

**MINUTES  
CITY OF ELKO NEW MARKET  
PLANNING COMMISSION MEETING  
JULY 30, 2019  
6:30 PM**

**1. CALL TO ORDER**

Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 6:30 p.m.

Commission members present: Smith, Kruckman, Hanson, and Priebe

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

Staff Present: Community Development Specialist Christianson, Planner Sevening, City Administrator Terry, City Attorney McDowell-Poehler, and City Engineer Revering.

**2. PLEDGE OF ALLEGIANCE**

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

**3. APPROVAL OF AGENDA**

A motion was made to approve the agenda as submitted. Motion carried: (4-0).

**4. PUBLIC COMMENT**

There was no public comment.

**5. ANNOUNCEMENTS**

There were no announcements.

**6. APPROVAL OF MINUTES**

A. It was moved by Kruckman and seconded by Hanson to approve the minutes of the June 25, 2019 meeting as submitted. Motion carried: (4-0).

**7. PUBLIC HEARINGS**

**A. Request for Rezoning and Preliminary Plat Approval of Pete's Hill**

Christianson presented the request for rezoning and preliminary plat approval of Pete's Hill containing 46 lots on 36.42 gross acres. Of the 46 lots, 23 are proposed as twin-home lots and 23 are proposed as single-family lots. She explained that the property was recently annexed into the City limits and described the surrounding land uses. She explained that the City's Comprehensive Plan guides the property to low density residential which allows for both single family detached and twinhomes as proposed. She explained that the property is

currently zoned Urban Reserve and the developer is proposing Planned Unit Development zoning. The criteria for rezoning property was reviewed, as well as the criteria and purpose of PUD zoning. Deviations from the City Code that are being requested for the development were reviewed, as well as those elements being proposed by the developer that exceed City Code requirements.

Christianson reviewed lot sizes and setback requirements, and also easements that are needed. She noted that the current plan submittal would require temporary construction easements from two adjacent property owners. The landscaping plan was reviewed and the requirement for a 20' landscape buffer along collector roads. Three retaining walls proposed within the development were reviewed, and it was recommended that all landscaping and retaining walls be located outside of road rights-of-ways. The tree inventory and tree preservation plan were reviewed, noting that of the 1,404 significant trees identified, 700 are proposed to be removed to accommodate street and building pad construction.

Utility issues including sanitary sewer, water, and stormwater were reviewed. The wetlands on the site were reviewed including a DNR Protected Wetland on the southern portion of the property. Christianson stated that proposed Lots 1 and 2 Block 4 do not meet wetland setback and buffer requirements as proposed, and recommended they be combined into one lot that meets these requirements.

Transportation related items were reviewed and it was noted that Xerxes Avenue, Beard Avenue and 273rd Street are all identified as major collector streets in the City's Comprehensive Plan. 273<sup>rd</sup> Street is proposed to be improved using a similar design as the existing Xerxes Avenue. She stated that all streets in the development are proposed at 28' in width within a 60' right-of-way. She stated that a temporary cul-de-sac is required at the easterly end of Samantha Way. She stated the driveways are not recommended on collector streets and because of this, the City Engineer is recommending that Block 4 which contains two lots be eliminated from the plat. Also reviewed was the proximity of the development to existing parks, and the proposed trail connection from the development into Pete's Hill Park.

Following the presentation on the development, Christianson advised the Commission that feedback was being sought in regards to proposed Lots 1 and 2 Block 4, noting that the City Planning Department and the City Engineer have a difference of opinion about the approval of the lots in Block 4. City Engineer Revering advised the Commission that he recommends a trail be included along 273<sup>rd</sup> Street East and that all retaining walls be privately owned and maintained.

It was moved Smith, seconded by Kruckman to open the public hearing at 7:04 p.m.

John Wichmann and Steve Soltau with Elko 34, LLC introduced themselves and the civil engineer on the project, Dan Schmit with Sathre-Berquist. Mr. Soltau suggested that retaining walls within the development would be either maintained by an association or covered by an easement and maintenance agreement among the affected property owners, so future maintenance is a shared expense. Mr. Soltau also asked that Lots 1 and 2 Block 4 be

allowed to remain in the plat, and that the lots could be designed with a shared driveway. Mr. Wichmann also suggested that the suggested trail along 273<sup>rd</sup> Street would not go anywhere and asked that it not be required with this development.

