

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
February 27, 2019
7:00 PM**

1. CALL TO ORDER

Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 7:01 p.m.

Commission members present: Smith, Kruckman, Humphrey, Hanson and Priebe

Members absent and excused: Ex-officio member Anderson

Staff Present: Community Development Specialist Christianson and
Community Development Intern Haley Sevensing

2. PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

A motion was made by Kruckman and seconded by Hansen to approve the agenda as submitted. Motion carried: (5-0).

4. PUBLIC COMMENT

A. None

5. ANNOUNCEMENTS

A. None

6. APPROVAL OF MINUTES

A motion was made by Smith and seconded by Kruckman to approve the minutes of the January 29, 2019 Planning Commission meeting as submitted. Motion carried: (5-0).

7. PUBLIC HEARINGS

A. None

8. GENERAL BUSINESS

A. Draft Amendment to Zoning Ordinance – Sexually Oriented Uses

Christianson presented her staff report containing information regarding sexually oriented businesses. She noted that the Planning Commission had requested the City review current

ordinances pertaining to sexually oriented businesses to ensure that the City is in compliance with state and federal regulation. Christianson explained that a government can impose controls on where sexually oriented businesses can locate but cannot prevent them from locating altogether because they are protected by the First Amendment. Case law has determined that having approximately 5% of the City's land area available for such uses is a reasonable benchmark.

Christianson explained that the last time the City's regulations pertaining to sexually oriented businesses were reviewed was in 2004, after the City of Elko was faced with a strip club that had illegally opened. When the City closed the establishment, the owner of the strip club sued the City alleging that the City's ordinance was unconstitutional. The district court ultimately concluded that the City's ordinance was constitutional.

The current ordinance was reviewed with the Planning Commission. Maps were displayed depicting where such uses are not permitted to locate, including buffer areas around residential zoning districts, schools, churches, daycare facilities, parks, and certain zoning districts. The results of the analysis were that 2.05% of the City's land area, or 40.89 acres, is currently available for sexually oriented uses to locate and a map was displayed showing those areas. It was explained that the City Attorney believes that the 2.05% is an adequate and defensible amount of land available based on the fact that Elko New Market is primarily a residentially zoned community at this time. As the City annexes more commercially and industrially zoned land, additional land will become available for such uses.

Christianson noted that staff and the City Attorney are recommending one minor change to the ordinance, and that is to remove the requirement that sexually oriented uses be setback at least 200' from trails. The reason for the recommendation is that this would potentially preclude such uses from locating anywhere in the City which would be unconstitutional.

Following discussion by the Planning Commission, it was moved by Humphrey, seconded by Hanson to direct staff to prepare for a public hearing on an amendment to Section 11-5-16 (C) of the zoning ordinance to remove the requirement that sexually oriented businesses be setback 200' from trails. Motion carried: (5-0).

B. Information regarding Medical Cannabis / Marijuana

Christianson presented her staff report containing information regarding cannabis / medical marijuana. She explained that in 2014 the Minnesota State legislature adopted the Medical Cannabis Therapeutic Research Act of 2014 ("the Act") which legalized the use of marijuana derived compounds for medical purposes.

She explained that the Act allows for two in-state manufacturers to produce medical cannabis, and also allows each of the two permitted manufacturers to operate four distribution facilities (total of eight). The two manufacturers who have been permitted by the State are Leafline Labs who operates in Cottage Grove, and Minnesota Medical Solutions who operates in Otsego. The distribution facilities/dispensaries are required to operate throughout the state based on geographical need. Distribution facilities are currently located in Bloomington, Eagan, Hibbing, Minneapolis, Moorhead, Rochester, St. Cloud, and St. Paul.

Christianson explained that a patient with a qualifying medical condition, as determined by a qualifying medical professional, then makes them eligible for the State's registry program. Once a patient is on the state's registry, they are allowed to possess and use cannabis for medical use. Christianson reviewed the qualifying medical conditions, noting that the Commissioner of Health is authorized to add qualifying medical conditions without the need for legislative approval.

