

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
MAY 28, 2019
5:00 PM**

1. CALL TO ORDER

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

Commission members present: Smith, Kruckman, Hanson, Humphrey, Priebe and Ex-officio member Anderson

Members absent and excused: None

Staff Present: Community Development Specialist Christianson, Community Development Intern Sevensing, and City Engineer Rich Revering.

2. PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

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

4. PUBLIC COMMENT

There was no public comment.

5. ANNOUNCEMENTS

There were no announcements.

6. APPROVAL OF MINUTES

A. It was moved by Hanson and seconded by Kruckman to approve the minutes of March 26, 2019 with one correction.

B. It was moved by Hanson and seconded by Humphrey to approve the minutes of April 22, 2019 with one correction.

7. PUBLIC HEARINGS

A. Request for Rezoning, Preliminary and Final Plat Approval of Sylvester's Meadows – Bernard Mahowald, Applicant

Christianson presented her staff report containing information regarding the request for rezoning and plat approval of Sylvester Meadows along with a Powerpoint presentation. She provided a background, noting that the property is currently located inside the city limits and that the developer is currently requesting approval of a nine-lot residential subdivision. She explained that Mr. Mahowald was also the developer of the Farm developments (1st, 2nd and 3rd Additions) which were platted between 2001 and 2005. She noted that the Mahowald family also owns one additional 40-acre tract of land along Webster Street.

Christianson displayed the current plat proposal overlaid on an aerial photograph. She reviewed the following items:

- 2030 Comprehensive Land Use Plan, which guides the property to Low Density Residential.
- Current Urban Reserve zoning of property, noting that R1 zoning is being proposed for only the portion to be platted into lots, with the remainder to remain zoned Urban Reserve.
- Criteria for rezoning, noting that the request meets the criteria stated in the zoning ordinance for rezoning.
- Minimum lot size requirement of 12,000 square feet for R1 district, and noting that proposed lots range from approx. 16,000 to 30,000 square feet, with average 20,429 square feet.
- Setback requirements.
- Easement requirements, noting that additional drainage and utility easements are being recommended for Lots 1, 2 and 9.
- Tree inventory requirements, noting that the developer needs to submit a tree inventory.
- Proposed sewer and water utility plan, noting that a sanitary sewer lift station is needed to service the development. Staff recommends stand-by generator.
- Current flow of stormwater from the site, and proposal to treat stormwater in an existing pond with minor modifications to the pond.
- Wetland on south side of proposed lots and wetland buffer requirements.
- DNR wetlands (none) and a 500-year flood plain covering wetland area on south side of property.
- Street which is proposed at 28' in width in a 50' right-of-way.
- Sidewalk and trail requirements.
- City Park and Trail Plan, which depicts a trail corridor along the south side of the proposed lots. She noted that the Parks Commission has reviewed the request and has recommended the following:
 - Land be dedicated within the development for park purposes, to be dedicated in the northwest corner of the property.
 - Future trail system in proposed park land which would connect existing Mahowald Park to proposed street.
- School district boundaries.

Christianson noted that a letter opposing the development had been submitted which will be read into the record during the public hearing. She also advised the Commission that

because city staff had knowledge of social media discussion regarding the proposed project, City Engineer Rich Revering has been asked to give a presentation to the Commission regarding area drainage issues.

Mr. Revering provided a detailed presentation outlining the approximate 253-acre drainage area that drains into the wetland on the south side of the proposed lots. He noted that the entire drainage area is currently drained by one 15" clay tile pipe that dates back to 1937 or before. He also noted that, should the pipe become plugged, the low portion of the drainage area would likely fill to a depth of 7' to 8' deep. Mr. Revering noted that based on requests from the Chlan family, City staff has televised the 15" pipe, jetted portions of the pipe, and cleared debris from the inlet in an effort to make sure the pipe is still flowing/functioning.

He also noted that historic plat maps show a water body in the area south of the proposed lots, and labeled as "Lake Vermillion". He stated that it was his belief that the tile system which drained the basin was installed sometime around 1937. In the early 1980's a ditch appears which further drains the basin area, and a lift station was also installed which pumps stormwater from the Chlan farm into the ditch and tile system.

He reviewed state climatology information, which indicates that over the past twenty to thirty years, rains have become more frequent and with larger amounts, and that trends show an increase in rainfall. He stated that it would take five days to drain a 1" rainfall through the existing 15" pipe. It is his belief that the pipe is too small for what it is being asked to do.

