

**MINUTES  
CITY OF ELKO NEW MARKET  
PLANNING COMMISSION MEETING  
APRIL 25, 2023  
7:00 PM**

**1. CALL TO ORDER**

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

Commission members present: Weber, Smith, Hanson, Pipo, Heimerl, and Ex-Officio Member Anderson

Members absent and excused: None

Staff Present: Senior Planner Renee Christianson, Planner Jake Skluzacek, and City Engineer Revering

**2. PLEDGE OF ALLEGIANCE**

Chair Weber led the Planning Commission in the Pledge of Allegiance.

**3. APPROVAL OF AGENDA**

Chair Weber asked if there were any changes to the agenda. Senior Planner Christianson informed her that there were no changes.

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

**4. PUBLIC COMMENT**

None.

**5. ANNOUNCEMENTS**

**A. Reappointment of Planning Commissioner Kasey Pipo**

Senior Planner Christianson informed the Commission that Commissioner Pipo has been reappointed to the Commission for another three-year term.

**B. Introduction of New Planning Commissioner Joseph Heimerl**

Christianson next introduced Joseph Heimerl, the newest addition to the Planning Commission. Heimerl introduced himself to the Commission and shared some of his professional and educational background. Heimerl mentioned that he was excited to be a part

of the Commission and Chair Weber and Senior Planner Christianson welcomed him to the Commission.

## **6. APPROVAL OF MINUTES**

A. A motion was made by Hanson and seconded by Smith to approve the minutes of the February 28<sup>th</sup>, 2023 meeting as submitted. Motion carried: (5-0).

## **7. PUBLIC HEARINGS**

### **A. Consider Amendment to Planned Unit Development #7, Syndicated Properties, applicant**

Senior Planner Christianson introduced the topic and provided background. The original plan for the development from 2005 was that access to Oriole Street from James Parkway would close when alternative access was made available. In 2017, Syndicated Properties requested that the Oriole Street access be allowed to remain open. The request was denied by the Planning Commission and the City Council in 2017. Syndicated Properties has now applied to amend the PUD and has again requested approval for the access to remain open. Christianson shared the applicants request which included predicted problems the development will face if the access is closed. The applicant cited predicted problems with emergency vehicles, trash removal trucks, school buses, postal delivery, and other emergency situations if the access is closed.

Christianson described the streets bordering the site and stated the most current vehicle counts available. Next Christianson showed a diagram of an Intersection Functional Area. This diagram helps to describe both the physical and functional areas of the intersection. The functional area is the area required by a driver to safely perceive and react to specific intersection controls. The Oriole Street access adds a point of conflict to the Intersection Functional Area as it is within the 200-foot stopping sight distance.

Christianson read through comments received from City Staff. The Police Chief, Brady Juell, submitted comments stating that he believes the intersection will become unsafe with future planned development, even if it appears safe at the present time. Chief Juell cited snow storage as a huge concern with visibility at the intersection. The speed limit also presents dangers to pedestrian and vehicle traffic at the intersection. Chief Juell concluded his comments by recommending that the access on Oriole Street be closed to follow the original design for the development.

Lastly, Christianson presented an analysis on reasons to support the access remaining open as well as reasons to support the access being closed. Christianson informed the Commission that a public hearing is required to be held regarding the application to amend PUD #7 / Ordinance #176 to allow the Oriole Street / James Parkway access to remain permanently open. After the public hearing, the Planning Commission will provide their recommendation to the City Council.

Chair Weber opened the public hearing at 7:16 p.m.

Jake Obermeyer – 25880 Oriole Street

Obermeyer approached the podium for the public hearing. Obermeyer stated that he believes the Oriole Street access remaining open presents a safety concern. He mentioned that a lot of people are unhappy with the developers and that they should be held accountable to complete the development as originally approved. Obermeyer thanked the Commission for their time.

Charles Daniels – 25874 Cardinal Street

Daniels approached the podium for the public hearing. Daniels stated that he supports the Oriole Street access remaining open due to safety concerns associated with closing it. Specifically, Daniels mentioned that increased traffic on Cardinal Street would result if the Oriole Street access were to be closed. Daniels was of the opinion that the driver has a responsibility to be aware of their surroundings.