Christianson stated that the City currently does not have any regulations specific to the manufacturing, testing, distribution or sale of cannabis based products. In absence of specific regulations, one could argue that such facilities fall under existing land use categories which allow similar uses, and would therefore qualify as permitted or conditional uses under the existing City Code. Christianson stated that she was seeking feedback from the Planning Commission as to whether they felt such uses should be specifically regulated within the City. She also noted that under the under current law it is unlikely the City would receive such a request. However, the statutes could change to become less restrictive or to allow the recreational use of marijuana, which could trigger a request for cannabis related facilities in the City.

Christianson specifically outlined some options available to the City, and requested feedback. Options outlined with the Planning Commission were as follows:

Do Nothing - The City could take no action. If such uses do not create a concern from an appointed and elected official's perspective, the City may choose to do nothing, with the presumption that medical cannabis facilities could locate in areas where other manufacturing, laboratories, distribution or sales facilities could be located.

Expressly Authorize Medical Cannabis Related Uses - The City could expressly authorize medical cannabis related uses in some or all of its zoning districts. Specific language recognizing that these types of uses as permitted or conditional uses removes any doubt in the City's zoning regulations.

Impose Zoning Restrictions - The City could adopt restrictions on the location of medical cannabis related facilities. Nothing prohibits cities from adopting more restrictive ordinance regarding the locations of manufacturing, laboratory, distribution or sales facilities. The City could consider limitations such as the following:

- Restricting the uses to specific zoning districts, such as certain commercial or industrial zones only
- Requiring that facilities not produce noxious odors through an odor mitigation plan
- Require minimum distances from other land uses such as child care facilities, churches, treatment facilities, adult uses, etc.
- Requiring minimum distances between other cannabis related uses
- Limiting the square footage of facilities
- Imposing signage restrictions
- Adding more stringent security measures

Adopt Local Licensing Regulations - The City could adopt local licensing requirements. An argument could be made that local licensing is necessary to protect the public health, safety and welfare.

It was noted that staff researched the regulations of cities where medical cannabis distribution facilities/dispensaries are currently located and only one of the cities regulates medical cannabis and that being the City of Bloomington.

Kruckman stated that she had recently visited Colorado and did not notice the dispensaries that were operating in a retail setting; they seemed to blend in with the other businesses. Humphrey stated that he thought the Commission should continue to monitor the situation but take no action at this time. He also stated that he would be interested in hearing how the constituents feel about the topic before making any recommendations. There was consensus among the Commission to take no action at this time but continue to monitor the actions of the State Legislature regarding the topic.

After discussion, the Planning Commission recommended that the City continue to monitor the legislation pertaining to medical or recreational cannabis. The also recommended that the City Council be made aware of the discussion by the Planning Commission.

9. MISCELLANEOUS

A. Community Development Updates

Community Development Specialist Christianson stated that a report containing updates on various projects was contained in the Planning Commission packet. There were no further questions from the Commission regarding the report.

B. Roundabout Update

Christianson and Sevensing provided updates regarding the roundabout project, including funding, potential lighting, potential trails, and easement acquisition. Hanson thanked City staff and the consultant for the open house that was held on February 11, 2019 and materials that have been prepared.

C. 2018 Building Permit Summary

Community Development Specialist Christianson stated that 2018 building permit information, which showed an increase in new housing units, was contained in the Planning Commission packet.

D. Vacant Lot Inventory 2.1.19

Community Development Specialist Christianson reviewed a vacant lot inventory, noting that the number of lots available for single-family development was very low. There are multiple lots available for smaller commercial development that have utilities readily available.

E. Planning Commission Questions & Comments

There were no questions or comments from the Commission.

10. ADJOURNMENT

A motion was made by Humphrey and seconded by Smith to adjourn the meeting at 8:09 p.m. Motion carried: (5-0).

Submitted by:



Renee Christianson
Community Development Specialist