

**MINUTES  
CITY OF ELKO NEW MARKET  
PLANNING COMMISSION MEETING  
September 25, 2018  
7:00 PM**

**1. CALL TO ORDER**

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

Commission members present: Thompson, Vetter, Kruckman, Smith, Humphrey, Ex-officio member Anderson

Members absent and excused: None

Staff Present: Community Development Specialist Christianson and City Engineer Revering

**2. PLEDGE OF ALLEGIANCE**

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

**3. APPROVAL OF AGENDA**

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

**4. PUBLIC COMMENT**

There were no public comments.

**5. ANNOUNCEMENTS**

**A. Resignation of Chairman Thompson**

Chairman Thompson announced that he has submitted his resignation from the Planning Commission due to the fact that he has sold his home and will be moving outside of the City limits. This September 25, 2018 meeting will be his final meeting. The Commission offered regrets and thanks to Chairman Thompson for his years of service to the Commission.

**6. APPROVAL OF MINUTES**

A motion was made by Humphrey and seconded by Vetter to approve the minutes of the August 28, 2018 Planning Commission meeting as written. Motion carried: (5-0).

**7. PUBLIC HEARINGS**

**A. Request for Rezoning #R4-2018 – City of Elko New Market, applicant**

Chairman Thompson asked Community Development Specialist Renee Christianson to present her memorandum dated September 25, 2018 regarding Rezoning Request #R4-2018.

Christianson reported that the City of Elko New Market owns a piece of property along the south side of James Parkway that had been approved for a town home development prior to the recession. The original 71-unit development was approved by way of PUD zoning. The original developer (2006) defaulted on assessments against the property and the City ultimately ended up with possession of the undeveloped portions of the property. The City currently has a purchase agreement on the final remaining undeveloped parcel which consists of 3.19 acres. The purchaser is Global Properties, LLC.

Christianson explained that one condition of the purchase agreement is that the buyer have reasonable assurance that they will be able to use the property for their intended use. Global Properties is planning to construct apartment buildings on the property. To provide the reasonable assurances, the purchaser has requested that the City rezone the property to R4 High Density Residential as a condition of the sale. The R4 zoning district allows multiple-family dwelling structures containing more than eight units as a permitted use. The criteria for granting a rezoning request were reviewed.

Chairman Thompson opened the required public hearing at 7:12 p.m., and with no comments from the public, it was moved by Humphrey, seconded by Kruckman to close the public hearing at 7:13 p.m.

Commissioner Smith asked about the large stockpile of fill and dirt on the site, and questioned whether there needed to be any coordination with the adjacent property owner to the west, since the stockpile seemed to cross over both properties. Christianson stated that the buyer is aware of the stockpile location in relation to the property lines. Upon sale of the property, any responsibility for coordination would be assumed by the buyer.

With no further discussion, it was moved by Smith and seconded by Vetter to recommend approval of the request for Rezoning #R4-2018 to rezone the subject property from Planned Unit Development (PUD) to High Density Residential (R4) for the following reasons:

1. Rezoning of the property to R4 is consistent with the City's Comprehensive Plan, which guides the property to a Residential Mixed Use land use Category, and the Residential Mixed Use land use category provides for development of multi-family housing.
2. The proposed R4 zoning of the property is compatible with adjacent land uses.
3. The City's existing infrastructure can accommodate multi-family development on the property.
4. The site borders on a City minor collector street which can adequately handle traffic from high density residential development.

Motion carried: (5-0).

## **B. Draft Amendment to Zoning Ordinance – Definitions and Uses in the B1 Zoning District**

Community Development Specialist Christianson introduced the agenda item and explained that the topic of simplifying the list of permitted and conditional uses in the B1 Neighborhood Business zoning district was introduced by City staff at the August Planning Commission. The B1 zoning district allows a wide variety of uses including various retail, service, and restaurant uses. The purpose of the district as stated in the Zoning Ordinance is “to provide for the establishment of local centers for convenient, limited office, retail or service outlets which deal directly with the customer for whom the goods or services are furnished.” Staff suggested, and the Commission supported, that the list of many various individually listed retail and services uses should be simplified into more generic categories, and it was also agreed that office uses should be a permitted use in the B1 district and not a conditional use.

Christianson reviewed in detail the changes proposed to Section 11-26A of the City Code, related to the B1 Neighborhood Business District and Section 11-2-2 Definitions. The proposed changes were summarized as follows:

- Deleted the many individually listed retail and service type uses listed as permitted uses in the B1 district and replaced with the following permitted uses in the B1 district:
  - Clinics
  - Daycare facilities
  - Office uses
  - Personal wireless service antennas located on a public structure or existing tower
  - Personal services
  - Physical recreation or training
  - Restaurants, fast food
  - Restaurants, sit down
  - Retail establishments
  - Service establishments
  - Sexually oriented business, accessory
  - Sexually oriented business, principal
- Added Convenience Store as a conditional use
- Changed Daycare Facility from a conditional use to a permitted use
- Changed Office Uses from a conditional use to a permitted use
- Deleted definition of Daycare Nursery and added definition for Daycare Facility
- Amended definition of Office Use
- Added definition for Physical Recreation or Training
- Added definition for Recreation, Commercial
- Added definition for Service Establishment
- Deleted definition of Retail Sales and added definition for Retail Establishment

Christianson stated that the proposed changes would make it easier businesses to locate within the B1 zoning district without needing a conditional use permit and will also clean up some of the currently listed definitions.