He concluded by stating that he could not identify any action items to solve any perceived drainage issues on the Chlan property that would be the responsibility of the City, and he did not know if permits could be obtained (from the Army Corp of Engineers) to increase the size of the drainage pipe.

Chairman Smith opened the public hearing at 7:45 p.m.

Christianson read into the record a letter dated May 23, 2019 submitted by Lampe Law Office, LLP which provided notice of objection to the proposed development on behalf of Mr. Dan Chlan.

Applicant Bernard Mahowald addressed the Commission, and introduced his engineer Greg Halling, and his brother Mike Mahowald and sister Barb Mahowald. He stated that while growing up on the farm the drainage area in question was a lake. He also spoke about a knoll area which is referred to as "Indian Hill", as Native American's camped there in early years. He stated that the area where the lots are proposed is high land, but not farmable. He stated that the runoff from his proposed 5-acre development is minuscule and he requested that Mr. Chlan remove objection to his proposed nine-lot development.

City Engineer Revering further described proposed stormwater management plan, noting that the proposal meets current local, state, and federal regulations.

Tim Kniefel, 1010 Theresa Marie Drive in Elko New Market, asked why additional lots were being proposed when there were still vacant lots within the Farm developments. Mr. Mahowald stated that eleven single-family lots and approximately seven townhome lots remained available within the Farm.

Andy Konczak, 3150 Aaron Drive in Elko New Market, asked Mr. Mahowald why he wanted to create the proposed lots. Mr. Mahowald stated that the piece of ground is not farmable and it will make beautiful lots overlooking the wildlife area. He also noted that they are selling out of the lots in the existing development. Mr. Konczak stated that there is a lot of water in the area currently.

Barbara Mahowald, 5601 West 133rd Street in Savage, asked for clarification regarding the proposed stormwater plan, and the effects of the development on area drainage. City Engineer Revering reviewed the stormwater plan.

Cindy Schultz Wade, 1157 Dorthy Lane in Elko New Market, stated that Mr. Chlan has no intention of adding value to his property by creating a lake or a wetland. His only intention is to keep farming and feed his cows. He has no intention of selling; his property is for his livestock, his family, his livelihood. She supports Mr. Chlan in this regard. Mr. Mahowald stated that this area was a lake and he feels it should be converted back into a lake.

Britt Bowe, 1441 Overlook Drive, stated that eleven months ago she received a brochure about the Farm, which did not depict any lots proposed in this area. She was led to believe that the entire area would always be a “preserve” area and no homes would be built in the proposed area. Commissioner Humphrey questioned Mrs. Bowe as to who was conveying this information, and whether they may have spoken out of turn.

Lance Heisler with Lampe Law Group, 105 East 5th Street in Northfield, representing Dan Chlan and Mary DeGross, addressed to Commission. He stated that he is working with Justin Klabo, a Water Resource Engineer, to complete a thorough, independent hydrology study of this area to better understand the factors involved in the drainage issue. He stated that Degross and Chlan have farmed their land for many years and they now have more than forty acres that is unfarmable. He also stated that he is working with an attorney representing the City regarding the matter.

He suggested that the Planning Commission postpone the action on the item until they get more information from the hydrology study. He stated that perhaps there was a solution that was practical, economically feasible, and would allow Degross and Chlan to keep farming.

Commissioner Humphrey asked Mr. Mahowald how he feels about a possible delay in action on the item; and if he would face any hardship if there was a deferred action. Mr. Mahowald stated that he doesn't see any reason to delay action on the request.

Commissioner Hanson stated that she would like to receive all of the information including what Mr. Chlan may bring to the table through his engineer, before she makes a recommendation.

Greg Halling, Halling Engineering, 3727 East 255th Street in Webster, asked City Engineer Revering how much expense the City has incurred in reviewing the drainage issues in response to Mr. Chlan's concerns. Revering stated that he does not have an estimated total amount, but the City has spent a significant amount of time over the past eight-to-ten years. Halling stated that he has met all City requirements in terms of stormwater.

Nadia Khalil, 1435 Overlook Drive in Elko New Market, stated she feels that she was misled because she did not know development was planned for the area. She also stated that there are vacant lots that have not yet been sold so she doesn't understand why the lots are being proposed at this time.

Rick Greuel, 1435 Overlook Drive in Elko New Market, stated that up to seven homes will be directly affected by the proposed development and that he doesn't see the value in the development.

The public hearing was closed at 8:43 p.m.

