

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

**1. CALL TO ORDER**

Chair Weber called the meeting of the Elko New Market Planning Commission to order at 7:02 p.m.

Commission members present: Weber, Hanson, Pipo, and Heimerl

Members absent and excused: Smith, and Ex-Officio Member Anderson

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 Hanson and seconded by Weber to approve the agenda as presented. Motion carried: (4-0).

**4. PUBLIC COMMENT**

None.

**5. ANNOUNCEMENTS**

None.

**6. APPROVAL OF MINUTES**

A. A motion was made by Hanson and seconded by Pipo to approve the minutes of the April 25<sup>th</sup>, 2023, meeting as submitted. Motion carried: (4-0).

**7. PUBLIC HEARINGS**

**A. Consider Application to Amend PUD / Ordinance #149 &239 for Elko Speedway Property Regarding Overflow Parking, R & F Properties, applicant**

Senior Planner Christianson introduced the topic and provided background on the site including zoning and history. The Elko Speedway opened in 1964, prior to any zoning regulations in the City or State. The uses at the site have expanded and evolved since its creation through PUD, Planned Unit Development, zoning. In February 2023, the City approved a Comprehensive plan amendment to change the guided land use for the southwesterly portion of the Elko Speedway site. Approval of this amendment established that medium and high-density residential uses are desired along County Road 91 provided that all applicable performance standards are satisfied.

Christianson explained the applicant's request. The applicant wished to amend the Elko Speedway PUD #139 as follows:

- Remove a 30.5-acre area from the approved PUD. This includes amending the legal description associated with the Elko Speedway PUD as contained in Exhibit A of Ordinance #149
- Removal of Overflow Parking Area #6, containing 560 overflow parking spaces, from the Elko Speedway PUD Ordinance. This would include amendments to the text and various development plans referenced within Ordinance #149.

Christianson shared the current PUD parking requirements that detail 1,473 parking stalls are required between the Speedway and Banquet facilities. Additional parking stalls are required under the PUD to account for possible simultaneous events which may occur at the Speedway. Maximum capacity at the property during simultaneous events is 8,000 people. The applicant is proposing to reduce the overall required parking stalls from 2,583 to 2,023.

The applicant has indicated parking demands for maximum capacity events can be accommodated without Overflow Parking Area #6. Police Chief Juell supports the removal of the overflow parking area and has confirmed that parking has been accommodated on the site. The property still exceeds the required amount of parking spaces with 2,023 parking spaces still available following removal of Overflow Parking Area #6. Christianson reminded the Commission that this request requires a public hearing which must be held. Christianson also requested a recommendation to the City Council from the Planning Commission regarding the applicant's request to amend Elko Speedway PUD #139.

Chair Weber opened the public hearing at 7:13 p.m.

Peter Sauro – 26544 Pond Ct.

Sauro mentioned that he had concerns with privacy and the proposed development of three homes. Chair Weber asked if he meant to speak regarding the next public hearing. Sauro apologized and will wait until the next public hearing opens to share his concerns. Sauro thanked Weber.

Hearing no additional public comment, Chair Weber closed the hearing to the public at 7:16 p.m.

Following discussion, a motion was made by Hanson and seconded by Pipo to recommend that the City Council approve the amended Elko Speedway PUD #139.

Motion carried: (4-0).

## **B. The Preserve, R & F Properties, applicant**

- **Consider Application to Rezone Property from PUD to R3 & R4**
- **Consider Application for Variance #V1-2023**
- **Consider Application for Preliminary Plat Approval of The Preserve**

Senior Planner Christianson provided background on the site. A residential development is proposed in the southwest portion of the property. A concept plan for the property was submitted and reviewed by the Planning Commission and City Council in April and May of 2023. The proposed development plan contains 13 single family lots. R & F Properties has submitted applications for rezoning, variances, and preliminary plat approval as follows:

- Application to rezone property from PUD to R3 & R4
- Application for variance
  - Maximum cul-de-sac length (700 ft. vs. 500 ft.)
  - Road right-of-way width (50 ft. vs. 60 ft.)
  - Roadway width (24 ft. vs. 28 ft.)
- Application for preliminary plat approval of The Preserve, containing 13 lots and 2 outlots

Christianson presented to the Commission the neighborhood conditions surrounding the subject property. Christianson shared a noise study from the sound generated from nearby Elko Speedway. The Speedway is exempt from all State noise standards due to its creation predating those standards. Christianson wanted the Commission to consider actions to address the noise in relation to the close proximity of housing. Options presented included doing nothing, including a notice on the title, and recommending that new homes be constructed with sound-proofing measures.