James Minor – 25955 Oriole Street

Minor approached the podium for the public hearing. Minor introduced himself as the current HOA Director. Minor agreed that the contractors they had to remove snow were not doing a satisfactory job and they have since been replaced. Minor was in favor of keeping the Oriole Street access open. Minor did think that additional signage or reduced speed limits would help improve safety at the intersection.

Charles Daniels approached the podium again to add that if that access is closed, trash haulers may discuss the option of cancelling their service due to trucks not being able to safely turn around.

Rojon Whitley – 25965 Oriole Street

Whitley approached the podium for the public hearing. Whitley mentioned that he agreed with what everyone else had already said. Whitley's opinion was that closing the Oriole Street access would limit options for children to safely play in the development and lead to cluttered traffic.

Jake Obermeyer approached the podium again to add that he has two young kids, and he does not allow them to play in the street. Obermeyer reiterated his opinion that access should be closed.

Hearing no additional public comment, Chair Weber closed the hearing to the public at 7:25 p.m.

City Engineer Rich Revering explained the history behind the original plans for the development. Revering also informed those in attendance as well as the Commission on how speed limits are decided. He let those in attendance know that the speed limit is dictated by State Statute and the City cannot arbitrarily change a speed limit without a proper speed study.

That speed study could actually result in increased speed limits due to averaging speeds observed during the study. Discussion took place on school bus stops near the development.

Commissioner Pipo explained that he emphasized with those in attendance because he has experience living in an HOA. Christianson clarified to the Commission that this is not something that could be reconsidered at a later date because the City is still holding security from the developer to ensure that it gets completed. If the Oriole Street access is to be closed, this was the Commission's last chance to do so. Commissioner Hanson mentioned that she was not a fan of cul-de-sacs but the developer knew that the access would have to be closed eventually. Hanson thought that the original plan should be enforced and that the access should be removed. Commissioner Smith agreed with Hanson's view. Chair Weber also agreed with Hanson. Discussion took place on emergency vehicle access to the development. Ex-Officio Commissioner Anderson brought up the idea of liability if the City decided to leave the Oriole Street access open and there was an accident. Further discussion took place.

Following discussion, a motion was made by Hanson and seconded by Smith to recommend that the City Council deny the applicant's request to keep the Oriole Street access open. Motion carried: (4-1) Commissioner Pipo objected.

## **8. GENERAL BUSINESS**

### **A. R & F Properties Grading Permit**

Senior Planner Christianson introduced the application for a grading permit from R & F Properties. She mentioned that they have had the same grading permit approved by the City for the past three or four years, and that the permit requires a Planning Commission recommendation to the City Council for approval. R & F wants to keep the option open to add good clean fill to the site if they are able to obtain some. Commissioner Smith and Pipo noted that the site has been cleaned up since last year.

A motion was made by Smith and seconded by Hanson to recommend approval of the grading permit for R & F Properties, with the following conditions.

1. Approval is based on the grading plan containing 1 sheet, prepared by Probe Engineering, dated 4/10/19 and revised 4/16/19.
2. Approval is based on the Storm Water Pollution Prevention Plan containing 10 sheets, prepared by Probe Engineering, and dated 4/16/19.
3. The applicant shall comply with all recommendations of the City Engineer, and conditions contained in his review memorandum dated April 22, 2019.
4. The applicant shall enter into a Grading Authorization Permit with the City.
5. Fill shall be stockpiled until it can be equally spread over the entire overflow area, so the required overflow parking area is maintained.
6. All access to the site for purposes of filling and grading shall be via France Avenue through the R & F Properties property. No access to the site shall occur on Whispering Hills Lane.
7. Fill brought to the site in 2023 shall be leveled, and the site shall be fully stabilized by November 30, 2023.

8. The permit shall be granted for a period not to exceed one-year in length.

And noting the following:

1. The City's Comprehensive Plan depicts a future extension of Whispering Hills Lane, easterly, into the area proposed to be filled to eventually connect with France Avenue / 265<sup>th</sup> Street. Future extension of the roadway will likely require removal or moving of some of the proposed fill at applicant / developer's expense.

Motion carried: (5-0).

