

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
May 5, 2015
7:00 PM**

1. CALL TO ORDER

Commission Chairman Thompson called the meeting of the Elko New Market Planning Commission to order at 7:03 pm.

Commission members present: Thompson, Smith, Kruckman, Hartzler and Vetter
Members excused: None
Staff Present: City Planner Kirmis, City Engineer Revering and Chief of Police Mortenson

2. PLEDGE OF ALLEGIANCE

Chairman Thompson led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Hartzler and seconded by Smith to approve the agenda as presented. Vote for: Thompson, Smith, Kruckman, Hartzler and Vetter. Against: None. Abstained: None. Vote 5-0. Motion carried.

4. PUBLIC COMMENT

There were no public comments.

5. ANNOUNCEMENTS

There were no announcements.

6. APPROVAL OF MINUTES

A motion was made by Smith and seconded by Kruckman to approve the minutes of the March 3, 2015 Planning Commission meeting as written. Vote for: Thompson, Smith, Kruckman, Hartzler and Vetter. Against: None. Abstained: None. Vote 5-0. Motion carried.

7. PUBLIC HEARINGS

Home Occupation Interim Use Permit (Dillon Forst)

Chairman Thompson opened the public hearing at 7:08 p.m. on the interim home occupation request of Dillon Forst.

Chairman Thompson asked Planner Kirmis to present his planning report dated April 27, 2015. Planner Kirmis introduced the item and summarized his planning report.

Following Planner Kirmis' presentation, Chief of Police Mortenson informed the Planning Commission he had been involved a similar home occupation request (to allow firearm sales within a home) and that, due in large part to stringent licensing requirements, no adverse neighborhood impacts resulted.

Following Chief of Police Mortenson's comments, Chairman Thompson asked the Planning Commission if they had any questions for City Staff. Commissioner Vetter raised question related to the frequency of site inspections. Chief of Police Mortenson advised the Commission that site inspection frequency had not been determined and that the issue would be subject to further discussion.

Commissioner Hartzler questioned whether or not any comments had been received from the Fire Chief. Kirmis informed the Commission that the planning report includes a condition related to Fire Code compliance but that specific comments from the Fire Chief had need been received.

Chairman Thompson then asked the applicant, Dillon Forst, if he would like address the Planning Commission and provide any additional comments. Applicant Forst addressed the Commission and provided background information related to his interim use permit request. Applicant Forst specifically noted the following:

- He has a background in the e-commerce business and his intended home business (the sale of firearms) is to be a hobby.
- He expects that minimal traffic will be generated by the proposed home occupation.
- No ammunition will be sold as part of home business operations. Ammunition which exists on the premises will be for his own personal use.

Following the applicant's presentation, the Planning Commission posed the following questions to the applicant:

- Question was raised whether the applicant had contacted the neighbors regarding his home business intentions. The applicant advised the Commission that he had met with the neighbors in advance of the Planning Commission meeting.
- Question was raised related to the handling of firearm transactions. The applicant indicated that personal signatures and contact with customers will be required.

Chairman Thompson then asked if anyone in the audience had any comments or questions.

Guy Bosch (9362 Glenborough Drive) addressed the Planning Commission in opposition of the requested interim home occupation. Mr. Bosch provided a handout which highlighted 10 reasons why home business gun dealers should not be allowed in the City.

The handout was a reproduced article (dated November 2, 2012) from the Pheasant Hills, California "Patch," an online community news bulletin board.

Mr. Bosch asked that the Planning Commission members note the following potential negative impacts in their consideration of the requested interim home occupation (as per the referenced "Patch" article):

1. Firearms will be stored in close proximity to children.
2. The use raises fire and/or explosive hazard concerns.
3. A potential exists for the theft of firearms and ammunition.
4. Firearm security is a concern, particularly with children in the area.
5. Firearms may fall into the hands of individuals who are prevented from the law to possess them.
6. The firearms sales business will increase vehicular and foot traffic in the neighborhood which in turn will impact the quality of life.
7. The required disclosure of a firearms dealer in the neighborhood at the point of home sale will negatively impact area property values.
8. The use will create increased demand on local law enforcement.
9. A lack of Federal and State funds exists to conduct site inspections.
10. Firearms sales conducted over the internet are difficult to monitor.

There were no additional comments from the public.

Chairman Thompson asked for motion to close hearing.

A motion was made by Smith and seconded by Hartzler to close the public hearing at 7:38 p.m. Vote for: Thompson, Smith, Kruckman, Hartzler and Vetter. Against: None. Abstained: None. Vote 5-0. Motion carried.