The Commission discussed the driveway access into proposed Lots 1 and 2 Block 4, along Beard Avenue, which are approximately 400' from the Oxford Avenue intersection.

Gene Duenow, 27127 Thomas Avenue, owns property adjacent to the proposed development and stated that the property is fabulous and would be a great addition to the City. He then stated his concern about the proposed developers and that he wants to be more informed about what's going on. He stated that he believes they are cutting corners and is concerned about the developer's financial viability. He stated concern over wetlands on the property and stated the City should make sure the wetlands are being taken care of. He pointed out a drainage way that currently exists on the east side of the property and noted his concern about how the drainage way would be maintained. Mr. Duenow also expressed concern over the temporary grading proposed on his property and that he is unwilling to grant a temporary easement to the developer. He stressed that he wants a quality development.

Dan Schmidt from Sathre-Berquist indicated that the tree surveyor who was locating trees on the Elko 34 property was approached by the neighbor asking questions about the development. He described the drainage way which was referenced by Mr. Duenow and how stormwater is proposed to be handled in that area, including a series storm catch basins, drain tile, and emergency overflow. Mr. Schmidt also described the need for the temporary grading easement on Mr. Duenow's property and stated that he could design around that if they were not able to obtain a temporary grading easement.

Developer Steve Soltau addressed the Commission and Mr. Gene Duenow. He spoke about the temporary grading easement that would provide future benefit to the Duenow property and indicated they can work around it if needed. He committed to the Planning Commission to work with Mr. Duenow going forward. He assured the Commission that the partnership is extremely well funded and capable of delivering a quality development.

With no further comments from the public, it was moved by Kruckman and seconded by Hanson to close the public hearing at 7:32 p.m.

The Commission discussed proposed Lots 1 and 2 Block 4 and the proposed driveways on Beard Avenue. The four members of the Commission had a two/two split opinion about whether to remove the two lots from the plat, or whether to combine the two lots into one single lot and allow a single driveway access. Commissioner Hanson questioned City Engineer Revering about his recommendation to include a trail along 273<sup>rd</sup> Street. Revering responded that he believes the trail would complete a pedestrian route through the Windrose development and other areas of the community. Developer Steve Soltau indicated to the Commission that the Block 4 lots can be designed so the cars would not need to back out onto Beard Avenue. Commissioners Priebe and Smith indicated support for one lot in Block 4, while Commissioners Hanson and Kruckman indicated support for eliminating Block 4 from the plat.

Following significant discussion, it was moved by Hanson and seconded by Preibe to recommend approval of the request to rezone the property from Urban Reserve to Planned Unit Development for the following reasons:

- 1) The proposed rezoning has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official City Comprehensive Plan which guides the property to a residential land use.
- 2) The proposed use of the property for single-family homes and twin homes is compatible with present and future land uses of the area.
- 3) The proposed use of the property complies with performance standards contained in the City’s Zoning & Subdivision Ordinances, except as specifically identified in the “Pete’s Hill PUD Standards” table.
- 4) The proposed residential use of the property for single-family homes and twin homes can be accommodated with existing public services and will not overburden the City’s service capacity.
- 5) Traffic generation by the proposed development is within capabilities of streets serving the property.

And noting that the single-family lots shall be subject to the requirements of the R1 Single-Family Residential, and the twin home lots shall be subject to the requirements of the R3 Medium Density Residential zoning districts except as identified below:

