 608949.88'

Segment #15: Line

Course: S39°49'02"W Length: 141.43'

North: 28470916.89' East: 608859.31'

Segment #16: Line

Course: S39°49'01"W Length: 80.82'

North: 28470854.81' East: 608807.56'

Segment #17: Line

Course: S39°49'02"W Length: 207.29'

North: 28470695.60' East: 608674.83'

Segment #18: Line

Course: S39°49'04"W Length: 80.00'

North: 28470634.15' East: 608623.60'

Segment #19: Line

Course: S39°49'01"W Length: 164.59'

North: 28470507.73' East: 608518.20'

Segment #20: Line

Course: S39°49'02"W Length: 350.61'

North: 28470238.43' East: 608293.69'

Perimeter: 4130.69' Area: 549511.19 Sq. Ft. = 12.62 Acres

Error Closure: 0.00 Course: N17°15'53"E

Error North: 0.004 East: 0.001

Precision 1: 4130700000.00

\*\*\*\*\*

### **Parcel 3**

North: 28470057.60' East: 608091.46'

Segment #1: Line

Course: N48°02'26"W Length: 70.00'

North: 28470104.40' East: 608039.41'

Segment #2: Line

Course: N41°57'34"E Length: 40.00'

North: 28470134.15' East: 608066.15'

Segment #3: Line

Course: S48°02'26"E Length: 70.00'

North: 28470087.34' East: 608118.21'

Segment #4: Line

Course: S41°57'34"W Length: 40.00'

North: 28470057.60' East: 608091.46'

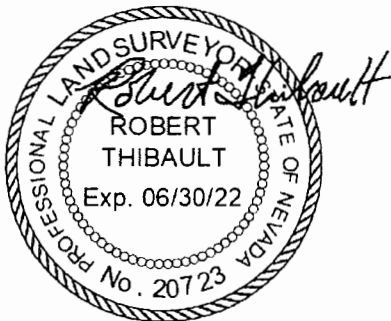
Perimeter: 220.00' Area: 2800.00 Sq. Ft. = 0.06 Acres

Error Closure: 0.00 Course: N0°00'00"E

Error North: 0.000 East: 0.000

Precision 1: 220000000.00

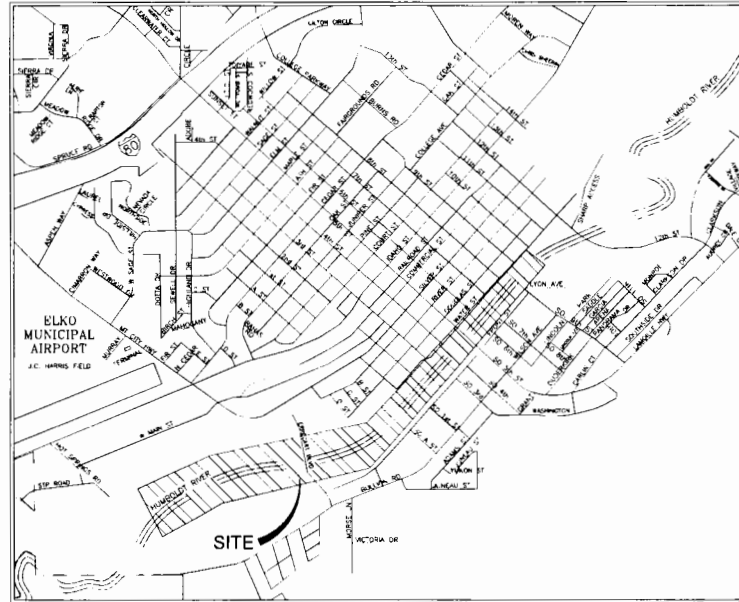
Prepared by:  
Robert Thibault, PE, PLS  
City of Elko  
Civil Engineer



Digitally signed by Robert  
Thibault  
Date: 2020.08.27  
15:33:43-07'00'

# REFERENCES

1. THE MAP OF REVERSE ADDITION TO THE CITY OF ELKO, NEVADA, RECORDED AS FILE NO. 40927, ON JULY 14, 1926.
2. THE MAP OF THE REVERSE ADDITION NO. 1 TO THE CITY OF ELKO, RECORDED AS FILE NO. 47872, ON MARCH 10, 1930.
3. THE PARCEL MAP FOR THE CITY OF ELKO, NEVADA, RECORDED AS FILE NO. 350281, ON MARCH 3, 1994.
4. RECORD OF SURVEY AND PARCEL MAP FOR THE CITY OF ELKO, NEVADA, RECORDED AS FILE NO. 322343, ON JUNE 17, 1982.
5. THE BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY FOR FRANCIS KACABE FAMILY LIMITED PARTNERSHIP AND THE CITY OF ELKO, NEVADA, RECORDED AS FILE NO. 756648, ON JUNE 12, 2020.
6. THE RECORD OF SURVEY FOR T.C. SHAFER 1995 FAMILY LIMITED PARTNERSHIP, RECORDED AS FILE NO. 77153, ON JULY 17, 2020.
7. THE RECORD OF SURVEY FOR THE CITY OF ELKO, NEVADA, RELOCATION PROJECT, RECORDED AS FILE NO. 237417, ON JULY 6, 1997.
8. THE BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY FOR THE CITY OF ELKO, NEVADA AND THE MORGAN FAMILY TRUST, RECORDED AS FILE NO. 397219, ON NOVEMBER 14, 1996.
9. THE RECORD OF SURVEY FOR THE CITY OF ELKO, RECORDED AS FILE NO. 423883, ON MARCH 4, 1998.
10. THE DEED DEED BETWEEN M.P. ARVSTRONG AND THE STATE OF NEVADA, RECORDED AS FILE NO. 220076, IN BOOK 561, AT PAGE 499, ON MAY 27, 1987.
11. THE EASEMENT DEED BETWEEN M.P. ARVSTRONG AND THE STATE OF NEVADA, RECORDED AS FILE NO. 150954, IN BOOK 577, AT PAGE 433, ON MARCH 28, 1985.
12. THE DEED DEED BETWEEN THE STATE OF NEVADA AND THE CITY OF ELKO, NEVADA, RECORDED AS FILE NO. 220073, IN BOOK 561, AT PAGE 499, ON MAY 27, 1987.
13. THE ELKO DEPARTMENT OF PUBLIC WORKS RELOCATION PROJECT CONSTRUCTION PLANS, LOCATED IN THE RECORDS OF THE CITY OF ELKO AT: U:\Projects\ELKO\RELOCATION PROJECTS\relocat on drawings\pld.pdf AND/OR RELOCATION drawings\pld.pdf
14. THE SLOPE STREET EXHIBITION / BULLION ROAD CORRELATION CONSTRUCTION PLANS, LOCATED IN THE RECORDS OF THE CITY OF ELKO AT: U:\Map\Bullion\Bullion\relocat on drawings\pld.pdf THROUGHOUT. Bridge-pld.pdf



WIDENY MAP  
NOT TO SCALE

## COUNTY ASSESSOR'S CERTIFICATE

I, JANET RIBARNE, CERTIFY THAT THE ASSESSOR'S PARCEL NUMBER SHOWN ON THIS PLAT IS CORRECT AND THAT THE PARCELS ARE A DIVISION OF ASSESSOR'S PARCEL NO. 03-01R-001

ELKO COUNTY ASSESSOR \_\_\_\_\_ DATE \_\_\_\_\_

## COUNTY TREASURER'S CERTIFICATE

I, CHERIE PAUL, CERTIFY THAT A PROPERTY TAXES ON PARCELS NO. 03-01R-001 HAVE BEEN PAID FOR THIS FISCAL YEAR.

ELKO COUNTY TREASURER \_\_\_\_\_ DATE \_\_\_\_\_

## FLOOD

THE OWNER OF THE PARCELS SHOWN ON THIS MAP DOES HEREBY ACKNOWLEDGE THAT ACCORDING TO FEDERAL FLOOD DATA (FLOOD INSURANCE RATE MAPS BY FEMA) THESE LANDS LIE WITHIN FLOOD ZONE AS AREAS SUBJECT TO INUNDATION BY THE 1-PERCENT ANNUAL CHANCE FLOOD EVENT DETERMINED BY DETAILED METHODS (U.S. AND SHOWN WITHIN FLOOD ZONES). ACCORDINGLY, ALL NEW CONSTRUCTION IS SUBJECT TO APPLICABLE PORTIONS OF CITY AND COUNTY ORDINANCES.

SEE DETAIL B ON SHEET 3 FOR APPROXIMATE FLOOD ZONE LIMITS.

## UTILITY COMPANIES CERTIFICATE

THE PUBLIC UTILITY EASEMENTS SHOWN HEREON ARE APPROVED BY THE RESPECTIVE PUBLIC UTILITIES EXERCISED BELOW.

SERPA PACIFIC POWER COMPANY (D.B.A. NV ENERGY) \_\_\_\_\_ DATE \_\_\_\_\_

SOUTHWEST GAS CORPORATION \_\_\_\_\_ DATE \_\_\_\_\_

FRONTIER \_\_\_\_\_ DATE \_\_\_\_\_

ZIIC MEDIA \_\_\_\_\_ DATE \_\_\_\_\_

## SURVEYOR'S CERTIFICATE

1. ROBERT THIBAUT, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NEVADA, CERTIFY THAT:
2. THE LANDS SURVEYED LIE WITHIN SECTIONS 14, 15, AND 22, T14N, R55E, M38B4.
3. THIS PLAT COMPLETES WITH THE APPLICABLE STATE STATUTES AND ANY LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL.
4. THE MEASUREMENTS DEPICTED ON THE PLAT ARE OF THE CHARACTER SHOWN, USUALLY, THE POSITIONS INDICATED, AND ARE OF SUFFICIENT NUMBER AND DURATION.

Digitally signed by Robert Thibaut  
Date: 2020.09.08 16:09:37-0700

ROBERT THIBAUT, P.L.S. 90723

FOR REVIEW



## OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, CITY OF ELKO, NEVADA, BEING THE OWNER OF THOSE PARCELS AS SHOWN ON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP AND WAIVES FROM OBJECTION ALL OF THE STREETS AND EASEMENTS FOR PUBLIC ACCESS AND PUBLIC UTILITY PURPOSES AS DESIGNATED HEREON. A WITNESS I SET MY HAND

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

BY: ROBERT THIBAUT, MAYOR \_\_\_\_\_ DATE \_\_\_\_\_

STATE OF NEVADA  
COUNTY OF ELKO

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY \_\_\_\_\_ MAYOR OF THE CITY OF ELKO, NEVADA.

NOTARY PUBLIC \_\_\_\_\_

## APPROVAL - CITY OF ELKO

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, THIS MAP WAS APPROVED FOR SUBDIVISION PURPOSES PURSUANT TO NRS 278.461 - 278.469 INCLUSIVE AND ANY APPLICABLE LOCAL ORDINANCES, AND ANY OTHERS OF DELICACIES SHOWN HEREON WERE ACCEPTED FOR PUBLIC USE.

CITY ENGINEER OR PLANNING REPRESENTATIVE \_\_\_\_\_ DATE \_\_\_\_\_

CITY PLANNER OR PLANNING REPRESENTATIVE \_\_\_\_\_ DATE \_\_\_\_\_

## NOTES

1. THE TOTAL SUBDIVIDED AREA EQUALS 49.95 ACRES.
2. THE TOTAL NUMBER OF PARCELS EQUALS 3.
3. A PUBLIC UTILITY EASEMENT IS ALSO HEREBY GRANTED WITHIN EACH PARCEL FOR THE UTILITY PURPOSES OF THE AIRPORT, AND MAINTAINING UTILITY SERVICES TO THAT PARCEL, AND THE RIGHT TO EXIST THAT PARCEL WITHIN UTILITY FACILITIES FOR THE PURPOSES OF SERVING ADJACENT PARCELS AT LOCATIONS MUTUALLY AGREED UPON BY THE OWNER OF RECORD AT THE TIME OF INSTALLATION AND THE UTILITY COMPANY.

FILE NO. \_\_\_\_\_

FILED AT THE REQUEST OF  
THE CITY OF ELKO.

DATE \_\_\_\_\_, 2020

TIME \_\_\_\_\_

D. MIKE SMALES  
ELKO COUNTY RECORDER

<p>PARCEL MAP FOR CITY OF ELKO, NEVADA</p> <p>LOCATED IN SECTIONS 14, 15, AND 22 T14N, R55E, M38B4</p>		<p>SHEET 1 OF 3</p>
<p>CITY OF ELKO 1700 COLLIER AVE ELKO, NEVADA 89601 703-755-0100</p>		<p>ELKO COUNTY RECORDER</p>







**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, discussion, and possible approval for payment to the Boys and Girls Club of Elko for COVID-19 related expenses (for example PPE and COVID-19 testing) incurred as a result of the COVID-19 pandemic, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **The City received Cares Relief Funds from the State of Nevada in August, 2020. As outlined in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada a sub-grant to reimburse the Boys and Girls Club of Elko for direct costs associated with COVID-19 which include, but are not limited to, COVID-19 testing and PPE are eligible expenditures.**

**The City would like to sub-grant Cares Relief Funds to the Boys and Girls Club of Elko for direct COVID-19 related expenses. The payment of these funds would be subject to the Boys and Girls Club of Elko providing a specific list of COVID-19 related expenses along with invoices as well as the Boys and Girls Club of Elko agreeing to the terms specified in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada; including adhering to Nevada Governor's Directives.**

**The current list of expenses provided by the Boys and Girls Club of Elko is \$16,253.21.  
JB**

6. Budget Information:  

**Appropriation Required: \$16,253.21 plus any additional eligible COVID-19 expenses submitted by the Boys and Girls Club of Elko**  
**Budget amount available: NA**  
**Fund name: General Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **N/A**
9. Recommended Motion: **Recommend staff to request an updated list of direct COVID-19 related expenses and copies of related invoices from the Boys and Girls Club of Elko and prepare an agreement to be signed by the Boys and Girls Club of Elko indicating the organization will adhere to the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada; including adhering to the Nevada Governor's Directives. Once the supporting documentation and agreement are received issue payment to the Boys and Girls Club of Elko out of the Cares Relief Funding.**
10. Prepared By: **Jan Baum, Financial Services Director**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution:

**Boys & Girls Clubs of Elko**  
**COVID-19 PPE**

COVID-19 Testing: Lab Corp	655.00
Safety Gloves	194.98
Face Masks	1,168.05
Shields	214.16
Thermometers	701.22
Hand Sanitizer	3,083.50
Alcohol Wipes	982.15
Alcohol Prep Pads	93.92
COVID-19 Chemical Sanitizer	966.65
COVID-19 Chemical Dispenser	5,221.56
Toilet Seat Covers	45.81
Social Distancing Markers	233.77
Sink Rental(September-October)	460.00
Porta-Potty Rental (Sept – Dec)	652.00
Barriers	1,299.11
Table Shields	281.33
<b>Total</b>	<b>16,253.21</b>

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, discussion, and possible direction to Staff regarding CARES Act funding, including the possible initiation of the closeout process, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Based upon the outcome of related agenda items, City Staff may recommend that ongoing compliance with the terms and conditions imposed by the State of Nevada is no longer feasible and/or Cares Act funding is no longer necessary. CC**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Ordinance No. 856, an Emergency Ordinance Reducing the Amount and Deferring Payment of Brothel License Fees, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **ORDINANCE**
4. Time Required: **5 Minutes**
5. Background Information: **On June 23, 2020, City Council approved Ordinance No. 855, which deferred payment for Brothel License Fees until September 30, 2020 due to the COVID-19 pandemic. This ordinance extends the date to within thirty (30) days of the date the licensee is permitted to reopen by order of the Office of the Governor or upon termination of this Ordinance, whichever occurs first. KW**
6. Budget Information: **N/A**  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Ordinance No. 856**
9. Recommended Motion: **Approve emergency Ordinance No. 856**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Council Agenda Distribution: [monaselko@gmail.com](mailto:monaselko@gmail.com)

## ORDINANCE NO. 856

### AN EMERGENCY ORDINANCE REDUCING THE AMOUNT AND DEFERRING PAYMENT OF BROTHEL LICENSE FEES TO ASSIST BROTHELS ADVERSELY AFFECTED BY THE COVID-19 PANDEMIC

**WHEREAS**, on March 12, 2020, the Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic;

**WHEREAS**, on March 17, 2020, the Governor ordered a 30-Day statewide shutdown of "nonessential" businesses, effective at 12:00 noon on March 18, 2020, to contain the spread of the coronavirus;

**WHEREAS**, on March 18, 2020, the Elko City Council issued a Declaration of Emergency for the City of Elko due to the COVID-19 pandemic and nonessential business closures ordered by the Governor;

**WHEREAS**, brothels are included within the definition of a nonessential business;

**WHEREAS**, on May 28<sup>th</sup>, 2020, the Governor issued Directive 021, permitting the opening of certain business; however, Section 27 requires brothels and several other nonessential businesses to remain closed until June 30, 2020, unless Directive 021 is terminated or extended by a subsequent directive;

**WHEREAS**, on June 29, 2020, the Governor issued Directive 026, Section 8, extending Directive 021 to July 31, 2020;

**WHEREAS**, on July 31, 2020, the Governor issued Directive 029, Section 4, which provides as follows:

*All directives promulgated pursuant to the March 12, 2020 Declaration of Emergency or subsections thereof set to expire on July 31, 2020, shall remain in effect for the duration of the current state of emergency, unless terminated prior to that date by a subsequent directive or by operation of law associated with lifting the Declaration of Emergency. Of note, Phase Two of the Nevada United: Roadmap to Recovery remains in effect. Directive 026, Section 8, extending Directive 021, Phase Two of the Nevada United: Roadmap to Recovery plan, is hereby extended until the earlier of termination of these provisions by a subsequent directive or termination of the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.*

**WHEREAS**, brothels continue to remain closed pursuant to the Governor's directives;

**WHEREAS**, pursuant to Elko City Code Section, 4-9-12(A), every brothel licensee must pay an annual or semiannual fee set by resolution of the Board for the privilege of operating a brothel in the City;

**WHEREAS**, the amount of the license fee for a license that becomes effective after June 30 is one-half (1/2) of the amount required for a full year;

**WHEREAS**, the last semiannual brothel license fee was due June 30, 2020;

**WHEREAS**, on June 23, 2020, the City Council enacted Ordinance 855 which provided temporary emergency relief to brothels by reducing the amount of the brothel license fee by one-half (1/2) for the period from June 30, 2020 through December 31, 2020, and by deferring the due date for payment of semiannual brothel license fees to September 30, 2020;

**WHEREAS**, representatives of brothels doing business in the City have communicated to the City Council that the COVID-19 pandemic and the Governor's Directives have resulted in a substantial loss of revenue;

**WHEREAS**, it is not known when brothels will be permitted to reopen;

**WHEREAS**, pursuant to Sections 2.060 and 2.110 of the Elko City Charter, the City Council is authorized, by unanimous consent, to take final action to immediately enact ordinances in cases of emergency, subject to the provisions of Chapter 241 of NRS;

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

**Section 1: That until expiration of this Ordinance as set forth in Section 6 hereof, Title 4, Chapter 9, Section 12, Subsection D of the Elko City Code is amended to state as follows:**

D. Partial Years; Timing of Payment; Fee Amounts: The amount of the license fee for a license granted for a portion of a calendar year which becomes effective on or before June 30, 2020 shall be the amount required for the full year. The amount of the semiannual license fee for a license that becomes effective on or after July 1, 2020 shall be one-fourth (1/4) of the amount required for a full year. Notwithstanding any other provision contained in this Chapter, all license fees for the period commencing June 30, 2020, if paid semiannually, including accrued license fees, shall be due within thirty (30) days of the date the licensee is permitted to reopen by order of the Office of the Governor or upon termination of this Ordinance, whichever occurs first.

**Section 2:** All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict

**Section 3:** If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, the invalidity, unenforceability, or provision shall not affect any remaining provisions of this ordinance.

**Section 4:** Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilman voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

**Section 5:** This Ordinance shall be effective upon the publication mentioned in Section 4.

**Section 6:** This Ordinance shall automatically terminate at midnight on December 31, 2020, whereupon all accrued license fees shall be immediately due and payable.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020 by the following vote of the Elko City Council.

AYES:

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_ 2020.

CITY OF ELKO

BY: \_\_\_\_\_  
REECE KEENER, Mayor

ATTEST:

\_\_\_\_\_  
KELLY WOOLDRIDGE, City Clerk



**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration and possible approval of a request from Attorney David Lockie, representing Mr. Louis Goldberg. Mr. Goldberg is requesting to modify conditions on the business licenses for Mona's Ranch and Inez's D & D, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PETITION, APPEAL AND COMMUNICATION**
4. Time Required: **5 Minutes**
5. **Background Information: On August 14, 2018, City Council approved the Brothel License Application for Louis Goldberg, with the restriction that he is on site twenty days a month and this is subject to audit from the Police Department. Mr. Goldberg is requesting to modify this condition to 10 days per month. KW**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Letter from Mr. Lockie and Response from City Clerk**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: [monaselko@gmail.com](mailto:monaselko@gmail.com)

LOCKIE & MACFARLAN, LTD.  
Attorneys at Law

David B. Lockie  
Sherburne M. Macfarlan, III

919 Idaho Street  
Elko, Nevada 89801  
(775) 738-8084  
(775) 738-1928 (Fax)

September 2, 2020

City of Elko  
Kelly Woodridge, City Clerk  
1753 College Avenue  
Elko, Nevada 89801

Re: Request by Louis Goldberg for placement on agenda for  
September 8, 2020 meeting of the Elko City Council

Dear Ms. Woodridge:

Louis Goldberg, who is one of three licensees for Mona's and Inez' D&D, requests to be placed on the agenda for the September 8, 2020 meeting of the Elko City Council, so that the City may review and consider a request to modify certain conditions that were previously placed on the license. Specifically, we are requesting that the present condition that Mr. Golberg be physically present on the premises 20 days per month to be reduced to a 10 day period; and that the person present be "a licensee."

By way of procedural history, on February 27, 2018, the license was suspended for 180 days. The period of suspension expired on August 27, 2018. At that time, the licensees were located in Las Vegas, and Mr. Goldberg was the manager, who was in the process of purchasing the business. Accordingly, at Mr. Goldberg's request, the City considered and approved his license at the August 14, 2018. The City granted the license, but attached a condition that he be personally present on the premises at least 20 days per month. The 20 day-licensee-on-site requirement is a condition that was suggested, then agreed to at the August 14, 2018 meeting. That is not a requirement that is set forth in the Elko City Code.

Subsequently, the City has approved licenses for two additional individuals, Ana Brown, and Peter Tang. There have been no additional concerning incidents for the past two years since August 27, 2018 when the license was reinstated.

The present request is to modify the special condition as it presently exists, to provide that "a licensee" must be physically present on the premises for 10 days per month. Further, we have no

Sept. 2, 2020  
Page -2-

objection to any requirements the City may have regarding a licensee being readily available for contact by telephone at all times the business is open.

Thank you for placing this matter on the agenda, and fair consideration of this request.

Sincerely yours,

LOCKIE & MACFARLAN, LTD.

A handwritten signature in cursive script, appearing to read "David B. Lockie".

DAVID B. LOCKIE

DBL:dl



# CITY OF ELKO

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7126 •

---

September 2, 2020

David B. Lockie  
919 Idaho Street  
Elko, NV. 89801

*RE: Request by Louis Goldberg for placement on agenda for September 8, 2020 meeting of the Elko City Council*


Dear Mr. Lockie,

I am in receipt of your letter dated September 2, 2020 received via the City of Elko drop box at 1:00 p.m... Unfortunately, I am unable to grant the request for Mr. Goldberg to be placed on the September 8, 2020 City Council agenda. Due to the Labor Day holiday and in order to meet the Open Meeting Law, the September 8, 2020 agenda was posted one day early. The agenda was posted this morning at 8:00 a.m.

I will place this item on the agenda for the September 22, 2020 City Council meeting. Also, please know at this meeting we will also be hearing another request from Mr. Goldberg's manager, Ana Brown to hear an emergency ordinance to extend the time of payment for the brothel licenses. The time will be extended to state "payment shall be due within thirty (30) days of the date the licensee is permitted to reopen by order of the Office of the Governor or upon termination of this Ordinance, whichever occurs first."

Please feel free to contact me if you have any further questions or concerns.

Sincerely,

  
Kelly Wooldridge  
City Clerk

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a request by Mr. and Mrs. Barris for reimbursement for damages resulting from sewer leak at their residence, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PETITIONS, APPEALS & COMMUNICATIONS**
4. Time Required: **5 Minutes**
5. Background Information: **On July 30, 2020 Kimberly and James Barris, 3505 Forest Court, contacted the on-call regarding a water leak. The on-call went out and suggested the homeowner turn the water off. The house flooded again the next morning and the Water Department Supervisor responded who determined it was actually a sewer leak on the City side of the pipes not a water leak. The City of Elko insurance (Alternative Services Concepts) denied the claim. The City Sewer Policy allows for reasonable cost of the initial clean up and does not include removal of property, replacement of carpeting, tile or furnishings, new construction, disposal or any other costs and/or damages. The Barris's are requesting payment for lost items and other damage. KW**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Sewer Leak Packet**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **kim\_barris75@yahoo.com**

## City Council Agenda

Kim Barris <kim\_barris75@yahoo.com>

Tue 9/8/2020 10:09 AM

To: City Clerk <cityclerk@elkocitynv.gov>

Dear Kelly,

I am writing in regards to the City Council meeting on September 22, 2020. I would like to be added to the agenda to discuss the water claim for our property at 3505 Forest Court, and the flooding that occurred on 7/30/2020 and 7/31/2020.

If you need any further information from me, please let me know. I look forward to hearing from you.

Respectfully,

James and Kimberly Barris



# Alternative Service Concepts

Flexibility · Expertise · Integrity

September 2, 2020

James and Kimberly Barris  
3505 Forest Court  
Elko, NV 89801

RE: Claim #: P243-20-07006-01  
Our Member: City of Elko  
Loss Date: July 30, 2020

Dear Mr. & Mrs. Barris:

As you are aware Alternative Service Concepts is the third-party administrator of claims for the Nevada Public Agency Insurance Pool (NPAIP) of which the City of Elko is a member.

We have had the opportunity to review the information relating to the subterranean water line failure that occurred on July 30, 2020. The City of Elko responded within a reasonable amount of time once they received notice of the water line failure. There were no defects or manufacturing problems found. Based on our investigation of the facts we have determined that the City of Elko is not negligent and is therefore not liable for any damages resulting from this water line failure. This letter is meant as formal notification of denial of your claim against the City of Elko. We find that the proximate cause of the loss was not foreseeable in that the City of Elko did not have any prior notice of any prior problems with the water line in the area of the failure. The City of Elko has statutory immunity under NRS 41.033, a copy of which is attached for your review.

Please note that pursuant to the Nevada Revised Statutes, you have 3 years from the date of loss to protect the Statute of Limitations on property damage claims. If you have any further questions or concerns, please contact our office. We sincerely apologize for any inconvenience to you as a result of this incident.

Sincerely,

Cynthia McGraw  
Senior Claims Administrator  
Alternative Service Concepts, LLC

Encl: Copy of NRS 41.033  
Cc: City of Elko

639 Isbell Road, #390, Reno, NV 89509  
Phone: (702) 478-6952 Facsimile: (725) 201-6625  
E-mail: [cynthia.mcgraw@ascrisk.com](mailto:cynthia.mcgraw@ascrisk.com)

**CITY OF ELKO  
INCIDENT STATEMENT**

CLAIM#

Page # of Pages

<b>CLAIMANT NAME (Last, First, Middle):</b> BARRIS James P. and Kimberly D			
<b>STREET ADDRESS:</b> 3505 Forest Ct		<b>CITY:</b> Elko	<b>STATE:</b> NV
<b>HOME PHONE#:</b> 934-6481 or 401-1177		<b>ZIP:</b> 89801	
<b>STATEMENT TYPE:</b> <input checked="" type="checkbox"/> Written <input type="checkbox"/> Verbal		<b>POLICE REPORT FILED:</b> <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	
<b>INJURY:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, explain:    		<b>MEDICAL TREATMENT:</b> <input type="checkbox"/> Hospitalized <input type="checkbox"/> Treated / Released <input type="checkbox"/> Refused Treatment <input type="checkbox"/> Not Treated	<b>TRANSPORTED BY:</b> <input type="checkbox"/> Private Vehicle <input type="checkbox"/> Police Vehicle <input type="checkbox"/> Ambulance <input type="checkbox"/> Other
<b>LOCATION OF INCIDENT:</b> 3505 Forest Ct		<b>DATE / TIME:</b> 7/30 - 11 <sup>00</sup> am 7/31 - 11 <sup>30</sup> 12 <sup>00</sup>	
<b>BRIEF DESCRIPTION OF LOSS INCURRED:</b>  See attached    			

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

From \_\_\_\_\_

Please submit completed form to: City Clerk, 1751 College Avenue, Elko, Nevada 89801  
(775) 777-7126 (775) 777-7129 (fax)

SEE OTHER SIDE FOR WRITTEN STATEMENT



## WRITTEN STATEMENT

CLAIM #:

NAME: (Last, First, Middle):

Page# \_\_\_\_ of \_\_\_\_ Pages

Describe in detail what happened, when it happened, how it happened, and why it happened:  
(Please submit pictures of loss/damage)

*See attached*

SIGNATURE:

DATE/TIME:

JAMES AND KIMBERLY BARRIS  
PERSONAL ITEMS LOST 7/30 AND 7/31/2020

- 1) 1 BROWN RUNNER RUG - \$12.00
- 2) QUEEN SIZE BED FRAME- \$500
- 3) QUEEN SIZE MATTRESS AND BOX SPRING- \$1200
- 4) COUCH- \$900
- 5) LOVESEAT- \$600
- 6) END TABLE- \$100
- 7) BOOKSHELF-\$100
- 8) TV STAND -\$ 300
- 9) SURROUND SOUND SYSTEM- \$250
- 10) BABY SWING- \$80
- 11) ELECTRIC FIREPLACE- \$ 200.00
- 12) SHARK VACUUM CLEANER- \$ 270.
- 13) HOOVER VACUUM CLEANER- \$600.00
- 14) SHOP VAC- \$80
- 15) CARPET, PADDING, BASEBOARDS AND TACK STRIP – WAITING FOR QUOTE
- 16) DAMAGE TO PAINT AND WALL- WAITING ON QUOTE
- 17) BOOKS- \$50.00
- 18) 1 12G RIFLE, AND ONE 30-06- \$650
- 19) AMMO- \$300
- 20) 1 BOX CLAY PIGEONS- \$ 40
- 21) 1 LEOPOLD RANGE FINDER- \$150
- 22) 1 luggage set- 3 pieces, stackable- \$300.00

\*\*\*Reasoning behind personal items lost, is that due to the negligence of the City employee, our belongings that my have been salvaged were ultimately damaged and considered a

total loss. Items that have been soaked or in contact with Category 3 black water pose not only a short term risk, but also a long term risk of bacteria growth and toxic organisms. We use our basement for family functions, and it is a hazard for humans to be exposed to these inherent risks. Our couches and new bed set were soaking in the black water.

