

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
6:30 P.M., P.S.T., TUESDAY, JANUARY 5, 2010
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The meeting was called to order by Chairman Jeff Thompson.

Roll Call.

Present: Jeff Thompson, Rich Perry, John Anderson,
Doug Owen, Alene Sutherland.

Absent/Excused: Reece Keener, Brent Elmore.

City Staff Present: Ed Wynes, City Planner
Scott Wilkinson, Development Manager
Mike Hecht, Deputy Fire Chief/ Fire Marshal
Jim Conner, Councilman
Kelly Watson, Planning Technician

APPROVAL OF MINUTES: December 1, 2009 – Regular Meeting

Motion: Approve the December 1, 2009, regular meeting minutes,

Action: Approve, **Moved by** Rich Perry, **Seconded by** Alene Sutherland.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

Yes: Jeff Thompson, Rich Perry, John Anderson, Alene Sutherland.

Abstain: Doug Owen.

Absent: Reece Keener, Brent Elmore.

I. PUBLIC COMMENT PERIOD

This agenda item is to provide time for the general public to address the Planning Commission regarding items of concern not specifically listed on the agenda. Action cannot be taken at this time, but a matter can be set on the agenda for a future meeting, as appropriate.

There were no comments made at this time.

II. OLD BUSINESS

A. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS

1. Request for an extension of Temporary Use Permit No. 1-05, filed by Elko County Juvenile Probation Department to allow for an extension for the temporary placement of a manufactured modular building for use as a temporary office and matters related thereto. **ACTION ITEM. THIS ITEM WAS TABLED AT THE NOVEMBER 3, 2009, MEETING AND THE DECEMBER 1, 2009, MEETING.**

The subject property is located at the Elko County Juvenile Facility site on the south side of Silver Street, approximately 500' west of Errecart Boulevard (665 West Silver Street).

Mike Pederson, Elko County Juvenile and Probation, 665 West Silver Street, said in 2007 I was appointed to run the Juvenile Probation Department. At that time we had the trailer. We found out during this request for an extension that our property line doesn't match up with the fence that is between the two buildings. We have involved Randy Brown from the County in helping determine what to do with the trailer and also to determine whether or not the City sees fit for us to continue to try and get a Temporary Use Permit because we don't plan on making this building permanent. Two years ago when the permit was approved we were asked to upgrade the parking lot and that was done this past summer. We are trying to decide what to do in the future so we don't continue to waste your time every year with this building that we use for programming. We would like to extend it longer than the one or two years that we have had in the past or if there is a need to continue to do this.

Randy Brown, Director of Planning & Zoning for Elko County, said in reviewing the permit, I don't understand what the need was originally for the permit itself. Elko County and the State of Nevada created this facility in the intentions of operation of the juvenile detention facility in connection with the jail facility. The temporary use permit provides the City of Elko a means to make sure a building becomes permanent for future tax revenue to make sure it is put on a permanent foundation to become real property. As you all know we are all driven by budget. This facility has been in place for numerous years. It has been difficult between the City and County budgets to provide for capital budget to provide for capital outlay for this type of situation. I am not aware of any future planning for the change in the use at this point in time. Originally it was placed for a temporary type of situation but they turn into more of a permanent structure than we would like. It is difficult to project what we are going to do with the facility in the future. There may be a future addition to the building to accommodate what is taking place in the structure at this point in time. If there was some way we could extend this past a one or two year period to provide more time for future planning. It hasn't come to the table before the County Commissioners or anyone as to exactly if we are going to expand this facility. If we want to continue the Temporary Use Permit that is fine but can we project it out to 5 to 10 years and allow us to come back to the City at that point with the decision on the use. Due to budget constraints it is difficult for us to say at this point what our future plans will be for making the structure permanent because it suffices for the needs we have.

Mr. Wynes said there is an addendum to my Staff report that has some revisions from my original comments. What I am asking you to consider tonight is that we give the County a 12 month period and during that 12 month period I would ask that they could answer and it seems like most of the questions that we are asking they are going to be able to answer we don't know and I understand fully why they don't know because in a lot of cases we don't know what is going to happen tomorrow when it comes to money. I would like to have something in writing saying that, at least, and then based upon that I feel that if we can get some type of a resolution as to a time frame we can make an administrative decision to extend the time limit for 2 years at a time. It would not have to come back before you again it would be an administrative approval.

Mr. Wilkinson said our department had a memo dated October 27, 2009, to the City Planner. Those conditions were outlined with regard to making the building permanent. We concur with the Planning Department's recommendation at this time. I would like to stress though the expectation of the City is that all development whether it is federal, state, county or private is

treated equally and should meet City Code. I realize in certain situations certain agencies don't require City approval but our feeling is if they are developing within our corporate boundaries they should develop in accordance with our Code. We would like to see it become permanent. If this was a private business or private owned facility, we would be pressing to it becoming permanent. Revenue does factor in but there are other considerations beyond that. We concur with the Planning Department's recommendation at this time.

Chairman Thompson asked the applicant if they have read all of the comments.