<b>PETE’S HILL PUD</b>					
	<b>ENM R-1 District Requirements</b>	<b>Approved for Pete’s Hill Lots 1-14 Block 1 Lots 5-11 Block 3 Lot 1 Bock 4 (Single Family Lots)</b>	<b>ENM R-3 District Requirements</b>	<b>Approved for Pete’s Hill Lots 15-30 Block 1 Lots 1-3 Block 2 Lots 1-4 Block 3 (Twin Home Lots)</b>	
<b>Minimum Lot Area</b>	12,000 square feet	11,271 square feet, as depicted on final plat drawing	6,000 square feet per dwelling unit	6,000 square feet per dwelling unit	
<b>Minimum Lot Area – Corner Lot</b>	12,500 square feet	12,500 square feet	6,000 square feet per dwelling unit	6,000 square feet per dwelling unit	
<b>Minimum Lot Width</b>	85’	83’, as depicted on the final plat drawing	50’	44.5’, as depicted on the final plat drawing	
<b>Front Yard</b>	30’	25’	25’	25’	

<b>Setback</b>				
<b>Rear Yard Setback</b>	30'	30'	20'	20'
<b>Side Setback</b>	10'	10'	7'	7'
<b>Side Setback – Corner Lot</b>	25'	25'	25'	25'
<b>Rear Yard Deck Setback</b>	20'	20'	20'	20'
<b>Stormwater Pond Structure Setback</b>	35'	35'	35'	35'
<b>Wetland Setback</b>	35'	35'	40'	40'
<b>Garage Stall Requirements</b>	Provide for location of 3-stall attached garage	Provide for location of 3-stall attached garage	Provide for location of 3-stall attached garage	Allow 2-stall attached garage
<b>Cul-de-sac Maximum Length</b>	500'	600'	500'	600'

And noting the following improved subdivision design elements:

- 1) Outlots A and B contain wetlands, natural environment features and wildlife habitat, and will be dedicated to the City to satisfy the park dedication requirements for the development.
- 2) Front home elevations will include stone or brick;
- 3) Wood will not be allowed as an exterior building material;
- 4) There will be a unified architectural theme for twin homes;
- 5) The development will include construction of a walking trail leading from the development to the Pete’s Hill Park trail system;
- 6) Additional trees will be provided to separate the single-family portion of the development from the twin home portion of the development.

Motion carried: (4-0)

It was then moved by Priebe and seconded by Smith to recommend to the City Council approval of the request for preliminary plat approval of Pete’s Hill for the following reasons:

- 1) The proposed use of the property for residential purposes meets the intent of the guided land use for the area.
- 2) The proposed plat complies with the purposes of the Zoning Ordinance and Comprehensive Plan.

And subject to the following conditions:

- 1) Preliminary plat approval is granted in accordance with the following plans and subject to conditions below, and staff comments dated 7/24/19:

- a. Preliminary Plat drawing dated 7/1/19, prepared by Sathre-Berquist
  - b. Site Plan containing 2 sheets, dated 7/3/19, prepared by Sathre-Berquist
  - c. Preliminary Construction Plans containing 24 sheets, dated 7/3/19, prepared by Sathre-Berquist
  - d. Storm Sewer Pollution Prevention Plan containing 3 sheets, dated 7/3/19, prepared by Sathre-Berquist
  - e. Stormwater Management Plan containing 212 sheets, dated July, 2019, prepared by AE2S
  - f. Hydroflow Storm Sewer Summary Report dated 7/3/19, prepared by AE2S
  - g. Tree Survey containing 6 sheets, dated 7/3/19, prepared by Sathre Berquist
  - h. Preliminary Landscape Plan containing 3 sheets, dated 7/1/19, prepared by Norby & Associates
- 2) Approval of the preliminary plat is subject to approval of the wetland replacement plan application by both the City of Elko New Market and the Army Corp of Engineers. The developer shall assume all risk associated with preparing the preliminary plat application in advance of the required wetland application approvals.
  - 3) Approval is subject to the recommendations and approvals of the City Engineer and Public Works Director.
  - 4) Approval is subject to the recommendations of the City Attorney.
  - 5) The developer must enter into a development contract with the City of Elko New Market at the time of final plat approval.
  - 6) The existing well on the property shall be properly sealed and the septic system shall be properly abandoned prior to development of the property. Demotion permits are required for removal/demolition of any existing structures on the property.
  - 7) Retaining walls proposed within the development shall be privately owned and maintained, and reflected in the development agreement and homeowner's association documents, as approved by the City Attorney. Retaining walls located within drainage and utility easements will require an Encroachment Agreement with the City of Elko New Market. Retaining walls located on, and crossing property lines of multiple single-family home lots will require an easement agreement between the applicable lots.
  - 8) The landscaping plan and construction plans shall be revised to show no new trees, plantings, or retaining walls within the public right-of-way on 273<sup>rd</sup> Street East.
  - 9) Proposed Outlots A and B shall be dedicated to the City and shall satisfy all park dedication requirements associated with the development.
  - 10) The developer shall obtain the necessary easements needed to construct the proposed trail and proposed water line over the K2 Towers, LLC property, and evidence of such easement shall be provided to the City.
  - 11) Water shall be looped to connect the water lines in proposed Pete's Hill Trail and existing Meadow Ridge Drive.
  - 12) The construction plans shall be amended to depict an 8" water line in Pete's Hill Trail, as opposed to the 12" line currently depicted.
  - 13) The developer shall obtain the necessary easements needed to grade the property adjacent to Lot 3 Block 2 (Duenow property), and adjacent to Lot 11 Block 3 and Pete's Hill Trail (Anderson property).
  - 14) A temporary cul-de-sac must be provided at the easterly end of proposed Samantha Way, along with associated temporary easements.

