

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
6:30 P.M., P.D.S.T., TUESDAY, OCTOBER 4, 2011
ELKO CITY HALL, COUNCIL CHAMBERS,
1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The meeting was called to order by Chairman Jeff Thompson.

ROLL CALL

Present: Jeff Thompson, Doug Owen, Reece Keener, John Anderson,
Alene Sutherland, Greg Thornton, Jose Negrete

City Staff Present: Curtis Calder, City Manager
Delmo Andreozzi, Assistant City Manager
Scott Wilkinson, Development Manager
Jeremy Draper, Civil Engineer
Matt Griego, Fire Chief
Rebecca Hansen, Planning Clerk

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES: FOR POSSIBLE ACTION

September 22, 2011 – Special meeting

****Motion:** Approve the September 22, 2011, special meeting minutes, **Moved by** Jose Negrete,
Seconded by Doug Owen

*****The motion passed unanimously.**

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 public comments made at this time.

II. NEW BUSINESS

A. PUBLIC HEARINGS

1. Review and consideration of Variance No. 8-11, filed by Meridian Pacific Ltd./Elko Junction, for an increase in the maximum allowable sign height from 35 feet to 40 feet abutting street right-of-way having a speed limit greater than 25 miles per hour. **FOR POSSIBLE ACTION**

The subject property is located generally southwest of the intersection of Mountain City Highway and Argent Avenue (2525 Mountain City Highway).

Steve Tenney of Nevada Advertising, 1111 Water Street, is constructing the signs. He passed out photos showing a fully constructed sign and the sign that is the subject of this variance request. The sign sits in a hole below the traffic flow, so they needed to raise it in order to not block the tenants. They need the extra five feet to put the logo on top; anchor tenants are requiring this.

Gary Pinkston, owner of Elko Junction Shopping Center, 1801 Tiburon Blvd., Tiburon, CA, explained he has major tenants such as Joann Fabrics, Ross, Famous Footwear, and Rue 21 who decide their importance on things such as the signs. The leases have exhibits with this particular sign in a conceptual form. We felt very strongly about the heritage of Elko Junction Shopping Center, and wanted Mr. Tenney to design a couple of trains to put on top. Eventually we may have that as a transportation element within the shopping center. When we started putting the sign up by the Raley's entrance the lower signs were below your vision due to the grade differential. With that I had to have Mr. Tenney raise the sign and we ran out of height to put our train on top. Ross took great objection to the fact we weren't living up to our exhibit in the lease.

Mr. Wilkinson explained multiple businesses on the same property and topographic features are criteria that may be considered in a modification of standards for signs, and there are both of those with this property. The Planning Department recommends approval with the three conditions listed in its memo. The Development Department's recommendation and conditions are the same as the Planning Department's.

Mr. Andreozzi noted Public Works supports the approval with no additional conditions.

Chairman Thompson asked if the 40 feet includes the train on top of the sign.

Mr. Wilkinson said that's correct.

****Motion:** Conditionally approve Variance No. 8-11 subject to the conditions listed in the Planning Department's memo dated September 22, 2011, stated as follows:

1. Commencement of construction within one (1) year and completion of the project within eighteen (18) months of the date for approval of the variance.
2. Conformance to the plans approved as a part of the variance application and Building Permit application.
3. The variance is subject to review in two (2) years if determined necessary by the Planning Commission.

Commissioner Negrete's findings are this variance conforms with the City's Master Plan Land Use component, Redevelopment Plan, and City Code Sections 3-2-22 and 3-9.

Moved by Jose Negrete, **Seconded by** Doug Owen

*****The motion passed unanimously.**

2. Review and consideration of Conditional Use Permit No. 5-11, filed by Heartwood, LLC with authorization from Pacific Ridge Elko Argent, LLC, for the construction of an apartment complex consisting of 156 units on 7.39 acres of property within a C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of Bluffs Avenue approximately 470 feet west of Argent Avenue (APN 001-610-085).

Bruce Hessian, 1882 Woodhaven Drive, Henderson, NV, noted our goal was to find property that makes the most sense in the transition from commercial to residential, to coordinate with communities and build in a way that has the least amount of impact. We've redesigned this plan three to four times to come to a concept that fits: 156 units down from 188 and increased parking spaces from standard to almost 2 per apartment.

Dawn Stout, 239 Teal Way, is not opposed to the complex, but wants to know if a traffic survey has to be done. This is a very congested area. There are a lot of school children and it's difficult to get out on Argent since there isn't a traffic signal. If you divert the traffic across Noddle Lane to Spruce Road it's difficult to get out there as well due to the business traffic. Has a traffic survey been done or is it a condition?