Mr. Brown said my only question would be in reference to your direction of the building being made permanent. We are unsure of how long this building will be in place or whether we will need it next week or the week after. We are in the same situation with this building that the school district is in with their many buildings that are not permanent in the City as well. We have to comply with ADA, building and fire codes. Whenever we build a structure, the City of Elko does not do the inspection. We do the inspection ourselves but we do provide complimentary plans to the City. We are not saying we don't want to comply with the Codes, we are just saying this is a temporary structure. I don't have a problem with the Temporary Use Permit but it is difficult for us to provide the information that Mr. Wynes is asking for because we really don't know. As long as we are complying with the basic code of providing health, safety and welfare to the general public using this, we would ask that we are provided the ability to continue this until we know what we are going to be doing with this building.

Mr. Wilkinson said I would agree that if you are code compliant it is able to be occupied. Mr. Wynes has in the packet that every two years this would be reviewed administratively without coming back to the Planning Commission and what you are asking for is open ended in perpetuity.

Mr. Brown said it was my understanding this would have to come back to the Board every two years. If it can be done administratively, we are o.k. with that.

Mr. Wilkinson said if the Planning Commission grants Mr. Wynes' recommendation, every two years the Planning Department would review it and extend it based on your circumstances.

Mr. Brown said we would be amenable to that.

Mr. Wynes said that is the emphasis I placed upon this. For the first 12 months and then you got the 12 months to get something back to us in writing and then we could look at it and give you two years and an administrative two years after that as long as necessary.

Mr. Brown said that would work out fine and give us the opportunity to be able to do it on a staff level.

Mr. Wynes said it is not necessary to come back before the Board on an administrative reconsideration unless something drastic has changed.

Mr. Brown said if that is the final motion I would ask that the information in the request come to Elko County Planning and Zoning and we can handle it for the Juvenile Detention Center.

Motion: Approve TUP No. 1-05 for a second extension with recommendations in packet and Mr. Wilkinson's recommendations and after that every two years City Planning can approve, Action: Conditionally Approve, Moved by Doug Owen, Seconded by Rich Perry.

Prior to a second to the motion, Mr. Wilkinson said I don't believe my comments would apply at this time since they are not intending to make the structure permanent. You could strike those. I don't believe you need to consider my conditions at this point.

Commissioner Owen said we can strike Mr. Wilkinson's recommendations.

Commissioner Perry asked Commissioner Owen if his intent was to refer to the November 18, 2009, letter with the recommendations 1-10.

Commissioner Owen indicated yes.

Commissioner Perry then made his second to the motion.

Temporary Use Permit No. 1-05 shall be permitted for the next 12 months subject to the following condition:

- 1) The Elko County Juvenile Probation Department shall provide the City of Elko with a letter outlining the long term (10 year minimum) goals and objectives of the modular building on this property to include the following information, in addition to other information as necessary:
 - a) Is the building to remain in its current location for the full period of the long term goals?
 - b) Will the building be removed during this time period? If so when?
 - c) Will the building change uses from an office to a storage facility or other such use in this time period?
 - d) Has the building changed uses since the time the first permit was issued in 2005?
 - e) Will the building be replaced by a newer unit? If so when?
 - f) Will the building be removed to allow for construction of an addition to the current permanent facilities?
 - g) The Elko County Juvenile Probation Department has no idea of what will happen to the building during the next 10 years.
 - h) How and when will the property line problem be corrected?
 - i) The applicant shall provide an occupancy certification from the State of Nevada.
 - j) The applicant shall make such improvements to comply with ADA requirements.

Upon receipt of the above noted letter and other information, staff will review said material and if warranted administratively grant the Elko County Juvenile Probation Department a 2 year (24 months) extension on TUP No. 1-05. Further time extensions could be reviewed upon receipt of a letter requesting an extension, if warranted. Said approval could be administratively granted for a maximum of two (2) years each.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

III. NEW BUSINESS

A. PUBLIC HEARINGS

1. Review and consideration of Conditional Use Permit No. 8-09 filed by R & H, LLC, to consider the requirement for installation of a screen wall in connection with the proposed construction of two (2) 4,000 square feet office buildings in a C (General Commercial) Zoning District abutting an R (Single-Family and Multiple-Family Residential) Zoning District and matters related thereto. **ACTION ITEM**

The subject property is located generally three hundred fifty feet (350') northwest of the intersection of Browning Way and Pinion Road (APN 001-920-070).

Tom Ballew, High Desert Engineering, 640 Idaho Street, said the project is to develop two new buildings on the site that you see on the exhibit board. The issue as I understand it is whether or not a screen fence is required between that property and the property to the west which is residential. We have no objection to put a screen fence on the west boundary. We had shown a retaining wall on the west boundary with a fence on top of it on our plans which the Development Department have reviewed. We don't have any issues with complying.

Mr. Wynes said we have looked at this and the only problem is on the site plan that was provided they address a guard rail and hand rail and not a fence and we are asking that they provide a site plan showing a 6' high fence as is the existing fence on the adjacent property which this will abut and connect to. Otherwise we have no problems with this application and recommend approval subject to the conditions as outlined.

Mr. Wilkinson said we are in agreement that a 6' high chain link slatted fence on top of the retaining wall would be appropriate which is similar to the Conditional Use Permit that the Planning Commission had put in place for the adjacent property to the south.

Mr. Hecht said I don't have anything with the fence but on the access where the fire gate is we would like to see if it is possible to have a reciprocal access which would provide better traffic flow for the two new buildings and the existing buildings around there. They could go around the back side of the existing buildings and there is an access to Winchester off of the complex. We recommend that the property owner contact the property owner to the west and create additional access through their property to Winchester.

Commissioner Perry said that is something that should be taken up outside of this because this is just one item which is the fence.