- 15) "Future Road Extension" signs must be placed at the east end of Samantha Way and Kari Way.
- 16) "Wetland Buffer" signs, meeting the requirements of Section 11-11-4 of the Zoning Ordinance, shall be placed along all lot lines at the wetland buffer location (Proposed Block 4).
- 17) A lighting plan shall be submitted and approved by the City Engineer.
- 18) Proposed Lot 11 Block 3 shall be reconfigured to allow for future lot frontage from the adjacent (Anderson) property.
- 19) An additional 17' of right-of-way shall be dedicated along the easterly side of Beard Avenue and the southerly side of 273<sup>rd</sup> East, for a total of 50'.
- 20) The final plat drawing shall be amended to show a drainage and utility easement over the entire Outlot B.
- 21) The final plat drawing shall be amended to show that proposed Lot 30 Block 1 has dedicated road frontage on proposed Pete's Hill Trail.
- 22) The final plat drawing shall be amended to show "273<sup>rd</sup>" Street, as opposed to "270<sup>th</sup>" Street.

And noting that:

- 1) The trail requirement along collector roadways is being waived due to the overall lack of trail system in the general area.
  - 2) A deviation from the maximum cul-de-sac length is being allowed due to constraints caused by wetlands.
  - 3) Proposed Lot 1 Block 2 may be affected by the required 35' stormwater pond setback.
  - 4) Street names may be subject to change and will be approved as part of the final plat approval by the City Council.
  - 5) The Planning Commission, on a two-to-two vote, could not reach consensus regarding proposed Lots 1 and 2 Block 4, and recommend that the City Council make the final determination regarding the matter, with the options being as follows:
    - a. Proposed Lots 1 and 2 Block 4 shall be combined into a single lot that can meet wetland buffer (25') and setback (35') requirements. Block 4 and Outlot B boundaries shall be amended so that the wetland buffer is contained entirely within Outlot B.
- OR
- b. Lots 1 and 2 Block 4 shall be eliminated from the plat based on the requirement that private driveways are not permitted on collector roadways.

Motion carried: (4-0)

## **B. Request for Conditional Use Permit for Accessory Drive-Through Lane**

Sevening presented the request to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility in connection with Phase II of the Elko New Market Retail Center, as proposed by Greystone Construction. She explained that a conditional use permit was issued in 2017, which allowed two accessory drive-through lanes, one at each end of the building. She explained that Greystone is currently requesting an additional drive-through lane on the north side of the building to accommodate a proposed pharmacy. She explained that if the drive-through were to be approved, a different type of tenant could occupy the space and utilize the drive-through in the future.

Sevening reviewed the criteria for granting a conditional use permit and stated that the criteria for granting the permit have been satisfied. She also reviewed the criteria specific to the granting approval of drive-through facilities as stated in the Zoning Ordinance. She reviewed the proposed site design and noted that staff believes any conflicts between the two westerly drive-through facilities can be mitigated with pavement markings and signage. She reviewed overall site circulation at the site.

