

**MINUTES  
CITY OF ELKO NEW MARKET  
PLANNING COMMISSION MEETING  
March 26, 2019  
7:00 PM**

**1. CALL TO ORDER**

Vice-Chairman Humphrey called the meeting of the Elko New Market Planning Commission to order at 7:00 p.m.

Commission members present: Kruckman, Humphrey, Hanson, Priebe and Ex-officio Representative Jeff Krueger

Members absent and excused: Smith and Ex-officio member Anderson

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

**2. PLEDGE OF ALLEGIANCE**

Vice-Chairman Humphrey led the Planning Commission in the Pledge of Allegiance.

**3. APPROVAL OF AGENDA**

A motion was made by Kruckman and seconded by Priebe to approve the agenda as submitted. Motion carried: (3-0).

**4. PUBLIC COMMENT**

**A. None**

**5. ANNOUNCEMENTS**

**A. None**

**6. APPROVAL OF MINUTES**

A motion was made by Kruckman and seconded by Priebe to approve the minutes of the January 29, 2019 Planning Commission meeting as submitted. Motion carried: (3-0). Commissioner Hanson entered the meeting.

**7. PUBLIC HEARINGS**

**A. Proposed Zoning Ordinance Amendment – Sexually Oriented Businesses**

Christianson presented her staff report containing information regarding sexually oriented businesses which was also reviewed at the February, 2019 Planning Commission meeting. She noted that the Planning Commission had requested the City review current ordinances pertaining to sexually oriented businesses to ensure that the City complies 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.

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 explained that one minor change to the ordinance is being recommended, and that is to remove the requirement that sexually oriented businesses 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. The public hearing regarding such change was opened at 7:09 p.m., and with no comments from the public it was closed at 7:09 p.m. It was then moved by Kruckman and seconded by Hanson to recommend approval to the City Council that Section 11-5-16 (C) of the City Code be amended to remove the requirement that sexually oriented businesses be setback at least 200' from trails. Motion carried: (4-0).

## **B. Proposed Zoning Ordinance Amendment – Small Wireless Facilities**

Sevening presented her staff report and draft ordinance amendment information regarding small cell wireless equipment. She explained that during the 2017 legislative session a new law was enacted that allows small cell wireless equipment to be placed within public street rights-of-ways. The new legislation allows this equipment to locate on City-owned equipment (i.e. power poles, street lights) and allows for the installation of a 50 foot tall structure within public rights-of-ways to support an antenna array. The new law is intended to expand broadband service coverage and accelerate delivery of service which is needed to address the rapidly growing consumer market and new technologies all utilizing the broadband network.

Sevening explained that passing of the new legislation required the City to review its ordinances that pertain to such wireless facilities and structures. The Planning Commission had previously held discussion regarding small cell wireless equipment within public rights-of-way, and specifically, whether such facilities should be regulated through the City's Zoning Ordinance (Title 11 of the City Code). The Planning Commission directed Staff to address small cell wireless facilities solely in the City's Right of Way ordinance (Title 8 of the City Code) rather than the Zoning ordinance. Sevening further explained that because Chapter 13 of the Zoning Ordinance does currently regulate towers and antennas, it is necessary to make some minor adjustments to this section of the Zoning Ordinance in response to the new legislation and the Planning Commission recommendation. Sevening

presented the draft ordinance amending section 11-13-10 of the Zoning Ordinance which exempts small wireless facilities and wireless support structures from the Zoning Ordinance.

Vice-Chairman Humphrey opened the public hearing at 7:13 p.m. and with no comments from the public, the hearing was closed at 7:13 p.m. It was then moved by Hanson and seconded by Kruckman to recommend to the City Council that Section 11-13-10 of the City Code be amended to exempt small wireless facilities and wireless support structures from the Zoning Ordinance. Motion carried: (4-0).

## **8. GENERAL BUSINESS**

### **A. Review Concept Plan – Chase Real Estate**

Christianson presented information regarding possible development of a ten-acre property located in the City limits and proposed for single-family residential development. In the summer of 2018, the Planning Commission and City Council provided feedback to a previous developer regarding a proposed development and annexation on this same ten-acre property. The previous developer ultimately decided not to pursue the project, and Chase Real Estate now has a purchase agreement on the property. Chase Real Estate is now completing their necessary due diligence to determine if a residential development project is financially feasible and is seeking feedback from the Planning Commission.

Mr. Wolter, representing Chase Real Estate, has considered the previous recommendations of the Planning Commission and City Council and is requesting feedback from the Planning Commission regarding potential variances for lot sizes and widths on seven of the proposed 31 lots. He is seeking feedback before officially proceeding with preparation of grading and utility plans for the development.

Christianson explained that the developer is seeking R2 zoning, which has a minimum lot size of 8,400 square feet and a minimum lot width of 70'. She reviewed neighborhood conditions, the current and planned (2040) comprehensive plan land use guidance for the property, required setbacks, and utility issues (sanitary sewer, water, stormsewer), specifically stating that the City may require looping of the water from CSAH 2 to Park Street. She further reviewed miscellaneous design requirements including the need for a 20' landscape buffer along CSAH 2, the need to design each lot to accommodate a three-car garage, wetland buffer and setback requirements, the need for drainage and utility easements, transportation issues, the need for sidewalks within the development, and the recommendation of the Parks Commission related to development of the property.

Christianson further reviewed the request for lot size & width variances on seven of the proposed thirty-one lots, and reviewed the requirements for granting variances under City Code and State Statute. She offered an alternative design that would reduce the need for variances on two of the lots.

After discussion by the Commission regarding the proposed development and requested variances, the Commission directed City Staff to obtain official feedback regarding the amount of right-of-way dedication that Scott County will be requesting during platting of the

property. The Commission believed that the amount of right-of-way being requested by Scott County might affect the overall development layout. The Commission was generally supportive of limited variances; however, requested feedback from Scott County prior to providing official feedback regarding the variance request.

**9. MISCELLANEOUS**

**A. Community Development Updates**

There were no updates provided at the meeting.

**B. Planning Commission Questions & Comments**

There were no questions or comments from the Commission.

**10. ADJOURNMENT**

A motion was made by Kruckman and seconded by Priebe to adjourn the meeting at 8:07 p.m. Motion carried: (4-0).

Submitted by:



Renee Christianson  
Community Development Specialist