The property is currently zoned PUD, Planned Unit Development. An amendment to the PUD is required. Applications were received to rezone proposed lots and Outlot A to R3 zoning and to rezone proposed Outlot B to R4 zoning. All proposed lots will meet the minimum lot size and lot width criteria for the R3 zoning district.

Christianson continued the presentation by covering the landscaping and tree inventory/preservation plans. A tree inventory is required and has been completed. City Ordinance requires a minimum of 40% of significant trees to be retained while a maximum of 60% may be removed. A significant tree is defined as any hardwood deciduous tree 6 in. or greater in diameter, any softwood deciduous tree that is 12 in. or greater in diameter, or any coniferous tree 12 ft. in height or greater. The tree removal and preservation plan submitted by the applicant meets City Code requirements.

Existing drainage and utility easements encumber the property. An application to vacate existing easements has been submitted for review. Standard drainage and utility easements

are shown on the submitted plat as required. Christianson discussed several additional easements as follows:

- Additional drainage and utility easements for additional storm sewer line
- 20 ft. drainage and utility easement along County State Aid Highway 91 for future trunk water line
- Conservation easements for wetland buffer

There is an existing 12 in. pvc gravity sanitary sewer line along the east side of Natchez Avenue. An 8 in. pvc gravity sanitary sewer line at the north end of Evergreen Court and Pond Court is also existing. Proposed Block 1 would connect to the existing sanitary sewer near the Natchez Avenue/Aaron Drive intersection. A County right-of-way permit is required for this work. Proposed Block 2 would connect to the existing sanitary sewer in Evergreen Court. Staff notes that this would require cutting into the street to gain access to the sewer. Proposed Block 3 would connect to the existing sewer on the north side of Pond Court, no cutting required.

There is an existing 12 in. ductile iron water line at the northwest corner of Natchez Avenue and Aaron Drive. An 8 in. ductile iron water line is also located at the north end of Evergreen Court and Pond Court. Proposed Block 1 would connect to the existing water line at the northwest corner of Natchez Avenue and Aaron Drive. A County right-of-way permit is required for this work. Proposed Block 2 would connect to the existing water line on the north end of Evergreen Court. Proposed Block 3 would connect to the existing water line on the north side of Pond Court.

Three stormwater ponds are proposed on Outlot A. The ponds overflow into wetland areas. 10 ft. buffers are required around the ponds and a 35 ft. setback from the pond is required for all structures. Stormwater ponds are to be contained outlots and conveyed to the City following development.

A wetland delineation has been completed and approved. Approximately 11,347 sq. ft. of impacts are proposed to the wetland for road construction. The TEP, Technical Evaluation Panel, is a panel of highly qualified wetland experts from the County and State. A TEP recommendation and City Council approval are required for the proposed impacts to the wetland. Vegetative buffers are required around wetlands. The buffers must be located in a conservation easement or in an outlot.

There is a DNR, Department of Natural Resources, Protected Water on the property. The Ordinary High-Water Level is 1,126.4 ft. The MN DNR has reviewed the submitted plans and has no comments regarding the proposed plat. There are no FEMA, Federal Emergency Management Agency, designated floodplain areas on the property. Christianson shared natural environment information associated with the property and Comprehensive Plan.