Following discussion by the Planning Commission, it was moved by Humphrey and seconded by Hanson to continue the request for rezoning and preliminary plat approval of Sylvester Meadows, noting the following:

- 1) Staff is directed to extend the City's statutory review period for an additional 60-days for a total of 120-days.
- 2) Lance Heisler with Lampe Law Group shall be given until July 8, 2019 to submit an independent hydrology study for consideration by the City in conjunction with the current request.
- 3) The applicant shall redraw the plat to address the park dedication as requested by the Parks Commission.
- 4) The applicant shall address the conditions contained in the May 28, 2019 staff report to the Planning Commission in future submittals.

Motion carried: (5-0)

8. GENERAL BUSINESS

A. Concept Plan Review and Annexation Petition for Residential Development – John Wichmann & Steve Soltau

Christianson advised the Commission that the City has received a petition for annexation of approximately 36 acres of land located along the east side of Xerxes Avenue and directly south of Pete's Hill Park. The applicant, Elko 34, LLC, is requesting the annexation in order to develop the property into a 46 lot residential development on urban services.

Christianson noted that the City has been reviewing various concept plans for the property for approximately three years. There are new investors in the ownership group who now wish to move the project forward. She introduced Steve Soltau who is representing Elko 34, LLC. Christianson explained that feedback has been received from the City Engineer and

Public Works Director. She provided a Powerpoint presentation and described the following:

- Neighborhood conditions and surrounding uses
- Street conditions of Xerxes Avenue, Beard Avenue and 273rd Street East
- 2030 Comprehensive Plan which guides the property to Low Density Residential
- Proposed Planned Unit Development (PUD) zoning of the property, and the reason that PUD zoning is being requested
- Lot size standards and setback requirements, and the developer's request for a 25' front setback.
- Utility issues, including issues related to sanitary sewer, water, and stormwater
- Landscaping and tree preservation requirements
- Wetlands on the property and proposed 7,100 square foot wetland impact
- Sidewalk and trail requirements, and the Park Commission's desire for a trail connection from the development to Pete's Hill Park.
- Issues related to park dedication requirements, which are currently being considered by the Park's Commission.

Christianson explained that the City does not typically annex property without a recommendation from the Planning Commission, and that annexation are typically only considered when a development proposal has been received.

New Market Township Board member and Ex-officio member Anderson stated that he did not see anything concerning to the Township with the conceptual layout. He did, however, ask about the maintenance of Beard Avenue adjacent to the development. Christianson stated that the City currently maintains Beard Avenue and has annexed to the centerline of the road. If the property were to be annexed, the City would own the entire road right-of-way for much of Beard Avenue.

Planning Commission feedback was requested on the following items:

- Does the Planning Commission support annexation of the property for the proposed development?
- Does the Planning Commission support the twin homes in the proposed locations?
- Does the Planning Commission support PUD zoning in this location and for the proposed development?
- Does the Planning Commission support the proposed 25' front setback?

Following discussion, it was moved by Humphrey and seconded by Hanson, to recommend to the City Council that the property be annexed into the City of Elko New Market based on the submitted concept development plan, and noting the following items:

- 1) The proposed use of the property meets the intent of the guided land use for the area which guides the property to low density residential. The development does not exceed the guided density range 2 to 5 units per acre.