Following Sevening's presentation, it was moved by Smith and seconded by Kruckman to open the public hearing at 8:02 p.m.

Eric Bender representing Greystone Construction addressed the Commission. Hanson asked about the parking spaces on the north side of the building, and concern about pedestrians needing to cross the drive-through stacking spaces. Mr. Bender stated that the parking spaces on the north side of the building are intended for employees.

Christianson noted that construction of this phase of the development would trigger the construction of the parking lot connection between the Firehouse Grill and the Retail Center properties.

With no further comments, it was moved by Smith and seconded by Kruckman to close the public hearing at 8:08 p.m. It was then moved by Smith and seconded by Hanson to recommend to the City Council approval of the request to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility for the following reasons:

1. The proposed accessory drive-through facility is consistent with the comprehensive plan and permitted in the Residential Mixed Use land use category with an approved conditional use permit.
2. The 2030 Comprehensive Plan guides the property to Residential Mixed Use and the draft 2040 Comprehensive Plan guides the property to Commercial. Both land uses permit accessory uses such as drive-through facilities.
3. The drive-through facility proposed on the north side of the building conforms with all applicable performance standards.
4. An additional drive-through facility can be accommodated by existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed drive-through facility will not go beyond the capabilities of the streets serving the property.
6. The drive-through facility proposed on the north side of the building has been designed to meet City Code requirements, including the amount of required vehicle stacking space.
7. The site has been designed to allow circulation options within the site and around the building; the proposed drive-through facility will not interfere with access into or within the site. Potential traffic conflicts will be minimized through signage and pavement markings.
8. The accessory drive-through facility has been designed in a manner that will prevent vehicle stacking into public streets or rights of way.
9. The proposed vehicle stacking lane and drive-through window have been located on the north side of the building, which does not face residentially zoned properties. The design

is such that vehicles will be able to maneuver throughout the site with minimal traffic conflicts.

10. The site has been designed to screen the proposed drive-through facility from view of adjoining residential zoning districts and public street rights-of-way by way of landscaping within the proposed curbed island.

And with the following conditions:

1. The drive-through lane shall be constructed as shown on the plan sheet dated February 12, 2019 with revisions on July 3, 2019 and July 15, 2019.
2. Landscape screening shall be provided on the north side of the northerly drive-through to screen it from public street rights-of-way. Landscape screening can be placed within the raised islands.
3. A lighting plan meeting the requirements of Section 11-4-7 of the City Code will be required prior to building permit approval.

Motion carried: (4-0)

### **C. Proposed Zoning Ordinance Amendment – R4 District Standards**

Sevening presented her staff report regarding proposed zoning ordinance amendments related to the R-4 District landscaping requirements and internal setback requirements which were also reviewed at the June Planning Commission meeting. She began by highlighting two goals contained in the City's Comprehensive Plan, to provide a variety of housing options, and to remove barriers to providing housing options within the City.

She explained that the current standards date back to 2006 and the City has now received its first ever concept plan for a development on an R-4 zoned property. While reviewing the concept plans, staff suggested that certain standards in the R-4 District be further reviewed. She explained that in an effort to better support high-density affordable housing development in the community, a suggestion is being made to amend two standards relating to internal setback and landscaping requirements, that apply to the R-4 zoning district.

In question was the current requirement that at least fifty percent (50%) of the total site area be landscaped, and the current requirement that buildings need to be set back at least 30' from private drives and private parking lots. Sevening reviewed research conducted on the codes of other cities in this regard, including Farmington, Lakeville, Prior Lake, Savage, Shakopee, Apple Valley, Belle Plaine, Jordan, Lonsdale and New Prague. The research concluded that Elko New Market's regulations were far more restrictive than all the noted communities in regards to the landscaping and internal setback requirements. She also reviewed visual depictions of nine other apartment sites within nearby communities and provided estimates regarding the landscaping percentages and internal setbacks at those sites.

It was moved by Priebe and seconded by Kruckman to open the public hearing at 8:21 p.m. With no comments regarding the proposed ordinance amendments, it was moved by Kruckman and seconded by Smith to close the public hearing was closed at 8:22 p.m.

