

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
November 29, 2022
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, Smith, Schroeder.

Members absent and excused: Ex-Officio member Anderson.

Staff and Consultants Present: City Administrator Thomas Terry, Senior Planner Renee Christianson, Planner Jacob Skluzacek, City Engineer Rich Revering, Bolton & Menk Environmental Engineer Seth Peterson, City Attorney Andrea Poehler, Consulting Hydrogeologist Dave Hume LRE Water, Scott County Highway Engineer Tony Winiecki, Bolton & Menk Transportation Project Engineer Mike Larson.

2. PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

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

4. PUBLIC COMMENT

Chair Weber gave a brief overview of the meeting agenda as follows: “Good evening and welcome. We appreciate everybody’s attendance this evening. We have two land use applications on the meeting agenda tonight, as follows: An application for rezoning and preliminary plat approval of Park I-35 Industrial Park, as proposed by Ryan Companies US. This application concerns the zoning of the property as industrial, the subdivision of the property for development and the installation of public infrastructure. A separate application for a Conditional Use Permit to allow construction of silos which exceed the City’s maximum height requirement of 50 feet in the I-1 Zoning District, as submitted by Purple Rain Properties, LLC is also listed on the agenda. The Conditional Use Permit may be permitted provided certain conditions are met. City Staff will be providing background information on each application. Following Staff’s presentation on each application, the Planning Commission will take comment from the applicant and then open the hearing for public

comment. We will first hear the application from Ryan Companies, followed by the application from Purple Rain Properties. We understand that there may be individuals attending tonight wishing to provide comment or have questions regarding the proposed Niagara Bottling Facility, and those comments may not be directly related to their land use application. We will certainly receive those questions and comments. If the comments are specific to the Niagara bottling facility, please provide those during the hearing for their Conditional Use Permit application”.

A member of the audience asked for clarification on the appropriate time to make comments related to the Niagara Bottling plant. Chair Weber informed the audience that comment related to the requests for rezoning, preliminary plat approval and Conditional Use Permit should wait for their respective public hearings later in the meeting. The member of the audience thanked Chair Weber for her clarification. There was no additional public comment.

5. ANNOUNCEMENTS

There were no announcements made.

6. APPROVAL OF MINUTES

- A. Chair Weber noticed an error in the minutes regarding a sentence in the first paragraph, on the last page of the draft minutes being used in past tense. Staff will correct the error. A motion was made by Smith and seconded by Schroeder to approve the minutes of the October 25, 2022, meeting with changes. Motion carried: (5-0).

7. PUBLIC HEARINGS

A. Ryan Companies US, Inc.

- Request to Rezone Property from UR, Urban Reserve to I-1, Limited Industrial
- Request for Preliminary Plat Approval of Park I-35 Industrial Park

Chair Weber asked Senior Planner Christianson if the City has received any written comments in advance of the meeting. Christianson informed her that the City has received a number of public comments that largely came in on Monday and Tuesday. Comments were received until 4:00 p.m. on Tuesday. All comments received before 4:00 p.m. have been shared with the City Council and Planning Commission prior to the meeting. All comments received after 4:00 p.m. on Tuesday will be shared with the City Council before their December 15th meeting. City Administrator Terry stated the names of those who had submitted comments for the record. The City had received comments from Teri Glenn, Jamie Lindquist, Janelle Kuznia, Mark Engel, Kathy Gage, Deb Pexa, Lindsey Cornell, individual unnamed, Jen Shepard, and Betsy Lasch. A member of the audience asked Terry if those comments received would be available for viewing. Terry explained that the comments received before the 4:00 p.m. deadline would be contained in the Planning Commission packet for the meeting tonight which is available on the City website. Comments received after the deadline will be contained in the City Council packet for their December 15th meeting which will also be available on the City’s website.

Chair Weber asked how many members of the audience would like to give public comment. Several members of the audience stated that they would be willing to give public comment. City Administrator Terry asked Planner Skluzacek how many members of the audience in the overflow viewing room would like to give public comment. Skluzacek notified the Commission that he had only received one request for public comment.

Chair Weber read to those in attendance the rules of conduct for the public hearing. She read, “For those of you wishing to address the Commission during the public hearing, please raise your hand and wait for the Chair to call on you. When you are called upon, please approach the podium and state your name and address for the record. One trip to the podium only please. Please direct your comments and questions to the Planning Commission, not the applicant or the audience. Each speaker will be heard. The Planning Commission may ask questions of speakers or ask Staff or the applicant to respond to questions. Out of consideration of the number of speakers this evening, we ask that public comment is limited to two minutes for each individual. If you are in the audience, please be respectful of the proceedings and refrain from sidebar discussions, comments or other activity which may distract from the speaker and these proceedings.”

Christianson introduced the topic and applicant, Ryan Companies US, Inc. Christianson gave the audience and Commission background on Ryan Companies work on the industrial park which began in 2012. For the past several years Ryan Companies has had a purchase agreement for the property. A user for the park has been identified which has spurred Ryan Companies applications for rezoning and preliminary plat approval.

Christianson displayed a map of the property proposed for rezoning and preliminary plat approval. The industrial park contains four outlots, Outlots A-D, which will be retained as farmland until users are found and one lot proposed to be rezoned to I-1, Limited Industrial. The entire industrial park contains a total of 119.39 acres and all property is currently within City limits and zoned UR, Urban Reserve. The one lot proposed to be rezoned and platted is 28.09 acres.

Christianson explained that the purpose of the UR, Urban Reserve District is to preserve areas where urban public utilities are not yet available. These lands are to be retained in a natural state or agricultural use pending the proper timing for the economic provisions of sewer, water, streets, parks, stormwater and other public utilities services to the property so orderly development can occur. Municipal utilities were extended to the perimeter of the property in 2021 which makes it eligible for rezoning.

Next, Christianson stated the purpose of I-1, Limited Industrial District is to provide for the establishment of warehousing and light industrial development. Industrial uses allowed in this District shall be limited to those which can compatibly exist with adjacent lower-intensity businesses and higher-intensity manufacturing uses. The City’s Zoning Ordinance does include factors to consider when a rezoning application has been submitted. Those factors to be considered are as follows:

- The proposed action has been considered in relation to the specific policies and provision of, and has been found to be consistent with, the official City Comprehensive Plan.
- The proposed use is or will be compatible with present and future land uses of the area.
- The proposed use conforms with all performance standards contained in this title. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- Traffic generation by the proposed use is within capabilities of streets serving the property.

Christianson addressed the first criteria by introducing the City's 2040 Comprehensive Land Use Plan. The Plan guides the property in question to industrial land use. Typical uses for this land use include business offices, manufacturing, warehousing, assembly, and outdoor sales. The Plan also calls to locate industrial development near major transportation corridors. Staff's interpretation of the first consideration is that the rezoning would be consistent with the City's 2040 Comprehensive Plan.

The second criteria, the proposed use is or will be compatible with present and future land uses of the area, was addressed by Christianson. Christianson displayed a graphic which included all surrounding existing land uses, zoning and 2040 Land Use Plan guidance. The area to the North of the property is mostly rural residential but there is some light industrial uses as well. Currently all properties located North of County Road 2 would be located in New Market Township and not within City limits. The property is currently zoned for Rural Industrial and Urban Business Reserve. The 2040 Land Use Plan guides these areas to the North towards industrial and commercial uses. The property located to the East includes rural residential property. The area to the East is similarly located in New Market Township, guided Urban Business Reserve and has not been brought into the City limits. Future use of the property to the East is guided towards industrial according to the 2040 Land Use Plan. The area to the South includes agricultural, rural residential and wetlands. It is located in New Market Township and currently zoned for Urban Expansion Reserve. Future guidance calls for industrial land use. The area to the West is Interstate 35 which is currently zoned for Commercial and Urban Expansion Reserve. The 2040 Land Use Plan guides this area towards Interstate-35 and commercial. Staff's interpretation of the second consideration is that the rezoning would be compatible with present and future land uses of the area.

Christianson next went through the performance standards relating to I-1, Limited Industrial Districts. She explained that for each zoning district there are permitted uses which are allowed by right, permitted accessory uses which are only permitted as accessory uses to the primary permitted use and conditional uses which require a Conditional Use Permit approved by the City. Christianson noted that light manufacturing and warehousing/distribution are permitted under I-1 zoning. Office uses, which are also being proposed as part of the preliminary plat, are considered permitted accessory uses under the I-1 Zoning District. Staff's interpretation of the Zoning Ordinance is that the proposed use would conform with all performance standards contained within City Code.