Robert Schmidlein, 2976 La Nae Court, is in favor of seeing development there because our town is growing. However, Rabbit Brush Run was required to have two parking spaces per unit. Some of the existing apartment complexes in town overflow into the City streets: N 5th, and Sagecrest. A lot of people who rent often have two vehicles, if not three because a lot of them obtain company vehicles. A traffic study needs to be done. Argent and Bluffs will take a big impact. People who currently use the dirt road coming out onto Bluffs at La Nae fly through there. I'm not sure if signs or something will be put up. Wal-Mart's fence has come down several times because there are kids jumping fences, etc. at all hours of the night. Can an additional fence or wall be put there to prevent some of that? When you go from commercial to residential six foot fences are required, if I'm not mistaken. Pedro Ormaza and Home Depot had to build a retaining wall or sound barrier. It seems a five foot fence is not legit. There is also a drainage swale there, and when the fence was built it sits about five feet above the swale. City Staff and Wal-Mart did a temporary fix when I approached them about it. On the drawings I see a drainage swale going parallel to the Wal-Mart fence. What will be built to accommodate the run off? I don't understand what a riprap retaining wall is. I'm questioning a drainage swale right next to a fence line. If you're going to be draining 7.3 acres, I'm having a hard time swallowing how you're going to go from a 12 foot wide drainage swale reducing down to where it ties into the existing drainage swale at Wal-Mart. I would like to know if some sort of concrete retaining wall could be built to where it ties into Wal-Mart's drainage swale to prevent children from going through. They can put some type of a bar grid across there.

Toby Jonas, 413 Cottonwood Drive, asked about the height, number of parking spaces and noise. Privacy is a concern. When building my house I was told by the City that it would only be commercial development. I really admire my view of the Ruby Mountains. Another concern is

the spring running through there that seems to increase in the spring and fall along with the runoff from the floodplain.

Jacob Martin, 3074 La Nae Drive, noted there have been a lot of things stolen, destruction to their lawn, bricks thrown and lights taken off their house since Adobe was built. La Nae Drive gets the biggest hit because it's going into a dirt road where nobody can see you or cares. Parents who have junior high kids are going to move there since it's close to the school. We had a meeting on this about five months ago and noticed fire trucks would have problems getting through there. We're recommending a fire lane. Adding to the fence issue, I've seen people jump over it. Being younger I understand that kids think it's ok to damage property, but it's not. Kids will be coming home from school trying to impress their friends by taking, throwing and breaking things.

Emily Nielson, 259 Teal Way, also has fire hazard concerns. There needs to be some sort of fire lane. There is a southwest prevailing wind and a potential bottleneck for the road. Will sprinklers be required in all units? What is being done to make sure this isn't a fire hazard? Another concern is with the school district. There will potentially be 450 new people moving into the area. What will happen with Mountain View? There's also the new apartment complex going in up Mountain City Highway and that has a huge population as well. Mountain View is at capacity now. Will the kids be bussed to different areas? Has Elko School District been contacted?

Kurt Criss, 429 Cottonwood Drive, has concerns about the height because people can look directly into their windows. The streets in the area are already busy and people speed. There will be even more traffic and speeding. I'm not sure if the drainage easement we have behind our house extends on to the subject property. What will be done to mitigate the drainage so that it doesn't cause our land to slough? What will the back look like? Will it have the same standards and appealing look as the front? Are setbacks from the property line or easements? I'm concerned about people using our back or side yards for access to walk to the schools. Building No. 4 does not have access on the west side or behind the building to fight a fire. I'm not opposed to something being built there I just want some concerns addressed.

Carl Ramsayer, 3074 La Nae Drive, explained when the mine workers are getting off of work the Mountain City Highway exit is backed up almost to I-80; there's already too much congestion. There isn't a 5th Street exit for those people to access that part of town, so they go behind Kmart. With the additional traffic the area will be overburdened.

James Cooper, 421 Cottonwood Drive, did homework before moving into the area with the understanding that the area below them was commercially zoned and it was to be single story buildings planned to go in there. My personal concern is the height. Many homes in the area were built with a view in mind. My own home has two decks built and designed to overlook the city and look out at the Rubies. Buildings No. 4 & 5 only have a 10' – 15' embankment behind them to lift the homes above this area. When I purchased my home it was the most expensive home purchased in Elko up to that time. I made an investment in my home and an investment in Elko to stay and live here. To take that away would be a big deal. To put a building on the back side of my home where I have two decks built, a patio built and a beautiful view of the Rubies, along with many of the homes that line that Bluffs area should be a consideration. My suggestion would be to limit the height. By doing this (project) you change the idea of how it was expressed to me.