With no further questions or comments from the Planning Commission, it was moved by Hanson and seconded by Kruckman to recommend approval of the proposed changes to the City Council, as follows:

- Reduce the landscaping requirement in the R-3 and R-4 zoning district from 50% to 30%;
- In the R4 district, reduce the building setback from the curb line of a private drive from 30' to 25';
- In the R4 district, reduce the building setback from private parking areas from 30' to 15'.

Motion carried: (4-0)

#### **D. Proposed Zoning Ordinance Amendment – Ground Mounted Solar Panels**

Sevening introduced a proposed Zoning Ordinance text amendment regarding the maximum area for ground mounted solar energy systems in the Institutional zoning district. She explained that solar energy systems are allowed as a permitted accessory use in all zoning districts, and that ground mounted solar energy systems are limited in size to the maximum area allowed for detached accessory structures. She stated that research was completed on the topic, including model ordinances from the State of Minnesota, and feedback was solicited from Ideal Energy and the City Attorney. Following the research, staff is recommending that the Ordinance be amended to allow a larger area for ground mounted solar panels in the Institutional zoning district as follows: a maximum area of 4,000 square feet for parcels between 10 and 20 acres, and a maximum area of 8,000 square feet for parcels greater than 20 acres. Sevening explained that minor amendments are also being suggested, to include a purpose, and clarification on how to calculate the area of a ground mounted solar system.

It was moved by Smith, seconded by Hanson to open the public hearing regarding the proposed amendments at 8:31 p.m. With no comments from the public, it was moved by Smith and seconded by Hanson to close the public hearing at 8:31 p.m. It was then moved by Hanson and seconded by Priebe to recommend to the City Council approval of an amendment to Section 11-14-4 of the City Code as contained in the Planning Commission report dated July 30, 2019, as follows:

- Add section containing Purpose: Solar energy systems shall serve only the parcel on which they are located.
- Amend section pertaining to Roof Mounting: Roof mounted solar collectors may be flush mounted, bracket mounted, or ballasted. Bracket mounted and ballasted solar collectors shall be permitted only when a determination is made by the city building official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.
- Amend section pertaining to Maximum Area:

a. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twenty five percent (25%) of the rear yard, whichever is less, except as otherwise provided in subsection b.

b. On Institutionally zoned parcels with a lot area of 10 acres or greater, ground mounted solar energy systems shall comply with the following area limitations:

Lot Area	Maximum Area Allowed
10 acres to 20 acres	4,000 square feet
Over 20 acres	8,000 square feet

c. Calculation of Area: The area of a ground mounted solar energy system shall be comprised of the total solar energy system footprint, including the space between systems, calculated based on the extent of the perimeter of the entire system.

Motion carried: (4-0)

## **8. GENERAL BUSINESS**

### **A. Continued Request for Rezoning and Preliminary Plat Approval of Sylvester Meadows**

Christianson introduced the agenda item and presented her staff report regarding the continued request for rezoning and preliminary plat approval of Sylvester Meadows containing nine single-family residential lots and two outlots on 41 acres, proposed by Bernard Mahowald. She presented a powerpoint and reviewed the locations of the Farm developments which were also developed by Mr. Mahowald, and the location of the proposed plat. She stated that the request had been reviewed by the Planning Commission on May 28, 2019 at which time the required public hearing was held, and following the public hearing the Commission recommended that the item be continued. She reviewed the conditions placed on the continuance and the status of such conditions, as follows:

- ✓ Staff is directed to extend the City's statutory review period for an additional 60-days for a total of 120-days. (Completed)
- ✓ 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. (Hydrology study not received)
- ✓ The applicant shall redraw the plat to address the park dedication as requested by the Parks Commission. (Completed)
- The developer shall comply with the recommendations of the City Engineer and Public Works Director. (This condition stands)
- ✓ 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. (Completed)