8/1/2020

To Whom It May Concern:

On the night of July, 30 2020 at around 11:00 pm, I was letting my dog outside and noticed a foul smell coming from the basement. Upon inspection, I found that our entire basement was flooded with about three inches of water. While looking for the source of the water, my husband and I found that the water was coming up through the floor drain in our storage room. My husband started to attempt to suck the water up with our shop vac, but the water was just pouring up from the drain.

While he was attempting to clean up the water, I called my homeowners insurance and opened a pending claim, I called The Clean Team to see if they could come and I also called Cunningham Carpet Cleaners. Neither business would provide 24 hour emergency services, but Cunningham's suggestion was to leave the water and he "might" be able to come the following afternoon. I then called Elko Water Departments 24 hour line, and dispatch relayed that they would send someone over. While waiting, we continued to try to clean up the water, but it was just pumping up through the drain. Sometime between 11:30 pm and 1:00 am, Mark from the City got to the house. He assessed the water main between my house and the street by taking off the lid to the small well in my yard. He did relay that was not normal and asked to see the drain in the basement. He did witness the water coming in through the drain. At this point, there was paper and debris coming up through the drain. His suggestion was to turn the water off to our home and see if the water went down overnight. He was at our home for 15-30 minutes. There was no inspection of the sewer or the source of the flooding. There was clearly negligence and disconnect with him doing his job, as if he had spent the time to find the source, the blockage could have been resolved and my basement would not have flooded the second time.

Being that the suggestions were to leave the sewer water in my basement to see what would happen, or to wait for someone who may be

able to help the following afternoon, by husband and I had no choice by to clean up the mess. Every room in our basement as well as our furniture, a new queen size mattress set, and multiple other (see list) were resting in black sewer water. We spent the next seven hours cleaning up the water. We had the water cleaned up and determined that, at that point, we had to wait and let the concrete dry some and try to find someone to come over and help us. My husband is 5 weeks post op from neck surgery, and he was under a ten pound weight restriction. Therefore, unable to lift waterlogged furniture. I spoke to our adjuster for our insurance and was directed to have a plumber come and find the source of the leak.

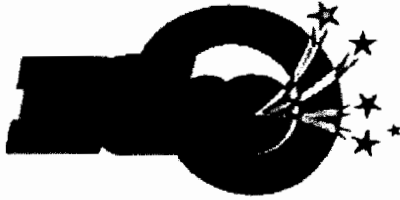
I called Tracy at Chester Plumbing, and after explaining what was going on, she thought that it sounded like sewer backflow but would send Bill over to assess. My husband and Bill were standing in our driveway when they both witnessed the sewer drainage in the middle of our cul-de-sac begin to overflow into the street. They went into my basement and it had reflooded with black raw sewage coming in through the drain. Bill then told us that since it was a city related issue, there wasn't anything that he could do. We called the Water Department again and let them know that my basement and the sewer in the street were flooding. Not long after the call, the team from the city got to our home, including Clark Phillips. He came into our home, and witnessed the sewage coming in. It was determined by the city that the block was in city pipes, not the pipes in my home. By the time the block was cleared, we had another 3.5 inches of water in the basement.

It is fact that Category 3 black water is harmful to humans and animals. My husband and I spent the entire night wading through it cleaning it up. Also noted that an increased risk due to bacteria, toxic chemicals, and disease causing organisms- not to mention Covid-19. (see May 14, 2020 EDPF article of Covid-19 and opioids in Elko County Sewage). The pending claim through my homeowners insurance was withdrawn, as it was a city issue. Clark Phillips brought the city claim forms to the house and suggested that we try calling Joe Callaway. Within the hour, Joe was at the house, did an assessment and started to extract the black water from the basement. It was found that the couches were saturated, the

mattresses were saturated, and all belongings that were in the black water would have to be removed. (see Joe's notes) We absolutely could not have cleaned up the mess without Joe. He was the only one who was willing to help us when the other carpet cleaning companies with "emergency services" would not. He has been at our home every day checking the levels of humidity and damage. He pulled out carpeting as well. He assessed that it was Category 3 black water. Dr. John Patton and Randon Williams, plus Joe, my husband and I removed all the belongings from the basement. We spent 18 man hours between the initial flooding and the second cleaning up the mess, not to mention lost wages for 7/31/2020. Attached you will find a list of the losses sustained. We have read the city policy on sewer damage, however it is our belief that we could have salvaged some of our belongings if not for the second flood. That flood could have been avoided if the city employee that was on call had not been negligent and done his job to the full extent of his capabilities. We are requesting replacement of our belongings, carpeting and damage. We hope to come to a resolution that both my husband and I, and the city can agree upon.

Please feel free to call my husband or I with questions, as well as Joe Callaway. I will say that due to Joe's work ethic, and his help that he should be the first recommendation for the city if something like this happens to someone else. It is because of his diligence that I do not have more damage to my walls and structure. Also, thank you to Clark Phillips, who was very helpful on July 31,2020.

James P. and Kimberly D. Barris



**City of Elko  
Water/Sewer Dept.**

1751 College Avenue  
Elko, NV 89801  
(775) 777-7375 (775) 777-7379 Fax

To whom it may concern,

At approximately 10:00 p.m. on July 30, 2020, The City of Elko Water Department received a call for water in a basement at 3505 Forrest Court in Elko, Nevada. Upon arrival at the residence, the Water Department On Call employee went right to the customers' meter pit and, discovered water in the pit. He then told the homeowner's Paul and Kim Barris that it was their responsibility to fix. When the home owner asked him to come in to assess the issue in the basement and, see if he could help guide them in a direction he did.

Upon entering the residence, the employee saw that there was roughly 6" of water in the basement with, flow still coming in and, a "weird" smell to it. He and the home owner's decided the smell was from the dogs. He told the homeowner there really wasn't anything he could do and, the home owners would have to solve the issue, on their own. The water department employee then left, and Paul and Kim continued to clean up until roughly 5 a.m. when, the water flow got to a controllable amount.

At roughly 10 a.m., the City of Elko Water Shop received a call from the Barris's stating they had water in their basement again and, it had the same smell to it and, water was coming from a man hole in the street. I Clark Phillips, dispatched a crew immediately with the VACTOR 2100 rodding machine to, clear an apparent sewer blockage. Crews were at the residence within 15 minutes, working on the issue. I immediately looked for the sewer clean out to, see if the plug was on the city's side or, the customer's.

Upon opening the clean out, I had no water actively coming out of the clean out but, a steady stream from the manhole. That then told me, the plug was in the city sewer line. We had the plug cleared in roughly 20 minutes. However, the Barris' basement had about 3 inches of fresh "dirty" water in it. The homeowner asked me if I would go in and look and I agreed to, take some pictures. As I got into the garage, I could smell sewer coming from the house. I walked into the basement and noticed all the standing water but, all active water had been stopped. I took some pictures and, apologized to them for having to deal with this issue.

As I was leaving Kim and Paul both stopped me to ask a few questions about procedures to take in order to follow proper protocol's with the City. I was able to answer their questions and, provided them with a pamphlet for Sewer Back up's and, all information they needed. They also asked why this issue wasn't resolved in the evening. I asked them to please explain.

They went into detail about the water shop employee showing up and, checking their meter pit but, leaving without checking the sewer. They said the smell was stronger in the evening when he showed up then, when the second back up had occurred in the morning. I told them that the employee should have known it was sewer by doing some tests on their water system. I.E. (Pressure tests with the sprinkler valves on and, off. Vacuumed the water pit to look for leaks, popped the sewer clean out, removed a manhole lid to see if we had a start of a backup, etc). The homeowners were disappointed to hear that this potentially could have been avoided, as am I.

As the Water Department Superintendent, I take pride in knowing that my guys take care of the general public between the hours of 5 p.m. and 7 a.m. regardless of the call. On the night of July 30<sup>th</sup>, my nor the City of Elko's expectations were met. The employee who responded to the call is my most veteran operator. He holds an Operator 3 license and, has more experience than any of my other employee's to date due to his date of hire. He should have been able to diagnose this was a sewer backup had he followed proper channels and, done diagnostic testing.

As the on call operator, they are the Water and Sewer Department's first line of defense. When they are toned out by dispatch, they have a 2-hour window they are paid (at their hourly rate) to find and diagnose the problem. This is not the first time the water department has had an issue with a basement flooding and, it will not be the last. However, all Water/Sewer Department employees have been told and, been given very specific directions never to leave a residence with water flowing into a basement, especially sewage.

Kim and Paul Barris had to clean this mess up all alone on the evening of 7/30-7/31 as no one they called would come and help. They used a shop vac to remove all sewage water from their basement. They also were in raw sewage for close to 8 hours without, any sort of protection from viruses and disease associated with, being exposed/in raw sewage. I am again very disappointed and, have had a very in depth conversation with the employee about his responsibilities to the City, Customers, His Department and, General well-being for his sake and others. I hope I do not have to write another statement concerning a customers' well-being again due to the lack of foresight on the Water Department's behalf.

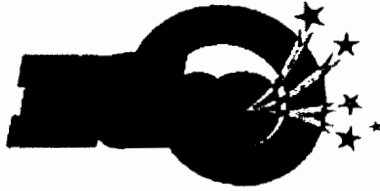
Please feel free to contact me at any of the correspondence below, should you have any needs or concerns that may need addressed.

Respectfully,

Clark E. Phillips

Water/Sewer Superintendent  
City of Elko  
1751 College Ave.  
Elko, NV. 89801  
Cell: (775)-388-8912  
Office: (775)-777-7374  
Fax: (775)-777-7219  
cphillips@elkocitynv.gov





**City of Elko  
Water/Sewer Dept.**

1751 College Avenue  
Elko, NV 89801  
(775) 777-7375 (775) 777-7379 Fax

On July 30 at approximately 11pm I received a call from dispatch to shut off the water at 3505 forest ct. About 20 minutes later I arrived at the address to find the meter pit opened up and the pit was about half way full of water. I shut the valve off at the pit and was asked to come see the water in the house and there was a few inches of water in the basement that I believed to be a leak in the water system. Thinking that the pit was off I left my number with the homeowners so they could call if it didn't remedy the problem.

*Mark Bailey*

*Mark Bailey*



**CALLAWAY CARPET CLEANING**  
 The Most Thorough Cleaning Ever  
 or It's FREE!  
 775-777-2255  
 lovesavingmoney.acndirect.com  
 callaway-carpet-cleaning.com

# CLEANING WORK ORDER

5102

(Diane)

NAME <b>City of Elko</b>		DATE ORDERED	DATE SCHEDULED
ADDRESS <b>1751 College Ave Elko, NV 89801</b>		SERVICE TECHNICIAN	
PHONE <b>777-7126 (Kelly)</b>		<input type="checkbox"/> CARPET <input type="checkbox"/> FURNITURE <input type="checkbox"/> OTHER _____	
TERMS <b>Net 130 Days</b>			
CARPET / ITEM	SIZE	SQ. FT.	PRICE
<b>Kim + James Davis</b> <b>3505 Forest Court</b> <b>Elko, NV 89801</b> <b>Flood Damage Restoration</b> <b>(See Attached)</b>			
			<b>\$ 2702.00</b>
* Send Payment/Receipt to: Callaway Carpet Cleaning 411 Wilson Ave Elko, NV 89801			
SPECIAL INSTRUCTIONS <b>Flood</b>		TOTAL MATERIALS	
		TOTAL LABOR	
I certify that I have read conditions on reverse side and agree to same.		TAX	
SIGNATURE _____ DATE _____		TOTAL	<b>2702.00</b>

I hereby acknowledge the satisfactory completion of the above described work.

SIGNATURE **[Signature]** DATE **8/10/20**

**Thank You**

1200V - (Class 2; CAT 3

WATER DEPOSIT / DEDUCTIBLE COLLECTED? \$ E1K0 TOTAL DED. AMT. \$ E1K0

Date	Technician	Start Time	End Time	Work Completed	
7-31-20	JOE	1:50pm	4:50pm	Emergency Service Call Water Extraction - Concrete Remove Bathroom Carpet + Pad Setup Dehumidifiers + 3 Air Movers Equipment Rental 3AM to 6PM Photos are on Big Phone -	\$75.00 357.00 60.00 25.00 175.00
8-1	JOE	8:00am	10:00am	Take Readings + Measure Remove Bathroom Baseboard Move Equipment Around Equipment Rental - 24 Hours	75.00 75.00 75.00 175.00
8-2	JOE	8:00am	9:00am	Take Readings + Air Quality Move W/D + TV Remove Stairway Carpet Move Equipment Around Equipment Rental - 24hrs	75.00 75.00 75.00 75.00 175.00
8-3	JOE	11:50am	1:00pm	Take Readings Remove Equipment Decontaminate Equipment Remove Thick Slips FOG with Disinfectant	75.00 75.00 150.00 225.00 150.00
8-4	JOE	12:00pm	2:00pm	Carpet Cleaning - 1000 - FR Final Clean Up - All Areas Administrative - Paperwork	125.00 75.00 130.00
10 - TOTAL					
* Areas Were Flooded Before - Mark @ Elko here on 7-30-20 (See Kim's Report)					

INSURANCE BILLED? <u>Y</u> <u>(N)</u>	SUBCONTRACTORS? <u>Y</u> <u>N</u>	6 Miles / Drive Time <u>HHH</u>	30.00
Company: <u>Who:</u>	Started in Xactimate?	Sketch? <u>TOTAL</u>	\$ <u>2702.</u>
Agent: <u>Kelly Woodbury</u>	Rec'd bill:	Started in IMACCT	
Phone: <u>777-7126</u>	Who:	Scanned WA? <u>CC?</u>	
Fax:	Contacted:	Uploaded pictures (approx 6)?	
Adjustor:	Rec'd bill:	Xactimate 24hr estimate done?	
Phone:	Equipment pulled?	Pull hours from binder?	
Will there be cleaning?	Contacted:	Labor summary done?	
-What kind:	Rec'd bill:		
-Scheduled:			
Date Invoiced	Amnt.	Paid as of this date	Waiting on:

# Steps for Water Loss and Flood Paperwork - Day One

*\*It's always better to set too much equipment, than not enough!*

Client Name: Paul & Kim Baris

Date 7-31 → 8-7-21

When You Arrive:	
<input checked="" type="checkbox"/>	Meet and greet client. Hand them your business card. Reassure them of your ability to handle the situation.
<input checked="" type="checkbox"/>	Have work authorization and tax exemption forms signed.
<input checked="" type="checkbox"/>	Determine if additional equipment is needed. If so, call the office to make arrangements to have it delivered.
<input checked="" type="checkbox"/>	Start mitigation and dry-out work.

Psychrometry:	
<input checked="" type="checkbox"/>	Outside psychrometry calculated and written on drying chamber 1.
<input checked="" type="checkbox"/>	Unaffected psychrometry calculated and written on drying chamber 1.
<input checked="" type="checkbox"/>	Psychrometry calculated for drying chamber 1 and written down. <b>*Don't forget inspection date and time.</b>
<input checked="" type="checkbox"/>	Psychrometry calculated for drying chamber 2 and so on and written down for each drying chamber. <b>*Don't forget inspection date and time. +3+4</b>
<input checked="" type="checkbox"/>	Psychrometry calculated for dehumidifiers and written down on appropriate drying chamber log. <b>*Don't forget Grain Depression (GPP).</b>

Moisture Content Readings:	
<input checked="" type="checkbox"/>	Take moisture content readings for drying chamber 1 and write it down.
<input checked="" type="checkbox"/>	Take moisture content readings for drying chamber 2 and so on, and write them down. <b>+3+4</b>

Pictures and Final Paperwork:	
<input checked="" type="checkbox"/>	Take all necessary pictures <b>(DAY 1)</b>
<input checked="" type="checkbox"/>	Write up Statement of Loss (Farmers).
<input checked="" type="checkbox"/>	Determine category and class.
<input checked="" type="checkbox"/>	During mitigation: Sketch and measure affected rooms.
<input checked="" type="checkbox"/>	Fill-out Predict-a-Dry (Farmers).
<input checked="" type="checkbox"/>	Fill-out equipment log sheet and access to home for the following day.
<input checked="" type="checkbox"/>	Fill-out all lines on pricing sheet. Leave no blank spaces, either mark it out or fill it in. (Any carpet, floor, upholstery, duct, rug cin, etc, restretch, baseboards pulled, furniture moved, etc..)

Before You Leave:	
<input checked="" type="checkbox"/>	Explain to the client how the work will progress. Give them their Client Packet, Spotter, Dog Treats, Candy, What We Do...Flood sheet etc.
<input checked="" type="checkbox"/>	Inform Client of work done and any necessary information.
<input checked="" type="checkbox"/>	Inform Claim Representative (Adjuster) of work done and any special situations (i.e. wood floor, carpet delamination, etc). <b>(Kelly)</b>
<input checked="" type="checkbox"/>	Inform the Office of work done and any necessary details.

  
 Termination's Cleaning

## **Carpet Cleaning**

- It is customary, due to tracked on and wicked soils, that the carpet is cleaned following a water loss.
- It may be necessary to pre-clean a carpet in a water loss before the application of any sanitizer in order to remove some of the organic wastes to allow the sanitizer to perform correctly. Remember - **CLEANING & DRYING** are the **MOST** important things we can do as Professional Water Damage Restorers!!!! Therefore, cleaning agents may include pre-conditioners, emulsifiers, etc., for carpet, upholstery, and other items within the structure. Training and certification in the areas of carpet cleaning, upholstery cleaning, and deodorization are all recommended.
- S500 3<sup>rd</sup> edition – Normative reference guide; page 164 under Application Methods, 3<sup>rd</sup> paragraph: "Restoration procedures rely on thorough cleaning and source removal first, and then, if appropriate, the application of antimicrobials (biocides)... With Category 1 water, prompt extraction of water from carpet can be considered pre-cleaning. With Category 2 water on carpet, thorough cleaning is required before applying antimicrobials (biocides)."

# Humidity / Water Damage Report

Updated 12/08

Name: Kim Barrio  
Address: 3505 Forest Court  
City: El Paso Phone# 934-6481

Page # 1 of 1

DATE	TIME	TECH
7-31-20	1:00pm	JOC
8-1	9:00am	JOC
8-2	9:00am	JOC
8-3	11:00am	JOC
Insp1		
Insp2		
Insp3		
Insp4		
Insp5		

Room #1:  
Living Room  
13x12=156

Inside Affected	Vinyl / Hardwood	Affected Ceiling	Moisture %	Moisture %	Moisture %
Temp	RH	GPP	Moisture %	Moisture %	Moisture %
73°	40%	50			7"
74°	25%	31			7"
73°	25%	30			4"
					DRY
					DRY

Front OF House

OUTSIDE AMBIENT		
Temp	RH	GPP
Initial	_____	_____
Insp1	77°	21%
Insp2	71°	23%
Insp3	89°	13%
Insp4		
Insp5		

Room #2:  
Bath  
6x5=30

Inside Affected	Vinyl / Hardwood	Affected Ceiling	Moisture %	Moisture %	Moisture %
Temp	RH	GPP	Moisture %	Moisture %	Moisture %
73°	40%	50			9"
74°	25%	31			6"
73°	25%	30			DRY

INSIDE UNAFFECTED			
Temp	RH	GPP	
Insp1			
Insp2	71°	25%	28
Insp3	70°	25%	27
Insp4	70°	25%	27
Insp5			

Room #3:  
Bedroom  
12x9=108

Inside Affected	Vinyl / Hardwood	Affected Ceiling	Moisture %	Moisture %	Moisture %
Temp	RH	GPP	Moisture %	Moisture %	Moisture %
73°	40%	50			7"
74°	25%	31			8"
73°	25%	30			DRY
					DRY

WEST 9"

3" DRY

Drying Goal:	Location:
<u>30gr</u>	<u>Basement</u>
Insp1	
Insp2	
Insp3	
Insp4	
Insp5	

Room #4:  
Utility Rm  
9x7=63

Inside Affected	Vinyl / Hardwood	Affected Ceiling	Moisture %	Moisture %	Moisture %
Temp	RH	GPP	Moisture %	Moisture %	Moisture %
73°	40%	50			
74°	25%	31			
73°	25%	30			

Under Shelf Dry by Day 3

Callaway Carpet Cleaning has met my satisfactory drying conditions and I give them my permission to remove all drying equipment.

X \_\_\_\_\_ Date 1/1

X \_\_\_\_\_ Date 1/1

# Callaway Carpet Cleaning

411 Wilson Avenue

Elko, NV 89801

## Certificate of Completion and Satisfaction

Insured/Claimant: Kim Barris & Paul  
Loss Address: 3505 Forest Court, Elko 89801  
Policy Number: NA  
Claim Number: NA  
Invoice Number: 5102

This is to certify that the repairs made by Callaway Carpet Cleaning at the above-mentioned property have been completed to our entire satisfaction. These services were necessitated by a Flood damage loss suffered on 7-30-20.

Authorized Signature: [Signature]  
Print Name: Kim Barris  
Title: Homeowner  
Date: 8/7/2020

[Signature] 7-31-20  
Signature of Callaway Representative Date  
Title: Owner / C.C.C.

Updated 09/06



*Elko  
Sanitation*

## CUSTOMER COMMENTS

Tuesday, August 04, 2020

Page 1 of 1

1108260  
KIMBERLY BARRIS  
3505 FOREST CT  
ELKO NV 89801

8/4/2020 8:14:07AM

Account Number: 2310-1108260  
Payment Amount: \$ 100.00  
Pay By: VISA .....4783  
Payment Date: 08/04/2020  
Your confirmation number is: 032268

*\* Callaway will send invoice  
when complete \**

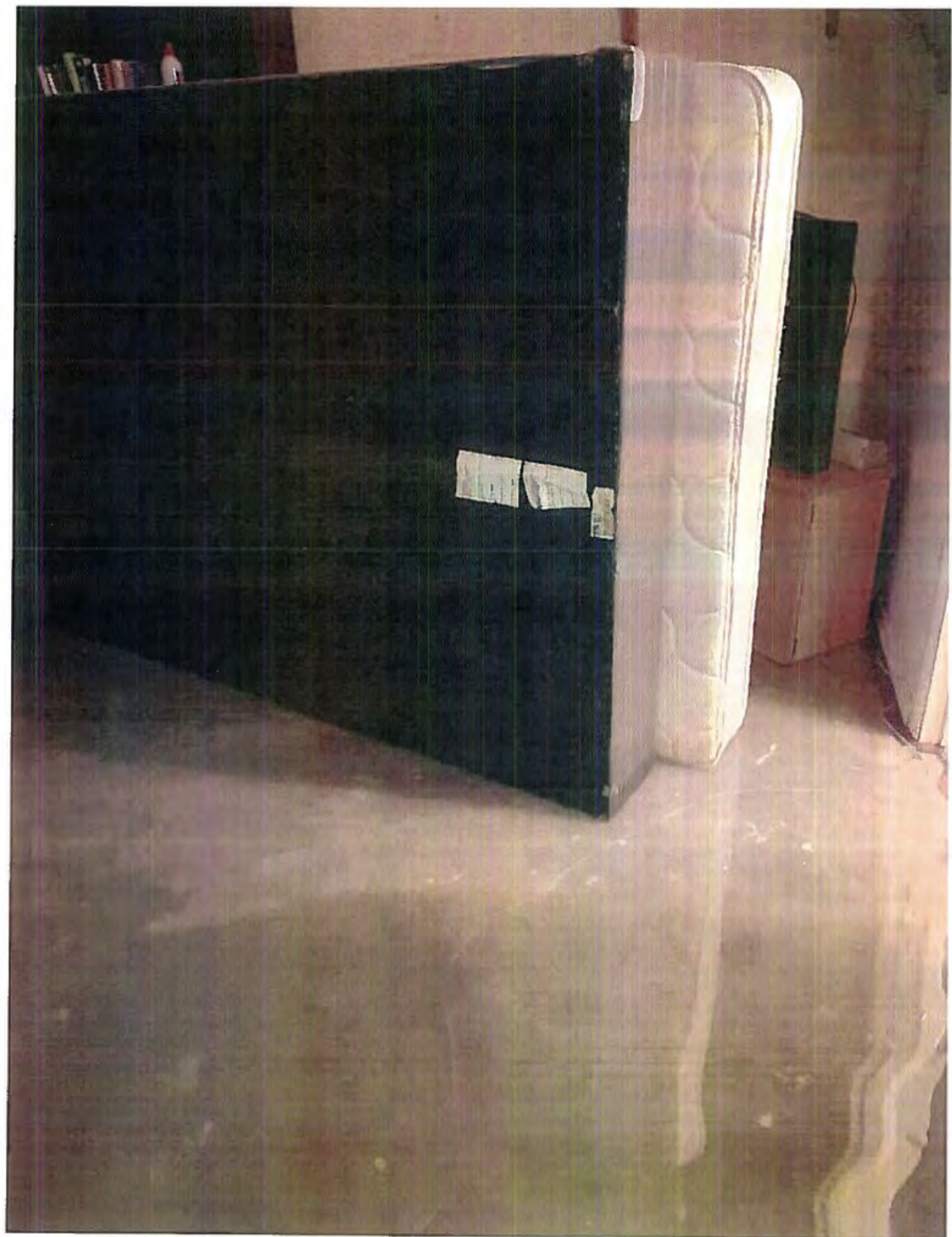




























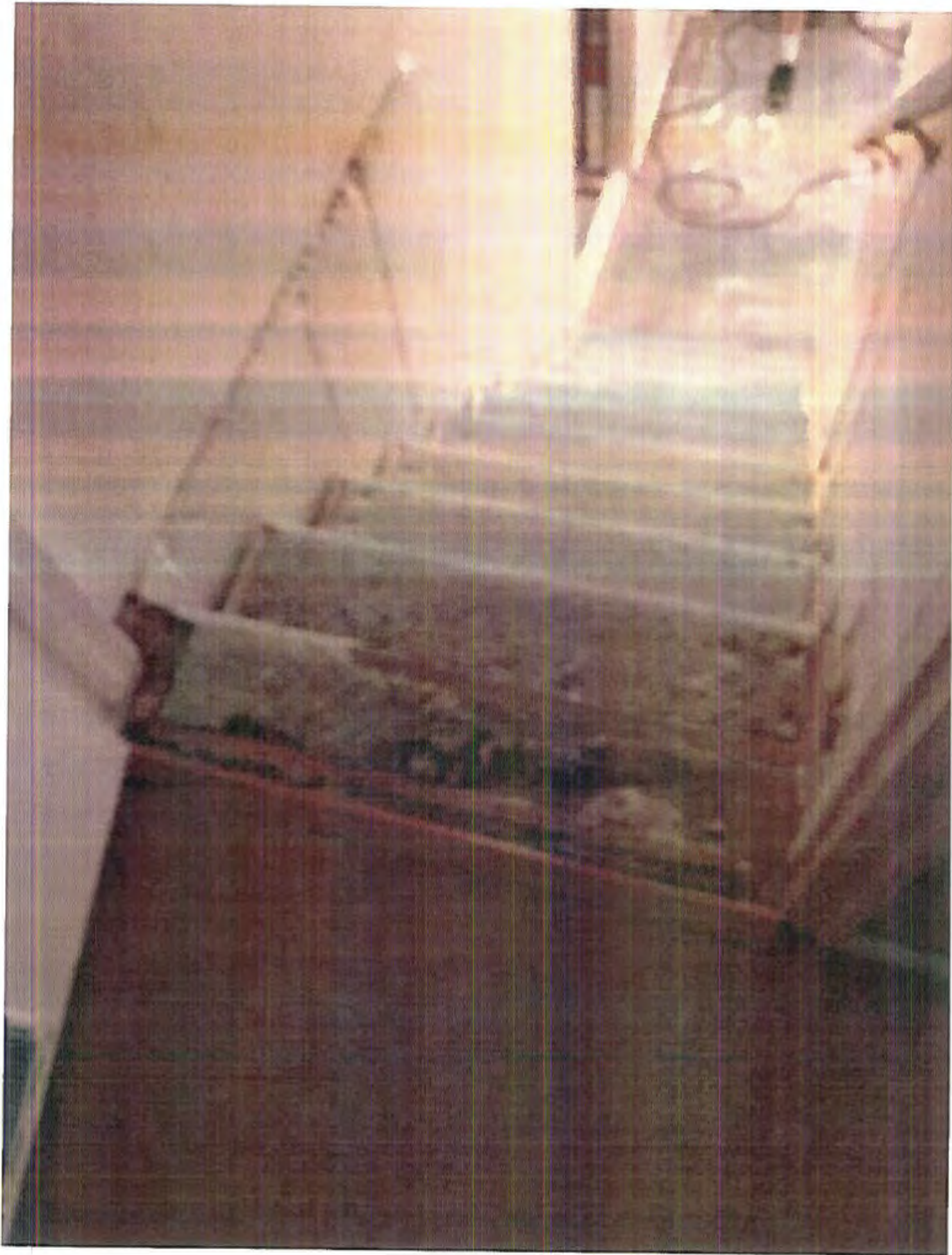












**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to accept a petition requesting the lease of City owned property pursuant to NRS 268.062, approximately 1.126 acres, identified as Lease Area N1 located at the Elko Regional Airport, at public auction, and authorize Staff to obtain the required appraisal, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **Classic Air Care dba MedX AirOne has petitioned the City of Elko to lease airport owned property identified as Lease Area N1 located on the Elko Regional Airport. If Council accepts the petition, an appraisal will be obtained and Council will hold a meeting on the fair market value of the property and adopt a resolution declaring its intention to lease the property at public auction. JF**
6. Budget Impact Statement:  

Appropriation Required:     **N/A**

Budget amount available:   **N/A**

Fund name:     **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Application for lease of Lease Area N1**
9. Recommended Motion: **Accept the petition to lease N1 pursuant to NRS 268.062 at public auction, authorize Staff to obtain the required appraisal, direct Staff to consult with the FAA on any required approvals for leasing the property.**
10. Prepared By: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Joel Hochhalter**  

[joel@joviholdings.com](mailto:joel@joviholdings.com)

**1010 N500 E Suite 200 North Salt Lake, UT 84054**

**702-815-5059**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801 \* (775)

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

### APPLICATION FOR SALE OR LEASE OF CITY OWNED LAND

APPLICANT(S): **Classic Air Care dba MedX AirOne**  
ADDRESS: **1010 N 500 E Suite 200 North Salt Lake, UT 84054**  
PHONE NO (Home) **702-815-5059** (Business) **same** (Fax)

I, the undersigned applicant, hereby requests the Elko City Council advertise for sale or lease, by sealed bid/public auction on terms/or cash, a parcel of land owned by the City of Elko and further described below:

ASSESSORS PARCEL #, LEGAL DESCRIPTION, AND LOCATION OF PROPERTY: (Attach if necessary):


*(Attach a small site plan)*

#### **FILING REQUIREMENTS:**

- 1) In order to begin processing the request, an Application for Sale or Lease of City Owned Land must be completed and signed.
- 2) There is no filing fee at this time, however applicants are required to deposit a sufficient amount of money to pay the costs to be incurred by the City of Elko in acting upon the application. These costs include the expense of the appraisal and associated publications. The deposit amount will be determined on a case-by-case basis. Applicants shall be notified of the deposit amount required to process the application.
- 3) Successful bidders shall be responsible for the costs of acting upon the application. If someone other than the applicant is the successful bidder, the costs will be obtained from the successful bidder and the money deposited by the applicant will be refunded.
- 4) If costs exceed the original deposit amount, successful bidders shall pay the difference. If costs are less than the deposit, successful bidders shall be refunded the difference. Deposits shall only be returned to non-successful bidders. *Applicants who fail to submit a bid on the property forfeit their deposit.*
- 5) The notice of sale or lease of the property must be advertised by Public Notice once a week for three (3) successive weeks in a local newspaper. All bids must conform to the notice of land sale or lease and must be filed in the Office of the City Clerk in a sealed envelope prior to the time set for receiving bids. Anyone, including anyone not submitting a bid, may raise the offer by five percent (5%) at the time of the auction and the auction will proceed accordingly.