## **B. Concept Plan Review for The Preserve, R & F Properties, applicant**

- **Rezoning Property from PUD to R3 & R4**
- **Variance for Minimum Right-of-Way and Street Standards**
- **Preliminary Plat**

Christianson introduced the applicant and the actions requested from the Planning Commission. R & F Properties has submitted a concept development plan for The Preserve containing 13 single family lots. The property in question is located along CSAH 91, south of CSAH 2, north of the Whispering Hills neighborhood. Christianson continued, covering the following topics related to the proposed development plan:

- Neighborhood Conditions
- Comprehensive Plan Guidance
- Zoning Regulations and Requirements
- Lot Size and Lot Width
- Landscaping
- Tree Inventory and Preservation
- Easements
- Sanitary Sewer
- Water
- Stormwater
- Wetlands
- DNR PWI and Floodplains
- Natural Environment
- Access, Roads, and Transportation
- Sidewalks and Trails
- Parks

The City Engineer reviewed the submitted concept development plan and his comments are as follows:

1. Scott County to review access configuration.

2. Applicant to provide total estimated impervious surface area proposed. If volume control is triggered and can't be provided on site, an off-site improvement may be needed to gain plan approval.
3. The City has no authority to allow open cutting of utilities in the County's right-of-way. Scott County to review open-cut proposal.
4. The water main to and through the site to be 12-inch with City participation in oversizing and configuration at the dead end to facilitate future connection to the Elko pressure system in the future.
5. Grant the City a 20-foot utility easement for the future water piping and a potential PRV station along the westerly boundary of Outlot A from the 10-lot parcels to and across the rear yard of the westerly lot connecting to Evergreen Court.
6. The City would require a hydrant on a 12-inch lead on the north side of Street A and just east of the existing trail to avoid potential firefighting activity on and across CR 91 and to facilitate future connection of water to the north.
7. Grant the City a 20-foot utility easement across the replatted property for future water main on the east side of the existing trail from Street A to the northly edge of Outlot B.
8. The developer might consider using a pressure sewer system with individual grinder stations to serve the southerly two lots at Evergreen Court in lieu of replacing a segment of gravity sewer and restoring the street. The grinder stations would be private, and the homes would not be permitted to share a station. A properly designed pressure sewer force main could be shared.
9. It appears the driveways for the three southerly lots are intended to drain to the street where the runoff would be picked up by the Whispering Hills stormwater management system. This is acceptable but should be clarified on the drawings.

The Building Official made a comment to do preliminary soil testing to verify suitability of soils, due to close proximity to wetlands. The Police Chief noted that he had no concerns with the concept plan. Scott County Transportation Services issued a memo dated April 14<sup>th</sup>, 2023 with their comments, a copy has been included in the packet. Other City Staff have reviewed the concept plan but have had no comments at this time.

General comments regarding the development concept, and or items that need additional attention or redesign:

1. The developer must enter into a Development Contract with the City of Elko New Market at the time of final plat approval.
2. The proposed use of the property for single family detached residential homes meets the intent of the currently guided medium density land use for the area and the 2040 Comprehensive Plan.
3. The concept development plan contains 13 lots on 4.38 acres (2.97 units per net acre). Although the proposed density does not meet the preferred density identified in the City's Comprehensive Plan, the unique layout of this property, being almost completely bound by wetlands and County Roads, makes the preferred density nearly impossible to achieve.
4. The PUD for the Elko Speedway must be amended to remove the proposed plat area from the PUD prior to platting of the property. This PUD amendment shall include a

full analysis of the parking requirements for the Elko Speedway property and associated uses.