Mr. Hecht said I am making a note of it so they have a heads up.

Commissioner Perry asked Mr. Wynes if this is on the agenda because the Planning Commission has to approve the type of fence.

Mr. Wynes said you have to approve the idea of the fence and the fence itself.

Commissioner Perry asked if that was not clear in the drawing presented originally.

Mr. Wynes said the original drawing does not show a fence it shows a handrail and I look at it as it doesn't say chain link fence with slats.

Mr. Ballew said we showed guardrail fencing which is defined by the Uniform Building Code which is that section that says you can't have an opening larger than four inches and it has to

withstand people running into it. We didn't show handrail on it. We don't have any objection to changing that to a screen fence which you basically would not be able to see through.

Commissioner Perry said one of the suggested conditions from City Staff is to have this completed within one year, is a year a reasonable amount of time?

Mr. Ballew said we have done the mass earth work and we were going to try and push the building permit through a little quicker and then that is when it got cold and we stalled. They want to get it done and I don't see any reason why a year isn't plenty of time. The reality is that the retaining wall is going to have to go in along with the building to some extent. I would guess the screen fencing is going to be in for quite some time before the building is actually ready to occupy.

Commissioner Perry asked Mr. Wynes based on your recommendations of January 5th and what we heard here tonight, are your recommendations for conditions 1-4 still the same?

Mr. Wynes said there is only one minor modification and that would be that I say four and it should be six feet on number three on the last sentence.

Commissioner Perry said the original screen wall fence was actually six feet chain link fence with slats. That is what I was wondering because you said something different.

Chairman Thompson said it says the original was a four foot chain link fence with slats but the original was a six foot chain link fence with slats.

Mr. Wynes said I think where we are at is how high is the existing fence?

Mr. Ballew said when you say original are you talking about the other properties?

Mr. Wynes said yes.

Mr. Ballew asked if it is four feet.

Mr. Wynes said is it four or six.

Mr. Wilkinson said it is six feet.

Mr. Wynes said we want to continue that same height around. In the Staff report on the original it was forty-eight inches and that is what I used and then I realized it was six feet.

Mr. Ballew asked if what we are dealing with is the west boundary?

Mr. Wynes said yes.

Motion: Conditionally Approve CUP No. 8-09, Action: Conditionally Approve, Moved by Rich Perry, Seconded by Doug Owen.

Prior to a second of the motion Mr. Wilkinson said I have a question on condition number 1 before we move on. The screen wall actually varies in height and I am not sure that forty eight inches is relevant. What does the site plan indicate on the exhibit board?

Mr. Ballew says the retaining wall is what varies.

Mr. Wilkinson said I am not clear on condition one from our Planner. I think it needs to be clarified.

Mr. Wynes said one should be the same as three. It should be six feet because I am talking about the screen wall not what is on top of the retaining wall.

Mr. Ballew said so you want the total height of the retaining wall plus the screen wall to be six feet.

Mr. Wynes said the top of the chain link fence.

Mr. Ballew asked if the chain link itself is to be six feet regardless of the height of the wall.

Mr. Wynes said right.

Mr. Ballew said that is fine.

Mr. Wilkinson said I would clarify condition 1 as it was just read into the record then.

Commissioner Perry changed his motion to conditionally approve Conditional Use Permit No. 8-09 subject to the following conditions:

- 1. That the Conditional Use Permit No. 8-09 is approved for a 6' high screen/wall fence which is not in accordance with the submitted site plan labeled Exhibit "A". A new site plan shall be provided with the appropriate drawings of the screen/wall fence.**
- 2. The Conditional Use Permit will expire if not activated within one year of the date of approval.**
- 3. This screen/wall fence shall be constructed, in the same manner as the existing screen wall fence and be of the same color as approved as a part of CUP No. 9-00. The original screen/wall fence was a six foot chain link fence with slats.**
- 4. This screen/wall fence shall be constructed, in total during the construction of the building(s) as shown on the site plan. The construction and maintenance of this fence shall be the responsibility of the developer of the property, not the lessees of the building(s).**

Commissioner Perry's findings are that the Conditional Use Permit is in compliance with the Land Use Component of the Elko City Master Plan, Streets and Highways Component of the Elko City Master Plan, Section 3-2-3(J) of the City Zoning Ordinance, Section 3-2-10B of the City Zoning Ordinance on General Commercial District and Section 3-2-18 of the City Zoning Ordinance on Conditional Use Permits.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

- 2. Review and consideration of Variance No. 4-09 filed by Carmen Martin to permit two tandem parking spaces in the front of the home. A portion which will encroach into the setback area. ACTION ITEM**

The subject property is located generally on the southeast corner of Barite Street and Bell Avenue (3386 Bell Avenue).

Carmen Martin, 3386 Bell Avenue, said I am here for a permit to grant two tandem parking spaces in front of my house. I feel if we build an extra parking space it would damage not only the neighborhood but the whole structure of the house more than it would benefit. I live by myself and there is plenty of off-street parking. There is a retaining wall where five cars could easily park.

Janice Barton, 3356 Bell Avenue, gave an overview of the inspections she had to obtain when she sold a house located in the same area and asked why the home on the subject property was sold to the applicant without similar requirements being met and the correct permits being obtained by the seller prior to the applicant purchasing the property.

