

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINTUES
6:30 P.M., P.D.S.T., TUESDAY, MAY 4, 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, Reece Keener, John Anderson, Brent Elmore,
Doug Owen, Alene Sutherland

Absent/Excused: Rich Perry

City Staff Present: Curtis Calder, City Manager
Ed Wynes, City Planner
Mike Hecht, Deputy Fire Chief
Scott Wilkinson, Development Manager

Others Present: Jim Conner, City Councilman

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES: April 6, 2010 - Regular Meeting

Motion: Approve the minutes of April 6, 2010, regular meeting in their entirety

Action: Approve, **Moved by** Doug Owen, **Seconded by** Reece Keener.

****The motion passed unanimously.**

April 20, 2010 - Special Joint Workshop Meeting

Motion: Approve the minutes of April 20, 2010, special joint workshop meeting in their entirety

Action: Approve, **Moved by** Doug Owen, **Seconded by** Reece Keener.

****The motion passed with Commissioner Elmore abstaining.**

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. NEW BUSINESS

A. PUBLIC HEARINGS

1. Review and consideration of Rezone No. 1-10, filed by Dean F. Boundy to consider a change in zoning from C (Commercial) to RO (Residential Office). **ACTION ITEM**

The subject property is located generally on the north side of Court Street approximately 112 feet west of Fourth Street (327 Court Street).

Dean Boundy, 327 Court Street said I moved to Elko in 1989 and I was employed with Newmont Gold. I bought a house up in the Ivory Homes but after a few years I got a divorce. I was looking for a new place to live and I found this little place on Court Street. As it worked out I was able to purchase the house. Being that it's an old home it was built in 1922, it needed quite a few things to bring it up to date. In about 2003 I decided that I was going to try to remodel this home. When I got into things I saw that conditions were not really very good for a remodel. The back third of the house the sill plate was below grade and a lot of moisture was entering there. There were some severe problems there that I just felt at that time a remodel would have cost me way too much money. I put my head down, went back to work and tried to save up some money until I finally arrived here last year financially ready to make a big move. What I planned on was to demolish this home and put a new home in there. I didn't realize what I was up against. When I went to try to get financing to do this new home I encountered a problem whereby being it was zoned Commercial. I was unable to get financing for a residence on that property, something to do with appraisers and I guess the banking environment that we're in nowadays. They didn't want to talk as long as it was zoned Commercial, so here I am in front of you folks today. I would like to have this zoned Residential Office. The reason I'm asking for this is because I don't want to change the characteristics of the neighborhood being that it's Commercial. However, I have a residence on the east side of me which is a single-family dwelling and then the business Pearl Printing the man also lives in it. He's using that as his primary residence. My main thing right here right now is in order to obtain financing to do this I would appreciate if you could go ahead and make this change in the zoning. My intent here is to put a new modern home on this property and I'm not really planning on changing a whole lot of things. Dimension wise I have to meet a requirement of 1,200 square feet which I will do with the new home. What I plan is new curbs, gutters and sidewalks, everything brand new on that property. I feel that it would be an asset to Elko. I'm willing to spend a lot of money to go and improve this property. I've got the recommendation from City Planning. Mr. Wynes seems to feel we are kind of on the right track and I would hope that you might follow his recommendation and go along with me so I can make this happen.

Mr. Wynes said as you read through the staff report you probably will have discerned that we took some time thinking about how to make this project work. It's kind of surprising from my perspective I would have thought the commercial designation would have gone across Court Street but no, this is all high density residential right down to the center of Court Street. Here is your property and it is right on the edge of residential, so he's sort of caught between two situations. Fortunately, when it comes to the point of the rezone, if you go back through the Code and the Master Plan, the Master Plan says that for high density residential one of the primary

zones to use is RO so therefore this fits. It fits the case. There are no problems with it. We all realize, and I think it became quite obvious very quickly that this property has some characteristics that are not common. First off it's substandard. It's only a little over 3,000 square feet. It's basically a 25' x 100' lot plus half of another lot, but that was probably done prior to 1922, well before anybody had any control over what was going on. We know that at least in 1961 this property was commercial and I would venture to guess if you go back any further than that you won't find any zoning but you will find people using some of these properties as commercial or maybe even residential. The history shows you and the capacity shows you the RO zoning if you can get it to fit would be the best. My argument throughout is that it does fit and from Staff's perspective I feel that we're on the right track. We should give this applicant his due and recommend that there be a rezone of this property to RO. There is going to be some further discussion about this whole issue and I think we'll just let that play out without going any further than that right at this point.