APPLICANT'S SIGNATURE: **Joel Hochhalter** Digitally signed by Joel Hochhalter  
Date: 2020.09.15 22:32:02 -07'00'  
APPLICANT'S PRINTED NAME: **Joel Hochhalter**

#### OFFICE USE ONLY

File No.: \_\_\_\_\_ Date Filed: \_\_\_\_\_ Deposit Paid: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION OF LEASE AREA N1

A portion of the Elko Regional Airport parcel, located in the southwest quarter of Section 16, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Elko County, Nevada, more particularly described as follows;

Beginning at a point that bears North 34°03'50" East, a distance of 417.11 feet from the Elko Regional Airport survey control monument "Cessna";  
Thence, North 45°49'00" West, a distance of 200.00 feet;  
Thence, North 44°11'00" East, a distance of 245.69 feet;  
Thence, South 45°37'09" East, a distance of 200.00 feet;  
Thence, South 44°11'00" West, a distance of 245.00 feet, more or less, to the point of beginning.

Said Lease Area N1 contains an area of  $\pm 49,069$  square feet.

The basis of bearings for this description is the Nevada State Plane Coordinate System, East zone. Ground coordinates are given for the following monuments, with a grid to ground scale factor of 1.000357:

Elko Regional Airport survey control monument "Cessna"

N 2847077.14

E 599834.56

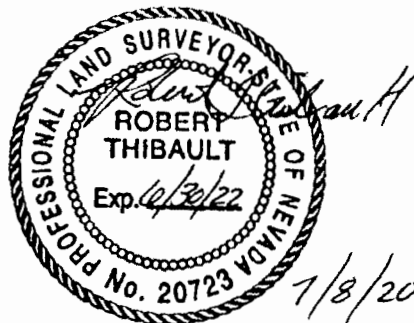
Elko Regional Airport survey control monument "Piper"

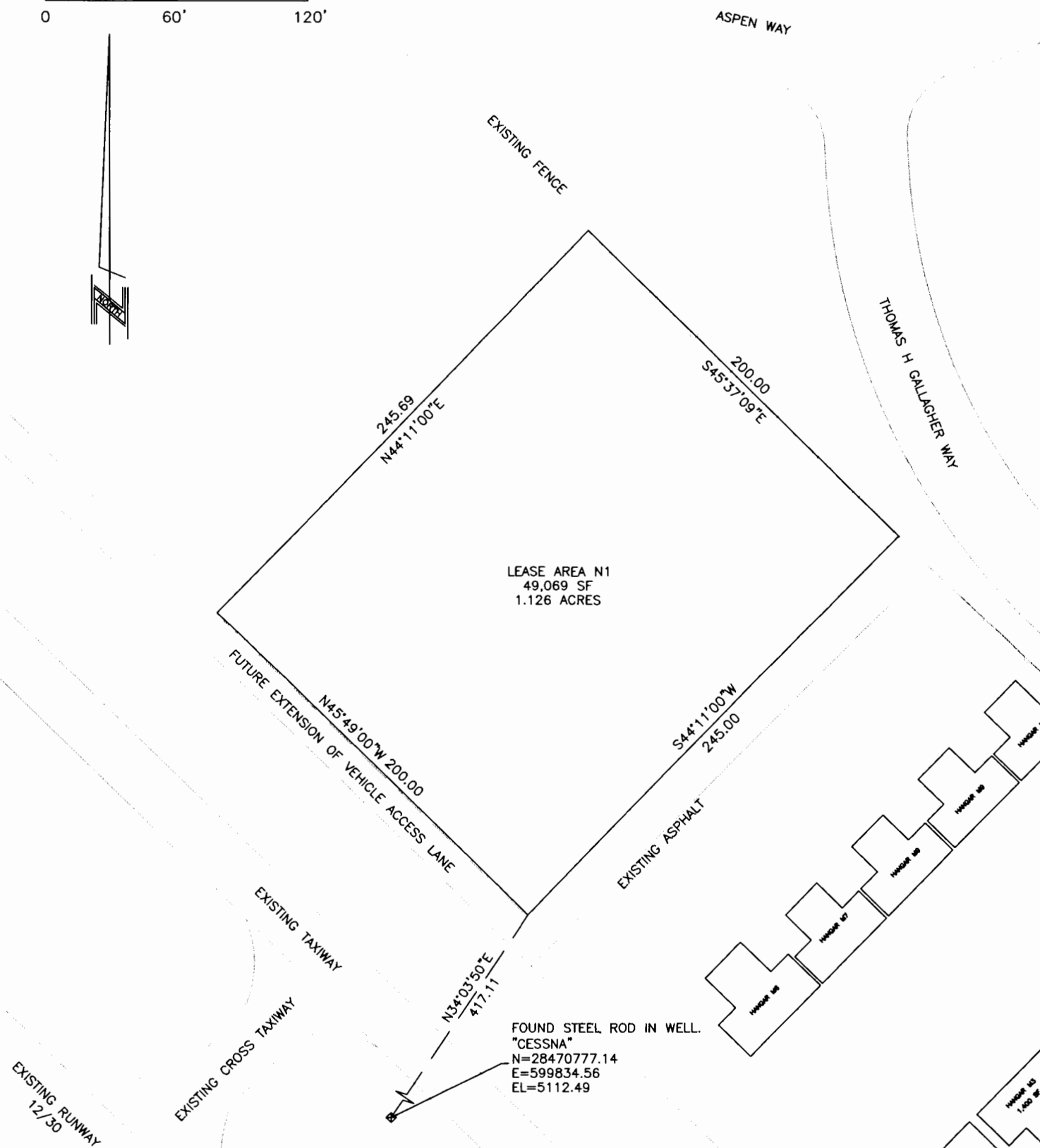
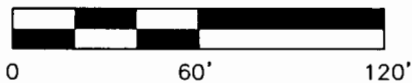
N 28469096.94

E 599075.75

With a bearing of South 24°18'17" West and distance of 1,843.60 feet from Cessna to Piper.

Description prepared by:  
Robert Thibault, PE, PLS  
City of Elko Civil Engineer





**ELCO**  
CITY OF ELKO  
1781 COLLEGE AVE.  
ELKO, NEVADA 89801  
775-777-7210

**SCALE**  
HORIZ. 1"=50'  
VERT. 1"=20'  
JOB No. \_\_\_\_\_

**EXHIBIT B**  
**MAP OF LEASE AREA N 1**  
**FOR THE CITY OF ELKO**

DESIGNED BY: BT  
DRAWN BY: ACAD CSD 2020  
CHECKED BY: BT  
DATE: 7/8/2020

IN SECTION 16, T 34 N,  
R 55 E, M.D.B.&M.

U:\Vtport\2015-Lease-working files\2015-LEASE-MASTER-DRAWING.dwg

**Elko City Council**  
**Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to adopt Resolution No. 23-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from C (General Commercial) to PQP (Public, Quasi-Public) Zoning District, approximately 26,061 square feet of property, filed by City of Elko, and processed as Rezone No. 1-20, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information: **The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 1-20. CL**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution, P.C. action report, Staff Report and related correspondence**
9. Recommended Motion: **Adopt Resolution No. 23-20**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review: **Planning Commission, Legal Counsel**
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilman \_\_\_\_\_ and seconded by Councilman \_\_\_\_\_ the following Resolution and Order was passed and adopted:

**CITY OF ELKO  
RESOLUTION NO. 23-20**

**A RESOLUTION OF THE ELKO CITY COUNCIL  
ADOPTING A CHANGE IN ZONING DISTRICT BOUNDARIES**

WHEREAS, the Elko City Council has conducted a public hearing in accordance with Nevada Revised Statutes, Section 278.260 and the Elko City Code, Section 3-2-21(C), and

WHEREAS, the Elko City Council has received and reviewed the application submitted by the City of Elko (petitioner), together with any public input, supporting data and evidence, and the previous action taken by the Planning Commission pertaining to Rezone Application No. 1-20.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE ELKO CITY COUNCIL that Rezone Application No. 1-20, involving a change in zoning from C (General Commercial) to PQP (Public-Quasi, Public) Zoning District involving approximately 26,061 square feet of property located generally on the west corner of the intersection of S. 5<sup>th</sup> Street and S. 9<sup>th</sup> Street, more particularly described in Exhibit A and shown on the map at Exhibit B attached hereto is hereby adopted.

IT IS FURTHER RESOLVED AND ORDERED that this Resolution shall be signed by the Mayor and attested to by the City Clerk.

PASSED AND ADOPTED this \_\_ day of \_\_\_\_\_, 2020.

CITY OF ELKO

By: \_\_\_\_\_  
REECE KEENER, MAYOR

ATTEST:

\_\_\_\_\_  
KELLY C. WOOLDRIDGE, CITY CLERK



VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

## LEGAL DESCRIPTION TO ACCOMPANY A ZONE CHANGE

An area of land within the southwest quarter of Section 14, Township 34 North, Range 55 East, which is comprised of all of Lots 32 through 36 of Block A of the Second Ouderkirk Addition, file no. 51117, together with a portion of a public alley, a portion of South 9<sup>th</sup> Street, and a portion of South 5<sup>th</sup> street.

Beginning at a point that bears North 52°31'00" West, a distance of 10.00 feet from the westerly most corner of Lot 32 of said Block A of the Second Ouderkirk Addition;

Thence, along the centerline of a public alley, North 37°29'00" East, a distance of 165.00 feet, more or less, to the centerline of South 9<sup>th</sup> Street;

Thence, along said centerline of South 9<sup>th</sup> Street, South 52°31'00" East, a distance of 167.93 feet, more or less, to the centerline of South 5<sup>th</sup> Street;

Thence, along the centerline of South 5<sup>th</sup> Street, South 44°23'00" West, a distance of 147.19 feet;

Thence, continuing along the centerline of South 5<sup>th</sup> Street, on a tangent circular curve to the right, with a radius of 1,432.69 feet, an arc length of 19.03 feet, and a central angle of 0°45'39";

Thence, North 52°31'00" West, along the southwesterly line of said Lot 32 of said Block A of the Second Ouderkirk Addition, a distance of 147.84 feet, more or less, to the point of beginning.

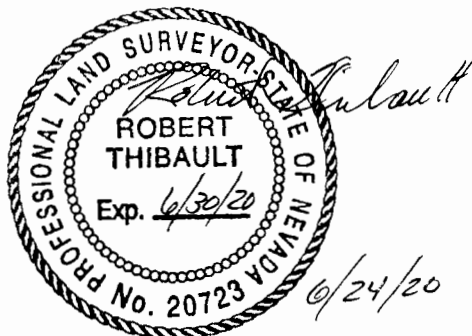
This area of land contains a total of ±26,061 square feet.

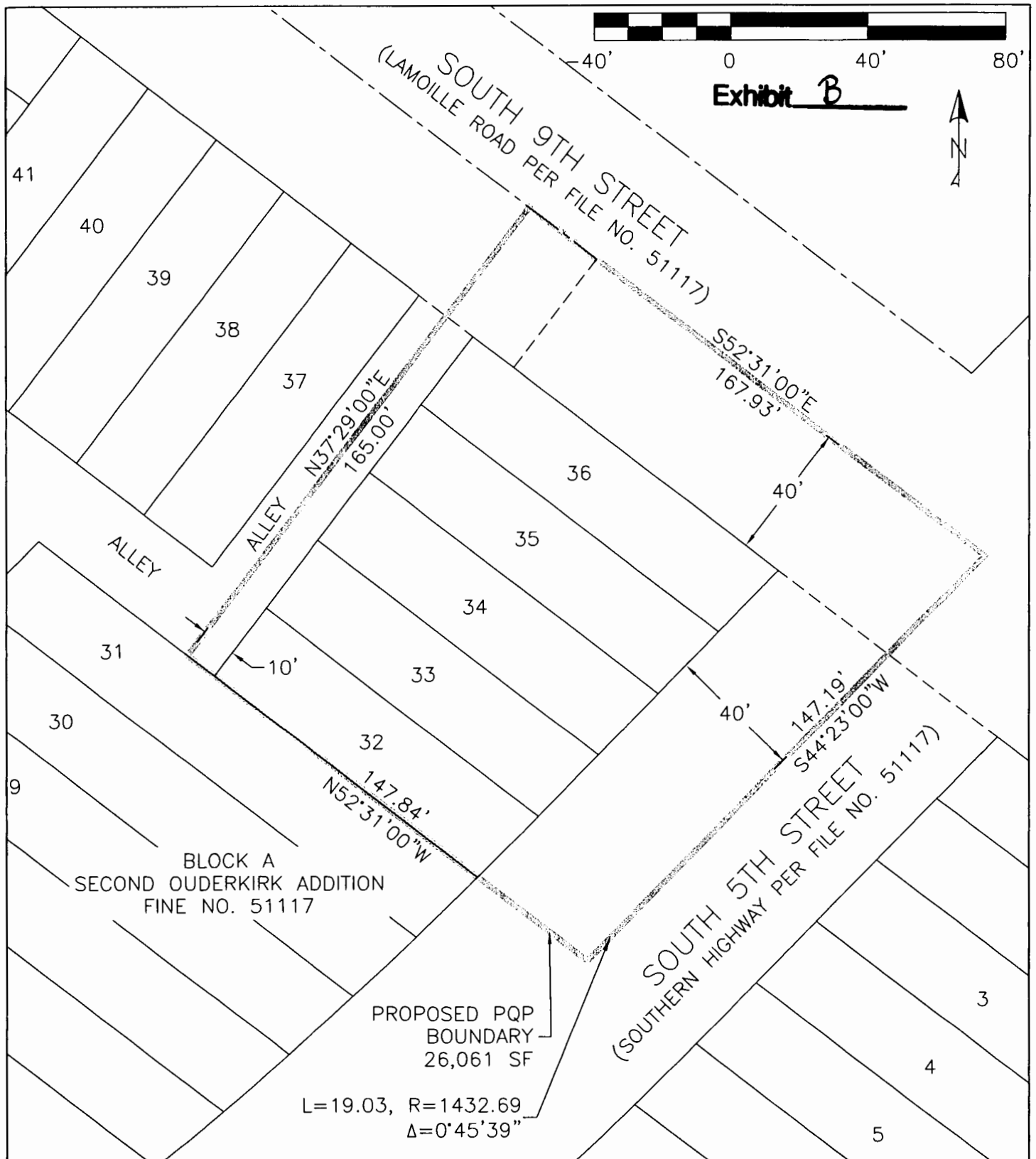
The Basis of bearings for this description is the Map of Second Ouderkirk Addition to the City of Elko, Nevada, recorded in the office of the Elko County Recorder on December 8, 1931, as file no. 51117.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





CITY OF ELKO  
1751 COLLEGE AVE  
ELKO, NEVADA 89801  
775-777-7210

# DISPLAY MAP ZONE CHANGE TO PUBLIC, QUASI-PUBLIC



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

### CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of September 1, 2020

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on September 1, 2020 under Public Hearing format in accordance with notification requirements contained in N.R.S. 278.260 and Elko City Code Section 3-2-21:

Rezone No. 1-20, filed by the City of Elko, for a change in zoning from C (General Commercial) to PQP (Public, Quasi-Public) Zoning District, approximately 26,061 square feet of property, to bring the zoning district into conformance with the use of the property, and matters related thereto.

The subject property is generally located on the west corner of the intersection of S. 5th Street and S. 9th Street. (875 S. 5th Street - APN 001-472-014)

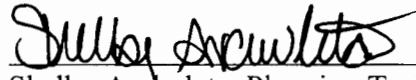
NOW THEREFORE, upon review and consideration of the application, supporting data, public input and testimony, the Planning Commission forwarded a recommendation to City Council to adopt a resolution which approves Rezone No. 1-20 with the conditions listed in the City of Elko Staff Report dated August 14, 2020 with modifications from the Planning Commission, listed as follows:

1. Variance 4-20 is approved for street line setback from South 9<sup>th</sup> Street.

The Planning Commission's findings to support its recommendation are the proposed zone district is in conformance with the Land Use Component of the Master Plan with the approval of Master Plan Amendment 2-20. The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the future transportation infrastructure. The property is not located within the Redevelopment Area. The proposed zone district and resultant land use is in conformance with City Wellhead Protection Plan. The proposed zone district is in conformance with Elko City Code Section 3-2-4(B) with the approval of Variance 4-20. The proposed zone district is not in conformance with Elko City Code Section 3-2-8 and requires approval of Variance 4-20 to be in conformance. The application is in conformance with Elko City Code 3-2-21. The proposed zone district is not located in a designated Special Flood Hazard Area (SFHA). 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.

  
Cathy Laughlin, City Planner

Attest:



---

Shelby Archuleta, Planning Technician

CC: Kelly Wooldridge, City Clerk  
Michele Rambo, Development Manager (email)

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE:** 9/1

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

Title: Rezone No. 1-20  
Applicant(s): City of Elko  
Site Location: 875 S. 5<sup>th</sup> Street - APN 001-472-014  
Current Zoning: C Date Received: 7/8/20 Date Public Notice: 7/21/20  
COMMENT: This is to rezone APN 001-472-014 from General Commercial to Public, Quasi-Public.

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

Assistant City Manager: Date: 8/21/20  
Recommend approval as presented by staff

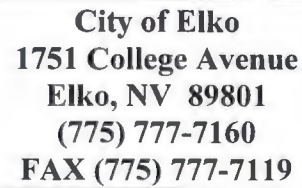
SAW

Initial

City Manager: Date: 8/21/20  
No comments/concerns.

LL

Initial



Page 1 of 5

## **PROJECT INFORMATION**

<b>PARCEL NUMBER:</b>	APN 001-472-014
<b>PARCEL SIZE:</b>	13,125 Square feet
<b>EXISTING ZONING:</b>	C- General Commercial with application for zone amendment to PQP –Public, Quasi, Public
<b>MASTER PLAN DESIGNATION:</b>	Residential Medium Density with proposed change to Public with Master Plan Amendment 2-20 to be heard as a resolution by City Council on August 25, 2020
<b>EXISTING LAND USE:</b>	Developed as City of Elko Fire Station

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by:
  - Northeast: Developed, Residential
  - Northwest: Developed, Residential Special Overlay
  - Southeast: Undeveloped, Commercial
  - Southwest: Developed, Commercial

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

Applicable Master Plans and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Redevelopment Plan
- City of Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-8 Public, Quasi-Public Zoning Districts
- City of Elko Zoning – Section 3-2-21 Amendments
- City of Elko Zoning – Section 3-8 Flood Plain Management

### **BACKGROUND:**

1. The application for the variance was filed as required under City Code 3-2-8 (C).
2. The applicant has applied for a variance (VAR 4-20) and it will be heard concurrent with this application.
3. The property is not located in the Redevelopment Area.
4. The property is currently being served by City of Elko water and sewer and other non-city utilities.

### **MASTER PLAN**



**Land Use:**

1. The Master Plan Land Use Atlas shows the area as Medium Density Residential at the time of application. The Planning Commission approved Resolution 2-20 for a Master Plan amendment land use designation as public. The City Council will consider the same Master Plan amendment at their meeting on August 25, 2020.
2. PQP-Public, Quasi-Public zoning district is listed as a corresponding zoning district for Public.
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. The property is currently being used for government uses.

The approval of the zone amendment is in conformance with the Land Use Component of the Master Plan with the approval of the Master Plan Amendment 2-20.

**Transportation:**

1. The area will be accessed from South 5<sup>th</sup> Street and South 9<sup>th</sup> Street.
2. South 5<sup>th</sup> Street is classified in the Transportation Component as a major arterial.
3. South 9<sup>th</sup> Street is classified as a Commercial / Industrial Collector.
4. There currently is pedestrian access along both frontages.

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

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the redevelopment area and therefore the Redevelopment Plan was not considered for this application.

**ELKO WELLHEAD PROTECTION PLAN:**

1. The property sits outside the 30 year capture zone for the City of Elko wells.

The proposed zone district and proposed use for the property is in conformance with wellhead protection plan.

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

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - a. To exceed the heights required by the current City Airport Master Plan;
  - b. To accommodate or house a greater number of families than as permitted in this chapter;
  - c. To occupy a greater percentage of lot area; or
  - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces,

than required in this title; or in any other manner contrary to the provisions of this chapter.

3. No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
4. No yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title. The property meets the area requirements for the proposed zone district.

The proposed zone district is in conformance with Elko City Code Section 3-2-4(B) with the approval of variance 4-20.

**SECTION 3-2-8 – PQP Public, Quasi-Public District**

1. The property is developed and doesn't meet the street line setback for South 9<sup>th</sup> Street.

The proposed zone district is not in conformance with Elko City Code Section 3-2-8 and approval of Variance 4-20 will be required to be in conformance.

**SECTION 3-2-21:**

The application is in conformance with Elko City Code 3-2-21 with the filing of this application.

**SECTION 3-8:**

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

**FINDINGS:**

1. The proposed zone district is in conformance with the Land Use Component of the Master Plan with the approval of Master Plan Amendment 2-20.
2. The proposed zone district is compatible with the Transportation Component of the Master Plan and is consistent with the future transportation infrastructure.
3. The property is not located within the Redevelopment Area.
4. The proposed zone district and resultant land use is in conformance with City Wellhead Protection Plan.
5. The proposed zone district is in conformance with Elko City Code Section 3-2-4(B) with the approval of variance 4-20.
6. The proposed zone district is not in conformance with Elko City Code Section 3-2-8 and requires approval of Variance 4-20 to be in conformance.
7. The application is in conformance with Elko City Code 3-2-21.
8. The proposed zone district is not located in a designated Special Flood Hazard Area

(SFHA).

9. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

**STAFF RECOMMENDATION:**

Staff recommends this item be CONDITIONALLY APPROVED with the following conditions:

1. Master Plan amendment 2-20 is approved.
2. Variance 4-20 is approved for street line setback from South 9<sup>th</sup> Street.

# Rezone 1-20 City of ELKO - CC

YPNO	assess_nam	address1	address2	mcity	mzip
00147200	ALLRED JESSE L	746 S 9TH ST		ELKO, NV	89801-4250
001485001	BENVENUTO FRANK	934 CLARKSON DR		ELKO, NV	89801-4300
001485002	BENVENUTO KRISTINE ANN	C/O JUDITH A SCHULTZ LIFE EST	934 CLARKSON DR	ELKO, NV	89801-4300
001492001	BOEHLER MAHLON	920 SOUTHSIDE DR		ELKO, NV	89801-4340
001491018	*BORDEN MICHAEL G & M MELINDA	977 SOUTHSIDE DR		ELKO, NV	89801-4340
001485004	*CARLOS VERENISE	962 CLARKSON DR		ELKO, NV	89801-4300
001492002	CERVANTES ANTONIO	934 SOUTHSIDE DR		ELKO, NV	89801-4340
001492003	CERVANTES RAMIRO & HILARIA	948 SOUTHSIDE DR		ELKO, NV	89801-4340
001491020	DELEON CONCEPCION	947 SOUTHSIDE DR		ELKO, NV	89801-4340
001472014	ELKO CITY OF <i>NO PC</i>	1755 COLLEGE AVE		ELKO, NV	89801-
001472001	FLORES ANTONIO	250 S 1ST ST		ELKO, NV	89801-7600
001471008	*GOMEZ JUAN JOSE MARQUEZ	1175 SOUTHSIDE DR		ELKO, NV	89801-
001482012	*GONZALES ELVERA S	919 CLARKSON DR		ELKO, NV	89801-4300
001472016	GSR RENTALS NINTH ST SERIES ETA	1770 MOUNTAIN CITY HWY		ELKO, NV	89801-2410
001482010	*HERNANDEZ-HERNANDEZ DOMINGO ET	947 CLARKSON DR		ELKO, NV	89801-4300
001492004	*HORTIN KIMBERLY	962 SOUTHSIDE DR		ELKO, NV	89801-4340
001473001	KOINONIA CONSTRUCTION INC } <i>1pc</i>	207 BROOKWOOD DR		ELKO, NV	89801-2300
001740010	KOINONIA CONSTRUCTION INC	207 BROOKWOOD DR		ELKO, NV	89801-2300
001472003	KUFELD ROB & TAWNI	4635 WESTMORELAND RD		WINNEMUCCA, NV	89445-8320
001482011	*LUNA JOSE M & MARIA	PO BOX 2843		WEST WENDOVER, NV	89883-
001472015	M AND M TILE & GRANITE INC } <i>1pc</i>	1118 2ND ST		ELKO, NV	89801-
001472012	M AND M TILE & GRANITE INC	1118 2ND ST		ELKO, NV	89801-
001472017	MCLANE JOHN S & MARANDA B	880 CARLIN CT		ELKO, NV	89801-4220
001485003	MONTES DE OCA DANIEL TR	1709 JANIE CT		ELKO, NV	89801-7910
001472013	ODEH TONY F		393 12TH ST	ELKO, NV	89801-
001472005	ORTIZ HECTOR DURAN	PO BOX 515		WENDOVER, UT	84083-0510
001472007	ORTIZ PABLO & AUDELINA	732 S 9TH ST		ELKO, NV	89801-4250
001471007	*ORTIZ SANTIAGO & IGNACIA	897 CARLIN CT		ELKO, NV	89801-4220
001491022	PAPACH GERRY L	735 S 9TH ST		ELKO, NV	89801-4260
001491021	PETE HARVEY L TR	933 SOUTHSIDE DR		ELKO, NV	89801-4340
001472009	SALAZAR CELSO C	PO BOX 503		LITTLEFIELD, AZ	86432-0500
001471009	*SALAZAR RAMIRO	847 CARLIN CT		ELKO, NV	89801-4220
001472004	SANTISTEYAN JUSTICE PAUL		860 CARLIN CT	ELKO, NV	89801-

001492005\* THOMPSON PROPERTY C SERIES LLC  
001472002 URIBE ALFREDO  
001463005\* URIBE-QUINTERO SALVADOR TR ETA  
001491019 VITALITY CENTER  
001740011 WARNER MICHAEL R

1957 RUBY VIEW DR  
270 S 2ND ST  
570 JUNEAU ST  
3740 IDAHO ST  
24435 S 195TH ST

ELKO, NV 89801-2680  
ELKO, NV 89801-4090  
ELKO, NV 89801-4130  
ELKO, NV 89801-4610  
QUEEN CREEK, AZ 85142-3240

35

\* = Properties outside the Original  
300' radius to achieve 30 parcels

Post Marked 9/11/20

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Council will conduct a series of public hearings on Tuesday, September 22, 2020 beginning at 5:30 P.M. P.D.S.T. utilizing GoToMeeting.com , and that the public is invited to provide input and testimony on these matters under consideration via the virtual meeting at

<https://global.gotomeeting.com/join/223532117>

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: <https://global.gotomeeting.com/join/223532117>. You can also dial in using your phone at **+1 (408) 650-3123**. The **Access Code** for this meeting is **223-532-117**.