Mr. Wynes said we have looked at this application and we have determined that Staff can recommend approval of this application subject to the conditions as outlined in the Staff report. The rationale behind the initial problems started when the fact that the property owner of record becomes responsible for the corrections. At the time Ms. Martin was the property owner of record, she is the property owner of record at this time so she must correct the problems. She has been in contact with the realtor. She is working with the previous owner and there are some payments that he is going to be making in lieu of some of the fees that she is going to have to pay for the fee for this application and some of the other things. She is not going to be out anything for this. She is going to get this corrected so there are no more problems involved.

Mr. Wilkinson said a lot of what Ms. Barton had discussed and what Ms. Martin had discussed is true. It doesn't fall under the jurisdiction of the City. Those are legal issues between her, her realtor and the seller. They don't pertain to the City at all. We have before us a request for a variance. I have provided some background information on what has transpired over time. Before this parking area was converted to covered parking and then ultimately a garage and then enclosed living space there was tandem parking available on the property. The reason inspections weren't done is because there wasn't a building permit applied for. The City is unaware of this happening until the sale goes through and then the seller needs a building permit and these issues come up. A request for a waiver of the off-street parking came before the Planning Commission and was denied so we have a variance request before us. What we have available on this property is tandem parking. There is room enough to meet one of the 9X20 spaces as defined in City Code. The additional parking would only be 10' so it would be short from what is required by Code. Our Code at this point in time doesn't allow for tandem parking. However, when this site plan would have been reviewed by the City and the location of the home approved, probably due to topography, that type of parking was approved. That type of parking has been approved all through that neighborhood. The tandem parking is probably less of an issue; it is really the 20 foot depth that is required. Our Department is recommending approval of the variance with the condition that the applicant is able to obtain the required approval and permits for the structure. If she is not able to obtain those permits and get the C of O for the house, we believe the variance wouldn't be appropriate and all of the remodeling would have to be undone anyway.

Mr. Hecht said the Building Code needs to be complied with. Regarding smoke detectors, for every house sale there is in the City we push that the batteries be changed out if they are not operable; replaced for the safety of everyone.

Ms. Barton said I was commenting on how thorough the home inspection was before I sold my house but it seemed like there was no home inspection for the applicant before she bought it. I wasn't complaining but I felt the inspector did a good job for me and why didn't the inspector do a good job for the applicant?

Mr. Wilkinson said you may have hired an inspector and I am not sure if Ms. Martin did or not but I don't believe the City does home inspections when a home is sold.

Mr. Hecht said if we are requested we will go in and do a fire, life, and safety inspection prior to the sale.

Jacques Errecart, 518 Commercial Street, said I wanted to mention regarding the condition from the Engineering Department the plans had been approved by the Building Department so there is not a hold up there.

Commissioner Perry asked Mr. Errecart if he had done the plans after the construction was complete.

Mr. Errecart said that is right.

Commissioner Perry said the intent here is to put them through but this was all constructed by the previous owner without any plans.

Mr. Errecart said that is correct and when the seller started to pursue the sale so he could move at that point he became aware that he needed to get that situation corrected and that is why he contacted us.

Commissioner Perry said all of the houses up and down the street either have garages or carports. This one was modified and denied the ability because that garage or carport went all of the way through creating this problem. There is not a lot of room up there. My biggest concern is can you get two cars in there without blocking the sidewalk and causing a safety hazard.

Mr. Wilkinson said we have considered that, we have 30' available to the property line. Twenty feet is substantially more depth than is typically required for smaller cars. That is a question that you have to answer tonight.

Commissioner Perry asked the applicant if she is parking two cars there now in tandem.

Ms. Martin said yes, sometimes, when my daughter comes to visit but they fit well without intruding on the sidewalk. I think we are forgetting that the garage has a porch so there is space there to park.

Commissioner Perry said I can see that there is some indentation but that is my concern from the standpoint of safety can you really get two cars in there and you are not going to try and put two motor homes that stick out into the sidewalk. As you say, people park things that really shouldn't be parked along there and if these are sized for two normal size cars and if we approve this and someone goes out there one day and there is a motor home and a big truck there. I think it needs to be built into the conditions that the cars can't block the sidewalk.

Ms. Martin said I assure you they will not. I have a huge retaining wall and the neighbors in front park motor homes and stuff there but they are not mine. They are not in front of my house.

I wouldn't do anything illegal. I became aware of this not being legal in July and I bought the house in January and I was told that everything was going to be resolved regarding the permit. Mr. Errecart had already done the blue prints so I trusted them, the real estate agent and the prior owner that it would be fixed because they even gave me a date of February 11, 2009, that everything would be resolved. I trusted them. In July, 6 months after buying the house, I got a letter that I need to correct this. I have to apologize to the Commission, I didn't know and nobody notified me that it didn't go through. This is my situation and I would appreciate it if you would approve this permit because it has been shocking enough moving to Elko and not knowing anyone and buying a house from people I shouldn't have trusted. It has been traumatizing. I have never done anything illegal and this is very stressful for me. I park my car in the porch and half of it fits and then my daughter parks behind me and there is no problem.

Mr. Wilkinson said I believe the condition not to block the sidewalk would be appropriate for the record if you were to grant this variance.

Mr. Wynes said condition 3 on the last page of my Staff report, the applicant can not park over the property line in the City street right-of-way unless the street right-of-way has been vacated or a revocable permit to occupy City of Elko property has been applied for and approved.

Ms. Martin said I don't understand any of that.