5. The proposed Lots and proposed Outlot A must be rezoned to R3, Medium Density residential, and proposed Outlot B must be rezoned to R4, High Density Residential, in conjunction with the proposed plat.
6. All proposed lots meet the minimum lot size and lot width criteria for the R3 district.
7. A minimum 20' wide landscape buffer must be provided on the west side of proposed Lot 1 Block 2, and a landscape buffer (double row of trees and berm) must be provided.
8. A tree inventory must be completed which identifies the location of all significant trees on the property. A tree removal and replacement plan meeting the requirements of Section 12-9-9 of the City Code must be submitted in conjunction with the proposed plat.
9. Existing easements as shown on the Elko Market Place plat should be vacated and reestablished as part of the proposed plat.
10. 10' wide drainage and utility easements shall be provided on all lot lines (5' in width on each side of a common lot line).
11. A 12" watermain must be constructed within Street A, subject to additional recommendations by the City Engineer.
12. A 20' drainage and utility easement must be dedicated along the west side of the plat. Such easement is to accommodate the installation of a future trunk watermain along Natchez Avenue.
13. The stormwater ponds cannot encroach into the drainage and utility easements along Natchez Avenue. The plans should be revised accordingly.
14. Any approvals of the proposed development are subject to approval of a wetland replacement plan application. The developer assumes all risks associated with further preparation of the preliminary and final plat application in advance of the required wetland application approvals.
15. Conservation easements over the wetland buffer areas are required, or the developer may adjust the lot boundary so that the entire wetland buffer is within the outlot to be dedicated to the City.
16. Wetland buffer sign markers are required, if the required wetland buffers extend into the proposed lots.
17. Approval of the development is subject to the requirements of the Scott County Transportation Services Department in terms of access from Natchez Avenue and CSAH 91.
18. Any work conducted within the Natchez Avenue and CSAH 2 right-of-way requires a permit from Scott County.
19. 25' of right-of-way dedication will be required along Natchez Avenue during the platting process.
20. A variance is from the maximum cul-de-sac length of 500', the required street width of 28', and the required right-of-way width of 60' is required for the proposed Street A.
21. A sidewalk is required along one side of proposed Street A.
22. A recommendation will be sought from the Parks Commission, regarding the placement of sidewalks, trails, and park dedication.
23. Preliminary soil testing is recommended to verify suitability of soils.

24. Approval of the plat and final construction plans are subject to the recommendations and approvals of the City Engineer, Public Works Director, and City Attorney.
25. Final construction plans must include a signage and lighting plan meeting the recommendations of the City Engineer. A streetlight shall be required at the proposed intersection of Street A and Natchez Avenue.

Christianson invited Tom Ryan of R & F Properties to the podium to add anything or to help answer any questions from the Commission. Ryan mentioned that Staff including Christianson and Revering have been great to work with on this application. Ryan added that the variance in front of the Commission to allow for a narrower street is the largest factor for consideration. His reasoning for approval is that the concept calls for housing only on one side of the street which would lessen the need for on-street parking on proposed Street A. The wetlands existing on the property also limit the buildable area of the site. Discussion took place on housing density and taxes for the property.

Commissioner Smith commented on the splitting of Outlot B. Ryan confirmed that the area contained to Outlot B has been planned for high-density since 2004 and apartments are likely to be built there in the future. Smith also asked for clarification on proposed Lot 6 and its odd shape. Christianson informed Smith that a storm sewer easement runs through that area which is the reasoning for the lot's unusual shape. Discussion took place on parking, historical parking studies done by the Elko Speedway, and wetland markers for backyards. Commissioner Pipo mentioned some soil issues in the area with other developments and noted issues with foundations in the area. Discussion took place on soils and elevations for the development.

Christianson asked the Commission if they had any feedback regarding the noise from the Elko Speedway. Ryan asked the Commission not to add any additional noise regulations for the development and recommended the approach of educating any potential buyers on the surrounding properties. Commissioner Pipo admitted that he has lived near the speedway for seven years and he has never been bothered by the noise generated from races or events. Pipo stated that he was aware of it when he purchased his property. Chair Weber recalled a big meeting about noise associated with the drive-in movies which eventually reverted back to concerns associated with the noise from the speedway. Discussion followed. It was the consensus of the Planning Commission that no additional requirements should be recommended related to noise. Commissioner Hanson had a question on the need for sidewalks with the narrower road. City Engineer Revering noted that the speed limit would be lower, and the street would still be wide enough to allow for safe pedestrian travel. Christianson explained the process to change the properties zoning from the current PUD. Discussion took place on the turning lane requirements being required by Scott County for CSAH 91.

A motion was made by Hanson and seconded by Weber to recommend to the City Council support for the rezoning request, variances related to street design, and preliminary plat approval, with the 25 Staff comments and recommendations to support the development as proposed.