Christianson brought up a graphic featuring the lot and block arrangement of the property for discussion relating to the preliminary plat approval. City Ordinance has criteria for lot and

block arrangement. She noted that Lot 1 meets minimum lot standards. Outlots A and C meet minimum lot standards for the platting of an outlot. Outlot D does not meet minimum lot criteria and Staff recommends that Outlots C and D be combined into one outlot. City Ordinance states that all remnant lots below the minimum lot size requirement shall be added to adjacent lots, rather than remain as a potentially unusable parcel. Outlot B is to be deeded over to the City following final plat approval and is proposed to contain a stormwater pond.

Christianson next spoke on the street standards contained in the City Code that will need to be achieved as part of the preliminary plat approval. Dupont Avenue is planned to be 36 feet in width within a 70-foot right-of-way and is planned to be the main North/South road throughout the proposed property. The North end of Dupont increases to 54 feet in width within an 80-foot right-of-way to allow for turn lanes. As Dupont Avenue continues South and turns East, the street will turn into 265th Street East. 265th Street is planned to be 36 feet in width within a varied right-of-way from anywhere between 85 to 106 feet. This street will require a temporary cul-de-sac per City code until it can be connected to Pillsbury Avenue following any development of the Eastern property in the future. The streets proposed to the City as part of the preliminary plat meet minimum design requirements as contained in City Code and have been reviewed by the City Engineer.

A tree inventory is required as part of the preliminary plat process and has been completed by Ryan Companies. Based on City Code, 40% of significant trees are to be retained while 60% may be removed as part of development. A significant tree is identified as any hardwood deciduous tree 6 inches or greater in diameter, any softwood deciduous tree 12 inches or greater in diameter or any coniferous tree 12 feet in height or greater. There was a total of 404 significant trees on the site. 131, 32.43%, are proposed for removal while 273, 67.57%, are proposed to be retained. The tree removal and preservation plan meet City Code requirements.

Easements are another consideration in platting property. Standard easements are required around the perimeter of lots being platted for drainage and utilities. The following standard easements are required: 10-foot easement along the perimeter of the property, 5-foot easements along interior property lines of the property and a 10-foot easement is required along the boundary of any undeveloped property. Standard easements have been shown appropriately on the preliminary plat. Easements for stormwater ponds are also required. A proposed stormwater pond is planned for proposed Outlot D and the City will protect that pond through a drainage and utility easement to the City. Additional easements required for infrastructure include drainage and utility easements for additional water and sewer lines to be installed by the developer. Any recommendation by the Planning Commission to the City Council shall include a recommendation for dedication of easements to cover a sanitary sewer force main. An additional easement may be required on Outlot A depending on the final water main sizes within the development.

Sanitary sewer became available to the property in 2021. A sanitary sewer lift station was also installed near the roundabout East of the subject property. Force mains and gravity lines into the lift station are already in place. The development will be served by this lift station. The Developer is required to pull the sanitary sewer lines to-and-through the subject property. The utility plans submitted show proposed gravity sewer and force mains, and the lines are sized to accommodate future development within Park I-35 and the surrounding area.

Water also became available to the property in 2021 as part of a public improvement project. Water is available on the far West side of the property. The Developer will be responsible for constructing water to-and-through the subject property. Utility plans submitted show proposed water lines within the property. The lines are sized to accommodate future development within Park I-35 and the surrounding area. Again, an additional easement may be needed on Outlot A depending on the final size of water lines used within the plat. Water can be provided to 11435 Deuce Road, a residential property, when needed. Additionally, a water line will be stubbed to the Southern portion of the Park's Auto property if they ever chose to connect to City water.

The proposed development will perpetuate existing drainage patterns. Drainage for new impervious surfaces shall be directed into stormwater ponds. Two ponds are currently planned to provide drainage for the road. Ryan Companies will construct the ponds as part of the development.

A wetland delineation was completed and accepted by the City on November 19th, 2021. The Developer is proposing to impact .4 acres of wetlands for construction of road and utilities. Wetland replacement application has been submitted and is currently under review by a Technical Evaluation Panel which consists of wetland professionals who are experts in Wetland Conservation Act law and the Clean Water Act. Decisions on the wetland replacement application are forthcoming. Any recommendations made by the Planning Commission would be subject to approval of said application.

The property does depict a "Shaded Zone X" which is identified as a 500-year floodplain on the Southwest portion of the property. No special requirement exists for Zone X, except that critical facilities, such as schools or hospitals, shall not be permitted in that zone. No Minnesota Department of Natural Resources Protected Waters or Wetlands are located on the property.

The site is adjacent to County and State Highways. I-35 located on the West of the property is a principal arterial roadway with 2021 traffic counts of 36,400 vehicles per day. North of the interchange that count jumps to 57,300 vehicles per day which indicates that the Elko New Market interchange is widely used by those in other communities to gain access to I-35 North. The existing two-lane bridge over I-35 was constructed in 1963 and is listed as in fair condition structurally and not structurally deficient by the Minnesota Department of Transportation. CSAH 2, County Road 2, is classified as an A-minor arterial roadway which places an emphasis on mobility as opposed to access. County Road 2 has average daily traffic counts of 5,300 as of 2019 counts. Additional right-of-way dedication along County Road 2 is required along with an Eastbound right turn lane. Two existing driveways from within the proposed project property will also be required to be removed. Christianson showed images of the access to the property along with the driveways that are required to be removed.

Christianson presented a preferred future interchange design. With increasing interest in development surrounding the interchange, the City, County, Township and MNDOT Staff worked together in 2010 and again in 2015/16 to evaluate design alternatives for a new interchange. The primary purpose of those efforts was to identify a future preferred design

including right-of-way limits so that the City could guide development around the future interchange accordingly. The most recent effort resulted in the selection of the Diverging Diamond Interchange layout as the preferred future interchange design. There is no project currently programmed by Scott County or MNDOT to reconstruct the interchange. The proposed Park I-35 plat is consistent with the Diverging Diamond Interchange layout in terms of proposed right-of-way dedication and proposed access into the industrial park.

As a condition of the annexation of the subject property currently proposed for development, the City of Elko New Market required that the existing private accesses into 11111 Deuce Road (Park Auto area) be removed from County Road 2 and rerouted through the proposed development. The preliminary plat drawings accurately depict the removal of these two accesses as well as providing access to the property through the development. The access removal is consistent with the function of the minor arterial roadway which is to provide for mobility as opposed to access to individual properties.

As part of the plat review, a traffic analysis was conducted and completed as part of an earlier environmental scoping document known as an AUAR in both 2015 and 2021. The previous analysis indicates that further development around the project area along with normal background traffic will continue to impact the existing interchange and increase delays in certain movements. For these 2015 and 2021 studies, there were assumptions made regarding the volume of traffic that would be generated from the Park I-35 development site. The traffic impact study has now been updated to reflect the actual user proposing to locate on Lot 1 of the proposed plat. The user has submitted their employee count and shift information along with truck counts which were significantly lower than the assumptions used for the 2015 and 2021 studies for the same acreages. The analysis the City reviewed was a five-year projection. The analysis showed that continued and increasing delays in A.M. and P.M. peak hours will continue with or without development of the Park I-35 industrial park. Traffic generated by the user will not be focused within peak traffic hours; their employee shift changes occur outside of peak hours and their truck traffic will be spread throughout a 24-hour period.

Short-term traffic mitigation was analyzed using the addition of turn lanes at ramps and the signalization of both ramps. Mitigation was shown to improve overall performance during peak hours; however, the Scott County Highway Department is opposed to any short-term mitigation, but intends to concentrate future efforts and financial investments on the ultimate reconstruction of the interchange. Both MNDOT and Scott County have provided comment on the plat; neither MNDOT nor Scott County have opposed the proposed plat.

The City's Subdivision Ordinance requires sidewalks to be installed along one side of all local streets. Plans provided do not depict any sidewalks. Staff is open to deferral of sidewalk construction adjacent to undeveloped outlots because sidewalks could be added when those lots develop. Sidewalk design will be determined by the City Engineer.

Park dedication is required during the platting of property. City Code requires that 8% of land be dedicated for parks, recreational purposes, public open space, or a cash contribution equal to 8% of the fair market value of the property. The Parks Commission has reviewed the proposed plat and has recommended that the City Council accept cash fees in lieu of land dedication in this location.

Environmental studies are required in Minnesota for projects exceeding certain size and acreage requirements. Development of the Park I-35 industrial park does require preparation of a mandatory Environmental Assessment Worksheet, EAW, as required under Minnesota Administrative Rules 44104300. The Minnesota Environmental Quality Board, the agency that oversees environmental review processes, has determined that preparation of an AUAR is an acceptable alternative to preparation of an EAW. The AUAR has been completed and was approved in 2015, updated in 2021 and adopted in 2022. The proposed plat is consistent with the development modeled in the approved AUAR.

The City Engineer has reviewed the plans in detail and has provided his comments contained in a red-lined plan set dated November 22nd, 2022. He has recommended preliminary plat approval. Revised plans must be issued before consideration of final plat approval.