Commissioner Perry said that is otherwise known as the sidewalk. We can word that to say sidewalk.

Chairman Thompson said unless the City is willing to give you the property and they are not going to give up their sidewalk.

Motion: approve Variance No. 4-09, Action: Approve, Moved by Doug Owen, Seconded by Rich Perry.

Commissioner Owen's findings are that they conform to applicable sections of the Elko City Master Plan, Streets & Highways Component of the City Master Plan, Section 3-2-5(E) of the City Zoning Ordinance-R (Single Family and Multiple Family Residential) Zoning District, Section 3-2-5(G) of the City Zoning Ordinance-Area, Setbacks and Height Schedule, Section 3-2-22 of the Elko City Code-Variance Procedures. The property is characterized by specific circumstance or feature. There is steep topography on the rear of the lot that precludes the house from being moved any further back on the lot to accommodate any additional site parking. The unique feature does result in practical difficulty or hardship. When the house was constructed on the lot there was limited parking and with the enclosed garage there is inadequate space for two 9'x20' parking spaces on the property, but there is enough room for two tandem parking spaces in front of the garage. With the location of the front door and a large window on the garage end of the house to provide parking in front of the house would not make for an appealing situation. The circumstance is unique and does not generally apply to other properties in the area or vicinity. Most of the homes constructed without garages in the subdivision have been located on relatively flat lots, such that there is room for parking along the side the house. Granting of the variance will not adversely affect other properties or affect public interest, health, safety or welfare, sight distance, visibility, size, height, mass of structure. Granting of the variance will not impair the purpose and intent of the Code. The specific code section requested for the variance should not be excessively compromised. Granting of the variance will not affect natural resources.

Commissioner Owen stated and any other recommendation in our packet and also Mr. Wilkinson's recommendation that the property owner is able to obtain the required approvals and permits for the structure from the City of Elko.

Commissioner Perry's second to the motion included modifications that the Variance be conditionally approved. He said Commissioner Owen had mentioned the building permit but the two conditions in the Staff report should also be included. The variance is subject to the following conditions:

- 1. The variance is granted for the reduction of the required parking area as shown on site plan labeled Exhibit "A".**
- 2. The applicant cannot park over the property line in the City street right-of-way otherwise known as the sidewalk unless the street right-of-way has been vacated or a revocable permit to occupy City of Elko property has been applied for and approved.**
- 3. Condition number one contained in the memorandum dated December 22, 2009, from Scott A. Wilkinson, Development Manager, to Ed Wynes, Elko City Planner, stated as follows:**
 - 1) The property owner is able to obtain the required approvals and permits for the structure from the City of Elko.**

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

B. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS

- 1. Review and consideration of Temporary Use Permit No. 2-09 filed by Wireless Beehive.com, Nevada LLC., to allow the placement and use of a mobile building as a temporary sales office, and matters related thereto. ACTION ITEM.**

The subject property is generally located approximately 585 feet southeast of the corner of Idaho Street and Manzanita Drive (1859 Manzanita Lane).

Gary McKnight with Wireless Beehive said I am not sure what they plan on doing but it is an 8'X40' building that they want to place there for storage and have an office. I was told that there was a concern about dust issues but they told me they were either going to put gravel or pave it.

Mr. Wynes said Staff has reviewed this application and recommends approval subject to the conditions contained in the Staff report.

Mr. Wilkinson said we are also recommending conditional approval for the Temporary Use Permit. We would like to go further and in order to be consistent; I will bring Fedex up as an example. Fedex was required to do public improvements on Idaho Street. They were required to put in hard surface parking, ADA access and other improvements. They were allowed to gravel the truck parking area or the yard area. We are recommending that the Planning Commission consider the same approach with this Temporary Use Permit. We are recommending that the applicant submit site and civil improvements for review and approval by the City of Elko. Those would include curb, gutter, sidewalk, street improvements as required for ingress and egress,

accessing the property, hard surface parking including parking in compliance with City Code 3-2 17. That would be our expectation and recommendation to the Planning Commission. A second condition would be that they complete those site and civil improvements prior to the certificate of occupancy. Our third recommended condition would be, this conflicts with the recommendation from the Planning Department, that the temporary use not be longer than 5 years. It may be appropriate for the Planning Commission to consider a longer term temporary use if the applicant is going to make that type of investment into the infrastructure within the City of Elko. I am going to speak for Curtis Calder the City Manager; he had recommended a deferral agreement for those improvements. His recommendation was based on the way the agenda was written. He thought the property was on the east end of Manzanita where it intersects Idaho Street. I had a conversation with him and he understands it is on the west end of Manzanita within the City and he feels it is appropriate that the civil improvements be completed now rather than later. We had a comment from our Civil Engineer with regard to a deferral agreement with the civil improvements required after two years. That was based on a recommendation of a temporary use for two years. I talked with our Civil Engineer this afternoon and the site doesn't meet any of the few criteria that are listed in the Code for a referral at this point in time. It is not isolated. There is no topography or drainage issues there and his comment was based on a temporary use for two years and then if it went into a permanent use that the improvements would be completed. After discussing consistencies with projects such as Fedex, he would agree that the civil improvements should be completed now rather than later also.

Chairman Thompson said you indicated they are agreeable to the terms does that include curb, gutter and sidewalk?

Mr. McKnight said that I would have to talk to them about. They did say that they would asphalt the area.