Next, Christianson discussed access to the site along with the roads and additional transportation related information. Christianson detailed the existing street infrastructure as well as proposed streets to be created as part of the development. Christianson presented

requirements for these newly constructed streets including a variance that would be required for Proposed Street A. Additional County comments received include:

- Proposed access requires a County permit and northbound right turn lane
- Streetlight is required for intersection lighting
- All work in ROW, right-of-way, requires permit
- No ponding, berming, signage, or landscaping in ROW

A sidewalk is required on one side of Proposed Street A. Sidewalks have been proposed on Lots 1-5. Christianson requested Planning Commissioner feedback regarding sidewalk on Lots 6-10. A Parks Commission recommendation is needed regarding sidewalks and trails.

No park search areas were identified on the property as part of the Comprehensive Plan. The Comprehensive Plan recommends that all neighborhoods be serviced by a Neighborhood Park located within ½ mile radius and not interrupted by a major street. The closest parks to this development are Whispering Hills .6 miles away and Kelly Glen which is .35 miles away. Both of these parks are considered Mini Parks. The Parks Commission will provide a recommendation to the City Council regarding park dedication, trails, and sidewalks.

Christianson shared Staff's recommendations. Staff recommends approval of the request to rezone proposed Lots 1-10, Lots 1-2, Block 2, Lot 1 Block 3 and Outlot A from PUD to R3, and to rezone proposed Outlot B from PUD to R4, for the following reasons:

- Rezoning the property from PUD (commercial) to Medium and High-density Residential is consistent with the City's Comprehensive Plan
- The proposed use of the property for residential development is compatible with present and future uses of the area
- The proposed use of the property complies with performance standards contained in the City's Zoning and Subdivision Ordinances, except as specifically identified in requested variances
- The proposed residential use of the property can be accommodated with existing public services and will not overburden the City's service capacity
- Traffic generation by the proposed development is within capabilities of existing streets serving the property

And with the following condition:

- Approval of the request for rezoning is contingent upon the removal of the area from the Elko Speedway PUD (Ordinance #139)

Staff recommends approval of the request for variance from the maximum cul-de-sac length of 500 ft. to allow a cul-de-sac that is 700 ft. in length, variance from the required right-of-way width of 60 ft. to allow a 50 ft. right-of-way, and a variance from the required street width of 28 ft. to allow a 24 ft. wide street, for the following reasons:

- Approval of the variances will allow the property to be developed consistent with the intent of the Comprehensive Plan, which guides the property to residential

- Approval of the variances will allow the property to be developed for residential purposes, meeting all other design standards contained in the City’s Zoning Ordinance and Subdivision Ordinance.
- The purpose of the variances is to reduce impacts to adjacent wetlands and to reduce the number of access points onto the County Road system and is therefore not based on economic considerations alone
- The requested variances are due to the unique characteristics of the property, which contains multiple wetland areas, and also due to the access restrictions onto County Roads
- Granting the variances will allow the property to be developed for residential purposes and will not alter the character of the neighborhood. Residential development currently exists on the south and west side of the subject property
- The property owner proposes to use the property in a reasonable manner, for residential development
- The requested variances are the minimum variances needed to develop the property in a reasonable manner
- The variances will allow the property to be developed for residential purposes and do not involve a use that is not permitted within the R3 zoning district

Staff recommends approval of the request for preliminary plat approval of The Preserve, containing 13 single-family residential lots on 30.5 gross acres/4.38 net acres, for the following reasons:

- The proposed plat is consistent with the purpose and intent of the City’s 2040 Comprehensive Plan, and standards contained in the City’s Zoning and Subdivision Ordinances.

And with the following conditions:

1. R & F Properties, LLC must enter into a Developer’s Agreement with the City of Elko New Market at the time of final plat approval.
2. The preliminary plat is issued for a period of one year and shall become null and void without further action from the Planning Commission or City Council unless the final plat is filed within one year of the date of the City Council granting preliminary plat approval.
3. Preliminary Plat approval is granted in accordance with the following plans:
  - a. Preliminary Plat drawing, containing 1 sheet and prepared by James R. Hill, and dated March 1, 2023
  - b. The Preserve Plans – grading, drainage, erosion, and sediment control, sanitary sewer, watermain, storm sewer, and street construction plans, containing 24 sheets and prepared by James R. Hill, and dated 6/30/23
  - c. Tree Inventory containing 6 sheets and completed by Midwest Natural Resources, dated June 29, 2023
  - d. Storm Water Management Plan containing 227 pages and prepared by James R. Hill, and dated June 29, 2023