Mr. Wilkinson said I'd like to point out in my background information of my memo dated April 26, 2010, item 2, I erred and said that there was RO zoning to the northwest of the property and it's actually just R zoning. If you look at our zoning map, the way they've divided that commercial and residential it's really based on the topography over there and that's one of the issues that we're going to talk about here. We looked at it and agree an RO zoning would fit in a commercial area along Court Street. That's a given. We have other RO zones along Court Street. It's stated throughout our planning documents that that's kind of the intent, a transitional area over there so I really don't have a problem with that. We took a look at it and the bottom line is it doesn't meet the minimum lot size in an RO zone which would be, we believe in areas characterized by twenty-five foot lots that you could go down to 5,000 square feet instead of 6,000 because typically you don't split lots. However, this one has been split. Based on that, we're recommending a denial of the zoning. Over the last part of last week and Monday we talked quite a bit with our Planner and we've really reviewed the Variance section of the Zoning Code and the Planning Commission can approve variances. A variance for the lot size we believe would be appropriate and we believe we could put together a memo that would justify all the findings necessary for that variance. However, with the development of this property right now what we know, there are going to be at least three variances that are going to have to be approved. Number one would be for the lot size. Number two would be dealing with the off-street parking requirements in the City Code and number three due to the topography on this lot, in the International Residential Code you're required to have a minimum setback from a slope and it's usually based on distance over height with a maximum of fifteen feet. We're going to have this slope requirement and you cannot obtain a variance for that building requirement. The City Council could choose to allow an encroachment into that required setback but there might be some liability issues associated with having a home that close so we would recommend that they wouldn't do that. Those are three that we know about, so we thought you could make a recommendation for the zone change based on the applicant obtaining approval for a variance on the lot size and any other variances for the development of the property that may or may not be required. Those are the three that we know about right now. That might be a way to move it forward without just a denial based on meeting the minimum lot size so we think that's an option you can consider in your action tonight. I believe that I could probably put together some pretty good arguments to support all three of those variances. You're probably going to have a little resistance from our Street Department with regard to the off-street parking requirement. Probably what's going to happen here, when I just looked and of course it's not survey accurate, but using Pictometry I tried to define the toe of the slope and if you look in the application

packet basically what they're proposing is to have a fifteen foot front yard setback and then the structure would consume basically another forty-five feet in distance, so you're looking at sixty feet there. The toe of that slope probably starts about sixty feet deep in that property, so you're probably going to have this structure be right at back of walk unless the applicant were to spend a little money and excavate some material and put it a retaining wall, but once you get over four feet in height on a retaining wall then it has to be engineered and it gets very costly. Those are some things that we could work out but assuming that doesn't take place the structure's going to be back of walk and that'll force parking onto the street. It's a pretty low traffic street, quite a bit of room there for everybody but I do believe you'd have those comments from some staff members that they would not support that. The bottom line is the topography, the size of the lot, there's not a whole lot you can do with it. We would like to see the lot improved with nice development. I think it goes a long ways to improving our city and it's just a situation we have to deal with. I would encourage the Planning Commission at this time to maybe consider recommending to the City Council a zone change conditioned upon the applicant obtaining those variances and additional variances if required.

Mr. Calder said I concur with Mr. Wilkinson's recommendation. I think he's on the right track with this particular item.