Scott County has provided comment and their letter was included in the Planning Commission packet. MNDOT has also submitted comments and the letter is contained in the Planning Commission packet. The Public Works Director, Police Chief, Fire Chief, Building Official and City Attorney were all also asked to provide comments in their review of the preliminary plat and rezoning.

Christianson reviewed the factors to be considered in evaluation of the rezoning application at the request of Chair Weber.

- The proposed action has been considered by Staff in relation to the specific policies and provisions of, and has been found to be consistent with, the official City Comprehensive Plan.
- The proposed use is or will be compatible with present and future land uses of the area.
- The proposed use conforms with all performance standards contained within the Zoning Ordinance, Subdivision Ordinance and the City Code.
- The proposed use can be accommodated with existing public services and will not overburden the City's service capacity. Traffic generation by the proposed use is within capabilities of streets serving the property.

Christianson then reviewed 24 suggested conditions to be considered by the Planning Commission related to the application for preliminary plat approval, as contained in the Planning Commission staff report dated November 29, 2022.

Christianson explained that the Planning Commission is required to hold public hearings regarding the applications received for rezoning and preliminary plat approval. After the public hearing, the Planning Commission may choose to vote on a recommendation to the City Council for consideration at their December 15th meeting.

Chair Weber asked if the applicant would like to provide any comments before the public hearing is opened. Dan Mueller of Ryan Companies approached the podium to speak on the applications. Mueller thanked Christianson for her thorough presentation on the applications. Mueller introduced Ryan Companies as a family-owned 90-year-old company headquartered in Minneapolis. Ryan Companies is a builder and owner of real estate and have been working

on this specific project for about ten years now. He stated that Ryan Companies have invested a lot of time, resources and energy into seeing this project come to fruition and they are looking forward to discussion to hopefully move this development forward. Mueller stated he was happy to answer any questions the Commission may have.

Chair Weber reminded the audience that if they had comments regarding the Niagara Bottling Company to please wait until the second public hearing. The first public hearing is relating to the applications for rezoning of the property from UR to I-1 and the application for preliminary plat approval.

Chair Weber opened the public hearing regarding the applications for rezoning and preliminary plat approval from the applicant Ryan Companies US, Inc. at 7:58 p.m.

Jason Scherman, 1314 Overlook Street, approached the podium. "I guess this is more along the lines of a question. One of the things I saw in the presentation was traffic and access to 35 is expected to degrade through 2026. What I did see was, preliminary plats or designs for the interchange from MNDOT and Scott County. What I am more concerned about is why would we proceed with replatting to invite in industrial traffic when we already have a lot of development traffic occurring, when we don't even have an approach on how we are going to handle the interchange in the future. I mean there is not even any studies out there right now that are looking at what we are going to do for this. So, I guess that is my big concern because I am sure every resident who lives in town who accesses 35 has very similar concerns that I do to this, thank you."

Lisa Bieber, 11620 Deuce Road, approached the podium. "This whole thing really affects me. I will be living across from all of this and I am sickened by the traffic that is by my house everyday now. I have cars in my ditch all the time. I have streetlights that go down and no one picks them up. There are speeding racers around that roundabout that no one cares about. I live on that corner, and now you are going to kick out my neighbors who I really enjoy, who have two little girls, to bring in this new proposal. I am just beyond devastated. These are people's homes; it is what we have worked really hard to build. We moved out to the country to be out in a quiet place and my house isn't quite anymore, and now you want to take away some of my easement. You want to take away some of my other neighbor's easements and you want to take away my neighbors. This isn't fair and I feel like you have been planning all of this for all this time behind all of our backs and not once did anyone come to ask what we wanted. There are all things that us people in Elko would like to promote and bring in businesses to help taxes and help all the others, but we moved here for a reason and I ask that you please remember that because not only am I just a person, it's my other neighbors that really care and we worked really hard to move here and now you are going to take away easements and my neighbors and all of this traffic stuff, it's so overwhelming, and I feel like shame on all of you that never came to us and never said, 'hey, do you want to see anything about this packet?', why didn't we get a packet today? Why did I have to read it up here that I can't even see what my property is going to look like? Nobody even came to ask me, but now I am going to sit across from a building with two sixty-foot silos, that looks fun. Do you want to come live with me? I am sure you are excited, thank you."

Jonathan Carlson, 26126 Pillsbury Avenue, approached the podium. “We live in the purple section just North of Deuce Road that the City has planned to guide for rezoning to industrial. That is not my plan. I thought I was part of the City but I am not part of that plan. It is pretty clear that this step tonight is a series of steps that started a long time ago and I regret not getting involved before, but I am involved now, and I will be involved in the December 15th meeting. I appreciate Ryan putting effort into developing this lot for profit, but I can guarantee you Lisa, myself, Larry, all of our neighbors that live just to the North of that plat that you are going to develop, have put all of our effort into that land for years some for decades, all of it. We didn’t move to the county to live next to an industrial complex with lots of truck and traffic noise. As Lisa said, there is already an increase of that with the Amazon development and warehouse miles down the road and this will only add to it. We live in Elko, our kids live in the Windrose addition in Elko they are raising a family there. We love Elko, we love where we live, and we love this community and I think these proposals are wrong for Elko and wrong for the people that live around it. Lastly, of all places that you could develop in that zone, you picked the place that is adjacent to every resident who lives over there. Why not develop the lot over by 35 W and behind Parks Auto where there is no one? I think I said what I wanted to say, I think this proposal is wrong. I don’t think it puts the residents that have been here long before the plan was developed first; I think it is putting us last, and I think that’s wrong and I’ll be back again to say that to the City Council because I think the tenant you have slotted there is also wrong for Elko and the surrounding area.”

Beth Kohnhofer, 23171 Woodland Ridge Drive, approached the podium. “I live far enough away; I’ll never see this development. I drive into Lakeville every day and I have already seen Lakeville turn into a mini-Pittsburgh. That’s what it is, it’s just an industrial mess. I think everyone looks at Woodbury and Eagan, they have much nicer developments. It’s not a mini-Pittsburgh and I don’t know; do you really want this for Elko New Market as well?”

Ali Klement, 26511 Xerxes Trail, approached the podium. “I guess I don’t really have any comments, I would more like to clarify a couple of things. It went pretty fast; I feel like you guys have had this information for a while maybe and we are just getting it now, so I just want to clarify a couple things. Can you tell me, the findings for the traffic; are they saying that the traffic is fine now, will be fine later and there are no upgrades to the highway interchange within the next five years?”

Chair Weber addressed Klement and asked if the Commission could address all traffic related comments at the end of the public hearing. Weber wanted to make sure everyone’s comments are heard first.

Klement continued, “My questions are to clarify if the traffic findings were that the traffic is fine right now, the traffic will continue to be fine even throughout the building of the Niagara plant and the trucks that come in and out that the traffic will continue to be fine, and there are no planned upgrades or mediation?”

Mick Wald, 6345 240th Street East, approached the podium. “I’ll touch on the traffic too. How many posts do we see of people dying on 35 right there? I didn’t come here to talk about traffic but now this has got me thinking. You are telling me a grade D and a grade F, there is no change in that? You are bringing industrial work semis, increased traffic, are we dumb? Do

you think we are that dumb? You are going to increase traffic fatalities. This is Elko, people live here because they want to be in a small town, they don't want this big city shit. We're not dumb. You are bringing an industrial park to a small town, how is traffic not going to increase? How are you telling me that the people sitting going to work in the morning, that wait there to get on, are not going to be impacted? I own my own businesses; I don't have to sit in traffic, I am lucky. I am never going to see this development; I live on the other side of town, but the people that work their ass off to live here and have land and live that lifestyle are going to be directly affected by this. You guys, I don't care which side you fall on, yes, no. The fact that it is brought here ten years after it was brought up to you guys behind the scenes. I have been to hundreds of these board meetings, hundreds, I was an HOA manager. I know what is said behind the tables, behind the scenes for the people who aren't informed of what is really going on. It is sickening, I bought my forever home here. Born and raised. I don't know if that's going to happen anymore and it's all for greed. All greed. Take away the money, they agree. Take away the money, what does this benefit? Who does this benefit outside of whoever is involved in this project, their pocketbooks, who else? That's all I got."

Chair Weber reminded those who are speaking to please address only the Commission.

Jami Carlson, 26126 Pillsbury Avenue, approached the podium. "As I think Renee was calling it, (in reference to her address) the industrial part. We are not industrial. We are 20 acres of land. We have a spring-fed creek that will be going through this whole Ryan properties, and then it goes in through our land. We are one of the bigger landowners there and we absolutely will not see our land developed into industry. This is something our children and our grandchildren will be raised in. Speaking of the creek, I have a question. Did y'all know there was a creek that runs through there, spring-fed, comes from the Vermillion River? Think about that people. That stuff that you give to your grandchildren. That's not, 'hey let's get rich so I get my big house here and my million dollars there', y'all get that if you go to heaven, but for right now here living on Earth, do your best to take care of your citizens and think ahead of your own grandchildren. Someday they will want a treehouse in a tree, and they will want to go to the creek to catch frogs, or should we just tell our grandchildren, 'why don't you just play on top of this big ole industry building and climb up those big ole silos that are way above the zoning', they are 15 feet too high. That is not Elko."