Pedro Ormaza, 225 Silver Street, noted I have no problems with the apartment complex. I just want to bring up some of the restrictions that were placed on ours, so it levels the playing field for all of the developers in town. I would like him to have the solid 8 foot wall between the residential and the commercial, and two parking spaces per unit. City Council said that would be kind of a go forward on the two spaces. I'm in favor.

Mr. Wilkinson asked him to clarify his expectation of the wall location.

Mr. Ormaza noted I haven't looked at this drawing, so I don't know. All I know is we were required to do an 8 foot solid wall separating the residences and our apartment complex.

Mr. Wilkinson said the single family.

Mr. Ormaza noted yes, the single family dwellings separated from the multiple family.

Mr. Schmidlein noted after seeing that these are going to be three story buildings, I too feel Buildings No. 4 & 5 should only be two story since the residences behind are lower. I don't feel it's right for people to be eavesdropping into other's backyards. The Privacy Act type thing would come forward as well. None of that affects my view, but I understand because Building No. 4 will be 20 feet higher than the people on the corner of La Nae and Bluffs.

Mr. Martin explained we also need to consider the buses because teenagers are fast drivers with no experience, and they are going to the schools to pick up their younger siblings. Buses have blind spots and the teenagers have blind spots or don't think. Teenagers are going to pick up their siblings and get home as quickly as possible; they're not going to consider a bus or another vehicle. You're going to have a lot of collisions happening with adding the new apartments.

Mr. Criss seconds the concerns about the buildings blocking views. My home has two levels of a lower patio and an upper deck to take advantage of the views. I would like the consideration of height restrictions for Buildings No. 4 & 5.

Sherry Schofield, 325 Cottonwood Drive, reiterated everything that's been said has been her concerns too. The whole issue of finding that beautiful spot was space, quietude and her view, not 250 odd neighbors in her backyard. The noise will go directly from down below, up.

Chairman Thompson noted we should address the concerns first.

Mr. Wilkinson noted a traffic study is required. The City Engineer has dictated the minimum extent in a memo. There may be offsite improvements required based on that study. The calculated spaces are 1.95 per unit. We're not recommending two per unit because the site layout doesn't lend itself to including additional parking area because of some of the easement constraints. If the Planning Commission chooses to make that a condition the number of units would have to decrease. Any signage at Bluffs and La Nae would be a result of the traffic study. There was concern with a fence between Wal-Mart and the proposed apartments. Code allows the Planning Commission to consider a screen wall between residential and commercial; you have two commercial properties there. We're not recommending a screen wall because you're not screening anything; Wal-Mart is considerably lower in elevation. There were concerns with

cut through traffic, and kids climbing over and under the fence at some of the drainage points. We will talk about that later. I don't find a record to allow the drainage from that property to go onto Wal-Mart. Something needs to be of record to allow that. It has gone that direction from all those properties up there. Wal-Mart acknowledges that because they built some down chutes. The developer will have to provide something of record to perpetuate that drainage onto Wal-Mart's property, or they'll have to re-grade that and take it to the north side of Bluffs Avenue because we have concerns about drainage reporting to La Nae where there is limited storm water infrastructure. Depending on the Commission's approach on the number of parking spaces, if considering limiting height then consider Building No. 4 because that's the lowest elevation on the slope in the back. It's difficult to address privacy concerns since a neighbor in a single family neighborhood could build a two story house to look into your backyard. There are a lot of areas throughout the community where people can see into other people's backyards. It might be your responsibility to try to mitigate that rather than have an expectation that other people aren't going to develop their property and not look into your backyard. The spring is addressed in our conditions; they will have to address that groundwater flow. This site plans shows the ability for an aerial fire truck to access the entire development. There was a comment about Building No. 4 not having access behind it. The Fire Department will evaluate the site plan and determine whether or not they can fight that fire. A lot of buildings in the community don't have access around the entire building; I think you have to be within 150 feet of reach. The school district was contacted, and it's up to them to plan for the future and be able to accommodate growth in the community wherever that growth occurs. There was a comment about the drainage easement. Off the back of their property is a slope easement, so there will be no building encroachments. There's also a drainage discharge point of record, so the development will have to accommodate that drainage onto their property. Our expectation is the rear of the buildings will look like the front, so that's a condition. Setbacks start at the property line not the easements. We can't address traffic off of I-80. There will be future growth in other areas within the community and that's an NDOT issue; Mountain City Highway and I-80 are both under the jurisdiction of NDOT. If the Commission goes with two spaces that may address the height of Building No. 4, but I don't know that it would flow over into Building No. 5.