4. Preliminary plat approval is subject to a PUD amendment for the Elko Speedway being approved, removing the proposed plat area from the Elko Speedway PUD Ordinance #139.
5. Preliminary plat approval is subject to the City Council vacating the existing drainage and utility easements within the proposed plat, as dedicated in the plat of Elko Market Place.
6. Preliminary plat approval is subject to the recommendations of the City Engineer, Public Works Director, and City Planner.
7. The development contract shall contain a statement regarding the existence of the Elko Speedway and their exemption from City and State Noise Standards.
8. Two staggered rows of trees shall be planted on the proposed berm located on proposed Lot 1, Block 2, as required by Section 11-5-4 (B) of the City Code.
9. A 20 ft. wide drainage and utility easement shall be dedicated along the westerly boundary Lot 1, Block 2, and Outlot B. Such easement is to accommodate the installation of a future trunk watermain along Natchez Avenue.
10. Conservation easements must be provided over the wetland buffer areas on proposed Lots 3, 4, 5, and 8 of Block 1.
11. The proposed stormwater pond 3C shall be redesigned so that the building pad on proposed Lot 10, Block 1 meets the 35 ft. setback to the High-Water Level of the pond.
12. Preliminary plat approval is subject to the approval of the wetland replacement plan application. The developer assumes all risks associated with preparing the preliminary plat application in advance of the wetland application approvals.
13. 25 ft. of additional right-of-way shall be dedicated along County Road 91, as depicted in the submitted plans.
14. Sidewalk shall be extended along proposed Lots 6-10 of Block 1 and connect to the Natchez Avenue Trail.
15. Concrete driveway aprons shall be constructed from the curb to the property line
16. All boulevards shall be sodded by the developer.
17. Access to County Road 91, and work within the County Road 91 right-of-way are subject to the approval of the Scott County Transportation Services / Highway Department.
18. Signage and lighting plans should be added to the plan set, or signage and lighting included on the street construction plans.

And noting that:

- 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 irregular shaped wetlands and County Roads, makes the preferred density nearly impossible to achieve.
- The Parks Commission will provide input regarding park dedication, and the location of sidewalks and trails within the proposed plat prior to City Council approval.
- Approval of a variance form the maximum cul-de-sac length of 500 ft., from the required street right-of-way width of 60 ft., and from the required street width of 28 ft. has been recommended in association with proposed plat.

Christianson stated that the requested action from the Planning Commission was to first hold a public hearing and secondly, provide a recommendation to the City Council concerning the applicant's applications for rezoning, variance, and preliminary plat approval of The Preserve containing 13 lots and 2 outlots.

Chair Weber opened the public hearing at 7:40 p.m.

Peter Sauro – 26544 Pond Ct.

Sauro restated that he had questions on the property lines for the proposed development and concerns with privacy regarding tree removal. Sauro also had concerns for wildlife being disturbed. Sauro thanked the Commission. Chair Weber thanked Sauro for sharing. Christianson added that she would show the tree preservation plan after the public hearing to answer some questions regarding which trees are being removed and their locations in relation to the existing development.

Mike and Vicki Martin – 26501 Pond Ct.

Mrs. Martin shared that their property would be the closest to the proposed development as they are on the end of the cul-de-sac on Pond Ct. Mrs. Martin had concerns with turtles nesting on their property along with other wildlife. Mrs. Martin was curious where the property lines were located and loss of greenery. Mrs. Martin was also concerned with children not being able to play in the cul-de-sac following the addition of a driveway to the proposed home north of Pond Ct. Mr. Martin added his specific concerns about nesting turtles on and near his property. Mr. Martin also had concerns about the proposed driveway affecting the secluded cul-de-sac on Pond Ct. and did not understand why a single-family home was being considered. Further clarification of their concerns followed. The Martin's thanked the Commission, Chair Weber restated their concerns and thanked them for speaking.