Chair Weber again reminded the audience and speakers to only address the Commission.

Carlson continued by addressing Chair Weber, "Are you the Commission, who are you? Could you just say your name because nobody back there even knows what you mean, are you the President?"

Chair Weber notified Carlson that her name is Nicole Weber and that she is the Chair of the Planning Commission. Weber reminded Carlson that the silos are not being discussed at this time and that specific hearing has not even been opened yet. The rezoning and preliminary plat approval are the only topics being discussed under this public hearing.

Carlson continued, "But you said that we could come up and at least give our, actually I got an email that said we had five minutes tonight. Funny how that changed down to two minutes when so many people started raising their hands."

Chair Weber responded that out of consideration of everyone who is here, the Commission are limiting it to two minutes, so everyone has a chance to speak. Weber then reminded Carlson that at the beginning of the meeting she asked if anyone had comments about the silos or Niagara Bottling to wait until the second public hearing. This specific hearing is not related to Niagara Bottling LLC.

Carlson again continued, “But anyway, those were my other comments as far as, and then Ryan Industry would have to put up, just like they did on Dodd and I believe it is Highway 70, the big, huge retaining walls, right? That deflect sound and pollution, I know y’all did an analysis on that too, so there will be a huge, huge wall built and then all the driveways will have to be rerouted to go onto Pillsbury. That is just something to think about, because they would have to do that, or they couldn’t get out their driveways. Thank you, Commissioner.”

Kristy Thompson, 25831 Pillsbury Avenue, approached the podium. “My parents live at 11550 Deuce Road, so it looks like that would be right across from 11551 Deuce Road driveway that would be removed. With that being said, I am a second-generation resident my son is five, he is going to be a third-generation resident in the area. I have been here my whole life and living on County Road 2 at 11550 Deuce Road, there has been a significant increase in noise pollution. It’s terrible. I can’t talk to my parents in their front yard. I can’t talk to them in their backyard. There is times in their house we can’t hear their t.v. Again, this is 11550 Deuce Road. It’s terrible. It is terrible. I can’t imagine. My dad used to drive truck; I know what all the jake brakes sound like, not that he did the jake brake, I am just saying that it is really, really loud. Another question I had about the I-1 use, I think where it said along with taproom was a sexually orientated business, can someone answer what is that?”

Christianson explained to Thompson that under Minnesota State law, cities cannot zone out sexually orientated businesses such as a strip club. Cities are required by State law to provide a spot for them to locate and the I-1 limited industrial zoning district was identified as the most appropriate area to allow those types of businesses.

Chair Weber stopped to inform Thompson that she appreciated her comments, but they were getting into discussion that was not covered on the agenda.

Thompson continued, “Then the shift changes are at 6 a.m. in the morning and 6 p.m., so all the cars are going to be going on County Road 2 at 6 o’clock in the morning, right by all those residents’ houses? Then, the trucks are going to be starting up, going by, at all hours of the day, including nighttime, loud trucks? That is just what it sounds like I am hearing, ‘oh it’s not going to just be one time in the day, it’s going to be all throughout the day and the night to hear these trucks going by’. So, it’s just kind of disturbing. Yeah. Thank you.”

Janelle Kuznia, 26775 Grand Avenue, approached the podium. “I’ll just reiterate what everybody else had to say. No one spoke to us. We live, these are our homes. Nobody spoke to us that this whole area in 2040 is going to be industrial. How would you like it? Nobody asked us, nobody came and knocked on our door, nobody said, ‘oh, we’re going to turn this all into an industrial park and too bad if you guys live there.’ The traffic right now is outrageous to get out of my driveway on 267th Street coming out on Pillsbury and then around

the roundabout to get to the freeway. It's crazy, and there's no plan? So, what are you going to do with us? Do you guys want to pay for us to relocate on some acreage farms away from the industrial park, would you like to sell your houses? I mean it's not fair, you never had the conversation with us. Did you? Did I miss it? Did you have a conversation, did you ask us?"

Chair Weber informed Kuznia that the Comprehensive Plan is reviewed on a periodic basis and has been in development since the sixties.

Kuznia responded, "Correct, but did you ever come to us, the people that live there? I am asking you a question." Chair Weber informed Kuznia that there were public hearings held in regard to the Comprehensive Plan. Kuznia again continued, "Have you notified us of those that those are specifically talking about changing all of the land North of my gravel road into an industrial park?"

Christianson spoke on the Comprehensive Plan, indicating that the City has been working with Ryan Companies since 2012. Kuznia interjected, "I was at the hearing in 2012." Christianson tried to continue when Kuznia again interjected, "And I haven't heard a word about it since". Christianson informed her that Ryan Companies has been marketing the property since that time.

Kuznia continued, "There was a meeting in 2012, long ago that they came and talked to us. We have not heard a word about it since, and trust me, we were there. We were concerned then and we are concerned now. So, I am asking that you table this until there is some further discussion with the people that live in this community and ask the people in this community whether or not we want to turn this part of Elko into an industrial park. We live here, we live here. This isn't just your decision, it's everybody that lives in this community's decision, and I am asking that you table any further discussion about this until the City has an actual public hearing where people can come in and fully understand what's going on. What it's going to do to their daily commute, what it's going to do their environment, what it's going to do to the pollution in the area? And that is what I am asking the Planning Commission to do this evening."

Chair Weber again reminded the audience that members of the public only approach the podium once per person and the member of the audience approaching had in fact already given their public comment.

Christianson addressed the rules and laws regarding providing notices of public hearings. Under Minnesota State Statute, when there is a land use application, the City is required to notify landowners within 350 feet of the property. When an application is received, the City only has 60 days to process the application, the City does not have an infinite time to process applications. The application was received completed on October the 28th. Staff reviewed the application for completeness which takes time. Once Staff has determined that the application is complete, at least 10 days from the hearing, State law requires that the City send notices to adjacent property owners and publish notice in the designated newspaper, all of which were done in accordance with the law. When the City receives an application, the City must react. The City does not get to choose when they receive these applications.

Susan McPhee, 23321 Woodland Ridge Drive, approached the podium for public comment. “I just wanted to read something, I took a long time to prepare this and apparently, I can’t read this tonight because it is solely revolving around Niagara. Since we are discussing Niagara, basically through the approval of this land, then.” City Administrator Terry interjected and notified McPhee that she is welcome to speak on Niagara but that will be the second public hearing and not the current one. McPhee indicated that she understood and went back to take her seat until the next hearing.

Chair Weber asked one final time if there were any more public comments related to the first public hearing for rezoning and preliminary plat approval by applicant Ryan Companies. Hearing no more public comment, Chair Weber turned the meeting over to Christianson to answer the questions asked during the first public hearing.

Christianson noted that the City has asked transportation experts and engineers to be at the meeting so they may be able to better answer some of the more technical questions. Christianson began by addressing the first question of if the traffic function at the interchange is adequate today. The City is aware that there are delays on the North bound ramp in the a.m. peak hour that result in the level of service D. Christianson noted that a D grade level of service is still acceptable; however, it is not ideal. Generally, the City believes that traffic is still acceptable today at the interchange. With normal background traffic, and no development around the interchange, we know that those delays will continue to increase in the a.m. and the p.m. peak hours, some to unacceptable levels. Christianson also noted that the South bound ramp is also likely to experience delays in the future. With the addition of the Niagara traffic, it is anticipated to increase delays experienced at the interchange but is not shown to dramatically increase delays in comparison to normal background traffic growth. However, this added traffic is not anticipated to cause any movements to degrade to a lower Level of Service threshold.

Chair Weber had a question for Christianson. She asked her who is responsible for creating the levels of service, (ABCDF).

Mike Larson, PE, PTOE Transportation Project Engineer with Bolton & Menk, approached the podium. “The level of service, A through F scale, is a threshold scale established by the FHWA, the Federal Highway Administration Institute of Transportation Engineers, it is a world-wide scale on traffic operations if that answers the question?”

Chair Weber let Larson know that he answered the question for her and thanked him. Christianson asked Scott County Highway Engineer Tony Winiecki if he had anything to add.