Mr. Andreozzi explained regarding the speeding and cut through traffic on the current dirt road, it looks like traffic calming measures are being used on the site plan, but there are different types of traffic calming strategies that could be employed that the Planning Commission could consider. Regarding a block wall, the only residential use that's adjacent to this property is on the west and the north. The north side has a good slope, but the topography on the west side is a little more similar. We appreciate people doing due diligence when considering buying property, but the height restriction is 40 feet, so if a commercial development went in there, there isn't anything the City of Elko could do to force them to be a single level development. However, it would still have gone through the conditional use process because it's adjoining residential use.

Mr. Griego noted the concerns about access are being worked on by the Deputy Fire Marshal, Engineering and the developer, specifically the turning radii for the largest aerial apparatus. One concern was the traffic calming measure on the west end being a pinch point. Another concern is snow storage and removal to make sure the apparatus are able to move freely through there. We aren't concerned with access behind Building No. 4. However, we do want to make sure the rear slope doesn't become wild with weeds and things that would be a fire hazard.

Mr. Wilkinson said those buildings will have sprinklers.

Mr. Griego said correct, they will have sprinklers and hydrants throughout the complex, plus there will be Fire Department connections on each building to supplement the sprinkler system.

Mr. Draper explained why he recommends a traffic study, as stated in his memo. The Institute of Transportation Engineers goes out and studies traffic volumes at different locations and different types of complexes. I recommend the limits extend to the intersection of Mountain City Highway and Argent Avenue, and Mountain City Highway and Jennings Way at a minimum. I also recommend the traffic engineer take into account the surrounding schools, specifically Mountain View and Adobe Middle School, so they can address the additional peak time.

Chairman Thompson asked if that was part of the conditions.

Mr. Wilkinson said yes.

Mr. Andreozzi noted a traffic study will evaluate traffic that a certain project would generate based on specific criteria and locations. They may have to provide mitigation in certain areas based on the findings of the study.

Chairman Thompson noted the boundaries that Mr. Draper just outlined are fairly broad.

Mr. Wilkinson went over the Development Department's recommended conditions in the memo dated September 22, 2011, explaining the reason for condition number one is because people get a conditional use permit and believe that can be passed on to another person if they sell the property, but our Code does not allow that. You can transfer a conditional use permit after a C of O has been issued on a property. For condition number three we feel evergreens provide a lot better buffering for sound. A screen wall does not. He then went over the Planning Department's recommended conditions in its memo dated September 26, 2011. Just to highlight, we are not recommending two spaces per unit. City Council did take action on an appeal and required the applicant to provide two parking spaces per unit; we're at 1.95 based on the calculations in front of you. If you look at the site plan it would be very difficult to get the additional parking here; it would probably necessitate a reduction in the number of units.

Brandon Palmer, 964 Country Club Drive, said with the Rabbit Brush Run project we had to remove a building to accommodate parking, so that definitely should be taken into account. Two parking spaces were required, not close to two. A screen wall and landscaping were required, and it had to be solid, no slotted fences. I hope that would be adhered to as well.

Chairman Thompson said I think that was a condition that was agreed to by the developer.

Mr. Palmer said I think it was six or seven in Mr. Wilkinson's list, but it had an option for a slotted fence, not solid.

Mr. Wilkinson noted the properties on the west side are already fenced, but you can consider a solid wall in addition to the landscaping. To build an 8 foot tall screen wall along a slope that's 15' – 20' or more in height does not make sense. The reason a screen wall was required on the other side was to screen multi family from single family, but you really have a slope that accomplishes that here.

Mr. Jonas asked if the screen wall would take place at the property line or at the toe of the hill.

Mr. Wilkinson noted we're proposing a screen wall on the west. We're not proposing a screen wall on the north side at all, but we are proposing evergreens where the slope is 15 feet or less.