Janie Sauro – 26544 Pond Ct.

Mrs. Sauro wanted to add to her husband's point of privacy. Sauro shared that they moved to the neighborhood for the view. Sauro believes the development will affect their privacy and steal their view of the pond. Chair Weber thanked Sauro for her comments.

Dan Chlan – 26620 Natchez Ave.

Chlan wanted to know where the storm water for the proposed project is planned on being placed and which direction it will flow to. He stated that if the drainage affects his property, then the development would not happen. He added that City Engineer Revering knew that. Chair Weber thanked Chlan for his comments.

Hearing no additional public comment, Chair Weber closed the hearing to the public at 7:59 p.m.



Senior Planner Christianson shared the tree preservation plan for the proposed development. The plan identified all significant trees on the site and which ones are proposed for removal. Most of the trees are Ash trees located on the north end of Pond Ct. Discussion took place on the location of the proposed driveway.

Chair Weber asked if Christianson could share some information related to the environmental and wildlife concerns heard during the public hearing. Christianson shared that the MN DNR has the entire plan set and had no concerns or comments regarding the proposed development. Christianson mentioned that wildlife can adapt to the environment similarly to how the wildlife adapted when the development was originally created. It is likely the turtles will continue to nest in the area, even around the proposed single-family home. Christianson added that the area proposed for the single-family home has been guided for townhomes, but the developer decided to propose a less-intensive use of one single-family home.

Chair Weber asked Staff to comment on the final concern of storm water management. City Engineer Revering spoke on the topic. Revering addressed the concern by stating that the storm water complies with City Code. All the runoff from these areas currently ends up in City stormwater ponds or the large wetlands to the north. Those wetlands flow to the east and not the west. Revering would not expect any changes to the east nor to the west. Christianson added that the developer is required to map the drainage areas pre- and post-development. The developer has provided those plans as part of the construction plan set.

Commissioner Pipo asked if he could share his thoughts first and wished to split the item into three parts for voting. Pipo stated that he has experience living in the neighborhood adjacent to where the development is being proposed. Pipo mentioned that residents move to Pond Ct. for the wildlife and view, and he felt that it may impact the value of existing homes in the area. Pipo stated that it did not make sense to construct a single-family home to the north of Pond Ct. Pipo did not have concerns with the development further to the north across from Aaron Dr.

Commissioner Hanson discussed the mixing of single-family and townhomes and noted that it was strange how in this situation it was the townhome residents concerned about a single-family development because she typically experiences it the other way around. Hanson added that other people also wish to be part of the community too and that she was hopeful the existing residents would welcome the family who purchased the proposed single-family lot north of Pond Ct. Hanson appreciated the developer's flexibility and creativity in developing their land while also operating a business on the same property. Hanson stated that she was supportive of more housing and was sorry that existing residents may be losing part of their view. Hanson had some follow up questions regarding the proposed sidewalk on Lots 6-10. Hanson wished that this future trail connection was properly signed to encourage residents to use the connection.

Commissioner Heimerl wanted to know if there was any way to determine any loss of home value for existing homes before the development was approved. Staff said they could not answer that question; however, the proposed use of the property is consistent with what the property is guided for as part of the Comprehensive Plan. City Engineer Revering added that

it is a non-factor according to the City Code and how developments are reviewed by Staff. Christianson reiterated that Commissioner Heimerl's question could be asked of any development in the City. Adjacent development can always affect undeveloped land. Unless a party were to buy the land, it will always be at risk for development to those living adjacent to these undeveloped properties.

Tom Ryan of R & F Properties, applicant, was present to address some of the concerns heard during the public hearing. Ryan stated that these lots were always zoned for this use. Ryan responded to a resident's question of why he would decide to build a single-family home north of Pond Ct. Ryan stated that he has waited 21 years to do this. Ryan reiterated that he could have put townhomes on the property, but he thought it would be better for both the environment and the neighborhood to build single-family. Ryan shared with those in attendance that it was an even more beautiful area before the Whispering Hills neighborhood was developed. Ryan also assured those in attendance that the development proposed is name The Preserve. Preservation of the surrounding environment was a main concern in planning the development. Out of the 160 acres Ryan owns, 100 acres is wetland that will be preserved indefinitely. Ryan stated that they will not take out one tree more than is necessary to fit the home and driveway. Ryan addressed the concerns about children playing in the cul-de-sac by stating it is a public street, not a playground street although he still respects it as a neighborhood street. Chair Weber thanked Ryan for his comments.