Winiecki addressed the Commission. “We all know that is bad out there right now, right? The biggest issue is that the bridge is two lanes and can only carry so much traffic. That is the issue from a capacity standpoint. So, when we talk about levels of service, it’s delay along the roadway or delay at an intersection whether it is signalized, or you are sitting at a stop sign, it is how long you are going to wait. When we talk about those letter grades, it’s seconds within the delay. Obviously, it feels different at a stop sign than it does at a traffic signal. The biggest issue is that there is too much traffic for a two-lane roadway on the bridge, there is not enough room between the end of the bridge to the ramp intersections to add a lot of capacity. Turn

lanes, things like that, it is going to back up beyond and into the through-lane regardless. We have been working with City Staff and MNDOT to identify when the bridge will be replaced since it is over 35 and it's technically the State's bridge. When is that going to be replaced and when is the funding for that going to happen? It's not in their program right now, it's not in our program to fully fund that. It is not in our program from a funding standpoint, we have identified it from in our Sales Tax funding that it is a location that we are targeting when that funding comes together to help allocate funding for that. It is currently not in our 10-year program. So, when Renee mentioned that our best efforts are to look to work with the City, County, and the State towards a long-term solution. That is when we are going to see the most impact to mitigating traffic in that area. You can really only do so much. A traffic signal, a turn-lane that they are going to back out of into the through-lane really isn't going to have that big of an impact compared to putting the resources together for a long-term solution. When this was conceived originally and what that development might look like in that area. The proposed development is considerably less intense from a traffic standpoint, what would come in and out of there, and more-so those peak times are outside of, either on the shoulder or outside of those peak hours. If all that traffic was added in the peak hours, it would be considerably worse. Maybe Rich or Bolton & Menk can comment on that a little bit more. So that traffic happening outside of those areas won't be felt like it would if all that traffic happened within those peak times.

Chris Brovold, 4105 Shelly Lane, approached the podium for public comment. "Just want to clarify, so you mentioned, there is no plans to make that interchange fixed or do anything with it for at least 10 years, it is not in the 10-year plan?" Tony Winicki, Scott County Highway Engineer, replied, "Currently it is not in our 10-year plan, again we have locations identified for our Transportation Sales Tax and it is one of those locations. It is a large funding gap, this is 25-30 million dollars, it is a big project." Brovold thanked Winicki for his answer.

Christianson addressed the audience and let them know that the interchange continues to be a high- priority for the City Council. Staff is keeping the issue in front of MNDOT. Some members of the City Council serve on State Committees to continue to advocate for the interchange in Elko New Market and keep it on their radars.

Ali Klement, 26511 Xerxes Trail, approached the podium for a second time to ask Winicki a question. "It seems like you are thinking maybe it's not a great idea to have that much traffic on there. So, maybe wouldn't you give the City the recommendation to not replat?" Winicki responded, "I am saying that the traffic that is proposed is less than what was originally conceived in the AUAR and the time of day in which the traffic is going to be coming in and out of that site is not in the intense times of day, that being the peak hours, a.m. and p.m. Klement replied, "Because the truckers really pay attention to those rules and go those certain times to make sure? I mean, do they? I mean have you guys seen like in Northfield where there's a two-lane, you know the trucks they stack up. They don't get their water in time; they stack up and stack up and stack up. This is in regard to the industrial, it doesn't matter if it is Niagara, if the industrial has trucks, how many trucks a day, 200? 300? I don't think that it is a good idea for it to be replatted because the findings are incorrect, that the traffic has not been considered."

Jon Ackerman, 24231 Dakota Avenue, approached the podium for public comment. “So, with the traffic you are recommending that it is not going to change based off the shift change. So, with the companies proposed in that park development, is it mandatory shift change, 6 a.m. and 6 p.m. or can they change that? And if it that does change, will that affect the flow?” Christianson stated that the City has been advised by the company that the plant manager will have some flexibility to work with his Staff but there will be twelve-hour shifts. Niagara will speak more on that during their presentation. Ackerman continued, “So potentially it could be 7 a.m. 7 p.m. or 8 a.m. 8 p.m. right in traffic flow?” Christianson said that she did not want to speak for the company. Ackerman agreed and continued on, “But, potentially it could which would result in more traffic in those peak times, potentially. I just wanted to clarify, thank you.”

Lisa Bieber, 11620 Deuce Road, approached the podium for the second time. “As I watch people come into the roundabout and look at the floor plans of doing the diamond shape, I actually don’t mind the diamond shape even though I’m going to lose some of that property. But I really ask that you would consider to, whatever you do, put some more signs up. If you understood what the people that actually drive here from other countries, other states, they don’t know what to do at the roundabout. I promise you, come sit at my house. We’ll drink a beer and laugh about it because they stand there, and they sit in their truck and then all of the cars honk at them because they don’t know to go around a roundabout. You think I’m joking, I’m not, I promise. And, it is the jay brakes, and we’ve even seen cars jumping the roundabout. I don’t know if you know that, but I have at least 4 cars in my ditch as I stated and so that big area has gotten a lot more traffic since FedEx, it’s a big problem right now, at least for my house, it’s non-stop jay brakes. So, I ask, whether you do the roundabout, the diamond, if you’re going to take it, do it the right way. You know, put some more signs up or try to help somebody.”

City Administrator Terry asked Bieber what she believed was being taken from her as part of the project. Bieber responded, “Well part of my easement will be taken, which I understand is the City. I live on the opposite side so in order to do the diamond you would come into my property with that other, and that’s fine, I don’t really want to lose that, but it is part of the City and I get that. But, at the roundabout where.” Terry stopped Bieber and let her know that there are no proposed improvements for this project that are part of the roundabout. Bieber asked for clarification as she thought that the roundabout was proposed to be replaced by the diverging diamond design for the interchange. Christianson informed her that the diverging diamond design would be located at the interchange ramps. Bieber continued, “Well, then I guess moving forward then, if it’s not going to be there is the diamond, as much as I don’t want it, like help some people that don’t know what a roundabout is. I do, and I get it and we think it’s funny but the neighbor across the street that we’re going to take his house away has had to have multiple tow trucks because the semis panic, and they pull into his yard because they don’t know what to do.” Terry again responded to Bieber and let her know that no homes or property are being taken as part of the project. Bieber continued, “I understand, I’m sorry. It’s just my neighbor and I really care about him and when you move to a City to be around other people that you care about, it’s hard and it’s difficult and I am emotional about it. Do you have a neighbor that you like? Do you? Ok and do you live in a nice house? It’s hard to let them go, isn’t it?” Terry again clarified that he is not aware of any driveways being removed, except for the commercial property on the corner, or property taken as part of the

project. It is all being conducted on a property that has been under the control of Ryan Companies for a number of years. He was just curious when hearing statements regarding takings, which properties are being talked about. Bieber continued, "I think you know it's like playing the game of telephone, you know? We all want to try to understand, and we all might not know the right thing, but we know that we are hurting right now, and we don't understand and so we want to understand. We want to know why, and what are we going to do and how are we going to handle it. So, that's I guess what I mean."

Stephanie Adams, 9055 Glenborough Drive, approached the podium for public comment. "I just had a couple of comments that might kind of combine this part of the meeting with the next meeting. I had heard that the bridge needed to be replaced, it was slotted at some point which I think it was you (Winiecki), that was just talking about that and stating that the State knows that the bridge will eventually need to be replaced. However, it is not in the 10-year plan. There was construction done on that bridge in the last, sorry because of Covid I don't remember when, last year or two?" City Administrator Terry informed her that he thought it was longer than that and likely right before Covid. Adams continued, "So my understanding was that that was done in lieu of replacing the bridge because it was not within the 10-year plan? Or can somebody explain exactly what? You know we have a lot more traffic going on because there is additional developments that had started. We have a lot of people from New Prague, Lonsdale, Montgomery, they come across 2 to get on the highway so it's not just the traffic in the Elko New Market area, we have people come up from the Southside of Northfield, they come up the side road to get up the freeway instead of waiting for all of those trucks at the truck stop to get on. So, if it is not in the 10-year plan and an industrial park bringing in the new business of hundreds of trucks a day starts, or is approved, then does the State go back and look at that? And say, "O.K now we have all this additional traffic, all this additional weight on that bridge which is already an issue because it is on the radar to be replaced, how does that work?" Because when a bridge is replaced, it doesn't just get replaced in a couple of months. I mean there is all of this time they have to plan; we're still looking at years down the road even if they decided to replace it today. So now you have all of this traffic and all of this new development and as the development comes further South, and Lakeville is completely filled up, trucks for Amazon and other businesses are already coming off on 2. So how does that work? That, to me, the 10-year plan it's kind of like Elko is not looked at seriously yet for traffic purposes from the State. They want to do it, but they're not going to do it." Christianson interjected and said that would be Staff's job to continue to tell the story and advocate for Elko New Market. Adams continued, "Like every year if there was the traffic study done in 2015 and 2021, there was a lot of change between 15 and 21, there's been a lot of change between 21 and 22 and there is going to be a lot more change in the next couple of years. But again, at the earliest of probably getting a bridge replaced, again if they started looking at it today, we're looking at a couple of years before that even starts and if this industrial park continues and there is more businesses that go in that industrial park that's even more traffic and the bridge is already questionable, I mean not that it's you know going to collapse any time soon, but they obviously know about it. So, that is my comment and a couple of questions about that."