Mr. Criss said I've heard a couple comments about the newer requirement of two parking spaces per unit and that shouldn't be strayed from. An obvious fix would be to reduce the height of one or more of those buildings. Regarding a wall on the north, my concern is not screening because obviously we look over an 8 foot wall, but it would provide limited ingress and egress up and down that slope into our property from the rear. There are already a lot of kids that play on that slope, with additional occupancy in the area it might cause slope stability concerns if everyone's always trampling up and down the slope.

Mr. Wilkinson said one condition is they provide slope stabilization; probably riprap.

Chairman Thompson asked him to explain riprap.

Mr. Wilkinson noted it's basically rock. It's difficult to put up a screen wall to prevent trespassing. If a kid is determined to climb a slope and your fence he's probably going to find a way over a screen wall too. A lot of people confuse a screen wall with a sound wall. Landscaping and mature trees provide buffering of sound. A screen wall, if you're on the same level, provides some mitigation with view. If you want to prevent foot traffic I guess you'd make a recommendation that you surround the whole thing with a screen wall, and then we get this institutional look going on with apartment complexes all over the place, so that's not a recommendation of ours.

Mr. Schmidlein noted one thing you didn't address is the existing fence along Wal-Mart. Did you say you would look further into that?

Mr. Wilkinson said the Code allows the Planning Commission to consider a screen wall between a residential and a commercial zone; it doesn't address commercial to commercial. I don't believe the Planning Commission can even consider a screen wall between Wal-Mart under that section of Code. They could consider a screen wall under the conditional use permit section of the Code if it provided some benefit. First of all, there's nothing of record that allows that drainage to go that direction; although, there's that perception out there that this is ok because it's been going on for years, and Wal-Mart actually built some down chutes. As they work through how they're going to handle the drainage, we may or may not have drainage that's required to go underneath that fence and then maybe Wal-Mart could block that off. I think the fence was probably a condition of Wal-Mart's conditional use permit, so issues with that fence probably need to be addressed by Wal-Mart. If they work out some type of agreement where the drainage can be perpetuated onto the Wal-Mart property we can address maybe some bar screens like you suggested or things like that to prevent that foot traffic getting under that fence; they'll scale a six foot as well as a five foot.

Mr. Schmidlein said I realize that, but you're going to restrict a lot more people going over a six foot versus a five foot. Who will be accountable to maintain the fence? I realize Wal-Mart owns it, but now with the multi-family going in there are they going to be held accountable for making

sure the fence stays up? If not they might as well cut an opening, build a sidewalk through there and get it over with.

Mr. Wilkinson said the fence was a requirement of Wal-Mart's conditional use permit so the maintenance of that fence is Wal-Mart's responsibility; it would not be the property owner of the proposed apartment complex.

Mr. Schmidlein said if I wanted to build a six foot fence there I would have to get approval from Wal-Mart to do that is what you're saying. I'm only talking about the first 100 feet. I'm just trying to prevent the shortcut that's been going on for the past eight years that I've lived there and it's getting to be redundant.

Mr. Wilkinson said I'd have to look at the conditional use permit for Wal-Mart; I'm not familiar with it. Five foot seems a bit odd because usually it's a six foot fence. I'm not sure what the condition was, but I would say if we wanted to raise that height there, and they're going to be responsible for it that would need to be worked out with Wal-Mart.

Mr. Hessing noted the concerns that have been raised are legitimate and they're concerns we've had in designing and planning this. We can address and satisfy all the concerns Mr. Wilkinson read. He then handed the Planning Commission a site plan showing the line of sight for Buildings No. 2 and 4. He explained by lowering the pitch of the roofs the only obstructions to view are for the three houses behind Building No. 4, and that obstruction is equivalent to standing on their back patio and looking into a single family dwelling.

The site plan was then hung up for the audience to view.

Commissioner Thornton said I had some concerns regarding setbacks, general commercial specifies 50 feet from the side and rear of property lines and not less than 60 feet from the future or existing street right of way line of an abutting street. The plans show 26 feet on one side and 30 feet on the other. That does not appear to meet the Zoning Ordinance.

Mr. Wilkinson said I think you're looking at the planned commercial setback requirements. Number two there is planned commercial within a C zoning district. That's a bit confusing. We actually have one property that's zoned commercial with a sub-designation of PC, and that is next to Jennings and Mountain City Highway.

Commissioner Thornton said I had another question about the density of the units. Multi-family residential development should not exceed a density of 19 units per acre; this one's at 21.

Mr. Wilkinson said that footnote applies to the R district. This is a commercial district. Residential development in a commercial district has to meet the yard requirements in the R district, not the density requirements. Basically your setbacks from property, building separations that are listed in the R district and your limitations on building heights really drive that density. Depending on how they're laid out we've had them up to I think 28.