Mr. Wilkinson said I am not sure that they don't just envision a parking area. Maybe this needs to be tabled until the business owners could be present to address these issues.

Mrs. Watson said we received a phone call from the applicant and they had asked us to send the information to them by fax or e-mail in case they didn't receive it by mail. They should have this information and they had indicated they were going to send one of their local employees to the meeting. They felt they had indicated everything in their application.

Chairman Thompson said are they aware of Mr. Wilkinson's recommendations?

Mrs. Watson said we did not receive a phone call from them after we had sent the information. We sent the information by mail and either by fax or e-mail. They should be in receipt of this information and we haven't heard from them with any questions.

Mr. McKnight asked if the information about the curb and sidewalk was sent.

Mrs. Watson explained that the portion of the Planning Commission packet is sent to the applicant with all of the recommendations.

Commissioner Perry asked Mr. McKnight if he was the local manger for the company.

Mr. McKnight said kind of like that.

Commissioner Perry asked if there was currently an office.

Mr. McKnight said no, not here.

Commissioner Perry asked what is this office going to be used for?

Mr. McKnight said mainly for storage and I don't know if they are going to have someone in there to take applications but that is what I was told. We have a building across the road where our fiber comes in and that is where we get our internet.

Commissioner Perry asked then if the applicant owned the property.

Mr. McKnight said yes.

Commissioner Perry asked what the intent is as a mobile mini office. Is it for customers to come sign up for the service or do they do that over the phone? Or is this just where you are going to have your truck and your employees to go out and work.

Mr. McKnight said I think there will be a fax machine and people taking applications will fax them over there.

Commissioner Perry said then the intent is to have customers park here and conduct business.

Chairman Thompson indicated the application states temporary sales office for Nevada customers.

Commissioner Perry asked if the intent was to eventually have a permanent office on this lot.

Mr. McKnight said yes, that is probably what they have in mind. I can't talk for them because I don't know. If it works out they will probably put a permanent office there.

Mr. Wilkinson said the application states that and I would take it that they would make the location permanent. He read the information from the application. This is what Fedex had proposed.

Chairman Perry said I remember that and did we require curb, gutter and sidewalk on all of that?

Mr. Wilkinson said yes. I am not sure if I actually had a condition on that or if we had already had plans on that. I had met with Lostra Engineering before it came to the Planning Commission and we had discussions about what would be required by the Development Department and it was those improvements. It may have come to you as a condition after that but we had worked that out with the engineer and the property owner before it came to you that these would be required and they were showing them on the plans when they came before you for the temporary use.

Commissioner Perry said right now we don't have those in the plans. There is no detail there at all.

Mr. Wilkinson said we have no plans right now.

Chairman Thompson asked Mr. Wilkinson if his recommendation would be to table the item to a future meeting.

Mr. Wilkinson said after Mrs. Watson's comment I would suggest we don't table it. Apparently they have received all of the information. They should have been able to look at the proposed conditions. They have a representative here tonight. If they can't live with the conditions they would have the right to appeal it to the City Council if you were to move forward with the recommended conditions.

Commissioner Perry said that is the only way they would have a hope of getting this thing open by their date.

Commissioner Perry said the Planning Department's recommendations include the temporary use permit for a two year time frame.

Chairman Thompson said we could strike that and extend it.

Commissioner Perry said the Engineering Department's is five years. The only difference is that Engineering is asking for civil improvements.

Chairman Thompson said if they do the curb, gutter and sidewalk, you would say it is two years.

Mr. Wilkinson said our recommendation was five years or less based on what the Planning Commission determines appropriate. I believe the Planning Department's recommendation of two years is typical of a temporary use. I have recommended a longer time frame that is consistent with what you did with Fedex and in consideration of the cost to put the civil improvements in. It is a recommendation for your consideration.

Mr. Wynes said I would stand by what Mr. Wilkinson is recommending. If you want to go to five years, I would have no problem. Since they are going to be putting in some major improvements they should be able to get some return on that money and time they've spent. If you want to look at it in that respect, I would be willing to withdraw my conditions for two years.

Commissioner Perry asked if the whole area is zoned Commercial.

Mr. Wynes said the whole area is, even the residences.

Commissioner Perry asked the applicant's representative if they understood what they were talking about in respect to the civil improvements.

Mr. McKnight asked if the sidewalk and other improvements would be just for the property.

Chairman Thompson said just the property, not for the whole street.

Commissioner Perry said if we move forward on this and there is an approval then there is going to be a need to do the engineering on it and do curb, gutter, sidewalk and parking according to City Code because it is going to be there maybe five years before there is a permanent facility.

Chairman Thompson said we are looking at extending it from two years to five because they would have to make the improvements. Hopefully the main office has this information.

Mrs. Watson said tomorrow after the meeting every action that the Planning Commission has taken is included in a report and we send it out to the applicant. Your home office will get a report that shows the action they took tonight and it will also have on there that they can appeal to the City Council if there are any concerns. That should go out tomorrow in the mail.

Mr. Wilkinson said I would suggest they contact me directly so that they can fully understand what our expectations would be with regard to the civil improvements. There will be utilities required to be run into the property, curb, gutter and sidewalk on two sides since this is a triangular shaped property. There is probably going to be some paving patchback that is going to be required. I think we have a hydrant across the street and be ok with fire protection but we will have to look at that also.

Chairman Thompson said you will have to put in the sewer, water and power.