Winiecki responded to Adams questions and comment, "I appreciate that, and the bridge is still structurally sound. If it was at a dire state where it was structurally deficient, then MNDOT would act on it a lot quicker than they are. Since it is not in that position, it is

somewhere in the pipeline, wherever that is, but it is not in the 10-year plan right now, but it is still structurally adequate.”

Adams responded to Winiecki, “Right, well I’m not saying that I am worried about it collapsing, it’s just the fact of again the timeline to approve and start a project like that is years in the making as of today, if it was decided. I realize that has nothing to do with us right now, but I am just saying. If the State decided to do that bridge, we are just outside, we are one exit South of everything else that has been done. 50 is the only one that hasn’t been done and they can’t do it or decided that once their minimum changes were done that, they couldn’t do the other part that needed to be done years ago. So, we are just outside of that perimeter but yet we are the fastest growing area according to industrial because we are getting Lakeville industrial, were going to get Elko New Market industrial, were getting the Northfield truck traffic. Thank you.”

Chair Weber reminded the audience that out of consideration of other who would like to give their public comment to be mindful of the time they are speaking.

Nichole Fredrickson, 26301 Dodd Blvd, approached the podium for public comment. “First, I would like clarification on the slide that was presented during the presentation. It showed that the County Road 2 traffic daily limit was measured as of 2019. Since then, as everybody has mentioned, they have had the additional of Amazon and FedEx coming down County Road 2. What I would like to see is that the Commission order a new count and maybe table the entire discussion until we get actual real limits and measurements because from 2019, as Kristy and Lisa both said, that is not realistic.”

Christianson responded to Fredrickson. The count that was referenced from 2019 was a publicly published count that was published on MnDOT’S website. For the purposes of the traffic impact study, City Staff did use 2021 traffic volumes. Staff collected specific counts in 2021 and Fredrickson is correct, Christianson admitted she should have included those numbers for the slideshow. The traffic projections shown in the traffic impact study were using the 2021 traffic volumes on the interchange, County road and ramps. Fredrickson asked if Christianson had those numbers. She said she did not, but they could be provided.

Fredrickson continued, “Because that may make a difference to us whether or not you guys would recommend more industrial. That is just my though. Thank you.”

There was a question from the audience about the timing of the traffic impact study and if it was done during Covid as that would likely affect total numbers collected. Christianson addressed the question and said that everything was open at the time, but numbers now are likely higher than they were during that time.

Chair Weber asked one final time if anyone had any additional comment. A member of the audience asked about next steps. City Administrator Terry explained the process behind public hearings and a typical Planning Commission agenda item. With a land use application, it will go to the Planning Commission. The Planning Commission is an advisory body to the City Council so they will make a recommendation to Council on the application. They also hold a public hearing to gather public comment so that they can use that information in their

consideration of their recommendation. That recommendation will be sent to the City Council. The City Council is scheduled to consider the applications at their December 15th meeting that will be at 7 o'clock p.m. Terry advised the audience that they are welcome to follow the City on Facebook, go to the City's website, there is an FAQ there, it will update meeting dates and the New Prague Times is where we do our public notices. If there any changes from what I have told you tonight, they will be included in those locations, so people are aware of it. The vote, which is the form of the recommendation from the Planning Commission, will be tonight, unless the Commission decides to continue the discussion. However, the City is time limited by State Law by how long a City can take to consider an application. Like a member of the audience stated, that can be extended; however, there needs to be a basis for extending the timeline. Terry repeated the entire process again to help clarify the next steps for the audience members who had questions.

Chair Weber again asked the audience if there was any final comment before she closed the hearing to the public.

Tracey Kern, 26441 Windrose Court, approached the podium and showed an image from her phone to City Administrator Terry. "So, when you guys say you aren't taking away anybody's properties, which I know that this is the plan for right now, this is where the neighbors live with the two little kids that she's talking about, these are where the rest of the people that have been talking live and then this big chunk is my parent's land. So, it is all in a thing. It may not be happening like right now but even if it was 30 years from now." Terry explained what she was showing him for the benefit of the rest of the audience. What Tracey showed me was a picture, I'm not sure of the source, but it looks like it may have been a picture from an environmental study. There was a story that came out on this, the reporter for the story used a graphic from an AUAR that improperly depicted the area for what the industrial park was going to be. It created a lot of misunderstandings. It was not provided by the City; it was reported to the reporter, and they had corrected it. The graphic shows the industrial park as well as the larger AUAR area. An environmental study, or even land use guidance, doesn't take anybody's property. The City can not make someone sell their property for economic development purposes and it is illegal for a City to do so. Simple guidance of a property does not take someone's property. That person would still have to decide to sell their property to a development or developer.

Kern continued, "The question is, you guys keep showing these maps of that, of this (AUAR area), so I don't understand why that's." Christianson explained the 2040 Land Use map and that areas identified in that map are areas where, as the City grows, that is where we want industrial to locate. A member of the audience asked who is we? Christianson informed him she was talking about the City and City Council and that is how the City must plan for growth. Christianson explained, there are areas in the City that are planned for commercial development, retail, office, and gas stations. There are areas in the City where we would like to see multi-family housing. There are areas in the City where we would like to see single family housing development and we plan that out so as we grow, we know where those areas will be. It's our plan. It's how we want to grow. We don't grow unless there are willing buyers, willing sellers, and willing developers. Terry again restated and agreed with Christianson that simply guiding an area does not take anyone's properties. Currently, except for the industrial

park, none of those properties contained in the AUAR are located within City limits so they would not be subject to City regulations until they come into City limits.

Kern continued and asked if it would be a better idea to show a 3-D model image of the development from nearby streets in an effort to help people better understand the proposed development. Kern gave her recommendations for some type of 3-D viewing model for public viewing. Chair Weber thanked Kern for her comments. Terry let the audience know that City Staff are able to answer questions after the meeting as well if they wished to talk to City Staff about aspects of the project.

Deb Pexa, 18066 Willie's Way New Prague, approached the podium to give public comment. "I just want to say that Tom is correct. I spent some great time on the phone with Tom and he gave me great information and he contacted other people. But what I'll say is and what I am hearing tonight is that is a conversation that you and I are having, and all of these other people are not hearing that information and over and over I am hearing tonight that there is key information that this community has not gotten and that is on the City's leaders to make sure they have that information. So, I agree, and I will probably call you again and ask for more information, but the City needs to do more to be getting this out and having a transparent conversation. You have some City guidelines that talk about your organizing principals and the top one is transparency and participative government, that's not what I'm hearing is happening tonight, so I just want to challenge you all to have those broader conversations." Weber thanked Pexa for her comments.

Hearing no more public comment, Chair Weber closed the public hearing at 9:02 p.m.

Chair Weber asked the Commission if they had any thoughts, questions, or comments. Weber wanted to remind the Commissioners of the five criteria to examine in relation to rezoning a property. Weber gave an overview and mentioned that the rezoning application would have to be compliant with the 2040 Comprehensive Plan. Commissioner Hanson spoke. She stated that she thinks that there are a lot of people who are unaware of the City's Comprehensive Plan. Over the years the City's 2030 Comprehensive Plan has been updated into the 2040 plan. There were open houses that she attended and knows that they were advertised on Facebook to her knowledge. Regarding the rezoning from UR to I-1, the application and request are appropriate in Hanson's opinion.

Commissioner Smith spoke. He said he got involved over 20 years ago because he felt the need to do something and there happened to be a vacancy at the time. Smith welcomed residents of the City to join Committees for the City to help be part of the solution. Smith also mentioned the importance of working with the State on a State level to help address the bridge and interchange because that is where it needs to start.

Chair Weber asked if the Commission was ready to vote on the rezoning application. Commissioner Pipo asked if the City had received any comments from any business owners located in the project area? Christianson informed Pipo that landowner for the area where Parks Auto is located and the landowner of the property proposed development property are the same. The businesses located on the property where Parks Auto is located are tenants. No comments have been received from business owners in the area.

A motion was made by Hanson and seconded by Schroeder to recommend that the City Council approve Ryan Companies US, Inc's request to rezone their property identified in the preliminary plat as Lot 1 from UR to I-1, with the following findings:

1. The current Urban Reserve zoning district is reserved for properties where municipal utilities are not presently available. Municipal utilities have been made available to the subject property; therefore, rezoning the property is appropriate. Rezoning Lot 1, Park I-35 Industrial Park to I-1, Limited Industrial is consistent with the purpose and intent of the City's 2040 Comprehensive Plan which guides the property to Industrial land uses.
2. The subject site is surrounded by the existing and planned land uses shown in the table below. The proposed industrial land use will be compatible with the existing and planned land uses surrounding the site.