Commissioner Thornton noted I think we should stick to the two parking spaces per unit because I was at that City Council meeting, and they made a verbal commitment that from that point forward it would be two, so I think it's a matter of integrity.

Mr. Wilkinson said I agree and I think on appeal the City Council would uphold that. If you're going to make that a condition the number of units may drop. We'll have to ask the applicant if they think they can reconfigure the site plan because we had a recommendation from the Planning Department for a 156 unit complex. We may need to table that until they can determine whether the number of units has to be reduced or they can rearrange the parking lot.

Mr. Hessing said we're missing six parking spaces, if I've done my math right, to meet the two. We can tweak the site plan and gain those six. This is the way we designed it for optimum flow and appearance. We can make a few small changes: eliminate the swimming pool area and push a few things back.

Chairman Thompson asked if there was RV parking.

Mr. Wilkinson said yes, seven.

Commissioner Keener asked if the RV spaces factored in for the 1.95 spaces.

Mr. Wilkinson said correct.

Mr. Andreozzi noted maybe landscaping such as a hedge or something of similar nature could be used along the Wal-Mart fence and by the drainage swale to keep people from crawling over and under the fence.

Mr. Criss said the developer said they cannot mitigate blocking the viewshed of the three lots on the west end; I happen to be one of those. I disagree in that limiting the height of Building No. 4 will mitigate that issue plus it will also bring the proposed project into compliance with the two parking spaces per unit. I also have a question about the density. I believe I read somewhere in the Commercial Zoning that residential use was allowed if it met zoning of the R Code.

Commissioner Thornton said that's why I brought that up.

Mr. Criss said I'd like to get clarification on that.

Mr. Wilkinson said it clearly states that it must meet the yard requirements in the R Zone. It doesn't state that it meets all requirements of the R Zone.

Mr. Martin noted there is no slope on the corner house behind Building No. 4. Mr. Wilkinson mentioned you can see into each other's back yards anyway; that's never been a concern with anybody else. We have a sliding back door. That is where people are going to start looking in and watching for when the screens are closed because you know they're gone. That's going to be more problems with security. We'd ask for more trees at that end to block off the sound or anything that is required.

Mr. Wilkinson said we have a condition that they have to put evergreens along that slope, anywhere where that slope is 15 feet in height or less.

Commissioner Keener asked Mr. Wilkinson if the slope rendering was accurate.

Chairman Thompson said it's 15 feet.

Mr. Wilkinson said in the northwest corner there's less slope than the next lot up. It tapers through there. I'm not sure exactly how high it is there. There's some slope there, but it's probably 10 feet and then it rises up pretty rapidly. The slope's fairly low for those three. I think they must have averaged the slope in the rendering.

Commissioner Negrete asked how many units would be eliminated if eliminating the top story of Building No. 4.

Mr. Hessing said I believe eight. It substantially affects the feasibility.

Mr. Ramsayer said if we have all these regulations and we're going to pick and choose which ones we go by and require another gentleman to go by those very same regulations and he had to do it, and now we have an exception. How does that work?

Mr. Wilkinson said we have regulations that the Planning Commission shall consider a screen wall under a conditional use permit. We take into consideration the unique circumstances for each proposed development: properties adjacent to them, topography, traffic, and many other things, so under a conditional use permit you may not have uniform restrictions or regulations that you're imposing on a property. When you go through a conditional use permit basically what you're doing is looking at a piece of property and if you authorize or approve a conditional use it becomes a principal use with those specific conditions for that specific property. In this case, requiring an 8 foot screen wall adjacent to all the single family residential lots when the slope is 20 feet high doesn't accomplish much except expending developer dollars for no benefit. When we required the eight foot screen wall on the other side they were proposing lowering their property with their grading and consideration of that eight foot screen wall actually provided quite a bit of benefit when you looked at that particular development. We're not picking and choosing written regulations and applying them non-uniformly. This is a conditional use permit process where we consider not only screen walls but whether traffic studies are required, hydrology reports, the extent of hydrology studies and various things like that.

Chairman Thompson said I think the one he's referring to is where you said in a commercial district that residential yard requirements are not all residential requirements.

Mr. Wilkinson explained the Code states if you're developing a residential use in a commercial district it must meet the yard requirements of the R district, which are setback requirements and then for multi family there are building separation requirements. It doesn't require you to adhere to the rest of the stipulations in the R district.