Motion carried: (5-0).



### **C. Concept Plan Review for Multi & Mixed-Use Housing, R & F Properties, applicant**

Christianson introduced the request to potentially allow for mixed-use and high-density residential on a property owned by R & F Properties in Elko Market Place 1<sup>st</sup> Addition and currently guided to commercial. The Planning Commission held preliminary discussion regarding the concept during the January 31<sup>st</sup>, 2023 Planning Commission meeting. Preliminary Planning Commission feedback seemed to be open to the concept of allowing mixed-use.

The current concept submitted proposes the following:

- A three-story apartment building with 56 parking spaces.
- A three-story mixed-use apartment building (L-shaped) with 81 parking spaces.
- A commercial site to accommodate a 2,400 square foot building with drive-through and 7 parking spaces.
- A commercial site to accommodate a 2,700 square foot building with drive-through and 7 parking spaces.

The property currently contains two lots totaling 4.541 acres and 0.256 acres respectively. The property is currently zoned PUD with the underlying zoning of the City's B5 zoning district. Christianson reviewed the topography associated with the site along with the access including the two existing streets which the property borders. Next, Christianson reviewed the noise assessment study completed in 2005. She noted that the noise generated from the Elko Speedway is exempt from State requirements because the facility predates the State Statute. Christianson still wished to gain Commissioner feedback related to the noise.

Next, Christianson covered the topic of parks associated with this proposed development. She stated that Staff would request the developer to pay a cash fee in lieu of land dedication as no proposed future parks are identified in the area. The City's Subdivision Ordinance stipulates that 8% of land value is required for park dedication.

Christianson stated that the Commission may want to consider the following items related to the possible reguidance of the property to allow for multi-family or mixed-use development.

- The availability of pad-ready commercial sites within the City.
- The loss of commercially guided land in key locations of the City.
- The availability of other high-density residential land in the City.
- The location and visibility of the subject parcels, adjacent to an arterial and collector road.
- The compatibility of proposed high-density residential with adjacent land uses.
- Noise impacts of the Elko Speedway on multi-family residential land uses.

Staff comments on the proposed concept plan are as follows:

1. Proposed Lot 1 is showing a stand-alone apartment building not containing any mixed-use or commercial on the main floor.

2. High-density residential development requires that one parking space per unit be provided within an enclosed building. The concept plan does not address how this requirement will be met.
3. The number of proposed units, and the number of bedrooms per unit are not provided on the concept plan. Therefore, it is not possible to evaluate compliance with the parking requirements.
4. The square footage of the commercial space needs to be provided in order to determine general compliance with parking requirements.
5. The concept plan does not provide for open space which is typically a requirement for multi-family development.
6. Would the Planning Commission recommend any type of sound proofing of the apartment buildings as part of the approval process based on the proximity to the Elko Speedway oval track?
7. A Traffic Impact Study would be required to evaluate the impact of the proposed development on the surrounding transportation system.

Christianson stated that Staff is requesting feedback from the Planning Commission regarding the concept plan submitted and also to provide a recommendation to the City Council. The applicant, Tom Ryan of R & F Properties approached the podium for comment and to answer questions from the Commission. Ryan provided some history on the site and discussed a previous concept plan from 2005 which depicted commercial development of the site. Discussion took place on the commercial real estate market and what are the best options to fulfill that need in the City. Ryan noted that he was looking for a blessing from the Planning Commission to proceed with the proposed concept plan which includes multi-family.

Commissioner Smith noted that he has observed infill commercial properties in old parking lots, and it is becoming more common to see smaller standalone commercial buildings constructed in unused parking lot space. Ryan added that the commercial user typically wants to have their own separate buildings and not have to share with another user. Ryan also noted potential issues with residential above commercial related to noise and vibrations. Chair Weber stated that it depends on what type of demographic the developer is trying to attract. Discussion took place regarding the width of the private street running through the development north of the site.

Chair Weber asked the Commissioners if they had any feedback related to Staff's considerations. Commissioner Hanson asked Ryan who his demographic was. Ryan thought the target was 55 and up; however, the final market study is not yet complete but that will help inform what amenities may be offered. Ryan wishes to be competitive with developments in other cities.