Following discussion, a motion was made by Hanson and seconded by Weber to recommend to the City Council that the application for rezoning from PUD to R3 and R4 be approved. Motion carried: (3-1). Pipo opposed.

A motion was made by Hanson and seconded by Pipo to recommend to the City Council that the application for variance #V1-20233 be approved. Motion carried: (4-0).

Discussion took place on the 18 conditions associated with The Preserve's preliminary plat. The Commission decided to remove conditions #7 and #14 from the list.

A motion was made by Hanson and seconded by Heimerl to recommend to the City Council that the application for preliminary plat approval of The Preserve be approved with all conditions associated minus conditions #7 and #14. Motion carried: (4-0).

### **C. Old Town Apartments, Old Town Apartments LLC, applicant**

- **Consider Application for Preliminary Plat Approval of Old Town Apartments**
- **Consider Application for Conditional Use Permit #C1-2023 to Allow Increased Building Height**

Senior Planner Christianson provided background on the project. Christianson stated that the developers have recently been working with the Planning Commission and the City Council regarding a Comprehensive Plan amendment. The subject property was re-guided from Commercial to High-Density Residential. Since then, the developers have developed a plan to construct 72 apartment units, contained in two buildings, 72 garage stalls, and 84 at-grade parking spaces. The developer's intent is to construct the development in two phases.

Christianson shared the neighborhood conditions surrounding the subject property. The uses surrounding the property range from commercial to high- and low-density residential. The applicant's request is for preliminary and final plat approval of Old Town Apartments, consisting of one lot and one outlot on 4.16 acres. An application for conditional use permit to allow a building height of 38 ft. 2.5 in. which is higher than the allowed 35 ft. in the R4 zoning district. City Code allows for increased height by imposing additional setbacks related to the increased height over what is permitted. The developer's have included these additional setbacks in their construction plan sets. The subject property is guided by the 2040 Comprehensive Plan to High-Density Residential. The use of the property for apartments is consistent with the purpose of the Comprehensive Plan. Typical uses include apartments, townhouses, and condominiums containing more than 8 units. The current zoning of the property is R4 High-Density Residential. Christianson shared the lot size, setback, and density requirements associated with the R4 zoning district.

The maximum building height for the zoning district is 35 ft. There is an exception provided in the form of a conditional use permit for properties that can demonstrate additional 5% front and side setbacks for each additional 10 ft. in height above the allowed 35 ft. The proposed building is 38 ft. 2.5 in. Renee shared Staff's recommendation that front and side setbacks are increased by 2.5% based on the additional 3 ft. 2.5 in. being requested.

Christianson shared specific building and site design standards as follows:

- Decks or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches
- Minimum Overhang: In case of gable roof, a minimum eighteen inch (18 in.) roof overhang or soffit shall be required for all residential structures
- Exterior Finishes: A minimum of twenty five percent (25%) of the area of all building facades shall be composed of Class 1 materials. This requirement also applies to all detached accessory structures
- Utilities and Screening: Exterior utility meters and/or fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right-of-way
- Drives: Private drives shall include plans and areas for snow storage
- Open Space and Recreational Uses: In addition to the park dedication requirements stipulated by the City Subdivision Ordinance, a minimum of ten percent (10%) of the gross development project area shall be in usable open space and recreational use for the project residents. Such areas shall be specifically designed for both the active and passive use by the project residents and may include swimming pools, trails, nature areas, tot lots, exercise equipment, saunas, etc. Said areas and facilities shall be private, except in those cases where the City agrees to assume responsibility for all or a portion of the recreational space. In those cases where private ownership is maintained, the land and facilities shall be subject to the requirements set forth in a development agreement

- Landscaping: At least thirty percent (30%) of the site shall be pervious landscaped area. Foundation plantings are required

69 parking stalls are required for each 36-unit building. 78 stalls are proposed for each building. 17 garages are located in the main apartment building. 19 garages will be located in the detached garage building. 42 at-grade parking spaces are also provided in the plans. These spots must have cubed perimeter, paved, and striped.