Mr. Ramsayer said aren't the setback requirements at 50 foot?

Mr. Wilkinson said no.

Mr. Ramsayer said so basically we can make exceptions for whatever is built.

Chairman Thompson said no.

Mr. Wilkinson said no, we're not making exceptions. The Code doesn't require a 50 foot setback.

Mr. Schmidlein said on Building No. 2 are those three bedrooms? How many apartments are in that particular unit?

Mr. Hessing explained 50% are two bedrooms, 20% are one bedroom and 30% are three bedrooms, and they vary inside the buildings.

Mr. Schmidlein noted you said you would have to reduce 8 units if dropping Building No. 4. If you swapped Building No. 2 and Building No. 4 and dropped the top story on Building No. 2, would that reduce it to 6 units instead of 8?

Mr. Hessing said possibly, depending on the footprint of that building and how that would relate. We want to make it work; if we're talking about skimming the top off of that I'd be glad to do that. The whole idea is being neighbors. The idea was it'd be no worse than if you were standing in that second lot because that's an average of those three lots, if you're standing in your backyard it's like looking at your neighbor who is a one story building. We want to stay in Elko.

Commissioner Keener asked if a traffic study would still be required if a few units were deleted.

Mr. Draper said because it's a conditional use permit we would still require that. Per our Master Plan it is 150 units for a residential system. We'd be right there, so as far as Engineering we'd look at that and say we're close enough; we need a traffic study. To address the Planning Commission's concerns about the two parking spaces and the developer needing six, just in looking at this I can find five spaces, so if we get a little creative we can probably find that other space and not have to deal with the loss of any units for the developer.

Mr. Criss noted I'm happy to hear the developer is willing to cut down the height of Building No. 4. Prior to that one of the arguments was that by cutting down that height the project would possibly be infeasible, but 8 units out of 156 is only 6%, so if the project is infeasible with the loss of 6% of the revenue, I'd be a little bit concerned about the wherewithal of the developer to actually complete the project.

Mr. Hessing said it's not the feasibility of the project it's the feasibility of the long term financing and salability. Five percent is substantial to a developer. We would like to see it as it is, but we understand the needs and concerns of views. We deal with views all the time; I've been doing this for 30 years. When they bought there, there were no houses around. They think they're going to have their view forever but they don't. Unfortunately the way society is we can't buy views. We can satisfy everything else it just comes down to the views. We're in place, ready to go and we just need the green light to go at it.

****Motion:** Conditionally approve Conditional Use Permit No. 5-11 subject to the conditions listed in the Development Department's memo dated September 22, 2011, and the Planning Department's memo dated September 26, 2011, stated as follows:

1. The permit is granted to the applicant Heartwood LLC.

2. The permit shall be personal to the permittee and applicable only to the specific use and to the specific property for which it is issued. However, the Planning Commission may approve the transfer of the conditional use permit to another owner. Upon issuance of an occupancy permit for the conditional use, signifying that all zoning and site development requirements imposed in connection with the permit have been satisfied, the conditional use permit shall thereafter be transferable and shall run with the land, whereupon the maintenance or special conditions imposed by the permit, as well as compliance with other provisions of the zoning district, shall be the responsibility of the property owner.
3. No screen wall is recommended for the north property line. Screen wall or slated fencing should be installed along the west property, north of the Bluffs access, along with a grouping of evergreens planted between the edge of the proposed pavement and the property line. A grouping of evergreens should be along the north slope where the slope height is approximately 15 feet or less.
4. A traffic study is required. Reference the City Engineering Department's memo dated September 21, 2011.
5. Civil improvement plans are required for review and possible approval. The property is to be graded so drainage reports to the north side of Bluffs Avenue. The civil improvement plans are to include measures such as speed bumps to discourage cut-through traffic. The civil improvement plans are to reflect, at a minimum, the results of the required traffic study. Off-site improvements may be required.
6. Architectural plans are required for review and possible approval.
7. The parking lot design is to conform to Section 3-2-17 of City Code and Fire Department's requirements for ingress and egress.
8. All parking lot lighting is to be shielded or cut-off design.
9. An illumination schedule is required to ensure lighting is adequate for safety with minimal impact to adjacent properties.
10. A landscape plan will be required for submittal and approval. Trees are to be planted throughout the property. At a minimum, the landscaped area is to conform to the requirements stipulated in Section 3-2-17 of City Code.
11. Slope stabilization will be required on all slope areas.
12. A soils report will be required. The report must include the potential for groundwater movement from irrigation to the slope area to the south of the property. The report must include the potential for groundwater movement from the north slope area. Both may require some type of mitigation.
13. A hydrology report will be required for the site and extending to the storm drain infrastructure on Bluffs Avenue. The hydrology report is to include an evaluation of the storm drain infrastructure capacity on Bluffs Avenue. Depending on the results of the study, the Developer may be required to manage storm water based on the hydrology report and maintain peak storm water discharge from the site at existing levels. This would require detention ponds on site overflowing to the parking area since no underground storm drain infrastructure exists in the immediate area.
14. Building setbacks are to comply with not only Residential yard requirements but the slope setback requirements for the footings as set forth in the currently adopted IBC.
15. The property and buildings are to be maintained in an acceptable condition at all times.
16. The recorded public access easement on the property is to be properly abandoned.
17. Record proper utility easements. City utilities require a 20 foot wide easement centered over the main utilities.