Direction	Existing Land Use	Existing Zoning	2040 Land Use Plan Guidance
North	Rural residential, light industrial	(Scott County) Rural Industrial and Urban Business Reserve	Industrial & Commercial
East	Rural residential	(Scott County) Urban Business Reserve	Industrial
South	Agricultural, rural residential, wetlands	(Scott County) Urban Expansion Reserve	Industrial
West	Interstate	(Scott County) Commercial and Urban Expansion Reserve	Interstate-35 & Commercial

3. Any proposed development for the site will be required to comply with applicable provisions of the Zoning Ordinance, Subdivision Ordinance, and City Code.
4. The parcel can be served by the City's existing public services, including sanitary sewer and water infrastructure that are available at the perimeter of the site, and by the City's overall municipal water system and regional sanitary sewer system.
5. Traffic generated by the proposed use is within the capabilities of streets serving the property. The subject property is adjacent to Scott County CSAH 2 and Interstate 35. Traffic at the I-35 / CSAH 2 interchange is anticipated to degrade to lower levels of service on several movements by the year 2026, regardless of development of the subject property.

Motion to recommend approval of rezoning carried: (5-0).

Chair Weber asked if the Commission had any concerns with the 24 conditions suggested for the preliminary plat approval. There were no concerns. Commissioner Smith had a couple of questions on the preliminary plat. He thought that the G&T and the Parks Auto access road seemed restrictive for the semi traffic they would get. Christianson shared that there is another

drawing that has been submitted in concept. A final plat will show changes with the road especially with softening up the curve on the new access to the Park's Auto property. Smith also had a comment, the Park's Auto property is not hooked up to City utilities and is not proposed for utilities until it would be annexed into the City. City Engineer Rich Revering said that this development would be setting the stage for the adjacent lots as they could all be served by the Ryan Companies development if they did happen to become annexed and developed. Smith clarified with Christianson that the utilities were not a part of the sale for the Park's Auto property at this time unlike the roads.

A motion was made by Smith and seconded by Hanson to recommend to the City Council approval of Ryan Companies US, Inc's request for preliminary plat approval of the Park I-35 Industrial Park for the following reasons:

1. The proposed plat complies with the purpose and intent of the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance.

And subject to the following conditions:

1. Preliminary plat approval is granted in accordance with the following plans and subject to conditions below, subject to City Engineer review contained in a redlined plan set and dated November 22, 2022.
 - a. Preliminary Plans for Plat, Grading, Erosion Control, and Utilities containing 35 sheets, prepared by Westwood Engineering, all sheets dated October 28, 2022, and include the following:
 - i. Preliminary Plat Drawings
 - ii. Preliminary Grading Plan
 - iii. Erosion Control Plan
 - iv. Wetland Impact Plan
 - v. Preliminary Utility Plans
 - vi. Preliminary Street Details
 - vii. Detail Plates
 - viii. Tree Inventory and Removal Plan
 - b. Preliminary Stormwater Management Plan (report) containing 313 sheets, prepared by Westwood Engineering, and dated October 28, 2022
2. Approval of the preliminary plat is subject to approval of the wetland replacement plan application. The developer shall assume all risk associated with further preparation of the preliminary and final plat application in advance of the required wetland application approvals. Park I-35 Industrial Park – Rezoning and Preliminary Plat Applications Page 23 of 24 November 29, 2022
3. Approval is subject to the recommendations and approvals of the City Engineer, Public Works Director, and City Attorney.
4. The developer must enter into a development contract with the City of Elko New Market at the time of final plat approval.
5. All existing wells located on the property shall be properly sealed and any septic systems shall be properly abandoned in accordance with State and County regulations prior to development of said areas. Demotion permits are required for

removal/demolition of any existing structures on the property and such demolition procedures shall comply with MPCA requirements.

6. Proposed Outlots C & D shall be combined into one outlet.
7. Proposed Outlots B, containing wetlands and a stormwater pond shall be dedicated to the City at the time of final plat approval.
8. Drainage and utility easements shall be dedicated, of sufficient area to cover the stormwater pond and stormwater pond buffer, on proposed Outlot D.
9. Drainage and utility easement shall be dedicated over the forcemain as depicted on proposed Outlots A and D.
10. The developer shall secure a public easement over a portion of the 11111 Deuce Road property in order to allow installation of the sanitary sewer forcemain, as depicted on the proposed plat.
11. Additional drainage and utility easement may be needed on the west and south side of proposed Outlot A in the future to allow for installation of an additional watermain.
12. Upon replatting of proposed Outlots A, C & D, the developer shall provide drainage and utility easements over wetlands and wetland buffer areas, or dedicate them to the City in an Outlot.
13. Upon replatting of proposed Outlots A, C & D, the developer shall provide drainage and utility easements over proposed stormwater ponding areas or dedicate them to the City in an Outlot, unless the ponding areas are determined to be private.
14. The plans shall be revised to include a signage and lighting plan meeting the recommendations of the City Engineer. A street light shall be installed at the new intersection at CSAH 2. All street lighting costs within the plat are responsibility of the developer.
15. Land dedication requirements for the plat shall be cash contribution to the City's Park and Trail fund rather than land dedication.
16. The two existing residential driveways (serving 11301 and 11551 Deuce Road) shall be removed as a condition of the plat. No private access shall be allowed to CSAH 2 from any part of the plat. The final plat drawing must show access restriction along CSAH 2
17. Any temporary construction access to the site requires the approval of Scott County. No construction access shall be permitted without an approved access permit through Scott County.
18. The developer shall provide for future access to 11435 Deuce Road through the Park I-35 Industrial Park plat.
19. In accordance with a predevelopment agreement dated April 1, 2021 and recorded as Document #A1125654 and as a condition to plat approval, the existing private accesses into 11111 Deuce Road (PID #089250250) shall be permanently removed from CSAH 2. Access to the parcel shall be provided through the proposed Park I-35 Industrial Park plat.
20. An eastbound right turn lane, meeting the requirements of Scott County, shall be constructed approaching the proposed CSAH 2 and Dupont Avenue intersection. Costs for constructing the turn lane are the responsibility of the developer.
21. If drain tile is encountered during construction of the development, the City Engineer shall be notified immediately to ensure there are no adverse impacts to adjacent property owners or proposed development sites.

22. The plans shall be revised to depict sidewalks and future sidewalks along Dupont Avenue and 265th Street East. Future plats of the outlots within the plat will require construction of sidewalks adjacent to the lots.
23. The right-of-way width at the north end of Dupont Avenue shall be widened to accommodate the placement of sidewalks / pedestrian facilities within the right-of-way.
24. Stormwater maintenance agreements will be required for all private ponds within the plat.

Motion to recommend approval of preliminary plat carried: (5-0).

B. Purple Rain Properties, LLC

- Request for Conditional Use Permit to Allow Construction of Silos Which Exceed the City's Maximum Height Requirement in the I-1 Zoning District.

Chair Weber turned the meeting over to Christianson to introduce the application for a Conditional Use Permit from the applicant Purple Rain Properties, LLC. Christianson explained that Purple Rain Properties, LLC, an affiliate of Niagara Bottling, conducted a site search in 2021 and 2022 for a location to construct a bottling facility at a location that could serve the Twin Cities Metropolitan and surrounding area. Elko New Market was identified in June 2022 as a preferred location. Niagara has worked with the land developer, Ryan Companies, to secure a site in the Park I-35 Industrial Park. On October 28, 2022, the City had received an application for a Conditional Use Permit to allow for construction of silos which would exceed the City's maximum height of 50 feet in the I-1 Zoning District.

Purple Rain Properties LLC does have a purchase agreement on proposed Lot 1 of the Park I-35 Industrial Park. Development of the industrial park is proposed by Ryan Companies under separate land use applications heard earlier. Lot 1 is proposed to be zoned I-1, Limited Industrial. Proposed zoning of the property is consistent with the 2040 Comprehensive Plan.

Purple Rain Properties LLC are proposing to construct a 425,209 square foot facility on Lot 1, where the following uses are being proposed: Manufacturing of plastic bottles and caps, treating, testing, and bottling of water and/or other beverages, warehousing and distribution of bottled beverage products and accessory office uses. Christianson showed a map of the proposed Niagara site along with a high-level depiction of the site layout. Christianson then went over the zoning and proposed uses for I-1 zones as she did for the last presentation. Uses proposed by Niagara would be considered light manufacturing, and warehousing and distribution. Permitted accessory uses for Niagara would include signs, office and off-street parking and off-street loading.