Mr. Wilkinson said Mr. Andreozzi was in the meeting that we talked about and frankly he's not in favor of variances for off-street parking but he does understand the situation with this property and there's really just no way around it. At a minimum we would still be looking at a variance to use the front yard setback for parking; that fifteen feet. I believe with the topography there you're going to have the building moved forward and you're going to have vehicles out on the street but I think it's the best that can be done with the property. It is an older home. There are drainage issues already with the home and basically cleaning up the property and having a new dwelling on it I think is something worthwhile trying to accomplish.

Mr. Wynes said the only comment I want to make is going back and looking at some of the old records we have found that there have been at least four or five previous applications for RO zoning, all of them on lots that are less that the required 6,000 square feet and they were all approved with no conditions for lot size changes or anything else.

Chairman Thompson said but there was off-street parking.

Mr. Wynes said most likely. I would assume knowing the location of most of them that there has been parking. Parking was not a major issue.

Mr. Wilkinson said those lots that were zoned RO were over 5,000 square feet and I believe that the intent of area requirements in areas characterized by twenty-five foot lots is 5,000. Basically you can utilize two lots and a requirement of 6,000 square feet requires you to start splitting lots. I think that's probably what they looked at. They're 5,000 square feet. They're in areas characterized as having twenty-five foot lots and then as being appropriate, and yes a lot of those RO zoned properties are utilizing the street for parking.

Chairman Thompson said I looked at the property a few times. Do the neighbors have off-street parking?

Mr. Wynes said nobody has off-street parking.

Chairman Thompson said and they're all commercial.

Mr. Wilkinson said it's a commercial lot but developed residential next door, I believe he has a driveway and he has some off-street parking there but I don't know that it would comply with our current Code. If this lot was 5,000 square feet I think it would meet our minimum requirements of the intent of the Code but it's only about a little over 3,700 square feet.

Chairman Thompson said the other surrounding businesses also have no off-street parking so that would be another reason for a variance.

Mr. Wilkinson said I think we could put together a good case for all the variances and then I'm hoping, and our Planning Department needs to determine this but I would hope that we could have all those variances considered with just one hearing is what I would intend to do if we can do that.

Mr. Wynes said that would be no problem. We can have an application with multiple variances all heard at one time. We would just run them all together and you'd approve or deny everything.

Mr. Wilkinson said in the essence of time if you make that recommendation to the City Council we would have that heard and see if the City Council would keep the same conditions and then if they did, that zone change would be pending until we had a variance hearing this upcoming month, June or maybe we can't make that one but as quickly as we could.

Mr. Wynes said the way I'm looking at this if this is approved tonight it will get on the last May meeting for consideration for first reading and then the first June meeting for final action for Council.

Chairman Thompson said so it won't come back to us until July for the variance?

Mr. Wynes said we could probably try to slip it in. I'm going to have to look into this and see how the Council reacts. If they take favorable action and recommend going forward we may want to just accept the application and put it on June's agenda.

Chairman Thompson said if the City Council said that it was ok to proceed he could proceed.

Mr. Wynes said then there would be a reverse condition on the variance that the zone change be finally approved, so you've got a condition on the zone change that the variance be filed and we could theoretically have a condition on the variance that the zone change be approved or take final action on.

Mr. Wilkinson said I have a question for the applicant, if that timing doesn't work and you're pushed out to a July meeting trying to affect a zone change, would that work for the timing of your financing?

Mr. Boundy said I'm watching the interest rates climb and I'm watching the tax break slip by but I realize what we're up against here so anything that can go in my favor I can take the time. I do

have a problem right now with waste water. Being that this house is so old, the waste water line is cast iron and it's beginning to collapse so I'm having a problem there. However, I can deal with that problem and I can manage probably until the end of July.

Mr. Wilkinson said realistically that may be what you look at for a variance hearing would be July. We'll try to expedite it but the timing of that may not work, I'm not sure without a calendar in front of us.

Chairman Thompson said if the City Council ok's it on approval of the variance then we would be able to go forward in June if they did that in the second May meeting.

Mr. Wilkinson said an application's due twenty-one days prior to the meeting.

Mr. Wynes said that's what I'm saying is we would be able to accept the application on that. That will get us into that July meeting.