After closing the public hearing, the Planning Commission held a limited discussion of the amendment and posed questions related to the following:

Type of Firearms. The applicant was asked about the types of firearms which are to be sold on the premises. The applicant could not speculate on the types of firearms which are likely to be purchased other than to note that a wide variety may be sold and that sales will conform to Minnesota laws.

Homeowners Association. Question was raised regarding the role that the Homeowner's Association may have in regard the approval of the proposed use. Guy Bosch (9362 Glenborough Drive) informed the Commission that the Homeowner's Association has the power to approve or deny the proposed interim home occupation. It was further noted that the Homeowner's Association can be more restrictive than the City but not less restrictive. In this regard, the City could approve the interim home occupation and the Homeowner's Association could deny the use if it so chooses.

Firearm Packaging. Question was raised as to how firearms are going to be packaged for mailing. Applicant Forst advised the Planning Commission that firearms will be packaged in a discreet manner.

Employees. Question was raised regarding the number of persons who are to be employed by the home business. Applicant Forst indicated that he will be the sole employee of the home business.

A motion was made by Hartzler and seconded by Kruckman to approve the requested interim home occupation subject to the following conditions:

1. The following general home occupation requirements, as imposed by Section 11-5-17 of the Ordinance, shall be satisfied:
 - A. The home occupation shall not produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
 - B. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
 - C. The home occupation shall be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall not result in an incompatibility or disturbance to surrounding residential uses
 - D. The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings (except where required to comply with local and State fire and police recommendations).
 - E. There shall be no exterior storage of equipment or materials used in the home occupation, except that personal automobiles used in the home occupation may be parked on the site.
 - F. The home occupation shall meet all applicable building and fire codes.
 - G. The home occupation shall comply with the provisions of City nuisance Ordinances.
 - H. No more than one person other than those who customarily reside on the premise shall be employed.
 - I. No exterior changes to the residence shall be made.

- J. Any interior changes necessary to conduct the home occupation shall comply with all building, electrical, mechanical and fire codes governing the use of the use in a residential occupancy.
 - K. Traffic generated by the home occupation shall involve vehicle types and volumes that typically are associated with single family residences and that such traffic does not constitute a nuisance or safety hazard.
2. All applicable State and Federal laws/regulations pertaining to the sale of firearms including, but not limited to, those imposed by the Federal Firearms License shall be satisfied.
 3. Proof of the acquisition of a Federal Firearms License shall be provided to the City prior to the commencement of home business operations.
 4. All customer transactions shall be by appointment.
 5. On-site transactions shall be limited to one customer at a time.
 6. Home occupation customers shall park upon the applicant's driveway (so as not to negatively impact traffic along Glenborough Drive).
 7. All on-site firearm transactions with customers shall occur between the hours of 8:00 am and 7:00 pm.
 8. Both firearms and ammunition shall be secured within the home at all times.
 9. There shall be no exterior display or signs which advertise the home occupation.
 10. The interim use permit shall terminate upon the sale of the subject property.
 11. The City reserves the right to inspect the premises to ensure compliance with the conditions imposed upon the approved interim use permit.
 12. All firearms leaving the premises shall be stored in the manufacturing delivery container or an approved firearms case.
 13. The home shall be secured via an alarm and/or security monitoring system.
 14. All recommendations of the Fire Chief shall be satisfied.
 15. The Elko New Market Police Department shall be advised of any intent to sell ammunition upon the subject property.
 16. Minimally, the Elko New Market Police Department shall inspect the subject property (home occupation) on an annual basis.

Vote for: Thompson, Smith, Vetter, Kruckman and Hartzler. Against: None.
Abstained: None. Vote 5-0. Motion carried.

8. PETITIONS, REQUESTS AND INQUIRIES

There were no petitions, requests or inquiries.

9. GENERAL BUSINESS

There were no general business items.

10. MISCELLANEOUS

Staff Updates. City Engineer Revering provided updates regarding the following:

- Public Works Campus construction activities
- Preliminary design efforts for I-35 and County Road 2 utility service
- 2015 paving projects
- Pete's Hill sidewalk construction

Following City Engineer Revering's updates, Chief of Police Mortenson provided a brief summary of recent and planned police station improvements.

Planning Commission Tours. As a follow-up to the staff updates, Chairman Thompson expressed in interest in touring the public works campus and police station. Planner Kirmis suggested that such tours could possibly take place in lieu of the June Planning Commission meeting if no applications are received.

11. ADJOURNMENT

A motion was made by Kruckman and seconded by Smith to adjourn the meeting. Vote for: Thompson, Smith, Kruckman, Hartzler and Vetter. Against: None. Abstained: None. Vote 5-0. Motion carried.

The meeting ended at 8:11 pm.

Submitted by:
Bob Kirmis, City Planner