Members of the public that do not wish to use GoToMeeting may call in at **(775)777-0590**. Comments can also be emailed to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)

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

- Rezone No. 1-20, having a hearing as Resolution No. 23-20, filed by the City of Elko, for a change in zoning from C (General Commercial) to PQP (Public, Quasi-Public) Zoning District, approximately 26,061 square feet of property, specifically APN 001-472-014, located generally on the west corner of the intersection of S. 5<sup>th</sup> Street and S. 9<sup>th</sup> Street, more particularly described as:

An area of land within the southwest quarter of Section 14, Township 34 North, Range 55 East, which is comprised of all of Lots 32 through 36 of Block A of the Second Ouderkirk Addition, File No. 51117, together with a portion of a public alley, a portion of South 9<sup>th</sup> Street, and a portion of South 5<sup>th</sup> Street.

Beginning at a point that bears North 52°31'00" West, a distance of 10.00 feet from the westerly most corner of Lot 32 of said Block A of the Second Ouderkirk Addition.;

Thence, along the centerline of a public alley, North 37°29'00" East, a distance of 165.00 feet, more or less, to the centerline of South 9<sup>th</sup> Street;

Thence, along said centerline of South 9<sup>th</sup> Street, South 52°31'00" East, a distance of 167.93 feet, more or less, to the centerline of South 5<sup>th</sup> Street;

Thence, along the centerline of South 5<sup>th</sup> Street, South 44°23'00" West, a distance of 147.19 feet;

Thence, continuing along the centerline of South 5<sup>th</sup> Street, on a tangent circular curve to the right, with a radius of 1,432.69 feet, an arc length of 19.03 feet, and a central angle of 0°45'39";

Thence, North 52°31'00" West, along the southwesterly line of said Lot 32 of said Block A of the Second Ouderkirk Addition, a distance of 147.84 feet, more or less, to the point of beginning.

This area of land contains a total of ±26,061 square feet.

The Basis of bearings for this description is the Map of Second Ouderkirk Addition to the City of Elko, Nevada, recorded in the office of the Elko County Recorder on December 8, 1931, as file no 51117.

The intent of the zone change is to bring the zoning district into conformance with the use of the property.

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

**ELKO CITY COUNCIL**



## CITY OF ELKO PLANNING DEPARTMENT

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

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

### APPLICATION FOR ZONE CHANGE

APPLICANT(s): City of Elko  
MAILING ADDRESS: 1751 College Ave  
PHONE NO (Home) \_\_\_\_\_ (Business) (775) 777-7160  
NAME OF PROPERTY OWNER (If different): \_\_\_\_\_  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: \_\_\_\_\_  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-472-014 Address 875 S. 5<sup>th</sup> Street  
Lot(s), Block(s), & Subdivision Lots 32-36, Block A, Second Orderville Addition  
Or Parcel(s) & File No. File # 51117

#### FILING REQUIREMENTS:

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

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

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

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

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

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

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

RECEIVED



1. Identify the existing zoning classification of the property: General Commercial
2. Identify the zoning Classification being proposed/requested: Public, Quasi-Public
3. Explain in detail the type and nature of the use anticipated on the property: Property  
Currently has a City of Elko Fire Station that will remain.
4. Explain how the proposed zoning classification relates with other zoning classifications in the area: Proposed Zoning Classification would match with the use of the  
property
5. Identify any unique physical features or characteristics associated with the property: \_\_\_\_\_

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

**By My Signature below:**

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

**Applicant / Agent** City of Elko  
(Please print or type)

**Mailing Address** 1751 College Avenue  
Street Address or P.O. Box

Elko, NV 89801  
City, State, Zip Code

Phone Number: (775) 777-7160

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

**SIGNATURE:** Cathy Lawrence

---

**FOR OFFICE USE ONLY**

**File No.:** 1-20 **Date Filed:** 7/8/20 **Fee Paid:** N/A

---



# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---


### CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of July 7, 2020

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on July 7, 2020 per City Code Sections 3-2-21:

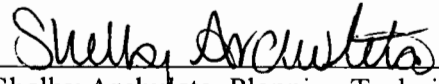
Initiate an amendment to the City of Elko district boundaries, specifically APN 001-472-014, removing the C-General Commercial Zoning District and replacing with the PQP- Public, Quasi-Public District, and matters related thereto.

Elko City Code Section 3-2-21 allows the Planning Commission to initiate on its own motion a change to the district boundaries. The City of Elko owns the parcel and the building has been occupied for many years as a fire station. This amendment, initiated by the Planning Commission, if approved, will bring back as a public hearing a rezone of the parcel from C-General Commercial to PQP- Public Quasi-Public.

WHEREAS, the Planning Commission, upon review and consideration of the application and supporting data, public input and testimony, initiate an amendment to the City of Elko district boundaries, and direct staff to bring the item back as a public hearing.

  
Cathy Laughlin, City Planner

Attest:

  
Shelby Archuleta, Planning Technician

CC: Michele Rambo, Development Manager (via email)  
Kelly Wooldridge, City Clerk

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to adopt Resolution No. 24-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from AG (General Agriculture) to R (Single Family and Multiple Family Residential) Zoning District, approximately 2.415 acres of property, filed by Legion Construction and Development LLC., and processed as Rezone No. 5-20, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information: **The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 5-20. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution, P.C. action report, Staff Report and related correspondence**
9. Recommended Motion: **Adopt Resolution No. 24-20**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review: **Planning Commission, Legal Counsel**
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilman \_\_\_\_\_ and seconded by Councilman \_\_\_\_\_ the following Resolution and Order was passed and adopted:

**CITY OF ELKO  
RESOLUTION NO. 24-20**

**A RESOLUTION OF THE ELKO CITY COUNCIL  
ADOPTING A CHANGE IN ZONING DISTRICT BOUNDARIES**

WHEREAS, the Elko City Council has conducted a public hearing in accordance with Nevada Revised Statutes, Section 278.260 and the Elko City Code, Section 3-2-21(C), and

WHEREAS, the Elko City Council has received and reviewed the application submitted by Legion Construction & Development, LLC (petitioner), together with any public input, supporting data and evidence, and the previous action taken by the Planning Commission pertaining to Rezone Application No. 5-20.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE ELKO CITY COUNCIL that Rezone Application No. 5-20, involving a change in zoning from AG (General Agriculture) to R (Single-Family & Multiple-Family Residential) Zoning District involving approximately 2.415 acres of property located generally on the northeast side of N. 5<sup>th</sup> Street across from Rolling Hills Drive, more particularly described in Exhibit A and shown on the map at Exhibit B attached hereto is hereby adopted.

IT IS FURTHER RESOLVED AND ORDERED that this Resolution shall be signed by the Mayor and attested to by the City Clerk.

PASSED AND ADOPTED this \_\_ day of \_\_\_\_\_, 2020.

CITY OF ELKO

By: \_\_\_\_\_  
REECE KEENER, MAYOR

ATTEST:

\_\_\_\_\_  
KELLY C. WOOLDRIDGE, CITY CLERK

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

August 17, 2020

Legion Construction and Development LLC  
Legal Description – Parcel No. 1  
APN 001-610-093

### DESCRIPTION

A parcel of land to be rezoned from A-Agriculture to R-Residential, defined as parcel #1 file 415475 being a portion of Section 9, Township 34 North, Range 55E, M.D.B.& and now known as parcel 1 on amended map file 530051 including the frontage along said parcel 1 to the centerline line of N. 5<sup>th</sup> Street in Elko County, Nevada and more particularly described below:

#### **Parcel No. 1 – APN 001-610-093**

Commencing at the north east section corner of said section 9, a brass cap;  
thence on a bearing of north 89°46'09" west for a distance of 5000.27 feet to a point on the North 5<sup>th</sup> St. right of way line.  
Thence along said right of way on a circular curve to the right from a tangent bearing S 54° 40' 12" east, with a radius of 11,140 feet, through an internal angle of 4° 43' 28" for an arc length of 918.58 feet;  
thence along said right-of-way on a bearing south 49°56'44" east, for a distance of 583.04 feet;  
thence along said right of way on a circular curve to the right with a radius of 2,460 feet, through an internal angle of 9° 59' 44", for an arc length of 429.16 feet to corner No 1, the north west corner of Parcel No. 1 and the true point of beginning;  
thence on a bearing north 50° 03'00" east, for a distance of 126.46 feet to corner No. 2;  
thence on a bearing north 08° 33'25" west, for a distance of 85.61 feet to corner No. 3;  
thence on a bearing south 84° 27'44" east, for a distance of 405.88 feet to corner No. 4;  
thence on a bearing south 42° 52'32" west, for a distance of 472.41 feet to corner No. 5, a point on the North 5<sup>th</sup> Street right of way line;  
thence along said right of way on a bearing north 36° 01'25" west, for a distance of 107.15 feet to corner No. 6;  
thence along said right of way on a circular curve to the left, with a radius of 2,460 feet through an internal angle of 3° 55' 36", for an arc length of 168.58 feet to corner No 1; the point of beginning.  
Said Parcel No. 1 contains 2.163 acres, more or less.

#### **North 5th Street Frontage**

Commencing at the northwest property corner of said Parcel No. 1 identified above as corner No. 1, a point on the North 5<sup>th</sup> Street right of way line and the true point of beginning,  
Thence along said right of way of North 5<sup>th</sup> Street on a circular curve to the right from a tangent bearing S 39° 57' 01" east, with a radius of 2,460 feet, through an internal angle of 3° 55' 36" for an arc length of 168.58 feet to corner No. 6;  
thence along said right of way on a bearing south 36° 01'25" east, for a distance of 107.15 feet to corner No. 5;  
thence on a bearing south 53° 58' 35" west for a distance of 40.00 feet to corner No. 7, a point on the center line of North 5<sup>th</sup> Street;  
thence along the centerline of North 5<sup>th</sup> Street on bearing north 36° 01'25" west for a distance of 107.15 feet to corner No. 8



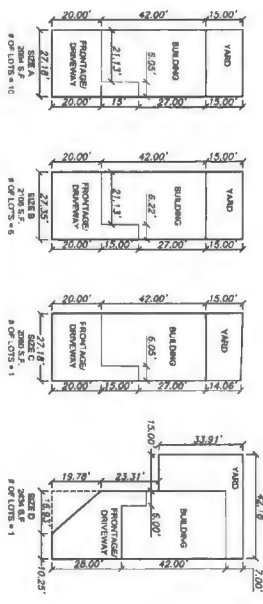
thence along said centerline of North 5<sup>th</sup> Street on a circular curve to the left with a radius of 2,420 feet, through an internal angle of  $3^{\circ} 55' 36''$ , for an arc length of 165.84' to corner No. 9;

thence on a bearing north  $50^{\circ} 02' 59''$  east, for a distance of 40.00 feet to corner No. 1; the point of beginning.

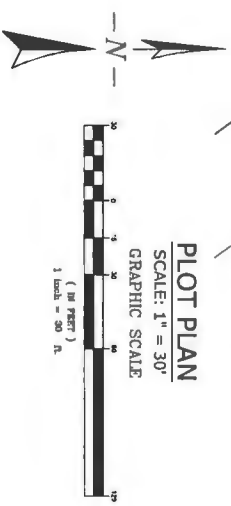
Said frontage of North 5<sup>th</sup> Street contains 0.252 acres more or less.

The total gross area to be rezoned contains 2.415 acres more or less.

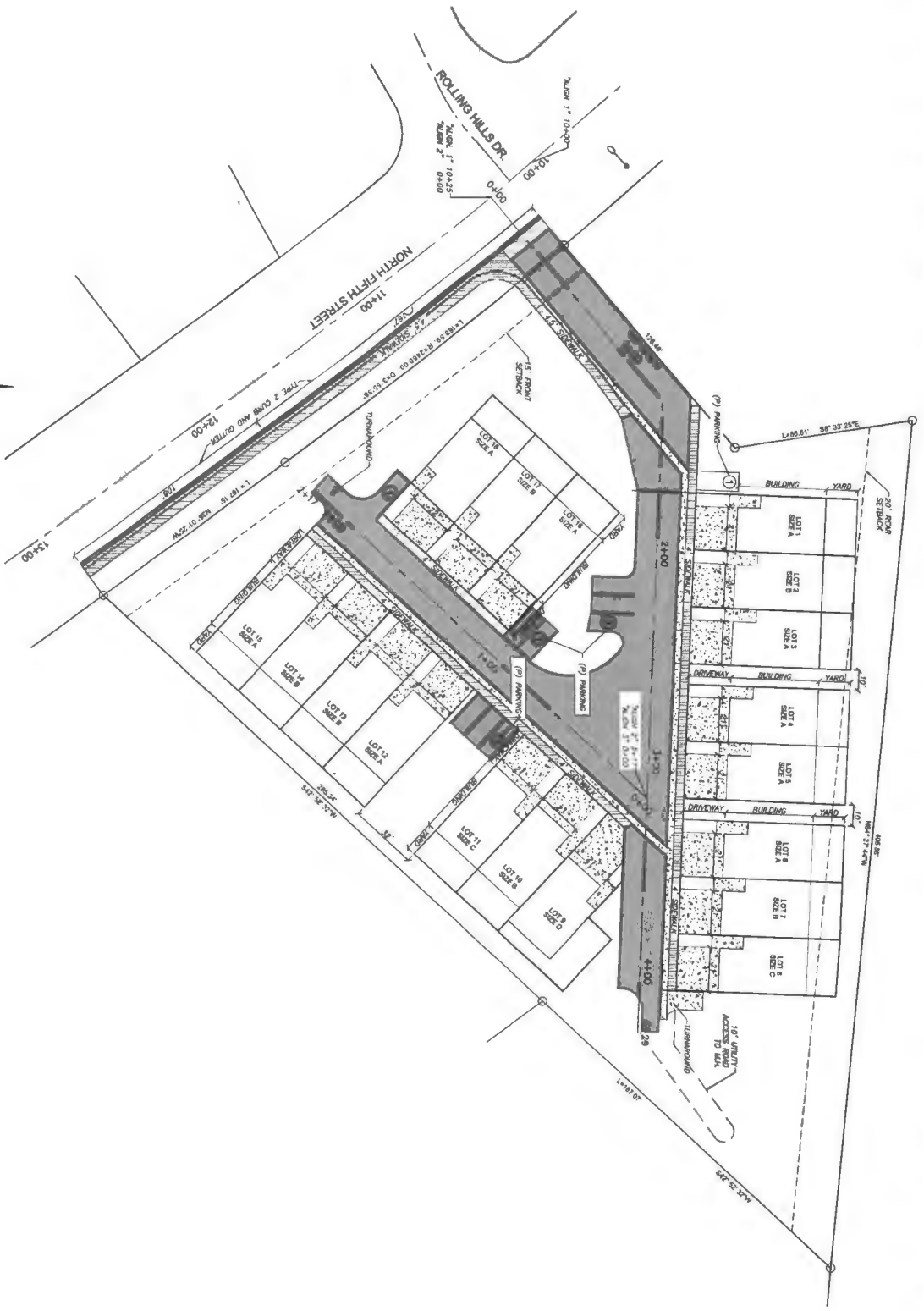




LOT DIMENSIONS  
SCALE: 1" = 30'



PLOT PLAN  
SCALE: 1" = 30'  
GRAPHIC SCALE



JARBIDGE ESTATES  
TOWN HOME SUBDIVISION  
ZONE CHANGE-PLOT PLAN

PREPARED FOR  
LEGION CONSTRUCTION & DEVELOPMENT, LLC  
880 Charleston Dr.  
Spring Creek, NV 89815

DRAWING NO.  
2002160

SCALE  
AS SHOWN

PROJECT NO.  
2002160

DRAWING NAME  
NORTH DIVIN HOME, 3RD

NO.	DESCRIPTION	BY	DATE
1	ISSUE FOR REVIEW	MES	8-11-20
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			
51			
52			
53			
54			
55			
56			
57			
58			
59			
60			
61			
62			
63			
64			
65			
66			
67			
68			
69			
70			
71			
72			
73			
74			
75			
76			
77			
78			
79			
80			
81			
82			
83			
84			
85			
86			
87			
88			
89			
90			
91			
92			
93			
94			
95			
96			
97			
98			
99			
100			

PREPARED BY  
**Shanks Enterprises**  
982 WOLF CR. DR.  
SPRING CREEK, NEVADA 89815  
775-753-5100  
shankseng@gmail.com





# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

### CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of September 1, 2020

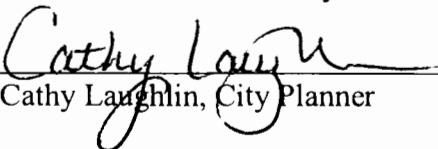
WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on September 1, 2020 under Public Hearing format in accordance with notification requirements contained in N.R.S. 278.260 and Elko City Code Section 3-2-21:

Rezone No. 5-20, filed by Legion Construction and Development LLC., for a change in zoning from AG (General Agriculture) to R (Single Family and Multiple Family Residential) Zoning District, approximately 2.415 acres of property, to allow for a proposed townhome development, and matters related thereto.

Subject property is located on the west side of N 5th Street at the intersection of Rolling Hills Drive. (APN 001-610-093)

NOW THEREFORE, upon review and consideration of the application, supporting data, public input and testimony, the Planning Commission forwarded a recommendation to City Council to adopt a resolution which approves Rezone No. 5-20.

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

  
Cathy Laughlin, City Planner

Attest:

  
Shelby Archuleta, Planning Technician

CC: Kelly Wooldridge, City Clerk  
Michele Rambo, Development Manager (email)

**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE: 9/1**

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

Title: Rezone 5-20

Applicant(s): Legion Construction + Development, LLC

Site Location: NE side of N 5<sup>th</sup> Street, across from Rolling Hills - APN 001-1610-093

Current Zoning: AG Date Received: 8/11/20 Date Public Notice: 8/18/20

COMMENT: This is to rezone APN 001-1610-093 from General Agriculture to R-Single-Family + Multiple-Family Residential Zoning Districts

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

Assistant City Manager: Date: 8/21/20

Recommend approval as presented by staff

SAW

Initial

City Manager: Date: 8/21/20

No comments/concerns.

W

Initial



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

## **CITY OF ELKO STAFF REPORT**

<b>MEMO DATE:</b>	<b>August 12, 2020</b>
<b>PLANNING COMMISSION DATE:</b>	<b>September 1, 2020</b>
<b>APPLICATION NUMBER:</b>	<b>Rezone 5-20</b>
<b>APPLICANT:</b>	<b>Legion Construction and Development LLC</b>
<b>PROJECT DESCRIPTION:</b>	<b>Zone amendment from AG to R associated with the subdivision of property, Jarbidge Estates Subdivision</b>
<b>ADDITIONAL APPLICATIONS:</b>	<b>Tentative Map 6-20, CUP 4-20</b>



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBER:** 001-610-093

**PARCEL SIZE:** 2.16 acres

**EXISTING ZONING:** AG- General Agriculture

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

**EXISTING LAND USE:** Undeveloped

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by:
  - North: (AG)- Agriculture / Undeveloped
  - West: (R) Residential / Developed
  - South: (R) Residential / Developed
  - East: (R) Residential / Partially developed, Church

### **PROPERTY CHARACTERISTICS:**

- The area is currently undeveloped.
- The area has moderately sloping.
- The area is accessed from North 5<sup>th</sup> Street.

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

Applicable Master Plans and City Code Sections are:

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

### **BACKGROUND:**

1. The property is owned by the applicant.
2. The rezone includes all of APN 001-610-093
3. The area fronts North 5<sup>th</sup> Street.
4. City water is located in the immediate vicinity. Sewer will need to be extended.
5. Other non-city utilities are located in the immediate area.

6. The application for rezone is based on an application for subdivision of property. As such, the rezone application must comply with section 3-3-5(A) Zoning Amendments.

**MASTER PLAN:**

**Land use:**

1. Land Use is shown as Medium Density Residential.
2. Supporting zone districts for Medium Density Residential are Single Family/Multi Family (R), Single Family (R1), Two Family (R2), Planned Unit Development (PUD), Residential Office (RO), Residential Business (RB), Mobile Home Subdivision (RMH-2), and Manufactured Home Subdivision (RMH-3).
3. Zone classification of the properties are required to conform to the Master Plan as per Elko City Code 3-3-5(A).
4. Objective 1: Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.
5. Objective 8: Encourage new development that does not negatively impact County-wide natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc., or pose a danger to human health and safety.

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

**Transportation:**

1. The area will be accessed from North 5<sup>th</sup> Street.
2. North 5<sup>th</sup> Street is classified in the Transportation Component as a minor arterial.

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

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the Redevelopment Area.

**ELKO WELLHEAD PROTECTION PLAN:**

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

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

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

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, moved, or structurally altered, unless in conformity with all regulations specified in this subsection for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - a. To exceed the heights required by the current City Airport Master Plan;
  - b. To accommodate or house a greater number of families than as permitted in this chapter;



- c. To occupy a greater percentage of lot area; or
  - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces, than required in this title; or in any other manner contrary to the provisions of this chapter.
3. No part of a required yard, or other open space, or off street parking or loading space, provided in connection with any building or use, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
  4. No yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title. The property meets the area requirements for the proposed zone district.

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

**SECTION 3-2-5 (B) – Single Family Residential**

1. The applicant has applied for a conditional use permit for the proposed development of townhomes, Elko City Code 3-2-5(E)(3).
2. As the property develops, it will be required to be consistent with the listed principal uses permitted or be approved a CUP for conditionally approved uses.
3. As the property develops, it will be required to be in conformance with the development standards in Elko City Code 3-2-5(E) 5 & 6.

The proposed zone district is in conformance with Elko City Code Section 3-2-5.

**SECTION 3-2-21:**

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

**SECTION 3-3-5**

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

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

**SECTION 3-8:**

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

**FINDINGS:**

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

**STAFF RECOMMENDATION:**

Staff recommends this item be approved as presented.

# Rezone 5-20 Legion Construction + Development, LLC - CC

YPNO	assess_nam	address1	address2	mcity	mzip
00161A015	BECK DEREK & CYDNEY K	110 ROLLING HILLS DR		ELKO, NV	89801-8400
00161A021	BENZIE MICHAEL J & BELINDA A	3554 DESERT PLAINS AVE		ELKO, NV	89801-8420
00161I050	BINGHAM ROBERT JASON	193 BROOKWOOD RD		ELKO, NV	89801-2300
00161A025	BRANNEN CHARLES E & BERTHA D	100 SANDSTONE CT		ELKO, NV	89801-8420
00161A028*	CHAPPELL JOSEPHINE S	109 SANDSTONE CT		ELKO, NV	89801-8420
001610114	COPPER TRAILS LLC	PO BOX 8070		RENO, NV	89507-8070
00161A023*	EDWARDS STEPHEN RALPH TR	108 SANDSTONE CT		ELKO, NV	89801-8420
001610092	ELKO CITY OF	1755 COLLEGE AVE		ELKO, NV	89801-
001610036	ELKO CITY OF	1755 COLLEGE AVE		ELKO, NV	89801-
001610094	ELKO CITY OF	1755 COLLEGE AVE		ELKO, NV	89801-
001610103	ELKO CITY OF	1755 COLLEGE AVE		ELKO, NV	89801-3400
00161C004*	ELLEFSSEN DAVID J & PATRICIA KR	PO BOX 2050		ELKO, NV	89803-2050
00161A024	FINLAYSON SCOTT C & GWEN D TR	104 SANDSTONE CT		ELKO, NV	89801-8420
001610113	GRACE BAPTIST CHURCH	3030 5TH ST		ELKO, NV	89801-4470
001610112	GRACE BAPTIST CHURCH	3030 5TH ST		ELKO, NV	89801-4470
00161A014*	GRIESEL GERALD A & MICHELLE M	114 ROLLING HILLS DR		ELKO, NV	89801-8400
00161C001	HARRISON THOMAS DALE	468 QUAIL CIR		ELKO, NV	89801-8460
00161A019	KATSAR ADAM & ALICIA A	107 ROLLING HILLS DR		ELKO, NV	89801-8400
00161A022*	LARRABEE BREANNA & DANIEL	3550 DESERT PLAINS AVE		ELKO, NV	89801-
001610093	LEGION CONSTRUCTION AND DEVELOPMENT LLC		599 SHADYBROOK DR	SPRING CREEK, NV	89815-
00161A018	MOSER NORMAN GUY	66 E MARS WAY		SANDY, UT	84070-1040
00161C005	MURRAY SHARON A		457 QUAIL CIRCLE	ELKO, NV	89801-
00161A027	MUTAMA KUDA R & PETRONELA N	105 SANDSTONE CT		ELKO, NV	89801-8420
00161A016	NAVARRO VICKIE A	106 ROLLING HILLS DR		ELKO, NV	89801-8400
00161I049	PENDLEY AARON J	195 BROOKWOOD DR		ELKO, NV	89801-
00161A020	ROYCE RODERICK A & CATHERINE M	3560 DESERT PLAINS AVE		ELKO, NV	89801-8420
00161C002	TEMPEL TRENT & KAREN TR	PO BOX 281727		LAMOILLE, NV	89828-1720
001610038	THE CHURCH OF JESUS CHRIST	TAX ADM DIV 536-4388	50 E NORTH TEMPLE RM 2225	SALT LAKE CITY, UT	84150-0020
00161A017	VALLEY KEVIN & RUTH	102 ROLLING HILLS DR		ELKO, NV	89801-8400
00161C003	VANCE DANIEL W	460 QUAIL CIR		ELKO, NV	89801-8460
00161A026	VANCE JERID S & AMANDA K	101 SANDSTONE CT		ELKO, NV	89801-8420

(26)

Postmarked 9/11/20

\* = Properties Outside the Original  
300' radius to achieve 80 parcels

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Council will conduct a series of public hearings on Tuesday, September 22, 2020 beginning at 5:30 P.M. P.D.S.T. utilizing GoToMeeting.com , and that the public is invited to provide input and testimony on these matters under consideration via the virtual meeting at

<https://global.gotomeeting.com/join/223532117>

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: <https://global.gotomeeting.com/join/223532117>. You can also dial in using your phone at **+1 (408) 650-3123**. The **Access Code** for this meeting is **223-532-117**.

Members of the public that do not wish to use GoToMeeting may call in at **(775)777-0590**. Comments can also be emailed to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)

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

- Rezone No. 5-20, having a hearing as Resolution 24-20, filed by Legion Construction and Development, LLC, for a change in zoning from AG (General Agriculture) to R(Single-Family and Multiple-Family Residential) Zoning District, approximately 2.415 acres of property, specifically APN 001-610-093, located generally on the northeast side of N. 5<sup>th</sup> Street, across from Rolling Hills Drive, more particularly described as:

A parcel of land to be rezoned from A-Agriculture to R-Residential, defined as parcel # 1 file 415475 being a portion of Section 9, Township 34 North, Range 55 East, M.D.B.&M. and now known as parcel 1 on amended map file 530051 including the frontage along said parcel 1 to the centerline of N. 5<sup>th</sup> Street in Elko County, Nevada and more particularly described below:

**Parcel No. 1 – APN 001-610-093**

Commencing at the north east section corner of said section 9, a brass cap;  
Thence, on a bearing of north 89°46'09" west for a distance of 5,000.27 feet to a point on the North 5<sup>th</sup> Street right of way line;

Thence along said right of way on a circular curve to the right from a tangent bearing S 54°40'12" east, with a radius of 11,140 feet, through an internal angle of 4°43'28" for an arc length of 918.58 feet;

Thence along said right-of-way on a bearing south 49°56'44" east, for a distance of 583.04 feet;

Thence along said right of way on a circular curve to the right with a radius of 2,460 feet, through an internal angle of 9°59'44", for an arc length of 429.16 feet to corner No 1, the north west corner of Parcel No. 1 and the true point of beginning;

Thence on a bearing north 50°03'00" east, for a distance of 126.46 feet to corner No. 2;

Thence on a bearing north 08°33'25" west, for a distance of 85.61 feet to corner No. 3;

Thence on a bearing south 84°27'44" east, for a distance of 405.88 feet to corner No. 4;

Thence on a bearing south 42°52'32" west, for a distance of 472.41 feet to corner No. 5, a point on the North 5<sup>th</sup> Street right of way line;

Thence along said right of way bearing north 36°01'25" west, for a distance of 107.15 feet to corner No. 6;

Thence along said right of way on a circular curve to the left, with a radius of 2,460 feet through an internal angle of 3°55'36", for an arc length of 168.58 feet to corner No. 1; the point of beginning.

Said Parcel No. 1 contains 2.163 acres, more or less.

**North 5<sup>th</sup> Street Frontage**

Commencing at the northwest property corner of said Parcel No. 1 identified above as corner No. 1, a point on the North 5<sup>th</sup> Street right of way line and the true point of beginning;

Thence along said right of way of North 5<sup>th</sup> Street on a circular curve to the right from a tangent bearing S 39°57'01" east, with a radius of 2,460 feet, through and internal angle of 3°55'36" for an arc length of 168.58 feet to corner No. 6;

Thence along said right of way on a bearing south 36°01'25" east, for a distance of 107.15 feet to Corner No. 5;

Thence on a bearing south 53°58'35" west for a distance of 40.00 feet to corner No. 7, a point on the center line of North 5<sup>th</sup> Street;

Thence along the centerline of North 5<sup>th</sup> Street on bearing north 36°01'25" west for a distance of 107.15 feet to corner No. 8;

Thence along said centerline of North 5<sup>th</sup> Street on a circular curve to the left with a radius of 2,420 feet, through an internal angle of 3°55'36", for an arc length of 165.84' to corner No. 9;

Thence on a bearing north 50°02'59" east, for a distance of 40.00 feet to corner No. 1; the point of beginning.

Said frontage of North 5<sup>th</sup> Street contains 0.252 acres more or less.

The total gross area to be rezoned contains 2.415 acres more or less.

The intent of the zone change is to allow for a proposed townhome development.