Mr. Wilkinson said you will have all of your utilities. I don't believe utilities are run into the property right now. I don't believe sewer and water are stubbed into the property. We will figure all of that out. Those plans have to be done by a properly licensed civil engineer within the State of Nevada. It is a little bit of money and they may want to contact me directly.

Commissioner Anderson asked didn't there used to be a small house on that lot where KRJC had their studio. They had power, sewer and water at one point. How much is till usable to hook up to is questionable. There used to be a little house where the radio station was when KRJC moved to the Terraces.

Mr. Wilkinson said there may be utilities stubbed in or they may have removed them, we don't know. They will need to figure that out and show it on plans and submit them.

Commissioner Perry asked if the fifth wheel that is sitting on the property is hooked up.

Mr. McKnight said yes.

Chairman Thompson said there still will need to be some considerable investment to be made to do this.

Motion: Conditionally Approve TUP No. 2-09, Action: Approve, Moved by Rich Perry, Seconded by Doug Owen.

Prior to the second Mrs. Watson asked for clarification on the third condition that the duration of the Temporary Use Permit be no longer than 5 years and that possibly it could be more specific.

Commissioner Perry amended his motion that condition number 3 be modified to read "is 5 years" resulting in the Temporary Use Permit being subject to the following conditions:

- 1. The applicant submits site and civil improvement plans for review and approval by the City of Elko.**
- 2. The applicant completes site and civil prior to a Certificate of Occupancy.**
- 3. The duration of the temporary use permit is 5 years.**

Commissioner Perry's findings are that the subject property is zoned C so the use is consistent. The Temporary Use Permit is consistent with the Land Use and Streets and Highways Components of the City Master Plan, Section 3-2-3 (C) (5) of the Elko City Zoning Ordinance – (Temporary Use Permits), Section 3-2-17 of the Elko City Zoning Ordinance and Section 3-2-10B - C (General Commercial District).

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

2. Review and consideration of Vacation No. 2-09 filed by the City of Elko, to consider the vacation of a portion of the Idaho Street right-of-way located on the south side of Idaho Street across from the Main City Park consisting of an area approximately 60.00 square feet adjacent to a parcel owned by Gerald R. Molyneux and Gwen Molyneux (APN 001-590-022) and matters related thereto. **ACTION ITEM.**

Mr. Wynes said the Molyneuxs have owned the property to the east of this. That property in question used to be where the big billboard was at. The City sold that and tore down the billboard. The Molyneuxs bought it and if you notice up in that top corner (on the image shown on the screen from Pictometry) there is a jog in that. The people on both sides of that property have gotten their right-of-way. They want to square that line up along the right-of-way for Idaho Street. It was never done originally because the City owned it and there was no reason to do anything with it. When we sold it we ended up with this minor problem that the Molyneuxs want to get corrected. They are going to be paying for everything except the application and we filed the application and we are doing the processing. It is our application. As City Staff we recommend approval of the application.

Mr. Wilkinson said we are recommending conditional approval. The biggest issue we have is when we sold that piece of property, we have a water line that runs approximately down the center length wise and we need a utility easement recorded over that. If we were to vacate this additional 60 square feet that easement needs to be extended up to the right-of-way line. It is important that we get that easement. We are recommending that a 20' wide public utility easement centered over that existing water line is recorded prior to the recordation of the resolution that abandons the right-of-way. In condition 2, I qualified this; if possible, we would like to have that wording included in the resolution. Our Planning Department will have to check with our attorney to see if that can be done. Our third condition and our City Planner has already discussed it is that the recipient will be responsible for all costs associated with obtaining the proper legal descriptions and recordation associated with the abandonment of the right-of-way and the recordation of the public utility and drainage easement.

Motion: to forward a recommendation in favor of Vacation No. 2-09 to the City Council subject to conditions, Action: Approve, Moved by Rich Perry, Seconded by Doug Owen.

Recommended conditions for approval of Vacation No. 2-09 as follows:

1. **A 20 foot wide public utility easement centered over the existing water line crossing the parcel conveyed to Molyneux by doc#611249 and the Right-of-way is recorded prior to recordation of the resolution abandoning the Right-of-way.**
2. **If possible, the above condition is included in the resolution abandoning the Right-of-Way.**

3. **The recipient will be responsible for all costs associated with obtaining a proper legal description(s) and recordation(s) associated with the abandonment of the Right-of-Way and the recordation of the Public Utility and Drainage easement(s). The recipient is Mr. and Mrs. Molyneux.**

Commissioner Perry's findings are that the vacation is consistent with the Elko City Code Section 8-7-3 on Street Vacation Procedures, the Streets and Highways Component of the Elko City Master Plan, Land Use Component of the Elko City Master Plan, NRS 278.480 on Vacation or abandonment of Streets or easements and Elko City Code Section 3-3-75 Reversions to Acreage. There is not a need to retain the right-of-way or easement for public use or purpose. The right-of-way and easement is excess or surplus and does not fulfill any specific function related to traffic flow, circulation or the extension of public utilities or services. The vacation is in the best interest of the City. This vacation will absorb unproductive right-of-way into adjacent property and eliminates long term maintenance objectives. The vacation will not materially damage persons or property; no property is being deprived of access or utility service potential. The vacation is in conformance with any applicable Master Plan Component, Subdivision or Zoning Ordinance regulations or neighborhood development plan.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

3. **PLANNING COMMISSION ORGANIZATION: Election of Officers Pursuant to Section 3-4-3(A) of the Elko City Code. ACTION ITEM**

- Chair
- Vice Chair
- Secretary

Mrs. Watson gave an overview of the City Code that required elections in January of each year. There would need to be a nomination and a vote for each office. If the current officers want to indicate whether they are still willing to serve in their office, that would be a good start.