The required tree inventory has been completed and submitted. The City Code states that 40% of Significant Trees to be retained while 60% may be removed. Significant Trees are defined as any hardwood deciduous tree 6 in. or greater in diameter, any softwood deciduous tree 12 in. or greater in diameter, or any coniferous tree 12 ft. or greater in height. 5 trees, 71 caliper inches, have been proposed for removal on future lot. The developer must replace 28.4 caliper inches of trees. The submitted landscape plan meets replacement requirements.

A 20 ft. wide landscaped buffer is required where lots abut major collector streets. This requirement would apply to the development of the future outlot. The buffer must consist of two staggered rows of plantings and a 4 ft. earth berm is required unless determined by the City Engineer to not be feasible.

Standard drainage and utility easements are shown on the submitted plat as required. There are no wetlands, no DNR protected waters, and no FEMA flood plains on the proposed site. Sanitary sewer and water are stubbed into the subject property off Old Town Road and available to the site. Stormwater is also already stubbed into the site and is available for connection. Stormwater will be deposited to the east of the New Market Bank.

There is access to the site proposed on Old Town Road which is a local roadway. Dakota Avenue is a major collector and located adjacent to the proposed site. Two existing curb cuts exist on the property via Old Town Road. One of the curb cuts has been proposed to be relocated to allow more space between the two.

A TIS, Traffic Impact Study, identifies the impacts of a proposed development on the surrounding transportation system. The following are criteria that would trigger the need for a TIS:

- A development will generate 100 or more new a.m. or p.m. peak hour vehicle trips
- A development will generate 750 or more new daily vehicle trips.
- New development traffic will substantially affect an intersection or roadway segment already identified as operating at an unacceptable level of service
- The development would likely create a hazard to public safety
- The location of the development is in an environmentally or otherwise sensitive area, or in an area which is likely to generate public controversy
- The development will substantially change the off-site transportation system or connections to it

Based on the established criteria, and projected traffic, Staff are not recommending the preparation of a TIS.

An existing 8 ft. trail is located along Dakota Avenue. The City's Park and Trail Plan identifies sidewalk on the north side of Old Town Road. No park search areas were identified in the area according to the Comprehensive Plan.

Christianson was seeking feedback from the Commission regarding the configuration of the private parking area being adjacent to the building, as proposed to the 15 ft. setback identified in City Code. Christianson was also seeking Commission feedback related to the exterior building materials requirements of 25% Class 1 building materials applying for detached accessory structures.

Staff recommended the approval of the request for preliminary plat approval of Old Town Apartment, containing one lot and one outlot on 4.16 gross acres, for the following reasons:

- The proposed plat is consistent with the purpose and intent of the City's 2040 Comprehensive Plan, and standards contained in the City's Zoning and Subdivision Ordinances

And with the following conditions:

1. Old Town Apartments, LLLP must enter into a Developer's Agreement with the City of Elko New Market at the time of final plat approval
2. The preliminary plat is issued for a period of one year and shall become null and void without further action from the Planning Commission or the City Council unless the final plat is filed within one year of the date of the City Council granting preliminary plat approval
3. Preliminary plat approval is granted in accordance with the following plans:
  - Preliminary plat drawing, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Site Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Utility Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Ultimate Grading Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Resource Inventory, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Storm Water Pollution Prevention Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 7/6/23
  - Tree Inventory and Tree Removal Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 3/16/23
  - Landscape Plan, prepared by Jones Haugh & Smith, containing 1 sheet and dated 3/16/23

4. Preliminary plat approval is subject to the recommendations of the City Engineer, Public Works Director, and City Planner
5. 15 ft. of additional right-of-way shall be dedicated along Dakota Avenue, as depicted in the submitted plans
6. Drainage and utility easements shall be dedicated at the time of final plat approval
7. Sidewalks shall be added along the north side of Dakota Avenue adjacent to the plat