- ✓ The final plat drawing shall be amended to show a drainage and utility easement covering the proposed drainage swales on proposed Lots 1, 2 & 9. (Redesigned so no longer needed / Completed)
- ✓ The lift station shown on proposed Lot 9 should be moved onto the existing outlot owned by the City, if possible. If not possible, the drainage and utility easement on proposed Lot 9 should be expanded to cover any future maintenance needs for the proposed lift station. (Completed)
- The construction plans shall be amended to include a standby generator to service the proposed sanitary sewer lift station. (The stand-by generator has not been shown in the current plan set. The design engineer indicated that the stand-by generator will be included in the final construction plan set, to the satisfaction of the City Engineer and Public Works Director.)
- ✓ The final plat drawing shall be amended to depict a drainage and utility easement covering the wetland and required wetland buffer area on proposed Outlot A. (Completed)
- The bump-out area shown on the westerly curve on Sylvesters Court should be removed / redesigned. (The bump out area has not been removed as originally requested because removing the bump-out area would cause proposed Lots 1 and 2 to not meet the required lot width at the building setback line.)

Christianson reviewed the location of wetlands along the northern portion of the property and also explained that a wetland delineation had been completed and the boundary accepted by the City following concurrence by a Technical Evaluation Panel. She noted that the area is not a DNR Protected Water and is under the jurisdiction of the Army Corp of Engineers.

Christianson also reviewed transportation related issues, and specifically noted that the width of the proposed Sylvester's Court where it connects to Aaron Drive is 50' in width, which was the standard for the City of New Market at the time the Farm 3<sup>rd</sup> Addition was platted. Staff supports a continuation of that right-of-way width due to the small number of lots within the development and because lots are only proposed on one side of the street. She also noted that the proposed cul-de-ac is proposed at approximately 650' in length which exceeds the maximum length of 500'. She stated that variances are being requested for these two items.

The recommendation of the Parks Commission was reviewed, which included dedicating land for a future trail connection from the existing Mahowald Park to the proposed Sylvester Court sidewalk system. Christianson explained that the developer proposes dedication of proposed Outlot A to the City to achieve the recommendation of the Parks Commission.

Christianson outlined a concern related to the proposed right-of-way bump out area adjacent to Lots 1, 2 and 3, and stated that staff is recommending that the street be paved into a partial cul-de-sac in that area, so the right-of-way would not extend into the yards.

Christianson stated that the official public hearing was held on May 28<sup>th</sup>, 2019 and that the Commission could consider accepting additional public comment, and also stated the City was approaching the 120 day deadline so a recommendation from the Commission regarding

the applications would be needed. Chairman Smith advised that additional public comment would be accepted.

Mr. Dan Chlan, 26620 Natchez Avenue, addressed the Commission. He stated that he had just received the hydrology study for review and that it would be submitted to the City on either Friday, August 2<sup>nd</sup> or Monday, August 5<sup>th</sup>, 2019, and that it contained information on a huge hydrology change.

Greg Halling with Halling Engineering addressed the Commission and stated that he has reviewed the City Engineer's comments regarding grading the trail and there will not be a problem complying with 5% grade in the trail area. He also stated that there is an excess soil pile containing black dirt on the proposed park property which the developer would like to utilize in the development. The City Engineer indicated this would be acceptable to the City. Halling also requested that the bump out area adjacent to Lots 1, 2 and 3 not be required to be paved as suggested by City staff, stating that it is additional impervious surface, snow plowing, and maintenance for the City.

There was significant discussion regarding the proposed right-of-way bump out area proposed adjacent to Lots 1, 2 and 3 and whether it should be paved or not paved, and the pros and cons were discussed.

Developer Bernard Mahowald addressed the Commission. He stated that housing costs have become unaffordable and are beyond what many people can afford. He therefore requested that the cul-de-sac bump out area not be required to be paved due to the additional costs associated with it.

Commissioner Priebe stated that he wants to see the hydrology study and the results of it before he makes a recommendation regarding the plat, and he suggested a special Planning Commission meeting be held after the City Engineer has reviewed the report and before the request is scheduled for action by the City Council. Administrator Terry reviewed the time frames associated with required City action on the development application, noting that the City is nearing the 120 day deadline allowed under state statute.

Mr. Mahowald questioned why the development needed to be held up based on the hydrology study. Commissioner Priebe stated that he is concerned about how the proposed development may affect drainage on Mr. Chlan's property.