Mr. Wilkinson said the Council meeting will be after that deadline but if our Planning Department can figure out how to make that work then that would be great.

Commissioner Keener moved to forward a recommendation of conditional approval for Rezone No. 1-10 to City Council with the following conditions:

1. That the applicant is able to successfully obtain three variances for the following:
 - a. The substandard lot size
 - b. The absence of off-street parking
 - c. The mitigation of the slope requirement

After the motion Mr. Wynes said could you just make that say necessary variances because there may be more than that. Don't get specific.

****Commissioner Keener moved to forward a recommendation of conditional approval for Rezone No. 1-10 to City Council with the condition that the applicant is able to successfully obtain all necessary variances for the property prior to the zone change.**

Commissioner Keener's findings are Rezone No. 1-10 substantially complies with the Land Use Component of the Elko City Master Plan, Section 3-2-10B, Section 3-2-5F and Section 3-2-21.

Commissioner Owen seconded the motion and the motion passed unanimously.

III. REPORTS

A. Summary of City Council Actions.

Mr. Wynes said we did have a reversion to acreage at the last Council meeting. This is the second one we've taken to Council and we've gotten the same comments from this one as we got the last time, why? We are trying to think of a way to get that out of the Council's area of responsibility and we may have found a solution but it's going to take some time and it's going

to take an approval or revision to the Zoning Ordinance. Staff is presently working on the mechanics of seeing if that is a feasible option or direction to go.

B. Summary of Redevelopment Agency Actions.

Mr. Wynes said there was a Redevelopment Agency meeting before the last Council meeting. It started out with dealing with some issues related to which direction they wanted the Council to take in regards to a consultant to do some of their updates of the Plan. We're going to be taking a resolution to the RDA before the next Council meeting to revise the process so the RDA is not meeting on a regular basis but some of the action is taken by the City Council instead.

C. Professional articles, publications, etc.

1. Zoning Bulletin
2. Zoning Practice

D. Preliminary agendas for Planning Commission meetings.

Mr. Wynes said as you know we had our meeting on the 20th of last month. I have heard some rather interesting things. I don't know if any of you have been to the webpage site. Go to the web page site and go to the map. People are putting dots or little markers on the map and then making comments about some of the things, yeas or nays. It's quite interesting. Some of the things are things that we have thought about. Some of the things we never thought of before. I think it's a good idea. We are planning another meeting, another third Tuesday meeting. I'm not positive of where it's going to be at yet. Does anybody have any suggestions? The Western Folklife Center is occupied that week. I have thought about going over to GBC. Does anybody have any suggestions if they would rather meet someplace else? If not I will set up something and get back to you.

Chairman Thompson said I guess if we can think of any we can give you a call.

Mr. Wynes said I would appreciate that. Laura Hanson doesn't want to meet here because she wants it a little more informal. Basically what I think this next meeting is going to be is a give and take between what they're seeing or reading from what they've gotten back so far and how you feel some of those items should be addressed. That's the way it looks. We will of course get you a little more information on that. Mr. Conner, we are not going to make it a formal Council agenda item but we would like to have you present if you can make it to that meeting.

Councilman Conner asked if it was the third Tuesday.

Mr. Wynes said yes. We will get you a notice and agenda and everything else for it.

There was discussion on what date the meeting would be, with the conclusion it was May 18, 2010.

Commissioner Keener asked if that was going to be in the evening again.

Mr. Wynes said it's going to be the same time. Yes, hopefully.

Chairman Thompson said that was a pretty interesting meeting. There were a lot of colored maps.

Mr. Wynes said I got one negative comment. John Carpenter came into my office the other day and said I couldn't understand the maps. They were so foggy you couldn't see anything or tell where you were. I looked at him and said as soon as you leave I will send an email over to Salt Lake City and tell the consultants what your complaint was. I did that and got a real quick note back that said I understand what he said. We are revising our maps to put a little more information so that people have a little better idea of where things are at in town, which direction is up and down.

Chairman Thompson said they could be confusing if you haven't looked at some of these maps before.

Mr. Wynes said I agree.

- 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.

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