Chair Weber asked Ryan if he had concerns with the noise levels associated with the track and his potential future occupants. Discussion followed on soundproofing and insulation. Commissioner Hanson asked about housing affordability and if Ryan would be proposing any subsidies associated with the project. Christianson stated that the most typical form of housing subsidy for multi-family development is Tax Increment Financing. Christianson briefly explained how Tax Increment Financing works. Ryan stated that he does not currently plan on applying for any subsidy, especially for the first building. He did not want to rule anything

out due to the concept being at such an early stage of development. Christianson agreed that it was most likely too early in the process to determine if subsidies would be requested.

Commissioner Pipo asked how many other multi-family projects are being proposed in the City. Christianson informed him that currently there are no other applications. Two proposed developments in the past have not continued with the development process. Two potential sites remain ready to build but no developers have yet contacted the City regarding potential development.

Following discussion, a motion was made by Smith and seconded by Hanson to recommend support of the Concept Plan Review for Multi & Mixed-Use Housing from R & F Properties to the City Council.

Motion carried: (5-0).

#### **D. Shipping Container Research**

Planner Skluzacek introduced the topic and provided some background information. The topic came to Staff's attention following a citizen inquiry about being able to construct a detached accessory structure using two shipping containers as primary building materials. Skluzacek showed the Commission some examples of other types of projects that have utilized containers, including dwellings. Currently the City Code does not address these containers for any use.

Skluzacek presented the pros and cons associated with the container structures. Skluzacek also presented several other city's Ordinances that address the containers. All example Ordinances allowed the containers strictly for temporary storage. The shortest amount of time City's allowed containers for temporary storage was 72 hours. The longest amount of time a City allowed for temporary storage was 90 days. Skluzacek asked the Commission to provide guidance if there is Planning Commission support of the following container uses:

- Temporary Storage
- Permanent Storage
- Permanent Accessory Structures
- Dwelling Units

Skluzacek shared Staff's recommendation that an addition or amendment to the City's Zoning Ordinance should be adopted to regulate the use of containers in the future. This recommendation stands regardless of Commission support for any of the options. Staff's opinion was that shipping containers need to be addressed by City Code, even if the Code just states that they are prohibited. Senior Planner Christianson shared some requirements specific to detached accessory structures; discussion followed.

Commissioner Hanson mentioned that she would have concerns with allowing them for dwellings as they are not meant to be lived in. Commissioner Smith raised questions with the engineering involved to safely build a structure out of them. Skluzacek stated that the structures would have to meet State Building Code but the City may impose additional engineering requirements if they decide that is appropriate. City Engineer Revering did not

have concerns with the containers ability to support weight as they are meant to be stacked; however, cutting into them may compromise the structural integrity. Revering also stated his concern with longevity and what they may look like in the future. Discussion followed.

Chair Weber was in favor of drafting an Ordinance that specified what uses are allowed based on zoning districts. Skluzacek asked the Commission if they were just interested in allowing the containers for storage. The Commission affirmed their support for allowing the containers to be used only for temporary storage. Discussion followed. Commissioner Pipo expressed that he would consider the containers being utilized for permanent storage for some industrial-zoned districts. Skluzacek informed the Commission that Staff will bring back a sample Ordinance for the next meeting.

## **9. MISCELLANEOUS**

### **A. Educational Opportunities**

Senior Planner Christianson shared educational requirements for the Commissioners and some virtual learning opportunities. Christianson stated that it has been at least two years since the last time any educational opportunities were offered, and that the City would be willing to purchase those virtual learning opportunities if any of the Commissioners were interested.

### **B. Community Development Updates**

Christianson asked if the Commissioners had any questions on any developments. Hearing none, Christianson asked if the township had any updates. Ex-Officio Commissioner Anderson informed Christianson that there were no updates.

### **C. Planning Commission Questions & Comments**

There were no questions or comments.

## **10. ADJOURNMENT**

It was moved by Smith and seconded by Weber to adjourn the meeting at 9:20 p.m. Motion carried: (5-0).

Respectively submitted by:



Jake Skluzacek  
Planner 1