Chairman Thompson indicated he would like to continue as chair and suggested that Commissioner Keener would be willing to continue as secretary.

Commissioner Perry said I am still willing to serve.

Commissioner Owen made a nomination for all of the current officers to retain their positions.

Vote: unanimous by a roll call vote (summary: Yes = 5).

Yes: Jeff Thompson, Rich Perry, John Anderson, Doug Owen, Alene Sutherland.

Absent: Reece Keener, Brent Elmore.

IV. REPORTS

- A. Summary of City Council Actions.

Mr. Wynes said at the last City Council there were not Planning Commission actions on the agenda.

B. Summary of Redevelopment Agency Actions.

Mr. Wynes said the Redevelopment Agency met in December and reviewed the alley abandonment between 10th and 11th and passed a recommendation on to the Council to approve that. They also discussed a public/private agreement related to property at the corner of 9th and Railroad Street and tabled said action until the 12th meeting at which time they will hear more information and hopefully make a recommendation. The Advisory Council met in December and they discussed a lot of detailed downtown buildings and the chairman wanted members to go out and take pictures of the best examples of architectural details so they could tell the consultant what they would like to see on the entry way sign if one is ever constructed.

C. Professional articles, publications, etc.

1. Zoning Bulletin
2. Zoning Practice

D. Preliminary agendas for Planning Commission meetings.

Mr. Wynes said right now we don't have anything for the next Planning Commission meeting.

E. Elko County Agendas and Minutes.

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

G. Staff.

Mr. Wynes said I would like to invite two members of the Planning Commission to the meeting Friday at 3:00 which will be in the Building Department conference room when we sit down with the consultant team for the first time. I am not asking for a vote I am just inviting two of you to attend if you would like to. It is an open invitation to any of you.

Chairman Thompson said I know there are at least two of the Commissioners wanting to attend.

Mr. Wynes said that is why I am asking for two. I don't know how long it is going to take.

Chairman Thompson asked if it is open to more than two.

Mr. Wynes said I would rather not have it more than two because then we are going to run into public meetings. If we keep it at two we don't have any problems with that.

There was some further discussion and Chairman Thompson and Commissioner Perry indicated they would attend the meeting.

Mr. Wilkinson asked Mr. Wynes as we work through developing the scope did you intend on bringing that back to the full Planning Commission?

Mr. Wynes said if there is nothing on the next Planning Commission agenda we will schedule the meeting for discussion about what we have been discussing and where we are going with the consultant firm. This first meeting is going to be a this is where we want to go, where do you want us to go. Everyone has questions and I think we need to ask as many of them and get as much input to them as we possibly can.

Mr. Wilkinson said after we were able to develop a scope and then they would provide a cost estimate to us, we would still have to determine whether it is within our budget and we would still have to get Council approval to enter into that agreement.

Mr. Wynes said it would come to Planning Commission for a recommendation to the Council.

Chairman Thompson said that is how the process is as far as the Master Plan goes.

Mr. Wynes said you are going to have a lot of work ahead of you next year. If it is not items before the Planning Commission, it is going to be reviewing the work that is being done and either concurring with it or recommending changes.

Commissioner Perry asked Mr. Wynes if that is what you envision that this is going to be, a year long process.

Mr. Wynes said I would argue that this is going to be a minimum of one year. Most of the consultants gave us a timeline of realistically a year maybe plus to get the processes complete and give us a final product.

Mr. Wilkinson said the RDA is looking at possibly trying to engage the same consultant to update the Redevelopment Plan that would be a separate process than the Master Plan.

Commissioner Perry added with separate money.

Mr. Wilkinson said correct. The RDA has taken action to pursue the possibility in engaging a consultant. They need to cost that and then the Agency would have to approve that expenditure.

Mr. Hecht said on a Conditional Use Permit I thought that you could put conditions towards a Conditional Use Permit. Is that correct?

Mr. Wyes said correct, you can.

Mr. Hecht said you are telling me I can't bring up stuff for a Conditional Use Permit towards something else.

Mrs. Watson gave an overview of the Code and how the Conditional Use Permit reviewed tonight was for the requirement of a screen wall only. It is an actual permitted use.

Mr. Hecht said but I was looking at the flowsheet that was attached which have my comments on there for previously. That was attached to the packet so that is why I thought I could bring that up.

Mrs. Watson explained the Conditional Use Permit as the process for review of the required screen wall and nothing else because the use is permitted in a Commercial Zoning District.

Mr. Wynes said your comments are well taken but belong in the building permit review process.

Mrs. Watson further explained that if the development was not adjacent to a residential property we would not go through this process. The reason we did was because they are adjacent to residential property and the Code indicates a screen wall may be required and that is what it was being reviewed for not the whole development. You are going to review the complete development through the building permit process and include comments regarding what is allowed in the Code.

Mr. Hecht said I just thought it should be brought up because it affects the fence the way it is installed due to the change if the access is changed and I want them to be aware of what is coming up.

Commissioner Perry said all we could act on was the fence.

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

IV. ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Thompson, Chairperson

Reece Keener, Secretary