Chairman Thompson and Commissioner Humphrey asked about sexually oriented uses. Christianson explained to the Commission that a city must provide opportunities for sexually oriented uses to locate. She explained that the Elko New Market code allows them in certain zoning districts with conditions, such as minimum required setbacks to schools and daycares. She explained that if, by applying all the conditions, there is no place for a sexually oriented use to locate, the City's code would be considered unconstitutional. She stated that she has discussed the specific matter with the City's legal counsel because of concerns for such uses in the B1 zoning district. Legal counsel has recommended, that until a new evaluation is completed to determine that there are reasonable places for sexually oriented uses to locate, they should remain a permitted use in the B1 zoning district.

Christianson noted that the City Attorney also recommended a slight change to the definition of Commercial Recreation. The City Attorney has also recommended, as a result of the currently proposed ordinance amendments, changes to other sections of the ordinance as follows:

- Change all ordinance references for Daycare Nursery to Daycare Facility
- Change all ordinance references for Retail Sales to Retail Establishment
- Change all ordinance references for Indoor Commercial Recreation to Recreation, Commercial
- Add parking requirements for Service Establishments

Chair Thompson questioned whether these additional changes suggested by the City Attorney would require an additional public hearing. Christianson stated the City Attorney is in the process of determining if an additional public hearing would be required or if, because they are a connected action, a hearing would not be required.

Commissioner Smith questioned whether Sexually Oriented Uses could be removed from the list of permitted uses in the B1 district. Following discussion by the Commission, it was agreed that until a full evaluation and mapping exercise could be completed to ensure that the City has reasonable opportunities for Sexually Oriented Uses to locate, they should remain in the B1 district.

A public hearing was opened at 7:33 p.m. Mayor Crawford expressed concern for making sure the City's ordinance was constitutional in regards to Sexually Oriented Uses. With no further comments from the public, it was moved by Smith and seconded by Humphrey to close the public hearing at 7:35 p.m.

It was moved by Humphrey, seconded by Smith to recommend to the City Council changes to Section 11-2-2 (Definitions) and Section 11-26A (Neighborhood Business District) as shown in the Planning Commission Memorandum dated September 25, 2018, and adding changes suggested by the City Attorney. It was further recommended that staff complete an evaluation of Sexually Oriented Uses within the City to determine the constitutionality of the City's ordinance, and potentially make amendments in this regard. Motion carried: (5-0).

## 8. GENERAL BUSINESS

### A. Draft Amendment to Zoning Ordinance – Residential Lot Size Requirements

Chairman Thompson asked Community Development Specialist Renee Christianson to present her memorandum dated September 25, 2018 regarding Residential Lot Size Requirements. Christianson explained that at the both the March and August 2018 Planning Commission meeting there was discussion regarding minimum residential lots size requirements. The City's code currently contains one residential zoning district intended for new single-family residential development (R-1) and one residential zoning district intended to cover those existing smaller lots in older areas of the City (R-2). She reviewed the current minimum lot criteria in each district.

Christianson noted that staff continues to hear from residential developers that the market is going to smaller lots. Because of Elko New Market's larger minimum lot size requirements (12,000 square feet) for new developments, the City is commonly seeing developer's requesting PUD zoning, rather than utilizing the standard R-1 zoning district requirements. This was the case with Boulder Heights and Boulder Pointe 7<sup>th</sup> Addition, and the proposed Preserve at Elko New Market. She noted that staff is also in discussions with at least two other residential developers who have verbally stated their intent to develop using smaller / narrower lots, should they decide to move forward.

Christianson provided examples of neighborhoods that have been developed using PUD zoning, noting that the Glenborough neighborhood was a good use of the PUD because the development provided for a mix of housing options, additional trails, open space, and a recreational amenity. She noted that many of the other PUD's have been used primarily to allow variances from minimum lot sizes without a significant return.

Christianson explained that approximately thirteen other communities' lot size standards had been researched and she presented an overview of infrastructure costs related to varying lot widths. She noted that following discussions at both the March and August Planning Commission meetings, the Commission directed staff to prepare amendments to the City's Zoning Code and Comprehensive Plan as follows:

- Change the minimum standards in the R2 district to 8,400 square foot minimum lot size and 70' minimum lot width.
- Add clarifying language to both the Comprehensive Land Use Plan and also the R1 and R2 district "purpose" to further clarify where the City would support the use of R1 and R2 zoning.
- Review the standards of the R3 district to possibly include an option for a single family detached home as a permitted use, on a potential 50' lot width.

Draft amendments to the current zoning ordinance, 2030 Comprehensive Land Use Plan and the (draft) 2040 Land Use Plan were presented to the Planning Commission for discussion. Humphrey asked what the advantage of continuing to utilize PUD zoning would be. Chairman Thompson stated that the PUD zoning gives cities more control and ability to negotiate with developers. Humphrey stated that developers would know what to expect by

using zoning districts rather than the PUD zoning and that seems to be clearer. Mayor Crawford noted that the City's current R1 district standards do not meet the Met Council density requirements. Commissioner Smith suggested adding a table to the zoning ordinance showing the minimum standards for each zoning district. Staff noted that the City Attorney may have additional comments regarding the draft language. The Commission directed staff to prepare a public hearing regarding the proposed changes to minimum lot size requirements as outlined in the Planning Commission Memorandum dated September 25, 2018, subject to City Attorney recommendations.

**9. MISCELLANEOUS**

**A. City Staff/Consultant Business Updates and Reports**

Community Development Specialist Christianson provided updates to the Commission regarding several projects, including Christmas Pines, the Circleview property, the Adelman property, and the retail center.

**10. ADJOURNMENT**

A motion was made by Thompson and seconded by Humphrey to adjourn the meeting at 8:26 p.m. Motion carried: (5-0).

Submitted by:



Renee Christianson  
Community Development Specialist