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

**ELKO CITY COUNCIL**



## CITY OF ELKO PLANNING DEPARTMENT

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

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

### APPLICATION FOR ZONE CHANGE

APPLICANT(s):	Legion Construction and Development LLC		
MAILING ADDRESS:	599 Shadybrook Dr, Spring Creek, NV 89815		
PHONE NO (Home)	775-778-1539	(Business)	Same
NAME OF PROPERTY OWNER (If different):	Same		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:			
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-610-093	Address	N 5th Street
Lot(s), Block(s), & Subdivision			
Or Parcel(s) & File No.	Parcel 1 File 415475 as amended by Parcel 1 file 530051		

#### **FILING REQUIREMENTS:**

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

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

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

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

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

**Note:** One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 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 Rezone Application.

1. Identify the existing zoning classification of the property: A-Agriculture

2. Identify the zoning Classification being proposed/requested: R-Residential

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

The property will be subdivided into 18 town homes. The town homes will be two story and contain approximately 1471 square feet with 466 sft two car garages. The units will be combined to form 2, 3, and 4 unit clusters. They will have approximately 15 foot rear yards and 20 foot deep driveways that will accommodate two on site parking spaces independent from the garages. The total project contains 2.16 acres. The individual town home lot sizes range from 2080-2434 square feet.

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

The parcels on the same side (east) of North 5th Street are zoned residential to the South and agricultural to the north. The parcel to the north is undeveloped and the parcels to the south have been developed to either a church or multi family apartments. The parcels on the opposite side (west) of North 5th Street are zoned residential and are developed as single family homes.

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

The lot isn't conducive to agricultural use due the the steep slope of the lot and the surrounding developed lots contain single family/multi family buildings.

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

**By My Signature below:**

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

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

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

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

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

**Applicant / Agent**

Legion Construction and Development LLC

(Please print or type)

**Mailing Address**

599 Shadybrook Dr.

Street Address or P.O. Box

Spring Creek, NV 89815

City, State, Zip Code

Phone Number:

775-778-1539

Email address:

johns.builder@gmail.com

**SIGNATURE:**



---

**FOR OFFICE USE ONLY**

File No.: 5-20 Date Filed: 8/11/20 Fee Paid: \$500 CL# 240

---



**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-18(E)(3), appealing the Elko City Planning Commission's decision to deny Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would allow for a Teaching of the Creative Arts/Childcare Center within an R (Single Family and Multiple Family Residential) Zoning District, located generally on the southeast side of West Birch Street (675 W. Birch Street), and matters related thereto. FOR POSSIBLE ACTION**

**Pursuant to Elko City Code 3-2-25, the Council may affirm, modify or reverse the decision of the Planning Commission.**

2. Meeting Date: **September 22, 2020**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **15 Minutes**
5. Background Information: **The Planning Commission considered the subject conditional use permit on August 4, 2020 and took action to deny the conditional use permit. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Appeal letter, P.C. Action Report, August 4, 2020 P.C. Minutes, Staff Reports, and application**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review: **Planning Commission, Legal Counsel**
12. Council Action:
13. Agenda Distribution: **Ruby Mountain Acton Academy  
Attn: Angela Heguy  
[angieheguy@gmail.com](mailto:angieheguy@gmail.com)  
PO Box 1332  
Elko, NV 89803**

## Shelby Archuleta

---

**From:** Cathy Laughlin  
**Sent:** Tuesday, September 15, 2020 3:15 PM  
**To:** Shelby Archuleta  
**Subject:** FW: Public Hearing Ruby Mtn Acton Academy

*Cathy Laughlin*  
*City Planner*

(775)777-7160 ph  
(775)777-7219 fax  
[claughlin@elkocitynv.gov](mailto:claughlin@elkocitynv.gov)

City of Elko  
1751 College Avenue  
Elko, NV 89801

**From:** Kelly C. Wooldridge <kwooldridge@elkocitynv.gov>  
**Sent:** Tuesday, September 15, 2020 3:13 PM  
**To:** Cathy Laughlin <claughlin@elkocitynv.gov>  
**Subject:** Fw: Public Hearing Ruby Mtn Acton Academy

FYI - do you want to add this to your agenda packet or just have me read it into the minutes?

*Kelly Wooldridge*  
Elko City Clerk  
1751 College Avenue  
Elko, NV 89801  
775-777-7126 (office)  
775-777-7129 (fax)

**From:** The Martins <mejo@frontiernet.net>  
**Sent:** Tuesday, September 15, 2020 2:55 PM  
**To:** City Clerk <cityclerk@elkocitynv.gov>  
**Subject:** Public Hearing Ruby Mtn Acton Academy

### Members of Elko City Council

We are addressing the issue regarding a Conditional Use Permit for Ruby Mountain Acton Academy at 675 W. Birch St. Having resided at 655 W. Birch St. for 48 years, we are very concerned about what could happen to our quiet, residential neighborhood with the advent of this business venture. After first learning of this proposal on March 3, 2020, we have voiced our concerns and opposition to Ms Heguy, written letters, circulated a petition in the area and found great support from many neighbors. The main objections include increased traffic, lack of off street parking, noise, and uncertainty as to future numbers of students

and days/hours of operation. Above all, we strongly oppose the addition of a "business" into this residential neighborhood. Will the next one be far behind?

According to the City of Elko Conditional Use Permit documents, once all conditions have been satisfied & the permit issued, "the Conditional Use Permit shall thereafter be transferable and shall run with the land.....". If that means what we think it means, it is a downright frightening prospect!

We appreciate the opportunity to voice our opinions on this serious matter before you. Thank you. Mary Ellen and John Martin

RECEIVED

AUG 13 2020

**MCCONNELL LAW OFFICE**

950 Idaho Street  
Elko, Nevada 89801

**Katie Howe McConnell, Esq.**  
katie@kmlawnv.com

Telephone: (775) 738-1951  
Facsimile: (775) 738-1953

August 13, 2020

City Council  
City of Elko  
1751 College Avenue  
Elko, NV 89801

**RE: NOTICE OF APPEAL OF PLANNING COMMISSION DECISION -  
RUBY MOUNTAIN ACTON ACADEMY CUP 3-20  
PLANNING COMMISSION ACTION: AUGUST 4, 2020**

Mayor Keener and Council Members:

My office represents Gladys Burns and Ruby Mountain Acton Academy. Please accept this as a formal appeal of the City of Elko Planning Commission Action to Deny the Conditional Use Permit filed by Ruby Mountain Acton Academy on behalf of Gladys Burns on August 4, 2020.

**PROCEDURAL BACKGROUND**

In July, 2020, Ruby Mountain Acton Academy dba Acton of the Rubies ("Acton") filed an application for a conditional use permit on behalf of Gladys Burns (the property owner) for the issuance of a conditional use permit under Elko City Code 3-2-5 for teaching of creative arts/childcare center within a R- Single Multiple Family Residential Zoning District, for the property located at 675 West Birch Street, Elko, Nevada ("the property").

City of Elko planning department staff ("Staff") reviewed the application and issued a staff report, attached as Exhibit 1 to this appeal, recommending approval of the Conditional Use Permit subject to specific findings of fact and conditions as stated in the report. A public hearing was noticed pursuant to Elko City Code, and a public hearing was held on August 4, 2020. At the hearing, the Elko County Planning Commission denied the application for Conditional Use Permit by a vote of 4-2. In the decision, the Commission did not make any findings or specific reasons for the denial, but instead, summarily denied the Conditional Use Permit.

August 13, 2020

Page 2

**BASIS FOR CONDITIONAL USE PERMIT - CREATIVE ARTS/CHILD CARE**

The property is located at 675 West Birch Street, which is near the intersection of Dotta Drive and Birch Street. This area is in close proximity to St. Joseph's Catholic Church, Elko Presbyterian Church, Northside Elementary School, Noah's Ark Child Care Center and St. Mark's Lutheran Church (see exhibit 2), which all house youth programs.

The conditional use permit (which would be specific to Acton) requested that the Planning Commission approve Acton to run a creative arts/child care center at the property. Acton is a Nevada non-profit corporation with an IRS 501(c)(3) designation. It is Acton's intent to run its program from the property. The program is a resource for home school families in the Elko area. Acton is not a school. Acton allows homeschool families the opportunities to meet and participate in group guided activities, by promoting self direction, critical thinking, and being generally curious. Families participating in Acton are offered the opportunity to meet as a group three times per week. Acton would meet on Tuesdays, Wednesdays, and Thursdays from 8am-3pm 10 months out of the year.

The property would be used to conduct these meetings, activities, and projects. The group program promotes activities across all genres. For example: entrepreneurship, community service, crafts, science, math, technology, creative arts, engineering, theater, gardening, agriculture, history, economics, etc. During a typical day at Acton learners participate in self reflection and independent/self-directed learning based on their own family's goals and collaborative projects promoting 21st century skills.

**AUTHORITY OF PLANNING COMMISSION TO APPROVE/DENY  
CONDITIONAL USE PERMIT**

Acton applied for the CUP based upon the "R" zoning designation and a permissible conditional use of teaching of creative arts and child care center under Elko City Code 3-2-5(E). This type of use is permissible under Elko City Code as a principal use, so long as a conditional use permit is granted. The Planning Commission has the authority and ability to authorize such a conditional use pursuant to Elko City Code 3-2-18, which states, "It is the intent of this section to provide for the issuance of conditional use permits to allow for the specialized use within zoning districts of certain normal and complementary uses to that of the principal use of the zoning district."

August 13, 2020

Page 3

Elko City Code has specific provisions regarding the approval or denial of conditional use permit application, which is found in Elko City Code 3-2-18(E), which provides (see also Exhibit 3):

E. Planning Commission Findings And Actions: It is the express intent of this chapter that any use for which a conditional use permit is required shall be permitted as a principal use in the particular zoning district; provided, that all special conditions and requirements of this chapter are met. Therefore, the action of the Planning Commission shall be one of recommending approval or denial based upon its judgment as to whether the specific conditions have been or will be met. The Planning Commission may consider not only the nature of the use and the special conditions influencing its location in the particular district, but also the proposed location of buildings, parking and other facilities within the site, the amount of traffic likely to be generated and how it will be accommodated, and the influence that such factors are likely to exert on adjoining properties. The Planning Commission may make such suggestions it considers desirable and may provide guidance to the applicant in his preparation of application, plans, and data in such a manner as to satisfy the intent of this section. The Planning Commission shall make the final determination on the conditional use permits, subject to the right of appeal as set forth in section 3-2-25 of this chapter.

1. If the Planning Commission approves the application, it shall issue a conditional use permit setting forth all conditions and requirements governing such use, and shall make the approved site plan a part of the record of the case. Failure of the applicant to comply with the conditions and safeguards which are a part of the terms under which a conditional use permit is granted shall be deemed a violation of this chapter, and grounds for revocation of the conditional use permit.

August 13, 2020

Page 4

2. If the Planning Commission finds that the application and supporting data does not indicate that all applicable conditions and requirements for a conditional use permit will be met, it shall deny the permit. Notice of denial, including reasons therefor, shall be mailed to the applicant at the address shown in the application. (Emphasis added)

3. At any time following receipt of notice of denial of application for conditional use permit, the applicant shall have the privilege of reactivating the case by making such modifications of proposal or plans or submitting such additional information, as the Planning Commission may have determined was required for approval, or shall have the right to appeal to the City Council as set forth in section 3-2-25 of this chapter.

The Planning Commission has the authority to approve or deny the Conditional Use Permit, but when making either such decision, the Commission has the duty to indicate the findings and reasons therefore. In this situation, the Planning Commission simply made a "Motion to Deny Conditional Use Permit 3-20", seconded it and denied the application with no findings, which is in complete violation of Elko City Code 3-2-18, which the Elko County Planning Commission should be well versed in, since it is one of the few codes in which they have to make decisions upon.

#### **AUGUST 4, 2020 HEARING**

At the August 4, 2020, planning commission Hearing, the Planning Commission, the Commission heard from Staff, who recommended approval of the application with conditions as stated in the report. The Commission also heard from Joe and Angie Heguy, who are the principals of Acton, and were there representing the Application for the CUP. The Commission also heard from Acton students and parents, who informed the Commission what Acton meant to them and what it was about.

The Commission also heard from a number of neighbors of the property. The neighbors made a number of comments and generally referred to Acton as a "school" (which it is not). Neighbors discussed drug use, sidewalks and traffic, even though the concerns were addressed both by Staff and by Acton. See Exhibit 3.

August 13, 2020

Page 5

During Commission discussion, Commissioner Evie Buell made comments that were generalized as follows: It seems that we are dancing around the word school. The accrediting body referred to it as a “school”. She researched medium density neighborhoods and “best common practices” for schools within residences and the suggested student limit was 10, whereas Acton would have 24 students. Because of this, she could not support this conditional use permit. She then made a Motion to Deny the CUP without any findings or discussion, but the Motion failed.

The Commission then discussed the following: “extra kids” in the neighborhood; the public concern that was “voiced” at the hearing; and “who are we to overrule the public”. The Commission then entertained another Motion to Deny from Commission Buell, with no findings attached, which was seconded by Commissioner Beck. When the vote was called for, Commission Beck voted “No”, to which another Commissioner said questioned, and he quickly changed his vote to “Yes” to deny the Application. The vote was taken, and the Motion to Deny without any supporting findings was carried, therefore denying the application.

It is important to note, that to date, no findings have been provided to Acton as required under Elko City Code 5-2-18.

#### **BASIS FOR APPEAL**

Acton and Gladys Burns are hereby appealing the “decision” to deny the decision of the City of Elko Planning Commission based upon the following reasons:

##### **1. THE COMMISSION VIOLATED ELKO CITY CODE IN SUMMARILY DENYING THE PETITION WITH NO FINDINGS**

For the reasons stated above, the Commission was required to make findings as to why the application and supporting data does not indicate that all applicable conditions and requirements for a conditional use permit by City Staff will be met. Further, that a Notice of Denial and the reasons therefore would be provided. There have still been no reasons provided. Without a basis for findings, the Application should not have been denied.



August 13, 2020

Page 6

**2. COMMISSIONER BUELL'S REFERENCE TO ACTON AS A "SCHOOL" WAS NOT LEGALLY SOUND AND SHOULD NOT HAVE BEEN RELIED UPON IN MAKING ANY DECISION**

Commissioner Buell stated that everyone was "dancing around the word school" and that Acton is a school. Pursuant to NRS, a "school" has a specific definition. See Exhibit 4. Acton is not a school as defined by NRS, therefore should not be categorized as a school by the Planning Commissioners, based upon their own "opinion". The application was submitted based upon creative teaching and child care, which is a permissible use within the R District with a Conditional Use Permit. Commission Buell, on her own accord after hearing comments for a couple of hours decided to unilaterally change the application as one for a creative arts/child care, which Staff agreed with, to a "school." Furthermore, Commissioner Buell's statement that only 10 students is "best common practices" for schools within residences in medium density neighborhoods was not supported by specific evidence or citation, and has not been to date. In fact, Noah's Ark Child Care center, located just over ½ a mile away, houses nearly 50 children in a 2,500 square foot facility located in the same type of residential neighborhood, under a Conditional Use Permit approved by the City of Elko. However, since these comments were made during Commissioner discussion, such allegations were not allowed to be rebutted. Acton is not a school and should not have been considered by the Commission as such.

**3. THE PUBLIC'S INTEREST SHOULD NOT BE THE ONLY BASIS FOR A DECISION**

The Commission's statement of "who are we to overrule the public" is absolutely inconsistent with the basis of the Planning Commission. The Planning Commission is appointed to make specific decisions in line with Elko City Code as a framework. If the public appears to contest an issue, the Planning Commission should listen to the concerns and adjust the findings or recommendations of staff in order to address those concerns. However, to take the public's "concerns" of a private property owner's use of their own property (which is in compliance with the Elko City Code and recommended by City Staff) is a complete overreach of the power granted to the Commission by the Elko City Code. Further, the Commission is to approve the permit with Staff's findings or bring forward new findings which support the decision. Neither was done here.

August 13, 2020

Page 7

### **CONCLUSION**

Acton is appealing the “decision” of the Planning Commission for various reasons. In the current environment, many parents will be homeschooling their children for various reasons. Acton has been assisting homeschooling families for years and sought out a new location, on family property, in order to provide the children a warm environment with a safe outdoor space in which the children can thrive. There will likely be many homeschool co-ops popping up in the City of Elko this school year due to the COVID-19 Pandemic, however, none of them have applied for a business license or a Conditional Use Permit, to be in conformance with the laws and regulations for the City of Elko. . Acton went about the Conditional Use Permit the correct and legal way. Acton filed the application, paid the application fee and presented a case that was both legally sound based upon the Elko City Code and the requirements specified by City Staff.

What happened to Acton and its principals, Joe and Angie Heguy, at the Planning Commission meeting is unacceptable. They were not afforded the due process as is guaranteed by the Elko City Code. They were not told what was wrong with their plan or the findings to support why it was denied. Instead, personal opinions of Commissioners assuming to know what the business model of Acton is as well as the incorrect opinions of a few neighbors dictated and directed the unfounded decision that was made by the Planning Commission. The Commission did not follow its own rules, and was allowed to deny an application that should have been approved, legally. Their actions have damaged Acton both financially and in the court of public opinion. See Exhibit 3.

Acton respectfully requests that the City Council reverse the decision of the Planning Commission and approve Conditional Use Permit 3-20.

Respectfully Submitted,



**KATIE HOWE MCCONNELL**

# **EXHIBIT 1**



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>July 21, 2020</b>
<b>PLANNING COMMISSION DATE:</b>	<b>August 4, 2020</b>
<b>APPLICATION NUMBER:</b>	<b>Conditional Use Permit 3-20</b>
<b>APPLICANT:</b>	<b>Ruby mountain Acton Academy dba Acton of the Rubies on behalf of Gladys Burns</b>
<b>PROJECT DESCRIPTION:</b>	<b>675 West Birch Street</b>

**A Conditional Use Permit under Elko City Code 3-2-5 for Teaching of Creative Arts/Childcare Center within a R- Single Family Multiple Family Residential Zoning District.**



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-073-001

**PROPERTY SIZE:** 18,300 square feet

**EXISTING ZONING:** R –Single Family Multiple Family Residential

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

**EXISTING LAND USE:** Developed as a single family residence

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by developed single family residential properties to the north, south, east and west.

### **PROPERTY CHARACTERISTICS:**

- The property is currently developed.
- The property has solid fence surrounding the back yard and partially enclosing the side yards.
- The property is currently accessed from West Birch Street.

### **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 3-2-5 Single Family and Multiple Family Residential Zoning District
- City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Code 3-2-18 Conditional Use Permits
- City of Elko Code 3-8 Flood Plain Management

## **BACKGROUND INFORMATION**

- The application for the Conditional Use Permit was filed as required under City Code 3-2-5(E)(3).
- The applicant has permission from the property owner to apply for the CUP.
- The applicant has stated that they are currently leasing the Girl Scout House for the same use.

## **MASTER PLAN**

### **Land Use**

1. The Master Plan Land Use Atlas shows the area as Medium Density Residential.
2. R- Single Family and Multiple Family Residential is listed as a corresponding zoning district for Medium Density Residential in the Master Plan Land Use.
3. 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 is accessed from West Birch Street.
2. The Master Plan identifies West Birch Street as a local residential.
3. The North side of West Birch Street as well as Dotta Drive have pedestrian access but the south side of West Birch Street does not have pedestrian access. Sidewalks are a necessary safety feature, particularly in residential neighborhoods where children walk to and from the school.

The conditional use permit is in conformance with the Master Plan Transportation Component.

## **ELKO REDEVELOPMENT PLAN:**

1. The property is not located within the redevelopment area therefore, the plan was not considered with this application.

## **ELKO WELLHEAD PROTECTION PLAN**

1. The property is located outside any capture zone for City wells.

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

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

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

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

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

The proposed development is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-5(E).

#### **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 existing principal permitted use conforms with Elko City Code 3-2-4.

#### **SECTION 3-2-5 SINGLE FAMILY MULTIPLE FAMILY RESIDENTIAL DISTRICT**

1. The intent of the district states the following:  
*The purpose of the R zoning district is to provide for a mixture and diversity of housing types for both single- family and multi-family residential development where such development is desirable, and limited institutional, office and neighborhood service type uses where appropriate, and to preclude land uses that would be detrimental to a mixed and varied residential environment*
2. Section 3-2-5(E) Lists Teaching of Creative Arts and Childcare Center as Conditional uses permitted.
3. Section 3-2-5(G) The existing principal permitted use meets the table of area requirements for setback, height, lot area, and lot dimensions.

The existing development conforms with the development standards of this section of code 3-2-5 as well as the conditional permitted uses allowed.

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

1. 3-2-17(F) requires 1 parking stall per 6 students for Elementary schools and for Middle School 1 per 10 students, plus 1 per employee. The building size will determine the occupant load allowed and off street parking will be required to be in conformance with 3-2-17(F).
2. 3-2-17(D)(2)(a) states that in any residential zoning district other than the RMH-1 district, no required off street parking space shall be located in a required front yard or interior side yard. The required off street parking as a principal permitted use is not located in the front yard setback due to a 3 car garage but for the conditional use the garage will not be allowed to be counted toward required off street parking and therefore a variance will be required to be approved to allow parking in the front yard setback.

Conformance with this section 3-2-17 will be required and several recommended conditions are listed in this report.

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

#### **General Regulations:**

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

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

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

### **FINDINGS**



1. The proposed use is in conformance with the Land Use Component of the Master Plan.
2. The proposed use is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan.
3. The proposed use is in conformance with the City Wellhead Protection Program.
4. The proposed use is in conformance with City Code 3-2-5 R- Single Family and Multiple Family Residential with the approval of the Condition Use Permit.
5. The proposed use will be required to be in conformance with City Code 3-2-17 providing the required off street parking and approval of a variance for parking within the front yard setback.
6. Development under the proposed conditional use will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.
7. The parcel is not located within a designated Special Flood Hazard Area.
8. The proposed development is in conformance with Elko City Code 3-2-3 & 3-2-4.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of CUP 3-20 with the following conditions:

1. The permit is granted to the applicant Ruby Mountain Acton Academy.
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 garage and street cannot be used as part of the required off street parking stalls. All off street parking (including required ADA van-accessible stall) must be located on the parcel as required by the Zoning Ordinance.
4. A variance for parking in the front yard setback must be approved prior to issuing of a building permit for the parking area. Parking requirement based on Elko City Code 3-2-17(F). If the existing driveway is to be widened to accommodate required off street parking, a variance will need to be approved for driveway width, Elko City Code 3-2-17(B)(2)(b). All conditions of variance to be met prior to occupancy of the building or issuance of a business license.
5. A Parcel Map is required to be approved and recorded prior to the opening of the school to merge Lots 9, 10, and 11 and the vacated portion of former E Street right-of-way.
6. CUP 3-20 to be recorded with the Elko County Recorder within 90 days after the commencement of educational use at this location.

7. A designated drop-off/pick-up location shall be established. This area is to be only in front of 675 W. Birch Street only and should be properly marked.
8. The permittee is required to prevent disruption to vehicular traffic and ensure pedestrian safety by establishing staggered drop off and pick up times at sufficient intervals to ensure the street is not blocked and parking does not extend beyond the frontage of 675 W. Birch Street.
9. Drop off and pickup times are restricted to three days a week.
10. ADA ramps shall be installed in the front and rear yards and any other areas where stairs prohibit the equitable use of the property.
11. As this is a change in occupancy, the structure shall be brought into compliance with current building code to conform with education use. This shall include all accessibility requirements per ICC A117.1 2009 as referenced by 2018 IBC. All work will require permits through the City of Elko Building Department.

# **EXHIBIT 2**





# **EXHIBIT 3**



[https://elkodaily.com/news/local/planning-commission-denies-conditional-use-permit-for-acton-of-the-rubies/article\\_e520ca7a-e41a-5ad6-b4eb-790839bb142d.html](https://elkodaily.com/news/local/planning-commission-denies-conditional-use-permit-for-acton-of-the-rubies/article_e520ca7a-e41a-5ad6-b4eb-790839bb142d.html)

TOP STORY

## Planning Commission denies conditional use permit for Acton of the Rubies

Cynthia Delaney

Aug 6, 2020



This residence at 675 W. Birch St. was up for a conditional use permit which was denied Tuesday by the Elko Planning Commission.

Google

**E** LKO – City Planning Commissioners denied a conditional use permit for Angie Heguy to relocate Acton of the **Rubies**, a nonprofit educational entity, to a residence at 675 W. Birch St.

During the Tuesday meeting numerous comments were heard from concerned neighbors.

Resident Liza Bowman asked what the requirements would be for sidewalks for the children's safety enrolled in the **school**. Currently, there are no sidewalks on that side of the street. She was also concerned about estimated enrollment and maximum occupancy load for the location.

Laurie Lesbo said her family has lived on nearby Dotta Drive for 55 years. She mentioned the blind curve near the residence which might pose a problem.

Roseann Carpenter, a 65-year resident on Dotta Drive, asked via written correspondence why residents were not notified about the conditional use permit. She also expressed concerns with drug use because the neighborhood is near Angel Park.

Some asked why Heguy did not purchase a commercial piece of property on which to establish the school. Elko City Planner Cathy Laughlin explained that Heguy was asking for "conditional use" not commercial use. She stated that the city did have a number of conditions which would have to be met should the decision pass.

Heguy spoke in defense of her plans saying there would be minimal impact on the neighborhood.

"Many of those children live in or around the neighborhood," she said. After much deliberation, members of the Planning Commission voted to deny the permit.

Assistant City Manager Scott Wilkinson said the applicant can appeal the decision to the Elko City Council.

—

Elko High School Class of 2020

**EHS Principal Tim Wickersham**

# **EXHIBIT 4**



By NRS definition, a school is defined as follows:

**NRS 388.127 “School” defined.** “School” means a public school, including, without limitation, a charter school.

**NRS 394.103 “Private schools” defined.** “Private schools” means private elementary and secondary educational institutions. The term does not include a home in which instruction is provided to a child who is excused from compulsory attendance pursuant to NRS 392.070.

**NRS 392.070 Attendance excused for children in private school or homeschooled children.** Attendance of a child required by the provisions of NRS 392.040 must be excused when:

1. The child is enrolled in a private school pursuant to chapter 394 of NRS; or
2. A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with NRS 388D.020.



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>July 21, 2020</b>
<b>PLANNING COMMISSION DATE:</b>	<b>August 4, 2020</b>
<b>APPLICATION NUMBER:</b>	<b>Conditional Use Permit 3-20</b>
<b>APPLICANT:</b>	<b>Ruby mountain Acton Academy dba Acton of the Rubies on behalf of Gladys Burns</b>
<b>PROJECT DESCRIPTION:</b>	<b>675 West Birch Street</b>

**A Conditional Use Permit under Elko City Code 3-2-5 for Teaching of Creative Arts/Childcare Center within a R- Single Family Multiple Family Residential Zoning District.**



### **STAFF RECOMMENDATION:**

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

## **PROJECT INFORMATION**

**PARCEL NUMBER:** APN 001-073-001

**PROPERTY SIZE:** 18,300 square feet

**EXISTING ZONING:** R –Single Family Multiple Family Residential

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

**EXISTING LAND USE:** Developed as a single family residence

### **NEIGHBORHOOD CHARACTERISTICS:**

- The property is surrounded by developed single family residential properties to the north, south, east and west.

### **PROPERTY CHARACTERISTICS:**

- The property is currently developed.
- The property has solid fence surrounding the back yard and partially enclosing the side yards.
- The property is currently accessed from West Birch Street.

### **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 3-2-5 Single Family and Multiple Family Residential Zoning District
- City of Elko Code 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Code 3-2-18 Conditional Use Permits
- City of Elko Code 3-8 Flood Plain Management

## **BACKGROUND INFORMATION**

- The application for the Conditional Use Permit was filed as required under City Code 3-2-5(E)(3).
- The applicant has permission from the property owner to apply for the CUP.
- The applicant has stated that they are currently leasing the Girl Scout House for the same use.

## **MASTER PLAN**

### **Land Use**

1. The Master Plan Land Use Atlas shows the area as Medium Density Residential.
2. R- Single Family and Multiple Family Residential is listed as a corresponding zoning district for Medium Density Residential in the Master Plan Land Use.
3. 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 is accessed from West Birch Street.
2. The Master Plan identifies West Birch Street as a local residential.
3. The North side of West Birch Street as well as Dotta Drive have pedestrian access but the south side of West Birch Street does not have pedestrian access. Sidewalks are a necessary safety feature, particularly in residential neighborhoods where children walk to and from the school.

The conditional use permit is in conformance with the Master Plan Transportation Component.

## **ELKO REDEVELOPMENT PLAN:**

1. The property is not located within the redevelopment area therefore, the plan was not considered with this application.

## **ELKO WELLHEAD PROTECTION PLAN**

1. The property is located outside any capture zone for City wells.

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

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

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

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

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

The proposed development is required to have an approval as a conditional use to be in conformance with ECC 3-2-3 as required in ECC 3-2-5(E).

#### **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 existing principal permitted use conforms with Elko City Code 3-2-4.

#### **SECTION 3-2-5 SINGLE FAMILY MULTIPLE FAMILY RESIDENTIAL DISTRICT**

1. The intent of the district states the following:  
*The purpose of the R zoning district is to provide for a mixture and diversity of housing types for both single-family and multi-family residential development where such development is desirable, and limited institutional, office and neighborhood service type uses where appropriate, and to preclude land uses that would be detrimental to a mixed and varied residential environment*
2. Section 3-2-5(E) Lists Teaching of Creative Arts and Childcare Center as Conditional uses permitted.
3. Section 3-2-5(G) The existing principal permitted use meets the table of area requirements for setback, height, lot area, and lot dimensions.

The existing development conforms with the development standards of this section of code 3-2-5 as well as the conditional permitted uses allowed.

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

1. 3-2-17(F) requires 1 parking stall per 6 students for Elementary schools and for Middle School 1 per 10 students, plus 1 per employee. The building size will determine the occupant load allowed and off street parking will be required to be in conformance with 3-2-17(F).
2. 3-2-17(D)(2)(a) states that in any residential zoning district other than the RMH-1 district, no required off street parking space shall be located in a required front yard or interior side yard. The required off street parking as a principal permitted use is not located in the front yard setback due to a 3 car garage but for the conditional use the garage will not be allowed to be counted toward required off street parking and therefore a variance will be required to be approved to allow parking in the front yard setback.