City Attorney McDowell Poehler advised the Commission that per the City's Ordinances, the Commission is required to make recommendations based on the material that they have at this time. If the recommendation of the City Engineer is that the development will have little effect on drainage in the area, and complies with City code, there is little discretion that the Commission has in making a recommendation. Administrator Terry stated that if additional information is available to the City Council before the City Council considers the application, the City Council would consider that information also.

The Commission continued to discuss the recommendation to pave the cul-de-sac bump out area. Priebe, Kruckman and Hanson stated that it should be paved, while Smith stated it should not be paved.

A motion was made by Smith and seconded by Kruckman to recommend approval of the request for rezoning and preliminary plat approval, including approval a variance relating to the right-of-way width and cul-de-sac length for Sylvester's Court, with a recommendation to not require paving of the cul-de-sac bump out area, and recommending that staff and city council review hydrology study when and if it becomes available.

Motion failed: (2-2).

It was then moved by Smith and seconded by Kruckman to recommend approval of the request to rezone a portion of the property from UR Urban Reserve to R1 Suburban Single Family Residential, for the following reasons:

- 1) The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official City Comprehensive Plan.
- 2) The proposed use is compatible with present and future land uses of the area.
- 3) The proposed use of the property complies with performance standards contained in the City's Zoning & Subdivision Ordinances.
- 4) The proposed use of the property as single-family residential can be accommodated with existing public services and will not overburden the City's service capacity.
- 5) Traffic generation by the proposed use is within capabilities of streets serving the property.

Included in the motion was a recommendation for approval of the request for preliminary plat approval of Sylvesters Meadows, containing nine single-family residential lots and two outlots, for the following reasons:

- 1) The proposed use of the property meets the intent of the guided land use for the area.
- 2) The proposed plat complies with the purposes of the Zoning Ordinance and Comprehensive Plan.

And recommending the preliminary plat shall be subject to the following conditions:

- 1) The developer shall comply with the recommendations of the City Engineer and Public Works Director.
- 2) The developer must enter into a development contract with the City of Elko New Market at the time of final plat approval.
- 3) The construction plans shall be amended to include a standby generator to service the proposed sanitary sewer lift station.
- 4) City staff and the City Council shall review the hydrology study planned to be submitted by Mr. Dan Chlan and shall consider its results when making the final decision on the application for plat approval.

And included in the motion was a recommendation for approval of the request for variance from the required 60' road right of way width to allow a 50' road right-of-way width, and a variance from the maximum 500' cul-de-sac length to allow a 650' cul-de-sac length is being approved with the following findings:

- 1) There are special circumstances affecting the property such that the application of the provisions of the Subdivision Ordinance would mean that the property cannot be put to a reasonable use.
- 2) Granting the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the vicinity in which the development site is situated.
- 3) Granting the variance will not increase the flood hazard or flood damage potential.
- 4) Granting the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire or endanger public safety.
- 5) The variances are to correct inequities resulting from a physical hardship including wetlands.
- 6) The hardship is not a result of an action by the owner, applicant or any agent thereof.
- 7) That the requested variance is the minimum action required to eliminate the hardship.
- 8) The variance does not involve a use which is not allowed within the respective zoning district.

And noting that:

- 1) City staff supports the developer's request to retain ownership of the wetland area on proposed Outlot B.
- 2) A vote was taken by the Planning Commission on the requirement to pave the cul-de-sac bump out area adjacent to proposed Lots 1, 2 and 3 and there was a 2-2 tie vote on the matter.

Motion carried: (4-0)

## **9. MISCELLANEOUS**

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

Christianson noted that a report containing updates was included in the Planning Commission Packet. Tom Terry announced that Haley Sevensing has been hired by the City as a Planner. Chairman Smith asked about the Christmas Pines development. City Engineer Revering updated the Commission regarding the status of construction at Boulder Heights and Christmas Pines.

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

There were no comments or questions from the Planning Commission.

## **10. ADJOURNMENT**

A motion was made by Kruckman and seconded by Hanson to adjourn the meeting at 9:30 p.m. Motion carried: (4-0).

Submitted by:



Renee Christianson  
Community Development Specialist