18. The amenities shown on the site plan shall be constructed prior to building occupancy permits being issued.
19. The exterior of the buildings shall be compatible with the surrounding areas and be constructed of the materials identified in the application for the exterior of the buildings. Vinyl siding will not be allowed.
20. Signage for the complex and site signage is required at both entrances.
21. All conditions outlined in the Engineering Department's memo dated September 21, 2011, stated as follows:
 - 1) A landscaping plan shall be provided with the civil improvement plans.
 - 2) The existing slope between the proposed development and The Bluffs Unit 4 – Phase 1 and Phase 2 shall be maintained, the slope shall be landscaped in a manner to provide slope stabilization.
 - 3) A soils report shall be completed prior to the development of the project.
 - 4) A hydrology report shall be completed prior to the development of the project.
 - 5) The developer shall complete a traffic study, per the City of Elko Master Plan any development that creates more than 1,000 trips per day is required to complete a traffic study. The apartment complex will create 1,037.4 trips per day per the 8th edition of the ITE Trip Generation Manual. A traffic study should be completed to identify the impacts of the additional traffic on surrounding roadways. The traffic study should extend at a minimum to the intersection of Mountain City Highway and Argent Ave, and the intersection of Mountain City Highway and Jennings Way. The traffic study shall take into account the location of the surrounding schools and shall consider this to be an additional peak travel time for consideration in the study.
22. Two parking spaces per unit.

Commissioner Keener's findings are this application is in conformance with the Land Use and Transportation components of the Elko City Master Plan, the City of Elko Redevelopment Plan, the City of Elko Wellhead Protection Plan, and Zoning Ordinance Sections 3-2-3, 3-2-4, 3-2-10 (B), 3-2-5 (E), 3-2-5 (G), 3-2-17, and 3-2-18. Additional findings are the proposed use does conform to the general purpose and intent of the C Zoning Ordinance. The proposed use does conform to Elko City Master Plan. The nature of the proposed use and locational factors do not result in any negative influence or affect on adjoining properties. The location of buildings, parking and related facilities do not result in any negative influence or affect on adjoining properties. Quantity and distribution of traffic does not result in any negative influence or affect on adjoining properties or on the general patterns of traffic flow and circulation within the area or vicinity. Other factors or conditions influencing location in the particular zoning district do not result in any negative influence or affect upon adjoining properties if the development of the property satisfies the conditions as outlined in the Development Department's memo dated September 22, 2011.

Moved by Reece Keener, Seconded by Doug Owen

*****The motion passed unanimously.**

Chairman Thompson noted the public does have the right to appeal this decision to the City Council. You have 10 days to file with the City Clerk. When would that come up, on next month's meeting?

Mr. Andreozzi said there are some notification requirements.

III. REPORTS

A. Summary of City Council Actions.

Mr. Andreozzi noted at the next City Council meeting we are considering that rezone for the water well site out at Exit 298 and the preliminary plat for 8 Mile Estates.

B. Summary of Redevelopment Agency Actions.

C. Professional articles, publications, etc.

1. Zoning Bulletin
2. Zoning Practice

D. Preliminary agendas for Planning Commission meetings.

E. Elko County Agendas and Minutes.

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

G. Staff.

Mr. Andreozzi noted the Planner recruitment is scheduled for October 13th & 14th. We have six candidates we're interviewing. We invited eight and two of them have dropped out.

NOTE: The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time. Additionally, the Planning Commission reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

IV. ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Thompson, Chairperson

Jose Negrete, Secretary