And nothing that:

- The Parks Commission will provide input regarding park dedication, and the location of sidewalks and trails within the proposed plat prior to City Council approval

Staff recommended the approval of the request for conditional use permit for increased building height, with the following findings:

1. The proposed use of the site for multi-family housing, and allowing additional building height for proposed apartment buildings is consistent with the 2040 Comprehensive Plan which guides use of the subject property to High-Density Residential land use
2. The proposed apartment buildings will be compatible with present and future land uses of the area which include a variety of low-, medium-, and high-density residential, and commercial uses
3. The proposed use of the property for multi-family housing conforms with all applicable performance standards contained in the Zoning Ordinance, including a required increase in front and side setback requirements
4. The proposed apartment buildings can be accommodated with existing public services and will not overburden the City's service capacity. The request for increased building height of 3 ft. 2.5 in. related to the proposed apartment buildings and has no impact on the intensity of use of the site and will not impact the City's service capacity
5. The increase in building height to allow construction of two apartment buildings that are 38 ft. 2.5 in. in height has no impact on the intensity of use of the site and will not result in an increase in traffic or go beyond the capabilities of streets serving the property
6. The site is capable of accommodating the proposed 72 apartment units on the site. Constructing apartment buildings at 38 ft. 2.5 in. in height has no impact on the intensity of use on the site
7. Public utilities and services planned to serve the site are adequate. Fire protection services can accommodate the proposed 38 ft. 2.5 in. high structure
8. Based on the proposed building height of 38 ft. 2.5 in., the front and side setback shall be increased by 2.5%, resulting in a front setback requirement of 30.75 ft. and a side setback requirement of 10.25 ft. The location of the proposed buildings meets the increased setback requirements
9. Section 11-4-5 of the City Code related to essential services are proposed to be satisfactorily met

Christianson requested action from the Commission in the form of holding a public hearing and providing a recommendation to the City Council regarding the following:

- Request for preliminary and final plat approval of Old Town Apartments, consisting of one lot and one outlot on 4.16 acres
- Application for conditional use permit to allow a building height of 38 ft. 2.5 in. which is higher than the allowed 35 ft. in the R4 Zoning District

Chair Weber opened the public hearing at 9:02 p.m.

Hearing no public comment, Chair Weber closed the hearing to the public at 9:04 p.m.

Discussion took place on setbacks and exterior material finishes for accessory structures.

Following discussion, a motion was made by Hanson and seconded by Weber to recommend that the City Council approve the applicant's request for preliminary and final plat approval of Old Town Apartments, consisting of one lot and one outlot on 4.16 acres with the associated 7 conditions, and the application for conditional use permit to allow a building height of 38 ft. 2.5 in. which is higher than the allowed 35 ft. in the R4 Zoning District. Motion carried: (4-0).

## **8. GENERAL BUSINESS**

None.

## **9. MISCELLANEOUS**

### **A. Community Development Updates**

Senior Planner Christianson shared that the soft opening for Kwik Trip is 5 a.m. on August 31<sup>st</sup>. The ribbon cutting and open house are September 6<sup>th</sup> with the open house lasting from 9-11 a.m. and the ribbon cutting taking place at 10 a.m.

Planner Skluzacek let the Commission know that the Community Development Department has been recently taking over more administrative functions for the Parks Department. Skluzacek shared with the Commission that RFP's have been sent out regarding new playground equipment for Woodcrest and Boulder Height's Parks. Those RFP's are scheduled to be discussed during the August 9<sup>th</sup> Parks Commission meeting.


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

There were no questions or comments.

## **10. ADJOURNMENT**

It was moved by Hanson and seconded by Pipo to adjourn the meeting at 9:20 p.m. Motion carried: (4-0).

Respectively submitted by:

A handwritten signature in black ink, appearing to read "Jake Skluzacek". The signature is written in a cursive, somewhat stylized font.

Jake Skluzacek  
Planner 1