Conformance with this section 3-2-17 will be required and several recommended conditions are listed in this report.

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

#### **General Regulations:**

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

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

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

### **FINDINGS**

1. The proposed use is in conformance with the Land Use Component of the Master Plan.
2. The proposed use is in conformance with the existing transportation infrastructure and the Transportation Component of the Master Plan.
3. The proposed use is in conformance with the City Wellhead Protection Program.
4. The proposed use is in conformance with City Code 3-2-5 R- Single Family and Multiple Family Residential with the approval of the Condition Use Permit.
5. The proposed use will be required to be in conformance with City Code 3-2-17 providing the required off street parking and approval of a variance for parking within the front yard setback.
6. Development under the proposed conditional use will not adversely impact natural systems, or public/federal lands such as waterways, wetlands, drainages, floodplains etc. or pose a danger to human health and safety.
7. The parcel is not located within a designated Special Flood Hazard Area.
8. The proposed development is in conformance with Elko City Code 3-2-3 & 3-2-4.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of CUP 3-20 with the following conditions:

1. The permit is granted to the applicant Ruby Mountain Acton Academy.
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 garage and street cannot be used as part of the required off street parking stalls. All off street parking (including required ADA van-accessible stall) must be located on the parcel as required by the Zoning Ordinance.
4. A variance for parking in the front yard setback must be approved prior to issuing of a building permit for the parking area. Parking requirement based on Elko City Code 3-2-17(F). If the existing driveway is to be widened to accommodate required off street parking, a variance will need to be approved for driveway width, Elko City Code 3-2-17(B)(2)(b). All conditions of variance to be met prior to occupancy of the building or issuance of a business license.
5. A Parcel Map is required to be approved and recorded prior to the opening of the school to merge Lots 9, 10, and 11 and the vacated portion of former E Street right-of-way.
6. CUP 3-20 to be recorded with the Elko County Recorder within 90 days after the commencement of educational use at this location.

7. A designated drop-off/pick-up location shall be established. This area is to be only in front of 675 W. Birch Street only and should be properly marked.
8. The permittee is required to prevent disruption to vehicular traffic and ensure pedestrian safety by establishing staggered drop off and pick up times at sufficient intervals to ensure the street is not blocked and parking does not extend beyond the frontage of 675 W. Birch Street.
9. Drop off and pickup times are restricted to three days a week.
10. ADA ramps shall be installed in the front and rear yards and any other areas where stairs prohibit the equitable use of the property.
11. As this is a change in occupancy, the structure shall be brought into compliance with current building code to conform with education use. This shall include all accessibility requirements per ICC A117.1 2009 as referenced by 2018 IBC. All work will require permits through the City of Elko Building Department.



**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**5:30 P.M., P.D.S.T., TUESDAY, AUGUST 4, 2020**  
**ELKO CONVENTION CENTER, TURQUOISE ROOM,**  
**700 MOREN WAY, ELKO, NEVADA**

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

**CALL TO ORDER**

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

**ROLL CALL**

**Present:**      Evi Buell  
                 Gratton Miller  
                 Jeff Dalling  
                 John Anderson  
                 Stefan Beck  
                 Tera Hooiman

**Excused:**      Giovanni Puccinelli.

**City Staff Present:**   Scott Wilkinson, Assistant City Manager  
                         Cathy Laughlin, City Planner  
                         Michele Rambo, Development Manager  
                         Jamie Winrod, Fire Department  
                         Kelly Wooldridge, City Clerk  
                         Paul Willis, IS Department  
                         Diann Byington, Minutes Clerk  
                         Shelby Archuleta, Planning Technician

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

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

**APPROVAL OF MINUTES**

July 7, 2020 – Regular Meeting **FOR POSSIBLE ACTION**

**\*\*\*Motion:** Approve the July 7, 2020 Minutes.

**Moved by** Gratton Miller, **Seconded by** John Anderson.

## **I. NEW BUSINESS**

### **A. PUBLIC HEARING**

1. Review and consideration of Tentative Map No. 5-20, filed by BDSA, LLC, for the development of a subdivision entitled Tower Hill, Unit 4, involving the proposed division of approximately 8.601 acres of property into 5 lots for residential development and 1 remainder lot within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Deerfield Way.  
(APNs 001-929-125)

Scott MacRitchie clarified that he was also with JTM, which developed the first three phases of this subdivision. They own this property under another entity.

Michele Rambo, Development Manager, went over the City of Elko Staff Report dated July 20, 2020. Staff recommended conditional approval with the findings and conditions listed in the Staff Report.

Cathy Laughlin, City Planner, explained that the Planning Department recommendations and conditions were included in the Staff Report, and she recommended approval.

Ms. Rambo stated that the Engineering Department had no comments.

Jamie Winrod, Fire Department, had no comments.

Scott Wilkinson, Assistant City Manager, recommended approval as presented by staff, provided that the grading supports the required water pressure as stipulated in NRS.

Mr. MacRitchie asked if any of the conditions had changed since the Staff Report was written.

Ms. Rambo stated that the Planning Commission would need to eliminate Condition No. 13 in regards to the Shared Use Path, because it was taken care of with Phase 3 of the subdivision.

Mr. MacRitchie explained that they didn't have Phase 4 in their original Tentative Map. How much of the Shared Use Path they needed to put in was determined on the lineal footage of their property on Lamoille Highway, and it was all put in Phases 1 through 3. He also asked if Ms. Rambo had received the Soils and Hydrology reports.

Ms. Rambo stated that she had received those the previous day.

Commissioner Evi Buell asked if the hydrology and soils reports took care of the City Manager's Office concerns. (Yes)

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Tentative Map No. 5-20 subject to the conditions found in the City of Elko Staff Report dated July 20, 2020, with modifications from the Planning Commission, listed as follows:**

**Development Department:**

1. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.
2. Tentative Map approval constitutes authorization for the subdivider to proceed with preparation of the Final Map and associated construction plans.
3. The Tentative Map must be approved by the Nevada Department of Environmental Protection prior to submitting for Final Map approval by the City of Elko.
4. Construction plans must be approved by the Nevada Department of Environmental Protection prior to issuance of a grading permit.
5. Tentative Map approval does not constitute authorization to proceed with site improvements.
6. The applicant must submit an application for Final Map within a period of four (4) years in accordance with NRS.360(1)(a). Approval of the Tentative Map will automatically lapse at that time.
7. A soils report is required with Final Map submittal.
8. A hydrology report is required with Final Map submittal.
9. Final Map construction plans are to comply with Chapter 3-3 of City code.
10. The subdivision design and construction shall comply with Title 9, Chapter 8 of City code.
11. The Utility Department will issue an Intent to Serve letter upon approval of the Tentative Map by the City Council.
12. A modification from standards be approved by City Council for Lot 402, 403, 404, and 405 to allow for shorter-than-required front lots widths.

**Public Works Department:**

13. All public improvements at time of development per Elko City code.

Commissioner Buell's findings to support the motion were the proposed subdivision and development is in conformance with both the Land Use and Transportation Components of the Master Plan as previously discussed in this report. The proposed subdivision and development does not conflict with the Airport Master Plan; The City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012; The Wellhead Protection Program; or applicable sections of the Elko City Code. The proposed subdivision complies with Section 3-3-5(E)(2)(a)-(k) as discussed in this report and as required by Section 278.349(3) of the Nevada Revised Statutes. 4. The property is not located within the Redevelopment Area. Therefore, there is no conflict with the Redevelopment Plan.

Moved by Evi Buell, Seconded by Tera Hooiman.

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

5. Review, consideration, and possible action of Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would

allow for a teaching of the creative arts/childcare center within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast side of Birch Street, approximately 125' west of the intersection of Birch Street and Dotta Drive. (675 W. Birch Street - APN 001-073-001)

Angela Heguy, Heguy Ranch, thanked the Commission for listening and hearing the item. She explained that they are applying for a Conditional Use Permit at 675 W. Birch Street. They are hoping to move their home school group to that location in order to maximize the benefits of the large square footage upstairs, as well as the wonderful fenced backyard. They hope to be a great member of the neighborhood and become an asset for the community.

Chairman Jeff Dalling called for public comment.

Liza Baumann, 975 Dotta Drive, explained that she lives two doors down from the subject property. She wanted to make sure that everyone knew that they all have children and a lot of the people that are here are teachers themselves. This is mainly about the neighborhood and the effect that it will have on the people in the area. Ms. Baumann then read **Exhibit 1** into the record.

Louri Lesbo, 1010 Dotta Drive, stated that she had several letters to read into the record from some of her neighbors that couldn't make it to the meeting. The first letter she read was from Ms. Carpenter on what her concerns were, which stated:

1. *If this is a K-12 school, there will be older kids driving. Where are they going to park? We all know kids speed. They are going to be flying down Dotta Drive and Sewell Drive. There is a high potential for someone to get hurt. Will law enforcement be on these drives before and after school?*
2. *If there are older kids attending this academy there is the potential for drug use. This will increase the drug selling at Angel Park and along Dotta Drive. You not only have elderly people living on Dotta and Birch, but also young kids. This becomes a safety issue.*
3. *There are no sidewalks in front of the Burn's home. Where will people walk?*
4. *If the Burn's home is listed as Commercial property, does this mean that all the homes along Dotta and Birch will be listed as commercial property as well. This will decrease the value of all of our homes.*
5. *If the person running this academy is not a teacher, where are the kids getting their assignments? Even if the person is a helper, shouldn't he or she have some teaching credentials?*
6. *Why were the homeowners on Dotta, Sewell, and Birch not notified of this transaction? There are financial and safety concerns for everyone that is effected by this change in a residential home.*

She then read the letter into the record from Steven and Jennifer Hayes at 1024 Dotta Drive, attached as **Exhibit 2**.

Ms. Lesbo read into the record **Exhibit 3**, from Earl and Mary Craig at 1030 Dotta Drive. She also read into the record a letter from Melissa and Jordan Duke at 1011 Dotta Drive, attached as **Exhibit 4**. Ms. Lesbo then read her own comments into the record, attached as **Exhibit 5**.

Chairman Dalling then read into the record an email submitted by Nann C. Hanley attached as **Exhibit 6**.

An additional letter was submitted from Rick and Begonia Hull, which previously resided at 1011 Dotta Drive, attached as **Exhibit 7**.

Robert Loranger, 1000 Dotta Drive, stated that he has lived there for 12 years with his wife. It has been a great place to live. Overtime, they have seen an increase in generalized non-residential traffic, so he has many concerns with a new venture that is going to be changing a residential single family home into some type of conditional use. He said he guessed it was a school, it is called an academy, but as far as he was concerned, it is more of a business. It contains people that are sending their children to a non-home location for training/education. He didn't understand a lot about the home school definition. It seemed like it was a very wide, catchall, for how people may want to try to educate their children in a growing changing environment. Angie Heguy came to him in March, before the COVID Lockdown, and it was a cordial meeting. He found it a bit disturbing that Ms. Heguy stated they "will" be using the Burn's home as an academy. He thought the term "will" was a little strong, with not knowing what the status was. One of the things that really bothered Mr. Loranger was the change of a Conditional Use Permit. Apparently, the permit can be transferred to a new owner at some point. It is fundamentally changing a single-family residence and zoning it to something different. We don't know what will happen in the future. Will this thing succeed? Clearly, they have looked at expanding this initial school to include middle school and high school as a stretch goal. That was very concerning to Mr. Loranger, because of what many of the other neighbors have said. What are we really looking at here in terms of expansion and overall traffic? He finds the Conditional Use Permit to be one major red flag. He explained that he didn't know a lot of history about the Conditional Use Permits. He knew that there had been, maybe four permits transferred to new owners. He asked for some clarification on that. He thought that put everyone in a situation of not knowing what the property is going to be in the future. You have changed the fabric and culture of a well-established and mature neighborhood; by someone bringing in, what is essentially a business. Mr. Loranger thought the Committee should consider denying this, because it really is an increased safety, health, and insurance risk for the people that live in the neighborhood due to additional pedestrian and traffic congestion during multiple times of the day on a residential street that is already seeing increased traffic from non-residents. Another one of Mr. Loranger's major concerns was the off-street parking. He thought it was quite enlightening that at some point he was going to be looking at a parking lot across the street from him. He didn't consider that a good use of the property. He understood that there was a lot of logistics involved with that. That parking lot would also increase multiple vehicle incident risk. He thought one thing that hadn't been looked at hard enough was some sort of risk assessment that included all stakeholders involved with the potential Conditional Use Permit. Ultimately, Mr. Loranger was recommending that the Commission deny the permit. There are a lot of other opportunities. Right now, there are 16 commercial properties listed in Elko. Not all of them will fit the applicant's criteria, or their goals, but they are out there. There are other options too. There is a potential for capital appreciation from a sale. He stated that he hoped that Acton of the Rubies succeeded, but somewhere else.

Chairman Dalling wanted to help with Mr. Loranger's question. He pointed out Staff Recommendation No. 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.”*

Michele Walsh, 491 W. Ash Street, said she could attest to the traffic issues with having Angel Park and kids running wild. She didn't know if this school would add to that. She stated that she agreed with her neighbors. Her concerns were twofold. Her understanding was that this was an online school. She asked if they were accredited and if they had a board. If they are not, Ms. Walsh thought the Commission would be getting into some swampy, weedy areas that they may not want to get into. The second question Ms. Walsh had was whether the Commission was setting a precedent that they may not have to deal with years from now. Setting a precedent in a residential neighbor, by bring in commercial properties. The Commission may not have to deal with it, but those that live in neighborhood would. She asked the Commission to consider that while they were making their decision.

Ajeet Milliard, 755 Country Lane, explained that she chose to have her child attend Acton of Rubies. It is a home school supplement, where parents choose to take their children to have their home school supplemented with accredited online versions of programs. She chose to take her kid to Acton because it is small, and because it is run by somebody who really cares. No, Ms. Heguy is not an accredited teacher, but it is a home school supplement and it's the choice of the people who take their children there. There are only ten families that bring their children to the academy. It is called an academy by name, but it is a 401(c) 3. By definition, it is not a school. The families that choose to take their children there take them there because they want something different for children. They all live in neighborhoods; none of them wants additional traffic. All the children that attend Ruby are under 12 years old. At this point, there is not going to be a big community of teenagers. The kids that do attend Acton, and the Families that take their children to Acton, are all very responsible. They all want something better for their children, the future, and the community. There was a lot of mention of the community having a lot of kids, and that is what they are here to support, that is what Acton is there to support. Ms. Milliard wanted to be a voice in favor of Acton. It is positive and well established, and the families that take their children there are good people. They don't have teenagers that run around, and they are responsible. They want their children to have the best that they can. She also mentioned that with the number of people that take their children there, there would not be a huge increase in traffic. They are all willing to work with Angie the way that they have to, to help her be successful in the location that she has chosen. Ms. Milliard explained that Ms. Heguy chose this location because she is a nonprofit. She just wants to provide a service for home school families that choose something different for their children. No one wants to see the neighborhood ruined or degraded in any way.

Lisa Donalson, 998 Northside Drive, explained that her children, Jillian and Hugh, attend Acton Academy. Acton focuses on community, and on developing good community members and leaders in the community. When this topic came up, both her children expressed interest in speaking to the Commission.

Jillian Donalson said this was her speech about why Acton should get the permit. First of all, why she thought Acton should get the permit was because they need a new space. At their current space, they can't hang their artwork up on the walls, or leave their stuff out, because the Girl Scouts need that space for Girl Scouting. Miss Donalson thought that was very frustrating, because they have to get their work done that day, unless they have a computer. At Acton, they learn to be problem solvers, so if anyone has a problem they help them solve it, and they will continue to do that at their new location too.

Hugh Donalson said the first thing that comes to mind when he thinks about Acton, is the word learn, which learning is a little different for him because he learns reading differently. Acton opens up possibilities, because you can learn in whatever way you want. He thought that was really great, because he recently finished his first ever chapter book with no help. He thought that was amazing. Why he thought Acton should get the permit was because they are working in a shared space right now, which means they can't leave their stuff out. If they do, it could get messed up. Having a new space would make them able to leave out their work and display their accomplishments. Mr. Donaldson thought that would help the Eagles work harder.

Vance McCann, Harper Drive, thought Acton should get the permit because they tend to learn from their mistakes. It helps them learn. He really thought that they could use the space, so they could show everyone the things that they accomplish. When they accomplish them and put them on display and people see it, they'll be like "Yay! They did something and we really think it's great!"

Cathy McCann, 5348 Harper Drive, Osino, explained that she was Vance's mom. She said they were looking forward to being neighbors to the people in the area. The reason they want to be neighbors is so that they can teach their children responsibility in a community. Sometimes living far away from their neighbors makes it hard to serve their neighbors. They are looking forward to being able to rake leaves and shovel snow for people. Ms. McCann said she appreciated everyone's concerns, and she understood that it is scary. She hoped that they would get the chance to prove to everyone that they would be excellent neighbors.

Brinley Spencer, Osino, explained that she traveled to town all last year to be part of Acton. Acton is a place where they gain support to their home school education, as well as develop their leadership skills and find their passion for life. Please consider allowing Acton the Conditional Use Permit for the property on Birch Street.

Joe Heguy, Elko County, explained that he was married to Angie Heguy. She started an amazing program called Acton Academy. It is not technically a school. Their children are being homeschooled, as well as the other children that are involved. They get together three times a week so that they can do collaborative projects. It is an amazing and beautiful thing. However, that's not the point. The use of the property on Birch Street, as intended by the property owner, was to allow Angie to use it to get these kids together several days a week. He feared that the reason they were here was because they asked permission from all of the neighbors, instead of asking forgiveness. At the end of the day, the footprint that having Acton on West Birch was going to be minimal. We are talking about 5 or 6 cars a day, twice a day, three days a week. The benefits are far larger. To deny someone to use their own private property in the manner they see fit is Un-American. Mr. Heguy said he wished they could have gotten together with some of the

neighbors that had concerns, so that they could have avoided this situation. Mr. Heguy also read a letter from his daughter, Zoey Heguy.

*Dear Planning Commission,*

*My name is Zoey Heguy. I want to ask you. If you ran a homeschool group guess how much money you would make? Angie Heguy makes \$0 and she puts all the money back into the group to purchase supplies and provide a meeting place. I love Acton because I get to see my friends, we get to play together and do projects. Please approve our permit. Thank you. From Zoey.*

Eric Walsh, 491 W Ash Street, explained that the first he had heard about this was yesterday evening, so he hasn't had an opportunity to learn much about Conditional Use Permits or about the Acton Academy. He stated that his concern had nothing to do with the school. His concern was about having a commercial property come into a residential neighborhood and impact his home value and potentially the taxes down the road. He wished he had learned about this earlier. One of the reasons why he moved into that neighborhood, after living here for 15 years, was because of the residential nature of that neighborhood. He moved from Juniper Street, where there are a lot of dual use properties and commercial entities, to get away from the traffic and to get away from the issues that come with that type of property. He purposely moved to a residential area, after taking 5 years to find a place that checked all the boxes. Seeing this sort of change coming makes him scared and nervous. That is why he is against the Conditional Use Permit. He didn't know what it would do to his home value or taxes.

Larissa Taylor, 101 Pine Street, explained that she had no idea what she was going to say, or if she was going to say anything. She came as a parent whose child attends Acton. Listening to the comments and concerns, Ms. Taylor felt that she needed to voice her concerns with what has been said. She felt like so many of the things that have been mentioned are fear based and have nothing to do with Acton. There were several things that she felt had nothing to do with Acton, such as drug use, speeding, using the road as a short cut, and home values being decreased. The plan is that Acton is there as a support for the community, and to better the community. She said she would venture to say that you would be hard pressed to find a better group of kids, a more responsible group of kids, than what you would find in attendance at Acton. The kids clean up at the end of the day. They clean the toilets and sweep the floors. That value is taught. They are there to be a support for parents and their kids' learning. It is not to bring things down. She felt it was necessary to make it known that that stigma is being attached to Acton, and it has nothing to do with Acton. They are more than willing to learn and take the necessary steps in order to make those things happen. They don't want the kids to be in danger. They want them to be able to get out of the car and feel safe going into a space. She chose to take her kids to Acton as support to herself. One of the main concerns that you'll hear from non-homeschool families is "How is your kid going to socialize and be able to be a member of society without being weird?" This is a way for them to have their kids go out and socialize with other kids, and to be in a positive and safe environment that promotes growth, individuality, and leadership. Ms. Taylor urged the Commission not to take that away. She also mentioned that Angie was willing to work with the City on sidewalks and parking.

Mike Lesbo, 1010 Dotta Drive, explained that his family built that house in 1967, and finished it in 1969. He and his wife bought the house in 2004. He stated that he did not have any problem, what so ever, with this academy, what they do, and how the kids benefit. However, as property owners, they are talking about a neighborhood of \$300,000 and above homes. He stated that he



was angry that this even got this far. He was surprised that they were at a meeting discussing how someone who doesn't live in the neighborhood could do this. He asked the Commission to respect the property owners that live in the neighborhood when they are making their decision.

Jeanne Goss, 313 Fir Street, explained that she has lived in six houses within the tree streets. She truly felt that that was her community. She walks in the community daily and knows many of the people that have spoken both for and against this application. Ms. Goss said she could understand being a part of that community that there is an increase in traffic and there are different zoning things. She explained that her children started attending Acton after Covid-19 and they have flourished. It is a wonderful group of people. They truly support community and positive growth. Ms. Goss thought it would be beneficial to the neighborhood. They are asking permission. There is drug use in the neighborhood, and those people don't come and ask for permission. She explained that she would be walking to school every day. The way she understood it was the Commission had 1 year to give Acton a chance. She guaranteed that everyone in the community would be happy if they did.

Ms. Laughlin explained that with any application that is received within the City of Elko, staff evaluates all aspects of the City Code. She wanted to go through some of those and emphasize some key elements. She said she would do her best to address the questions for the City that were brought up in public comment. She then began to go through the City of Elko Staff Report dated July 20, 2020. She clarified that this was not a rezone and the property would remain zoned residential. Ms. Laughlin wanted to bring up the NRS. NRS 484(B).287, "*When pedestrian must yield right-of-way to vehicle; when crossing at crosswalk is required; crossing diagonally; additional penalty if violation occurs in pedestrian safety zone*", states that every pedestrian crossing a highway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the highway, and a pedestrian shall not cross an intersection diagonally unless authorized by official traffic-control devices. The NRS does not state that students, or parents, cannot cross this street at that intersection just because it does not have a crosswalk. There is pedestrian access through sidewalks throughout the neighborhood that can get the students to the proposed location. There is not sidewalk in front of the property, but one of the conditions is talking about the drop-off and pick-up zone. If this approved, and plans are submitted to the City, then staff would look at whether it is necessary to have sidewalk in front of the property. One of the public comment questions was regarding the setbacks of the property, and how the property is developed. The property, as the principal permitted structure, does meet all yard requirements for the principal permitted structure.

Chairman Dalling asked how many students were enrolled.

Ms. Heguy stated that she had 24 students.

Chairman Dalling thought they would need three stalls. He then asked how many employees Ms. Heguy had.

Ms. Heguy explained that it was just herself.

Chairman Dalling thought that figured out to be three parking spaces for the students, and one for the employee. He said it would be four. He asked if it would be four spaces, plus a handicap space.

Ms. Laughlin clarified that it would be four, plus the access isle for the handicap.

Chairman Dalling asked if they had that currently. He asked if there was a three-car garage.

Ms. Heguy explained that there was room for 3.4 spaces, and they would widen that to account for the accessibility.

Ms. Laughlin continued going through the Staff Report. She thought it might be a good time to answer some of the questions about transferring the CUP. Two years ago, there was a new owner for the Noah's Ark Daycare Center. With the new owner, the Planning Commission transferred their CUP. That is a facility in a residential zoning district, surrounded by other schools and neighborhoods. They do have a CUP, and they got it transferred. The Planning Commission had that hearing, and made the determination on whether it was transferable or not. It does states that there is one year to be actively engaged. Staff has considered "actively engaged" to be items such as getting a building permit or a business license. One other point, just because you are issued a Conditional Use Permit doesn't mean you have to continue that use at that property. She continued to go through Staff Report. Staff recommended conditional approval, with the eight findings and eleven conditions listed in the Staff Report. Several of the conditions address the concerns of the neighbors and City Staff. When Staff follows up on Conditional Use Permits it is usually when there is a complaint from adjacent neighbors. Staff wants to eliminate any of these conflicting issues before a permit is issued. Condition No. 3 states that the garage and the street cannot be used as part of the required off-street parking stalls, which is how all commercial and residential properties are treated. A Variance for parking in the front yard setback must be approved prior to issuing the Building Permit for the parking area. The reason for that condition is that in Section 3-2-17 it states that no required off-street parking can be in the front yard setback or the side yard setbacks in a Residential Zoning District. A Parcel map is required to be approved and recorded prior to the opening of the school. As many of the old tree street properties are, this parcel was created by Map No. 5, and it was created with 25' wide lots. There are several lots, but it is evaluated as one parcel. If you look at the legal description this parcel was created by lots 9, 10, 11, and a portion of vacated E Street. A Parcel map would combine all of that into one parcel. We don't allow buildings to cross lot lines, therefore the Parcel Map would clean that up. Another condition is that a designated drop-off and pick-up location shall be established. This area can only be in front of 675 W. Birch Street and should be properly marked. The permittee is required to prevent disruption to vehicular traffic, and ensure pedestrian safety by establishing staggered drop-off and pick-up times at sufficient intervals to ensure the street is not blocked and parking does not extend beyond the frontage of 675 W. Birch Street. The drop-off and pick-up times are restricted to 3 days a week. The ADA Ramps shall be installed in the front and rear yards, and any other areas where stairs prohibit the equitable use of the property. As this is a change in Occupancy, the structure shall be brought into compliance with current Building Code to conform to an education use. This shall include all accessibility requirements per ICC A117.1 2009 as referenced by 2018 IBC. All work will require permits through the City of Elko Building Department. Ms. Laughlin wanted to go through the questions for the City from Liza. Ms. Bauman asked what the minimum requirements were for the Zoning District. Ms. Laughlin explained that would be the yard setbacks, which would be 5 ½ feet on each interior

side yard, 15 feet to the house, 20 feet to the garage, and 15 feet in the rear, so it does meet those requirements. Traffic Access Parking and Loading Regulations. Ms. Bauman asked what the maximum capacity occupant load for the location, and if the City was requiring compliance for an elementary or middle school. Ms. Laughlin explained that it would be up to Ms. Heguy to provide the City the number of students based on the occupant load that is allowed within the property and have to comply with 3-2-17 providing parking for that amount of occupant load. Ms. Laughlin explained that the Conditional Use Permit isn't renewed every year. Once you have established your CUP and been approved, you have one year to be actively engaged in that use at that property. If you are not, you lose your permission for that CUP. The only way a CUP is going to be revoked is if there is a serious enough claim against the Conditional Use that Staff brings it back to Planning Commission and asked to have the CUP revoked. She also explained that the Planning Department and the Compliance Department within the City of Elko follow up on the CUP. Staff reviews CUPs as conditions come up. Planning and Compliance Departments staff are the ones that are responsible for continuing to make sure that they are in compliance. Ms. Laughlin wanted to clarify again that this is not a rezone, it is not putting a Commercial Zone on that property, and it will not change the valuation of a property based on the zoning of the property. It will still be a principle permitted use of a single-family dwelling in an R Zoning District, with a Conditional Use on that property.

Ms. Rambo stated that all her comments and conditions were incorporated into the Staff Report. She wanted to touch on one of the public comments. Someone mentioned that the City didn't have a Compliance Department. Ms. Rambo stated that she is the Compliance Department. If staff get complaints, or sees an obvious violation, then they do follow up. There are several steps they have to go through in order check compliance and get people back into compliance.

Ms. Winrod explained that Chief Griego and she was working with Angie. Through their discussions, they have found no issues with the 2018 Fire Code.

Ms. Laughlin stated that the City Manager's Office recommended approval as presented by staff, and any comments from the Engineering Department were incorporated into the Staff Report.

Commissioner Stefan Beck stated, as an educator, he recognized the importance of education. His main concern was whenever a good portion of the neighborhood shows up, the Planning Commission needed to take it seriously. That's what our Country is supposed to be about. Initially, he thought that it was going to be chaos with traffic, which was the portrait that was initially painted. The applicant would be there Tuesday, Wednesday, and Thursday, and they would have a pick-up twice a day. He thought the main concern was traffic patterns, kids getting hurt, and disruption of a quiet neighborhood. That alone would be enough to cause serious concern, but he wasn't sure if that would actually happen. He said this was a tough one and he just didn't know. He thought it would be a minimal impact, not a major one. He said it was just tough when that many neighbors show up and object. Commission Beck said that he would want some assurance, but he didn't know if that could be done. He asked if there was a way they could assure the neighbors that it would be minimal impact.

Ms. Heguy stated that she had some stuff prepared for the Commission in regards to the questions. She thought overall, and in general, everyone agreed. This is a neighborhood in a wonderful community. It is their intention to keep it that way. She said that her grandparents built the house 60 years ago and lived in it. They decided, instead of selling the home, that they

would like to see Ms. Heguy host the kids there three times a week. There will be minimal traffic. There is a small number of families. Just because they are talking about 24 kids, it is not 24 cars. There are multiple kids per family, which includes her family. Many of the children live in, or around, the neighborhood. They would be willing to walk and/or bike, as applicable. The other families have worked out the best way to carpool and minimize traffic. They will also be respectful of the neighbors and the other kids in the neighborhood. She has created some staggered drop-off and pick-up times in order to minimize the traffic and to utilize off-street parking. They will be operating Tuesday, Wednesday, and Thursday only. They will be very respectful of loading and unloading in the designated area. Ms. Heguy also wanted to make a quick comment. She explained that she was speaking with some of the families yesterday, in regards to the context of the meeting, and what the purpose was of them being here tonight. She asked the question, what does it mean to be a good neighbor. The children, for the most part, came up with responses. Some of the response were: keeping the yard clean; being nice, kind, and quiet; saying hello to the neighbors; lending a helping hand when you see something that needs to be done, or someone that needs help; being in the neighborhood allows the children that live outside of the City the opportunity to be good neighbor; to serve the community and serve the neighborhood better, etc.