- 2) Development of the property as shown on the concept plan dated 4/25/19 would require approval of Planned Unit Development (PUD) zoning.
- 3) A deviation from the lot size and width requirements is being proposed for eight of the proposed 23 single-family lots. Attempt should be made to meet the minimum lot size requirements.
- 4) The developer shall indicate how the development will meet the intended goals of the PUD by incorporating improved design elements that exceed the city's standards.
- 5) A 20' wide landscape buffer must be provided for lots abutting Xerxes Trail and 273rd Street East.
- 6) A tree inventory meeting the requirements of Section 12-9-9 of the City's Subdivision Ordinance must be completed and must identify the location of all significant trees on the property. 40% of the significant trees must be protected as part of the development.
- 7) The City will require that water be looped through the development and connect to the Windrose development. Future plan submittals should indicate the proposed connection to the Windrose development. 12" watermain will be required in 273rd Street East.
- 8) A stormwater plan meeting the requirements of Chapter 11 of the Zoning Ordinance and the City's Surface Water Management Plan must be submitted and approved by the City Engineer.
- 9) A (wetland) MnRAM report is required, to determine the quality of the wetlands on the site. Vegetative buffers are required adjacent to delineated wetlands, and buffer widths are based on the quality of the wetland.
- 10) Support for the concept plan dated 4/25/19 is subject to approval of a wetland replacement plan application. An application for wetland mitigation will need to be submitted and approved by the City in order to mitigate any wetlands on the property.
- 11) Additional right-of-way will need to be dedicated along Xerxes Trail, Beard Avenue, and 273rd Street East.
- 12) 273rd Street East adjacent to the proposed development must be improved to city standards. The street section/design shall match the existing street section on Xerxes Trail, with curbing on the north side of the street, and a rural section on the south side of the street.
- 13) A sidewalk must be added on the north side of proposed "Road C". A sidewalk may be required on proposed "Road B" (cul-de-sac).
- 14) A 10' wide trail that meets the intent of the City's Park & Trail Plan should be incorporated into the development plans. The trail should connect from Pete's Hill Park on the north side of the development, and continue through the development in a southeasterly fashion, possibly connecting to proposed "Road A or C".
- 15) Park land dedication is recommended on the north side of the proposed development, adjacent to Pete's Hill Park and surrounding the north wetland area. Additional input will be sought from the Parks Commission regarding park dedication.
- 16) Additional evaluation is needed regarding proposed single family lots #22 & 23, in terms of sanitary sewer and water service, and driveway access onto a major city collector street. These lots may not be buildable lots.
- 17) The existing well on the property must be properly sealed and the septic system must be properly abandoned. Demolition permits are required for removal/demolition of any existing structures.

- 18) The proposed monument sign must be located on a private lot, with an easement granted for monument sign purposes.
- 19) The proposed outlots depicted between single-family homes and twin homes must be incorporated into private lots. The proposed outlots must be removed from the development plan.

Motion carried: (5-0)

B. Concept Plan Review of 68-Unit Apartment Development – Global Properties

Sevening presented her concept plan staff report, along with a Powerpoint presentation for a proposed 68-unit apartment complex to be constructed in two buildings. She provided some history regarding the property, noting that the property was previously owned by the City who recently sold the property to Global Properties.

She reviewed the following items related to the proposed development:

- 2030 Comprehensive Plan, which guides the property to Residential Mixed Use
- 2040 Draft Comprehensive Plan guidance, which guides the property to High Density Residential
- Current zoning of the property of High Density Residential
- Minimum lot criteria and required setbacks
- Proposed setback variances which would be required to accommodate the development as currently proposed
- Additional building height being request which would require a conditional use permit
- Utility issues, including how the property would be served with sanitary sewer, water, and stormwater
- Wetland issues
- Tree inventory requirements
- Lighting plan requirements
- Parking requirements for apartments, and the parking being proposed by the applicant.
- Property access issues from James Parkway and the private development to the east, noting that the c
- Snow storage requirements
- Sidewalks, trail, and park requirements
- Requirements for open space within the site
- Police and Fire Department input regarding the concept plan, including a recommendation of a hard surface gravel base on the west side of the property
- The existence of a gas line easement within the site

Sevening summarized the proposed deviations from the City Code as shown on the current concept plan. She also reviewed the specific criteria that must be satisfied for variance and

conditional use permit requests. She asked the Planning Commission to provide feedback on the concept plan and the proposed deviations from the City Code.

Larry Gensmer, representing Global Properties, was present at the meeting and indicated that they would try to amend the concept plan to eliminate the need for most of the variances. He did state that they would continue to apply for a conditional use permit for the deviation from the building height requirement. He also discussed the large gas line easement which impedes the use of the site.

Chairman Smith asked Gensmer if he anticipated any problems with connecting the proposed apartment development to the existing townhome development. He stated that he will be suggesting an “emergency only” access through the two developments, and hopes that the homeowners association will consent to the cross access.

Chairman Smith and Commissioner Hanson asked what the target market and rents would be. Mr. Gensmer indicated that they are currently proposing a workforce housing project, and they may be applying for tax credits, tax abatement, and/or conduit financing.

The Planning Commission generally supporting the concept plan with the changes as described by Mr. Gensmer.

9. MISCELLANEOUS

Upon recommendation of the Chair, all miscellaneous items were deferred to the June Planning Commission meeting.

10. ADJOURNMENT

A motion was made by Hanson and seconded by Humphrey to adjourn the meeting at 10:15 p.m. Motion carried: (5-0).

Submitted by:



Renee Christianson
Community Development Specialist