Commissioner Beck said this was a tough call. He asked if it was an economic advantage because they already own the house. He also asked if they had looked at a commercial property, or if they had explored other options.

Ms. Heguy said yes, and that she had looked at multiple different things. As far as being economically advantaged, they are a 501(c)3 with limited funds. She explained that she was not getting any financial gain, especially personally.

Chairman Dalling asked if they thought about selling the house and moving to a commercial location.

Mr. Heguy said yes. Their intent with the house, because what Ms. Heguy is doing is expanding so quickly, was to use it for a small amount of time in between what they are planning on doing. They don't want to change anything about the house. The traffic will be minimal, so any changes that occur to the house will be for ADA compliance. Mr. Heguy said they were planning to do something else soon, and they don't want to change it from a residential property. In the meantime, it would be a great place to use for the kids. He didn't think it would detract from the neighborhood at all, or affect the neighbors.

Commissioner Gratton Miller asked what time the school started and ended. He also asked exactly what times the staggering drop-offs and pick-ups would be occurring.

Ms. Heguy explained that the school would begin at 8 a.m. In the afternoon, the younger children leave at 1 p.m., and the older children leave at 3 p.m. Afternoon pick-up will be even less of an impact.

Commissioner Tera Hooiman asked with the Covid-19 situation if Ms. Heguy thought there was going to be an influx of students. She asked if that was something that they planned for and what that looked like.

Ms. Heguy stated that she has had a lot of people contact her because of the Covid-19 situation. She explained that she was at capacity right now. Every child that is coming next year was there last year. Ms. Heguy felt it was important to serve those families first. They could possibly grow into another location at some point, but not at W. Birch.

Commissioner Hooiman asked how many years Ms. Heguy has been doing this.

Ms. Heguy stated that it would be her 3<sup>rd</sup> year going into the fall.

Mr. Wilkinson said the limitation on parking would limit the occupancy.

Ms. Heguy said it was also the intention of really keeping the integrity there and maintaining the neighborhood.

Chairman Dalling asked what the sidewalk story was. He felt like they hammered everyone on sidewalk. He wondered if they could get a better clarification.

Ms. Laughlin said as the subdivision was developed many years ago the south side of W. Birch does not have sidewalk, all the way from Dotta down the corner to Highland. Across the street and the adjacent streets north of this property, do have sidewalk. Why this street wasn't required sidewalk at the time of development was beyond her. Keep in mind, if we require sidewalk just in front of 675 W. Birch Street, you still don't have connectivity to the east and west.

Ms. Heguy said based on parking, the parking that they were going to have would negate the need for the sidewalk, as far as dropping and picking the kids up. The drop-off and pick-up will be in the driveway and parking area.

Chairman Dalling asked for final comments from the applicants.

Ms. Heguy thanked the Commission for listening and thanked the neighbors for raising their concerns. She said that she appreciated knowing so that they could be held to a higher standard. She added that they really hoped to be able to be good neighbors.

Commissioner Dalling called for final public comment.

Robert Loranger, 1000 Dotta Drive, said his comment was to everyone and to the applicants. Mr. Heguy made a comment about how they got to this point without having any feedback. Mr. Loranger wanted to say that one of the things with doing something like this in a residential neighborhood is that the person and the people that have the passionate drive need to be passionately, and actively seeking buy in from the surrounding property owners, and people who may be impacted. You've got to sell it and going forward you need to be interactive with the neighborhood. That's how things progress and how you get full backing from a community.

Ms. Heguy agreed with Mr. Loranger about being proactive and including the neighbors. That was something they commented on and one of the things that the kids would like to do. In respect to that, Ms. Heguy stated that she submitted several letters to the neighbors and tried to give them some information. She said that she would do a better job at that, and that she

appreciated the encouragement there. She would be happy to share their goals and to help in any way possible as a neighbor.

Scott Conley, 3724 Wright Way, wanted point out something he noticed about the number of children per parking spot. He said Ms. Heguy might want to consider kids moving from the elementary stage upwards. You might have to upgrade your driveway and it might be something to think about.

Commissioner Buell said as she was doing her homework she wanted to dig into the zoning issues related to this application. That began with the semantics of dancing around the term "school." That struck her as odd, because when the question came up she looked up the accreditation for this organization. It is accredited by the International Association of Learner Driven Schools, an organization that shares employees with Acton Academy. The issue Commissioner Buell had there wasn't so much any potential conflict of interest, it is more that the accrediting body refers to these as schools. She looked at medium density residential neighborhoods, and common best practices related to this. What you wind up with is schools, private or otherwise, within residences tend to be allowed with up to 10 students. This has 24 students. That is a notably higher number than standard. With that in mind and trying to avoid the term school, Commissioner Buell stated that she could not vote for this Conditional Use Permit.

Chairman Dalling asked Ms. Heguy if 24 students was her maximum and that she wasn't going to be taking any more. (Correct) He asked what happens if the kids keep coming and reach high school and driving age.

Ms. Heguy said that would be up to their parents. At this point, they are serving elementary, and are focusing on that age group. Their home schooling journey is up to their parents.

Chairman Dalling said the problem is sometimes things are easy and we just stay where we are. It could be an issue in the future when the kids start driving.

Mr. Wilkinson thought it would be appropriate if the Planning Commission looked at this application and with all the public comment that they've heard, that they determined that this Conditional Use Permit would be limited to a certain age of children. If the applicant was in agreement with that, it is probably a logical discussion to have.

Chairman Dalling said maybe Kindergarten through 8<sup>th</sup> Grade. He asked how everyone felt about that.

Ms. Heguy said that sounded good.

Chairman Dalling said he wondered, although it's not legal and he shouldn't advocate for it, if they just had the kids show up three days a week non-permitted. He said he shouldn't say that, but it would have saved them a little bit. Chairman Dalling said he liked the K though 8 condition. He didn't think anyone wanted extras in their neighborhood, so it's hard to not listen to the people. It's always a bad thing when the whole neighborhood shows up and voices their opinion. He thought the Commission appreciated the opinions in the end, both pro and con.

Commissioner Hooiman felt like the public concern that was voiced tonight could have been met with some clear communication on the applicant's part, and it wouldn't have been so hard met. There were a lot of people here that were frustrated with the process. She stated that she saw their concerns, and she saw where the applicant was coming from. Commissioner Hooiman said her struggle was that the community that the applicant was going into doesn't support the application.

**\*\*\*Motion: Deny Conditional Use Permit 3-20.**

**Moved by Evi Buell, None seconded.**

**\*With no second the motion died.**

Commissioner Beck wanted to echo Commissioner Hooiman's statement. The problem he was having was when you get that many people that show up. It's tough when most of the neighbors show up and they're against the project. Commissioner Beck said his main concern was that they had a lot of people that were against it.

Mr. Heguy thought the connotation of having a school in the neighborhood was terrifying. He said it's not that, it is a Conditional Use Permit to have a few kids meet three times a week. He felt the footprint would be minimal and it fits within the City Codes, and they were willing to make the appropriate upgrades. Mr. Heguy didn't think it was going to be a detriment to the neighborhood.

Chairman Dalling said he was in the same spot, he could see both sides. It is a small learning hub, a school, and it's in someone's neighborhood.

Commissioner Miller asked if there was an option for the Commission to table the item and see if the applicant can convince their neighbors to go along with this. He asked if there was a precedent for that.

Chairman Dalling said they could do that. The problem is that it wouldn't be fair to the public who came out. They would have to come back again. He asked if there was a way they could make the decision at the end of the night.

Mr. Wilkinson suggested that Chairman Dalling entertain other motions before they move on.

Chairman Dalling asked for any other motions.

**\*\*\*Motion: Table this and see if the applicant can convince their neighbors to get on board.**

**Moved by Gratton Miller, None seconded.**

**\*With no second the motion died.**

Mr. Wilkinson wanted to remind the applicant, public, and Planning Commission of the appeal process. Any party could take this to the City Council on an appeal. Whatever is decided tonight, the public and/or the applicant would have recourse before the City Council.

**\*\*\*Motion: Deny Conditional Use Permit No. 3-20.**

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

*\*Motion passed (4-2, Commissioners Dalling and Hooiman voted no).*

6. Review, consideration, and possible action on Variance No. 3-20, filed by Real Estate Pro, LLC, to allow required off street parking to be located within the interior side yard setback for each dwelling unit proposed to occupy a series of contiguous lots in a R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Fir Street, between 2<sup>nd</sup> Street and 3<sup>rd</sup> Street. (APNs 001-096-010 through 001-096-015)

Jaime Alvarado, 225 Fir Street, explained that he and his wife have lived in their home since July 2001. All those years they have enjoyed the tranquility and peace of mind of the streets. They have serious concerns now of losing that. They were made aware that they are planning to build six little tiny homes. Mr. Alvarado said they would not be in opposition to two or three homes, but are opposed to six dwellings. There are parking issues along with other concerns. If the dwellings will be rentals, Mr. Alvarado had the following questions: Will there be someone to submit the roll of a rental property management? If so, will there be a background search conducted on the potential renters? They know their neighbors, and there is not one convicted criminal living across the street. He saw it appropriate that the said requirements remain as it is, and that the Department uphold their own requirements. They are requesting that the petition for Variance No. 3-20 be denied. The Real Estate Pro, LLC should be required to follow the City requirements.

Jeanne Goss, 313 Fir Street, said she was curious about the variance with the adding the parking, and worried about defensible space. If they are going to be adding parking to the alleyway, that is the main drainage through the area, so will they be upgrading the current alleyway. Right now, the water kind of flows through there, but not always. If that is going to become an actual street, then there will need to be improvements made to that. With additional homes, does that mean the City will put up stop signs in that area? Will the traffic patterns be changing? She was also wondering if they gave parking that close to a home, if they would need a curb, so they wouldn't run into their house. She was wondering what the exact plans were.

Chairman Dalling said he knew this was a terrible alley for standing water. He asked Mr. Wilkinson if the developer would be required to do a new complete alley. Chairman Dalling felt like that should be required.

Ms. Laughlin explained that she would address some of that in her presentation. With the Building Department Permit Application, there will be a site permit and a Building Permit for each of the residences, and Staff will be looking at a grading permit to show how the lots will



8/4/2020

To Whom it May Concern,

As you know, we as neighbors that will be impacted by the presence of a **501(c)(3) Organization Youth Organization** in our neighborhood, have several questions and concerns. Please understand that given our significant investment in this neighborhood, it is not unreasonable for us to feel this way.

The applicant has made it clear that this is NOT a school, but regardless of the tax status of this organization, all of the CUP requirements are for compliance of a school/child care facility.

**Questions for the City:**

***Transportation***

***3. ....the south side of West Birch Street does not have pedestrian access. Sidewalks are a necessary safety feature, particularly in residential neighborhoods where children walk to and from school.***

This section states the lack of and importance of sidewalks. Will the applicant be required to install sidewalks?

If NO Why? Applicant has stated in her letter that students will be encouraged to walk or bike to the school to keep traffic to a minimum, how will they safely cross West Birch Street with out a cross walk? They will not be able to access the property safely from South side of West Birch without sidewalks.

If YES, will it be a requirement only in front of their residence? Or the whole South side of West Birch Street? If whole South side of West Birch, how will that affect my property located at 975 Dotta Dr?



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

**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**

What are the minimum requirements?

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

**1. Section 3-2-17(F) Requires 1 parking stall per 6 students for Elementary Schools and for middle schools, 1 per 10 students and 1 per employee. The building size will determine the occupant load allowed and off-street parking will be required to be in conformance with 3-2-17(f)**

What is the max capacity occupancy load for the location? Is the city requiring compliance for an elementary school or a middle school?

**2. Section 3-2-17(D)(2)(a) ...no off street parking space shall be located in a required front yard or interior side yard.....for conditional use permit, the garage will not be allowed to be counted toward required off street parking and therefore a variance will be required to be approved to allow parking in the front yard set back**

Are they looking to convert the side yard to the right of the existing driveway and/or an area in the front yard? What are the requirements for obtaining this variance?

Where are Lots 9,10 and 11 and the vacated portion of former E Street right of way? Is this referring to the area to the right of the existing garage slab?

**Section 3-2-18 Conditional Use Permits**

**2. Every conditional use permit issued,...shall automatically lapse and be of no effect (1) year from the date of it's issue unless the permit holder is actively engaged in developing the specific property for the use for which the permit was issued**

What are a few examples of further development to this property at each 1 year anniversary in order for the CUP to be renewed?

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

Who is responsible to review the CUP? How often are they reviewed? Is this the same person that would monitor whether the Organization is in compliance as far as enrolled students?

**Note: The city currently does little to no snow plowing or removal in this area, If the intended CUP is approved, is the city committed to dedicating more resources to snow plowing and removal in our neighborhood?**

**Questions for the Applicant:**

How many children are currently enrolled for the fall semester? Of those enrolled, how many separate families? (for traffic volume purposes)

If the max occupancy load for the residence allows for additional enrollments, do you plan to enroll as many students as is allowed?

Will additional business be conducted at the property on days other than your stated days of operation?

What is the contact information for your compliance department? Name and phone number.

What is your reason for no longer using the Girl Scout House?

What business license are you currently doing business under?

Is your non-profit set up as a trust, corporation or association?

May we have a copy of your tax-exempt application? (Form 1023) **Required to be public record**

May we have a copy of your last 3 years of tax reporting (Form 990) **Required to be public record**

May we have a copy of your articles (**corporate** articles of incorporation, **LLC** articles of organization, articles of association or constitution of an unincorporated association, or **trust agreement or declaration of trust**)

May we have a copy of your Bylaws?

How many staff members are there? Are they independent contractors or employees?

We do not support the approval of this CUP for the following reasons:

When we purchased our home 8 years ago, part of the appeal was that it sits in a quiet neighborhood. If at that time there had been a school so close (non-profit or not) it would have weighed into our decision. As such, it is reasonable to assume that it would be a consideration of other people looking to buy a home. This in itself could affect the value of our homes.

The approval of this CUP will drastically change our neighborhood due to the amount of people that will now be in and out of it.

Traffic flow is already congested due to Dotta Drive and W Birch not being complete through streets. If the pick-up/Drop off zone is on the south side of W. Birch in front of the residence, every vehicle will travel on Dotta Dr to access the school in order to be on that side of the street.



Sidewalks are an issue. Children will not be able to safely walk to the property without extensive civil work that may affect every property owner on the South Side of W. Birch Street.

Steven + Jennifer Hayes  
1024 Dotta Drive  
Elko, NV 89801

August 3rd, 2020  
To whom it may concern:

We are writing this in response to the notice of public hearing regarding the Conditional use permit No. 3-20 filed by Gladys Burns located at 675 W. Birch St.

We are located down the street at 1024 Dotta Drive (Steven + Jennifer Hayes).

Right now we have a quiet street with minimal traffic, mostly residents. We do not agree with a neighbor using a residence for business purposes, we don't think it's a good idea. That's what commercial space is designed for, not our neighborhood.

Sincerely,

Jennifer Hayes



Exhibit 3

August 4, 2020

To the City of Elko Planning Commission

RE: Conditional Use Permit 3-20

Our home is located at 1030 Dotta Drive, and we are OPPOSED to the approval of CUP 3-20 for the following reasons.

We enjoy our residential neighborhood and feel that the approval of a conditional use permit sets a precedent for future CUPs.

Dotta Drive already has quite a lot of traffic, and the intersection where Dotta Drive meets West Birch is a hazardous tight curve especially with vehicles parked on the corner. Also, where Sewell Drive meets Birch Drive, the road widens so that people driving east on Birch often "cut the corner" turning onto Sewell.

The neighborhood is blessed with quite a few children now who sometimes play in the street.

There are quite a few commercial buildings for sale in the city of Elko.

For these reasons, we hope you will reconsider your recommendation for Approval of CUP 3-20.

Sincerely,

Earl and Mary Craig

Earl M. Craig  
Mary S. Craig

**Shelby Archuleta**

---

**From:** MELISSA DUKE <mduke13@gmail.com>  
**Sent:** Tuesday, August 4, 2020 5:27 PM  
**To:** Shelby Archuleta  
**Subject:** Not in favor of the Ruby Mtn Acton Academy

Our family moved to 1011 Dotta Drive July 17,2020.

We chose this neighborhood for the quiet streets, well groomed yards and the elder residents.

We have 4 active children from ages 14-9. They have spent a lot of their time riding along the sidewalk and streets of our new neighborhood.

We are concerned that extra traffic in our neighborhood will be a nuisance. We fear for our children's safety while they ride their bikes and scooters. There is not a sidewalk after our house so they ride in the road sometimes along a blind corner very near to the proposed business.

We moved into this home with the expectation that residential zoning protects neighborhoods, businesses, and industrial areas from uses incompatible with the zoning and ownership interest of the area.

If this school is approved, the neighborhood will be flooded with extra traffic. The staggered start and stop times will leave us wondering when it will be safe to ride throughout the day.

As we have been getting to know neighbors in our new neighborhood, they have expressed their disapproval of the new school/childcare facility potentially coming to the neighborhood.

The construction of a parking lot invites a construction project in a well established neighborhood where expectation of that big a project could never have been projected. In addition, the residential neighborhood could not accommodate celebrations, such as open houses and parties, that are typical at schools, without displacing first residents and their guests.

While the CUP may have stipulations we are aware that enforcement would be improbable, considering there is no compliance department within the city.

We are speaking our concerns as well as being a voice for our new neighbors who are very disappointed in this prospect.

This is not a neighborhood for a school/childcare facility.

Please, City of Elko, maintain this long-established, quiet and quaint neighborhood. We ask that you deny the CUP request.

Incidentally, I inquired with the city 3 years ago to establish an appointment only cosmetology business within my separate garage on a huge corner lot with ample parking. I was told I would have to attempt to get a zoning change as it would likely disrupt traffic patterns in a residential neighborhood. I was also told that even attempting it would be prohibitively expensive. I respected the cities guidance, because I understood the residential interests would supersede a business.

In many counts this proposed business will be disruptive to residential life . I question how the prospect of a school is in any way less obtrusive than a little cosmetology business, where I would have taken individual appointments only, and would have not needed any disruptive construction.

Thank you for your consideration  
Jordan and Melissa Duke  
1011 Dotta Drive  
Elko, NV 89801



Hello! My name is Louri Lesbo. Our family has lived at 1010 Dotta Drive for 51 years. It has come to our attention that Ruby Mountain Acton Academy is to be located at 675 Birch Street.

Our neighbors have many concerns. Mine are as follows:

1. We have a blind corner at this location. Ten children live in surrounding homes. With the increase in traffic, what will be done to assure the safety of the neighborhood children.
2. Parking- How is the city going to address the increase need of parking in this area, and how is the city going to address the congestion from the increase flow of traffic on this tiny two-lane street?
3. We have a problem with teenagers congregating and racing by Angel Park. With the teenagers within the population of the school, there is a possibility that this problem may extend even farther down the side streets. Will there be extra law enforcement to keep this from happening?

Many of the families in this neighborhood have lived in their homes for over fifty years. The noise and confusion generated from these children may be detrimental or disorienting to our older residences.

I am concerned with how many children will be attending this program. This program's current building is large, with lots of parking. What has been done at the Birch Street property to address growth needs? I.E., how do we address overflow of students?

Who is going to oversee this program to see that what is being said is actually what is being done?

Thank you for your time and consideration,  
Louri Lesbo

**Cathy Laughlin**

---

**From:** Nann C. Hanley <nannhanley@gmail.com>  
**Sent:** Tuesday, August 04, 2020 3:41 PM  
**To:** Shelley Petersen  
**Cc:** Cathy Laughlin  
**Subject:** Re: Cathy Laughlin - email address

Sent from my iPhone

On Aug 4, 2020, at 2:35 PM, Shelley Petersen <s.petersen@elkocitynv.gov> wrote:

To: Cathy Laughlin  
Please respond.  
From: Nann C. Hanley  
City of Elko  
Administrative Assistant  
1755 College Avenue  
Elko, NV 89801  
775.777.7210  
To: Cathy Laughlin  
From: Nann C. Hanley  
Re: CUP 3-20

I chose not to attend the public hearing because of the COVID 19 pandemic. I am in the most vulnerable older population & have not gone anywhere in a group since Feb. I am continuing to isolate at home. I live at 685 W. Birch Street, next door to the parcel under consideration for CUP. My initial concern was that a sidewalk would be required for all of West Birch. This would have been detrimental to my property. Now I understand that the only sidewalk concern might be at the 675 W. Birch property. However, there are three other issues I must address.

1. I didn't realize that you the CUP could go with the property & last forever. This type of change in the neighborhood will lower property values.
2. When I first heard of this idea, I thought of a small, private school trying to give a better education to a FEW lucky students. However, 20 to 30 children in a quiet, residential neighborhood is just too much...too many.
3. This is a more individual, personal issue. I rescued a neurologically disabled dog from the shelter. For him I created a kennel, run, & inside/outside doggie door. I go to Twin Falls regularly for cancer treatments & checkups. I'm very concerned that all the extra noise & activity (when the children have recess or exercise in the school's back yard) will cause my dog to get overly excited & bark too much & endanger his health. When I'm home, no problem. But when I have to leave, I worry about my dog & the consequences in the neighborhood.

If/when my concerns are addressed in a positive way, I would be satisfied with the CUP...otherwise... NO.  
For further inquiries call: 775-738-4949

PS. I thought they were talking about 5-10 children at the maximum.

To Whom it May Concern

Re: 675 W. Birch Street

This letter is regarding the Conditional Use Permit application in the name of Acton of the Rubies for the above stated address. We are not a resident of the neighborhood; however, we recently sold my husband's family home of 58 years at 1011 Dotin Drive, which is across from the applicants address of interest. There are several things we would like to see addressed before permission is granted in this case.

1. The traffic around the corner of Dotin Drive and West birch is dangerous. It is a blind corner that exceeds the normal 45-degree turn. Not only will the increase in traffic be affected by this corner, the speed at which we have seen this corner being taken will be a danger for children.

2. The CUP requires a certain amount of off street parking and at the normal requirements for a parking spot being 9' x 18', we are having a difficult time figuring out where you would put the minimum of 6 parking spaces in addition to a student drop/pickup space and a van handicapped space. In addition to that, a 5' wide sidewalk.

3. The people who have built and purchased a home in this neighborhood during the last 60 years or so have had the privilege to live in a quiet, bucolic area. It has the advantage of having two street convene in an area that is not a direct path to anything making it a wonderful neighborhood.

4. We sold my mother in laws home to a couple who deserve to live in the same type neighborhood as the applicant's father enjoyed growing up in at 675 W. Birch Street. Having 20+ cars dropping off and picking up students twice a day for three days a week, and the increase in traffic will be a detriment to the entire neighborhood and will most definitely affect the value of the homes in this neighborhood.

5. As for the students, there is obviously going to be outdoor activities and recess. The immediate neighbors will be affected by the noise created by such activities. There are animals that will respond do the added noise issue.

6. Lastly, our main concern regarding this application is where will it stop. If you allow this type of a Conditional Use Permit in this neighborhood, what will happen when the same type situation is wanted in another neighborhood, maybe YOUR neighborhood. When it comes to something like this, those watching the process may say, "I don't have a problem with it, but I certainly don't want in in MY neighborhood". There are plenty of commercial properties available in Elko with the proper permitting and zoning. We believe that the applicant should go in that direction.

Thank you for taking our opinion into consideration for this Conditional Use Permit  
Rick and Begona Hull

# Conditional Use Permit 3-20 - Acton Academy - Appeal

YPNO	assess_nam	address1	address2	mcity	mzip
001070001	BAUMANN ALLEN & ELIZABETH	975 DOTTA DR		ELKO, NV	89801-2700
001073004	BAUMGARTNER BROGAN & BRITTANY	501 W BIRCH ST		ELKO, NV	89801-2970
001072025	BECKSTEAD MITCHELL J	1009 SEWELL DR		ELKO, NV	89801-
001131010	BELLAS LLC	PO BOX 823351		VANCOUVER, WA	98682-0060
001073001	BURNS R E JR & GLADYS TR	675 W BIRCH ST		ELKO, NV	89801-2700
001072023	COCHRANE SCOT M & TRISH	1025 SEWELL DR		ELKO, NV	89801-2960
001072004	CRAIG EARL M JR & MARY SUE TR	PO BOX 2403		ELKO, NV	89803-2400
001081004	CUNNINGHAM LONNIE M & STEPHANI	970 HIGHLAND DR		ELKO, NV	89801-2950
001122004	DAVIS KAY S & MATT H } 1pc	655 MAHOGANY LN		ELKO, NV	89801-2930
001073007	DAVIS KAY S & MATT H	655 MAHOGANY LN		ELKO, NV	89801-2930
001073006	DOUGLASS RYAN J	961 HIGHLAND DR		ELKO, NV	89801-2940
001132001	ELKO CITY OF NO P.C	1755 COLLEGE AVE		ELKO, NV	89801-
001122001	HANLEY NANN C	685 W BIRCH ST		ELKO, NV	89801-7810
001073009	HARRIS RICHARD C & PATRICIA	C/O LONI BETH KISSIN ET AL	615 MAHOGANY LN	ELKO, NV	89801-2930
001072003	HAYES STEVEN & JENNIFER	1024 DOTTA DR		ELKO, NV	89801-2700
001071008	HULL RICHARD J	1011 DOTTA DR		ELKO, NV	89801-
001122005	K & L RENTALS LLC	371 BERRY CREEK PL		SPRING CREEK, NV	89815-6500
001122007	KIMBER'S CAR WASH } 1pc	1369 COLLEGE PKWY		ELKO, NV	89801-2550
001122006	KIMBER'S CAR WASH	1369 COLLEGE PKWY		ELKO, NV	89801-2550
001072002	LESBO MICHAEL & LOURRIANNE M	1010 DOTTA DR		ELKO, NV	89801-2700
001073003	LOGSDEN JASON E		625 W BIRCH ST	ELKO, NV	89801-
001072001	LORANGER ROBERT J & SUSAN C TR	1000 DOTTA DR		ELKO, NV	89801-2700
001073002	MARTIN JOHN H JR TR	655 W BIRCH ST		ELKO, NV	89801-2700
001081007	SCHAIN CHARLES E & CARLA M	954 HIGHLAND DR		ELKO, NV	89801-2950
001074001	SCHMITT SKYLAR	502 W BIRCH ST		ELKO, NV	89801-2910
001072024	SEA KARLEE		1017 SEWELL DR	ELKO, NV	89801-
001131009	SILVER RIVER PROPERTIES LLC	PO BOX 1626		ELKO, NV	89803-1620
001073008	SMITH ROBERT H & BETTY E	625 MAHOGANY LN		ELKO, NV	89801-2930
001071006	ST PAUL'S CHURCH THE RECTORY	777 SAGE ST		ELKO, NV	89801-3310
001071007	STENINGER ALVIN LEONARD		1015 DOTTA DR	ELKO, NV	89801-
001073005	STRAMEL JUDITH-A	965 HIGHLAND DR		ELKO, NV	89801-2940
001072026	UNRUH DONALD W	610 W BIRCH ST		ELKO, NV	89801-2700
001081006	WILLIAMS WARREN E & MARY J } 1pc	962 HIGHLAND DR		ELKO, NV	89801-2950

001081005 WILLIAMS WARREN E & MARY J }  
DUKE JORDAN & MELLISSA  
WALSH, MICHELE & ERIC  
MILIARD AJEET  
DONALSON LISA  
MCCANN CATHY  
TAYLOR LARISSA  
GOSS JEANNE  
CONLEY SCOTT

962 HIGHLAND DR  
1011 DOTTA DR  
491 W ASH ST  
PO BOX 281728  
998 NORTHSIDE DR  
5348 HARPER DR  
101 PINE ST  
313 FIR ST  
3724 WRIGHT WAY

ELKO, NV	89801-2950
ELKO, NV	89801-
ELKO, NV	89801-
LAMOILLE, NV	89828-
ELKO, NV	89801-
ELKO, NV	89801-
ELKO, NV	89801-
ELKO, NV	89801-
ELKO, NV	89801-

38

Post Marked 9/11/20

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Elko City Council will conduct a series of public hearings on Tuesday, September 22, 2020 beginning at 5:30 P.M. P.D.S.T. utilizing GoToMeeting.com , and that the public is invited to provide input and testimony on these matters under consideration via the virtual meeting at

<https://global.gotomeeting.com/join/223532117>

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: <https://global.gotomeeting.com/join/223532117>. You can also dial in using your phone at **+1 (408) 650-3123**. The **Access Code** for this meeting is **223-532-117**.

Members of the public that do not wish to use GoToMeeting may call in at **(775)777-0590**. Comments can also be emailed to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)

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

- An appeal filed pursuant to Elko City Code 3-2-18(E), appealing the Elko City Planning Commission's decision to deny Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would allow for a teaching of the creative arts/childcare center within an R (Single-Family and Multi-Family Residential) Zoning District, located generally on the southeast side of Birch Street, approximately 125' west of the intersection of Birch Street and Dotta Drive, and matters related thereto.

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

**ELKO CITY COUNCIL**

# RECEIVED

August 5, 2020

AUG 05 2020

Ajeet Milliard  
PO BOX 281728  
755 Country Lane  
Lamoille, Nevada 89828  
M: (541) 350-8738  
Email: [jajeetk@gmail.com](mailto:jajeetk@gmail.com)

Dear City of Elko Planning Commission,

I am writing in regards to the events during the Conditional Use Permitting meeting on August 4, 2020. Specifically with attention to the case for a C.U.P. for Angie Heguy and the Ruby Mountain Acton Academy for which a denial motion was set and passed. To the best of my observation of the process, this denial was based on little but inflammatory public outcry, not on facts of the proposed location and type of organization to be run from the home. A small number of neighbors gathered together with cries of reduction in their property value, increased traffic and noise, without so much as asking questions of the owner of Acton before mounting their attack. Angie had graciously sent letters to all the neighbors and requested they contact her with any questions about the non-profit organization, none of whom did such. To me, this was a cowardly and disgraceful display of anger toward far more than a group of 24 children whose families are seeking a productive and successful means to educate their kids in today's unpredictable climate.

I heard cries of "noise" the kids *might* cause, while later in the same argument, fear for the safety of other children in the neighborhood. I heard unfounded anger about property values being decreased based on commercial property being established, or nebulous drug use concerns none of which had any basis nor validity. Some were too cowardly to even show up to speak for themselves, instead having another angry neighbor vent for them via a "text message" – how valid should that be? How is a text message a legitimate grievance? Others had questions, which were easily answered had they simply asked. I had to wonder how each and every one of those neighbors paid over \$500,000 for their homes when, the home across the street last sold for \$315,000. I also had to wonder why someone would move to the most populous location in Elko County if peace and quiet was the foremost condition they sought? I can guarantee there are many homes, far more peaceful and quiet, that someone could find with \$500,000 to spend. Nearly every angry argument used against Angie was unfounded and appeared to be a venting of anger perhaps over more than 24 kids getting together to learn 3 days per week. And yet somehow, these concerns were the defining reason for most of the commission to deny a CONDITIONAL permit? If I'm not mistaken, "conditional" does mean "with conditions" or otherwise removed?

Angie, is a female entrepreneur in a rural community who started a non-profit organization, based with the larger accredited Acton Academy but she has chosen NOT to run her organization as a state accredited or funded school, rather as an outreach program for homeschool families. Families that want their children to have a different education, one we feel is better for OUR children. Angie has gone above and beyond to provide a nurturing and caring environment for this small group of children and families to come together and learn together. It is a small group and, due to her non-profit nature, had always intended to keep it a group under 25, at least for the next several years. She conformed to every condition set by the city for her location to meet standards and codes for a conditional use permit and yet, she was denied. In an age where entrepreneurs and educational facilities are being shut down left and right and in a location where being a female entrepreneur is challenging enough, Angie was shut down and denied an opportunity to provide a service to her community. All because a few neighbors were angry about issues that hadn't even occurred.

The issue came up as to why she couldn't find a commercial building for Acton, or even remain at the Girl Scout House. A reasonable inquiry however, the Girl Scout House is just that: for the Girl Scouts. Each day Angie and the children would have to setup their space and each day, take it all down and clean as if they were never there. No kids art or projects on the walls, no "classroom" fish or other live animals or plants, no personalized space at all. These 24 brilliant and motivated kids deserve a space they can call their own. They are bright, young entrepreneurs that help each other as well as those around them and if they are not, they are not members of the Acton community. The kind gesture of Angie's Grandmother donating her home of 60 years to Angie to run her non-profit and help guide those kids to be better future community members was enormous. If you, whoever might be reading this, were handed a space, that fit your needs, for free, in which to help your community, would you not except it and instead try to find a commercial space with huge overhead costs? I'll repeat again: Acton of the Rubies is NON-PROFIT. If you have an idea of how a non-profit organization, without state funding, might benefit by paying \$5000/month for a commercial space, I'm all ears.

Yes, in the future, Acton may grow as will the kids...into **god-forbid**...teenagers. At which point, Angie would have been established long enough to perhaps build a new space or find a larger place for Acton. Just because she wants to utilize the space available to her today, that fits the needs of the Acton group does not mean she would remain there indefinitely. Angie wanted to use that home because it fits the needs and space requirements of the kids now and it is a space they could call their own, and a space she calls her own. She is also a bright enough lady to realize it may not fit for years to come.

Several of the planning commission member cited the number of neighbors that came out to spew their anger, as necessitating a "no" vote. I also heard mention of our society being a democracy and we should listen. How is a female entrepreneur wanting to have kids get together and learn in a space donated to her being attacked for acts that hadn't even occurred democratic? How is it right to deny a conditional use permit when she had conformed and was willing to accommodate any 'condition' required of her by the city? If this is a justice and democracy, I have been misguided in my life. How can I justify this as an example of being a good person and honorable to my children?

To be honest, I am ashamed of this decision and those on the planning commission who were inspired by fearful and angry people to shut down a non-profit group that benefits kids, that hadn't even been given a chance to operate. In a day and age when public education is crumbling and parents needs to develop educated, strong leaders, how is it beneficial to let a few angry people with unfounded concerns destroy a legitimate organization out to give families a means to provide a solid foundation for their children? If the commission has any moral ground, this decision should be overturned. If not, I fear where this decision will lead in the future. Who else might be squashed in the name of fear and unfounded concerns? I am inspired to shed light on such an immoral decision to a broader audience. What will the broader community of Nevada think, or even greater?

Overall, Angie Heguy asked for permission from the city, following all conditions and requirements to operate an organization that benefits the community as a whole. I'm very unclear as to why a "conditional use permit" was denied based on opinion and zero facts. I will remain so until I receive a legitimate answer and this story will be made public with all of these points.

Please, contact me anytime to answer questions I've raised or simply talk about this issue. I'm a reasonable, rational, and educated individual who will not rest with, "well the neighbors were obviously concerned" over actions that never happened.

Sincerely,  
Ajeet Milliard, Ph.D., MSc, PG







# CITY OF ELKO

## Planning Department

Website: [www.elkocity.com](http://www.elkocity.com)  
Email: [planning@elkocitynv.gov](mailto:planning@elkocitynv.gov)

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

---

### CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of August 4, 2020

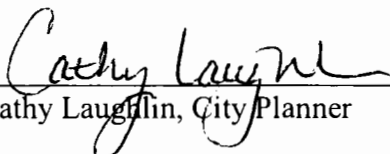
WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on August 4, 2020 under Public Hearing format, in accordance with notification requirements contained in Section 3-2-18 (F) of the City Code:

Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would allow for a teaching of the creative arts/childcare center within an R (Single-Family and Multi-Family Residential) Zoning District, and matters related thereto.

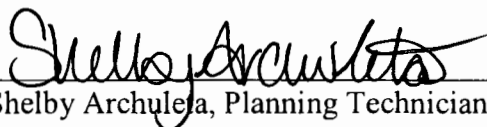
The subject property is located generally on the southeast side of Birch Street, approximately 125' west of the intersection of Birch Street and Dotta Drive. (675 W. Birch Street - APN 001-073-001)

NOW THEREFORE, upon review and consideration of the application, supporting data, public input and testimony, the Planning Commission **Denied** Conditional Use Permit No. 3-20.

**The applicant is advised of the right to appeal this decision to the City Council within 10 days of the date of approval as stated above.**

  
Cathy Laughlin, City Planner

Attest:

  
Shelby Archuleta, Planning Technician

CC: Applicant  
Kelly Wooldridge, City Clerk  
Michele Rambo, Development Manager (email)



## 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):** Ruby Mountain Acton Academy dba Acton of the Rubies (Angela Heguy)

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

**MAILING ADDRESS:** PO Box 1332 Elko, NV 89803

**PHONE NO. (Home):** 775-397-8788 **(Business):** same

**NAME OF PROPERTY OWNER (If different):** Gladys Burns

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

**MAILING ADDRESS:** 675 W. Birch St. Elko, NV 89801

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

**ASSESSOR'S PARCEL NO.:** 001-073-001 **Address:** 675 W. Birch St. Elko, NV

**Lot(s), Block(s), & Subdivision:** Lot --- Block 3 Subdivision First Humboldt Addition

**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 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

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

RECEIVED

1. Current zoning of the property: 

The current zoning of 675 W. Birch St. is R or residential.
---
  
2. Cite the provision of the Zoning Ordinance for which the Conditional Use Permit is required: 

3-2-5, Teaching of Creative Arts/Childcare Center
  
3. Explain in detail the type and nature of the use proposed on the property: 

Acton of the Rubies is a 501c3 nonprofit youth organization provides creative resources to homeschooling families. Our programs allow learners to be at the center of their education by promoting self-direction, critical thinking and being generally curious. Families participating in our programs have the opportunity to meet as a group 3 times per week. Acton of the Rubies meets on Tuesdays, Wednesdays, and Thursdays 8am-3pm 10 months of the year. The property will be used to conduct these meetings, activities, and projects. Our program promotes activities across all genres. For example: entrepreneurship, community service, crafts, science, math, technology, creative arts, engineering, theater, gardening, agriculture, history, economics, etc. During a typical day at Acton learners participate in self reflection and independent/self-directed learning based on their own family ' s goals and collaborative projects promoting 21st century skills.
--
  
4. Explain how the use relates with other properties and uses in the immediate area: 

There are multiple homeschooling families within a very short radius of this home and the surrounding areas. Angel Park is very near the property, the park is used for multiple children's activities throughout the year. St. Joseph's Catholic Church will also be hosting a homeschool group at the church around the corner from the property. Their group will meet several times per week. In addition St. Joseph's offers bible study classes to children and young adults throughout the week. The Presbyterian Church offers numerous activities and meetings for children and young adults. St. Mark's Lutheran Church offers a preschool throughout the week as well as church meetings for children and young adults. Noah's Ark Child Care Center is a few blocks away, as is Northside School. See additional pages for more info.
---
  
5. Describe any unique features or characteristics, e.g. lot configuration, storm drainage, soil conditions, erosion susceptibility, or general topography, which may affect the use of the property: 

There are no known characteristics which may affect the use of this property; instead, the inside has large areas suitable for group meetings and a large driveway and garage to support parking for the few guides who will be assisting the members.
  
6. Describe the general suitability and adequacy of the property to accommodate the proposed use: 

This property is very suitable for the proposed use because the large square footage allows for the space to complete creative projects, conduct meetings, and participate in fun children's activities. This location has a large project/craft area and a three car garage for various projects and activities. The large living rooms allow for meetings and peer to peer collaboration. The large fully fenced backyard allows for play, curiosity, and exploration outside.

7. Describe in detail the proposed development in terms of grading, excavation, terracing, drainage, etc.: ☐ There are no plans to change the development of the property.


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

The traffic generated would be minimal, as we only meet three times per week for part of the year. The majority of the homeschool families in our program have multiple children participating. Therefore generating less traffic and/or number of vehicles in the neighborhood. The type of traffic will be families in "family type vehicles" there will be no large equipment or specialized vehicles. In order to maximize safety and minimize the amount of traffic in the neighborhood at one time, meeting times will be staggered. See additional pages for more information.

9. Describe the means and adequacy of off-street parking, loading and unloading provided on the property: ☐ This location has a three car garage and three car driveway for off street parking.

The home has a large street frontage and would accommodate two to three vehicles for loading and unloading purposes also. In order to maximize safety and minimize the amount of traffic in the neighborhood at one time meeting times will be staggered. Carpooling will be encouraged as well as walking and biking for those in the neighborhood to further minimize parking needs.


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

There will be no signage on the outside of the home. It is our goal to keep the exterior of the home in the same condition it is in now. The look will remain a residence with little to no visible evidence of our homeschool meetings occurring from the street. We are committed to keeping up the landscaping and home maintenance required in order to keep property values at their optimal residential market value.

--

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

There will be little to no outside storage of goods aside from the "traditional household goods" such as hoses, watering cans, outdoor supplies, outdoor games, outdoor toys and furniture. All of which will be in the backyard and not visible from the street or to adjacent homeowners unless they are actively being used.

Meaning when the items are not in use they will be properly stored in the garage, woodshed, and/or greenhouse.

It is our goal to keep the property in its best condition including landscaping.

--

12. Identify any accessory buildings or structures associated with the proposed use on the property: ☐ There is a small woodshed, open on one side in the backyard. The woodshed would be used for storage of outdoor supplies.

There is also a small greenhouse in the backyard. The greenhouse will be used for gardening purposes and/or storage of outside materials during the winter months. These structures are pre-existing, we will not be adding any more exterior structures to the property at this time.


**(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** Angela Heguy  
(Please print or type)

**Mailing Address** PO Box 1332  
Street Address or P.O. Box

Elko, NV 89803  
City, State, Zip Code

Phone Number: 775-397-8788

Email address: angieheguy@gmail.com

**SIGNATURE:** Angela Heguy

---

**FOR OFFICE USE ONLY**

File No.: 3-20 Date Filed: 7/14/20 Fee Paid: \$750 cx# 1094

---

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

A major component of our creative resource is learning to be the best person you can be. It is our goal for the children to use their natural curiosity to explore various aspects of being a good person or neighbor. Having the opportunity to apply these principles in the real world as an actual neighbor will greatly benefit not only the children participating in our programs but the neighborhood and community at large.

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

Families in close proximity will be encouraged to walk or bike to our meetings. Families driving will be encouraged to carpool to further minimize traffic.

**Elevation Plan:**

Picture of the home is provided instead of an Elevation Plan as per Cathy Laughlin.



**RECEIVED**

JUL 14 2020

Acton of the Rubies Supplemental Pages for the Conditional Use Permit Application

Consent from property owner:

I Gladys Burns, property owner of 675 W. Birch St., give consent for Acton of the Rubies/Angela Heguy to apply for a Conditional Use Permit at 675 W. Birch St.

Signature: *Gladys Burns*

Date: *7/14/2020*

**RECEIVED**

JUL 14 2020

---



**Additional Information:**

Family Testimonials:

Angie,

I just wanted to let you know how awesome and wonderful you have made this year. When I first started homeschooling I knew I needed a support system, so we joined a co-op, but lives change and when that ended we weren't sure where to turn. Acton of the Rubies has truly been an answer to prayer. You created an environment for my children to nurture the desire to grow without pressure from parents. The intermittent squabbles that we used to have over doing academic work has almost completely disappeared this year. The growth I have seen in my children is spectacular. They are so much more self motivated. I know that switching to a virtual platform was a challenge, but it really gave me an opportunity to dig deeper into how Acton worked and help me move with my children academically. Thank you so much for adapting with the adventures and encouraging them. We look forward to being back in the fall.

From, Kathy McHan

Acton of the Rubies - 1<sup>st</sup> year testimonial (June 2019)

Although our family was anxious being one of the first-year enrollees in the Acton of the Rubies program, the family-like environment of the studio, that nurtures success and growth of our son's character, have demonstrated the numerous merits of the program. We have seen our son develop an internal drive to learn and discover knowledge on his own, constantly seeking to meet his personal goals. In addition, the family-centric model of Acton has enriched our family's core values and elevated our ambition for a collective excellence in all we do.

Justin B. Milliard

Since starting at Acton of the Rubies, the level of maturity and responsibility for his studies that my son is taking have exceeded my expectations. I am so glad we trusted Acton's philosophy to trust the children and allow them to show what they're capable of. Being in mixed age meetings with younger students has allowed him to practice and strengthen his understanding of foundational concepts while also building confidence through mentorship. At the same time, his own learning programs have allowed him to move ahead through age-appropriate material at his own rate and according to his own ever-changing motivations. Now he wants to learn and achieve his goals because he holds himself to a high standard, not because someone else is.

Since beginning our homeschool journey 2 years ago and using Acton as our homeschooling resource, my son has made 3.5 years of progress in reading and immeasurable leaps in his confidence and love of learning. Having this option for education and community support in Elko has filled an incredible need for our family and is life-changing for our kids.

**RECEIVED**

JUL 14 2020

---



Acton of the Rubies Supplemental Pages for the Conditional Use Permit Application

Lisa Donalson

Acton rounds out my son's social and educational exposure. The guides' quick adaptation to honor social distancing with online engagement is a testament to their timely relevance in this dynamic world.

-Facebook Review from Leslie Creel

**Reference Letter from Jo Reid Girl Scout House property manager:**

Jo Reid  
3 Spring Creek Lane  
Spring Creek, Nv 89815

July 10, 2020

To Whom It May Concern:

I have been involved with Angie Heguy, with the Acton of the Rubies homeschool group, for the last 2 years. We have rented our facility to Acton. We have found Angie a great renter. She has taken great care with our old building in keeping it clean and in good use! She is always on time with rent and providing the forms involved with renting on a timely basis. She has been a joy to work with. We hope that she has an opportunity to find a nice space to host Acton. If not then we would be happy to have the Acton of the Rubies back into our building. Please feel free to call me if you have any questions.

Jo Reid  
775-385-7640

Dear Neighbors,

Hello, my name is Angie Heguy. It is with great respect and happiness that I write you this letter. My grandparents Bob and Gladys Burns, two of my greatest mentors, have kindly invited me to continue our homeschooling journey at their home (675 W. Birch St.). As you know my grandfather passed away on June 4, 2019, leaving his loving wife of 65 years. My grandmother has made the decision to move into a smaller home in April. Instead of selling the home they built and lived in for many years, their wishes are to keep the home within the family.

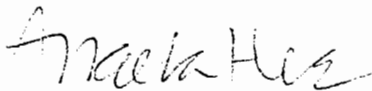
As your new neighbor, I would like to let you know about a 501c3 nonprofit that I created. Acton of the Rubies an affiliate of Acton Academy. Acton of the Rubies is a nonprofit youth organization providing educational resources to the community and homeschool families. Currently, we host our program at the Girl Scout House, in September 2020 we will begin hosting our program at the Burns house (675 W. Birch St.).

Information regarding our homeschool program:

- We operate on Tuesdays, Wednesdays, and Thursdays from 8am-3pm, September through June.
- Drop off is 8am and pick up at 3pm, there may be cars parked in front of the house during those times, drop off/pick up usually lasts approximately 10 minutes.
- We encourage outside play time and breaks for at least an hour a day (spaced throughout the day). Outside play will occur in the fenced backyard (weather permitting).
- Visit us at [actonrubies.org](http://actonrubies.org) for more information.
- Enjoy this copy of Courage to Grow by Laura Sandefer Founder of Acton Academy in Austin, TX. This book is a fun read and will give you further information on Acton Academy.

As the Founder and Guide of Acton of the Rubies, I invite you to please reach out to me with any questions, comments, and/or concerns. Please feel free to contact me anytime. I look forward to seeing you around the neighborhood! Thank you for your time and support.

Sincerely,



Angie Heguy  
775-397-8788

[angie@actonrubies.org](mailto:angie@actonrubies.org)



**Subject:** Re: Acton Academy  
**From:** Angie Heguy <angie@actonrubies.org>  
**Date:** 5/7/2020, 10:45 AM  
**To:** [REDACTED]@frontiernet.net>

Good morning,

I have spoken with my attorney regarding your concerns. They are addressed as follows:

Acton of the Rubies is a non-profit registered with both the Nevada Secretary of State and the Internal Revenue Service. Acton of the Rubies is NOT a daycare, nor is it subject to any other specific licensing requirements from the State of Nevada or the City of Elko.

However, as both my grandparents and myself have a deep love for the neighborhood, we wanted to let all neighbors know our plans and address any specific concerns that we can so that we can all live harmoniously in this neighborhood.

Best,  
Angie Heguy  
Founder/Guide  
Acton of the Rubies  
[actonrubies.org](http://actonrubies.org)

Find a Calling, Change the World!

On Sun, Mar 8, 2020 at 11:35 AM [REDACTED] <[REDACTED]@frontiernet.net> wrote:

Hi Angie, On receipt of your Thank You note on Friday, I feel that I need to say again that [REDACTED] and I have several real concerns about your proposed venture in our neighborhood. As of now, we are not in favor of Acton of the Rubies being located next door to our home. If you are reaching out to the neighbors to get needed approval, please know that we are voting against your plan. I just wanted to make that clear.

[REDACTED]

--

---

**ENTITY INFORMATION****ENTITY INFORMATION****Entity Name:**

RUBY MOUNTAIN ACTON ACADEMY

**Entity Number:**

E0469422017-8

**Entity Type:**

Domestic Nonprofit Corporation (82)

**Entity Status:**

Active

**Formation Date:**

09/28/2017

**NV Business ID:**

NV20171636853

**Termination Date:**

Perpetual

**Annual Report Due Date:**

9/30/2020

**Solicits Charitable Contribution:**

Yes

**REGISTERED AGENT INFORMATION**

**Name of Individual or Legal Entity:**

MCCONNELL LAW OFFICE, PC

**Status:**

Active

**CRA Agent Entity Type:**

CRA - Corporation

**Registered Agent Type:**

Commercial Registered Agent

**NV Business ID:**

NV20111064452

**Office or Position:****Jurisdiction:**

NEVADA

**Street Address:**

950 IDAHO ST, Elko, NV, 89801, USA

**Mailing Address:****Individual with Authority to Act:****Fictitious Website or Domain Name:****OFFICER INFORMATION**☐ **VIEW HISTORICAL DATA**

Title	Name	Address	Last Updated	Status
President	ANGELA HEGUY	950 IDAHO STREET, ELKO, NV, 89801, USA	10/05/2017	Active
Secretary	ANGELA HEGUY	950 IDAHO STREET, ELKO, NV, 89801, USA	10/05/2017	Active

Title	Name	Address	Last Updated	Status
Treasurer	ANGELA HEGUY	950 IDAHO STREET, ELKO, NV, 89801, USA	10/05/2017	Active
Director	ANGELA HEGUY	950 IDAHO STREET, ELKO, NV, 89801, USA	10/05/2017	Active

Page 1 of 1, records 1 to 4 of 4

#### CURRENT SHARES

Class/Series	Type	Share Number	Value
No records to view.			
Number of No Par Value Shares:			
0			
Total Authorized Capital:			
<div>Filing History</div> <div>Name History</div> <div>Mergers/Conversions</div>			

[Return to Search](#)

[Return to Results](#)

RECEIVED

JUL 14 2020

---

Cathy Laughlin

City of Elko

July 14, 2020

Dear Ms. Laughlin,

The enclosed letter was circulated in the immediate neighborhood of 675 W. Birch St. and signed by nine property owners before sending to Angie Heguy (Acton Academy) on July 14, 2020.

Thank you for your attention to this matter.

M. Martin

655 W. Birch St.

RECEIVED

JUL 14 2020

July 10, 2020

Angie Heguy  
Acton Academy  
Elko, Nevada

Re: 675 W. Birch

Dear Ms. Heguy

It has come to our attention your plans to turn the above referenced property into a private school, Acton Academy. It is also our understanding that there are currently 15 students and your program is amenable for up to 20 students.

One of the greatest parts of our neighborhood is the somewhat isolation it enjoys due to the street not being a through street. That will certainly be affected by the addition of this school. We also have concerns regarding the increase in street traffic resulting in +-20 parents dropping off and picking up their children twice a day. Also, of concern regarding the traffic, is the double-blind corner. At best, because there isn't much traffic, it is fairly safe, however, there have been instances of people going too fast and taking the turn dangerously. There is also very little off street parking, so there is an assumption the parents will utilize the street as a parking area, which will directly affect the neighbors adjacent to and across the street from 675 W. Birch Street.

We purchased our home in a quiet residential neighborhood because it was that, a quiet residential neighborhood. If we had wanted to purchase a home with businesses and schools in the neighborhood, we would have done so. To introduce a school to this neighborhood will directly affect our current life and enjoyment, and it may also have a future effect on the value of our home.

After consideration and thought, we have decided to contact you before this project goes any further to express our opposition to your school. As we have yet to hear from the City as to a conditional use permit, we have hopefully saved you any more effort or money in pursuing this endeavor.

We also hope you understand our decision in this matter. We wish you the best of luck and success in your school and wherever your future location may be. Unfortunately, we have to say, not in our neighborhood.

Concerned Neighbors of 675 W. Birch

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



July 27, 2020

ELKO CITY PLANNING COMMISSION

We are submitting comments on the matter before you on August 4, 2020 regarding application for Conditional Use Permit No. 3-20 filed by Ruby Mountain Acton Academy. As property owners at 655 W. Birch St, we have several objections to this proposed business in our residential neighborhood. They are as follows:

- 1) Increase in street traffic, specifically at the blind corner of Dotta Drive & West Birch Streets.
- 2) Lack of adequate off street parking for school staff & parents' picking up and dropping off. Street parking will directly impact adjacent neighbors.
- 3) There will be noise!! This is a quiet residential neighborhood & 15-20 children playing outside will certainly change that.
- 4) The addition of a "business" into this residential neighborhood will surely set a precedent. Future attempts to introduce places of business will be difficult to prevent, if not impossible.
- 5) Unknown as to what the future may bring regarding the number of students and hours/days of operation?

Finally, all of the above have prompted our decision to oppose this venture. We feel strongly that our quality of life will be affected by the presence of Acton Academy and, ultimately, the value of our home.

Thank you all for your attention to this matter and for your service to the citizens of Elko as members of The Planning Commission.

John and Mary Ellen Martin

655 West Birch Street

RECEIVED

JUL 28 2020

*Mary Ellen Martin*  
*John Martin*

RECEIVED

JUL 28 2020

ELKO CITY PLANNING COMMISSION

For your information, the attached letter was circulated in the immediate neighborhood of 675 W. Birch St. and signed by nine property owners before sending to Angie Heguy ( Acton Academy ) on July 14, 2020.

Thank you for your attention to this matter.

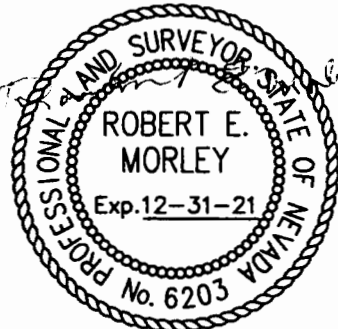
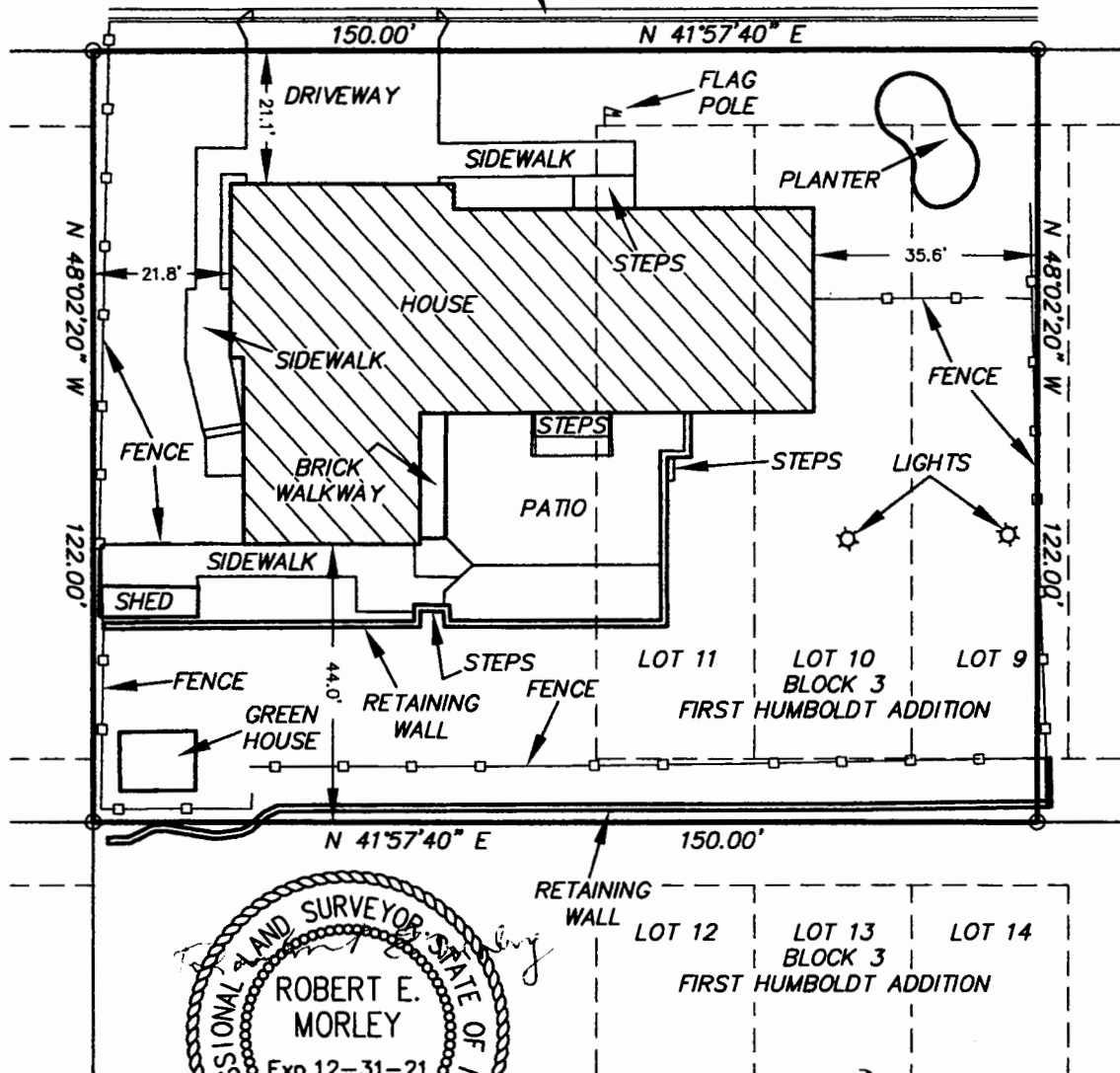
Mary Ellen Martin

RECEIVED

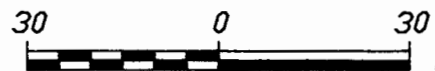
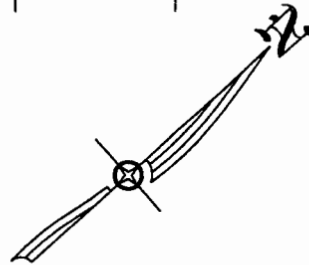
JUL 14 2020

W BIRCH STREET

CURB &  
GUTTER



7/9/2020  
SITE PLAN FOR  
RUBY MOUNTAIN ACTON  
OF A.P.N. 001-073-001  
675 W. BIRCH STREET  
ELKO, NEVADA



SCALE: 1"=30'