Christianson shared the minimum lot size requirements for the I-1 Zoning District. A minimum lot area of one acre is required. The minimum lot width is 150 feet. Building setbacks are as follows: 30 feet from local roads front setback, 50 feet from arterial roads front setback, side setbacks of 10 feet from neighboring property lines and rear setbacks of 20 feet from neighboring property lines. The proposed development meets all the listed setbacks and minimum lot size requirements for the I-1 Zoning District. An application for Conditional Use Permit, CUP, to allow the construction of silos that exceed the maximum building height for

I-1 areas has been received. The maximum height of buildings in I-1 zones is 50 feet, except as provided in Section 11-5-2 of the City Code.

Section 11-5-2 of the City Code identifies exceptions to the City's height requirement. Buildings in excess of the district standards may be permitted through a CUP, provided that: The site is capable of accommodating the increased intensity of use; the increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets; public utilities and services including fire protection services are adequate; for each additional 10 feet above 35 feet in height requires that front and side yard setbacks be increased by 5%. Christianson showed a site plan which detailed the location of the proposed silos. Christianson noted that five silos are proposed for the time being while an additional silo is planned for future use if needed. Three of the proposed silos would store plastic resin for use in the manufacturing process and three would be filled with water.

City Administrator Terry was notified and made an announcement that there were vehicles parked in front of the Fire Department doors which would impede the Fire Department's ability to respond to a call. He asked whoever may have parked their vehicles there to please move them.

Christianson showed a diagram of the proposed building elevation. The building will range in height from 37 feet to 42 feet high with various parapets. The diagram detailed how high above the building that the proposed silos would rise.

Christianson introduced the evaluation criteria, as identified in the City Code, needed to properly evaluate a request for a CUP as it relates to maximum height. The first criteria to examine is that 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. Staff's finding is that allowing for additional building height for silos in conjunction with a proposed industrial use is consistent with the 2040 Comprehensive Plan due to supporting the Economic Development goal which calls to attract, expand, and retain businesses and industries in Elko New Market as a means of adding value to and diversifying the City's tax base.

Next, the proposed use is or will be compatible with present and future land uses of the area. Staff's finding is that the request for additional building height will be compatible with present and future industrial land uses and will conform with all applicable performance standards contained within the Zoning Ordinance.

The third evaluation criteria to use is the proposed use conforms with all performance standards contained within this title. This is in reference to the City's Zoning Ordinance. Staff's finding is the proposed silos and increase in building height conforms with all applicable performance standards contained within the City's Zoning Ordinance, including a required increase in front and side setback requirements.

The proposed use can be accommodated with existing public services and will not overburden the City's service capacity. Staff's finding is that the request for increased building height to allow for the construction of silos has no impact on the intensity of use for the site and will

not impact the City's service capacity. Existing public services (i.e. fire protection services) can accommodate the increase in height.

Traffic generation by the proposed use is within capabilities of streets serving the property. The increased intensity of use (silo height) does not cause an increase in traffic volumes beyond the capacity of the surrounding streets. Staff's finding is that the increase in building height to allow 65 foot 9-inch-high silos has no impact on the intensity of use for the site and will not result in an increase in traffic or go beyond the capabilities of the streets serving the property.

The site is capable of accommodating the increased intensity of use. Staff's finding is that the construction of silos in excess of the maximum height limit has no impact on the intensity of use for the site.

Public utilities and services, including fire protection services, are adequate. Staff's finding is that the public utilities and services planned to serve the site are adequate. Fire protection services can accommodate the proposed 65 foot 9-inch-high structure.

For each additional ten feet above thirty-five feet, front and side yard setback requirements shall be increased by five percent. Staff's finding is that based on the proposed silo height of 65 feet 9 inches, the front and side setback shall be increased by 20 percent, resulting in a front setback requirement of 36 feet and a side setback requirement of 12 feet. The location of the proposed silos meets the increased setback requirements.

Lastly, the provisions of Section 11-4-5 of this title are considered and satisfactorily met. Staff's finding is that Section 11-4-5 related to essential services are proposed to be satisfactorily met.

The application from Purple Rain Properties, LLC for a CUP allowing for construction of silos which exceed the City's maximum height requirements in the I-1 Zoning District has been reviewed by the following members of City Staff: City Engineer, Public Works Director, Police Department, Building Official, City Attorney and Community Development Staff. The Fire Department also reviewed the application, and the Fire Chief has issued the following statement, "The Elko New Market Fire Department has looked over the proposed plans and sees no issue as we have equipment to reach the proposed structure's heights."

The Planning Commission is being asked to hold a public hearing regarding the application for CUP for the construction of three 60-foot silos and three 65-foot 9-inch silos, which exceed the City's maximum height requirement of 50 feet in the I-1 Industrial Zoning District, as proposed on Lot 1, Block 1, Park I-35 Industrial Park. The Commission is also being asked to provide a recommendation to the City Council regarding the aforementioned application.

Chair Weber thanked Christianson for her presentation and asked if the applicant's representative would like a chance to address the Commission. Alan Catchpool with Kimley-Horn Engineering approached the podium. Catchpool started by saying that Kimley-Horn completed the civil, landscape, and stormwater design for the site on behalf of Niagara Bottling. Catchpool apologized that no members of Niagara were able to make the meeting

physically due to the weather, although Patrick Drinan is able to attend remotely and introduce Niagara Bottling to the Commission and audience. Patrick Drinan, Senior Economic Development Manager for Niagara Bottling, addressed the Commission. Drinan again apologized that he and the two other Niagara representatives were unable to make it to the meeting due to the inclement weather. Drinan mentioned that Catchpool is contracted by Niagara Bottling and can answer some of the technical questions regarding the silo's placement, height, or other site related issues. Drinan wanted to give a brief overview of the company, project, and also hopefully answer some questions that have been asked tonight. Niagara Bottling has been family owned and operated since 1963. The company is headquartered in Diamond Bar, California and is a leading beverage manufacturer in the United States. Niagara works with some of the biggest brands and retailers in the country. Niagara produces a variety of beverages including bottled water, sparkling, vitamin, flavored water, teas, sports drinks, ready to drink coffee, protein drinks and non-dairy milks. By 2024 Niagara will operate approximately 46 beverage production facilities throughout the United States and Mexico with facilities located in 24 states and generally located in or near major markets. The finished beverage products are distributed on a regional basis to customers or consumers within those major metropolitan markets. Niagara Bottling makes significant efforts to hire regionally and locally and currently have over 7,000 full-time team members employed in North American operations. As part of tonight's agenda, Niagara is proposing construction of a new 425,000 square foot manufacturing facility on a lot they plan to purchase within the I-35 Industrial Park. The project would include approximately 135-million-dollar total capital investment from Niagara including the purchase of the land, constructing the new facility, and purchasing and installing production equipment on site.

Niagara proposes to produce half liter purified water products for customers in the Minneapolis/St. Paul region. Niagara anticipates that 85% of the finished products would be delivered to customers in either Minnesota or Wisconsin. The remaining 15% would be delivered to customers in North Dakota, South Dakota, and Iowa. Niagara is expecting that the project would create approximately 59 full-time positions at the new facility to start, with total initial payroll exceeding 4-million-dollars annually. The average annual wages for a full-time employee are over \$65,000. Hourly wages range from \$20-\$48 per hour not including overtime. Salary positions start at \$65,000 and higher with opportunities for annual bonuses. All full-time positions are eligible for a full complement of benefits including health, dental, vision, retirement with company match, and more. Niagara offers high-quality, locally based jobs.

Any future expansion projects, including the installation of future or new production lines, in the existing facility would require significant future investments in Elko New Market and create an additional 50-60 jobs. At full build out, at some point to be determined, 120 jobs could be located at the Elko New Market facility. Niagara is extremely excited about moving forward with this project in Elko New Market. As a privately held and operated company and prospective local employer, Niagara will become an active member of the local business community and support many local community initiatives with product donations and sponsorships. Niagara has a strong track record of giving back to the community including supporting causes involving healthy living, children/family charities, and supporting first responders. Niagara are active partners with local municipalities and school districts in the communities in which they are located. Niagara also participates in disaster recovery and relief

efforts throughout the country. In closing, Niagara is proud of their track record of under promising and over delivering in the communities in which they operate consistent with the guiding principles of our 84-year-old founder, Mr. Andy Peykoff Sr. and his son Andy Peykoff II the current President and CEO. Niagara looks forward to doing the same in Elko New Market.

Drinan addressed questions regarding truck traffic at the site. He informed the audience that Niagara had shared a letter with the City of Elko New Market that had indicated approximately 55 trucks per day would enter the facility, 2-3 per hour, throughout the day, not concentrated at peak hours. Those 59 projected employees would work on four shifts so that not all 59 employees would be at the facility at the same time. Niagara anticipates between 25 and 30 employees on site at any one time due to approximately 10 of those positions being salaried. Those shifts are likely to change at off-peak hours and the future plant director would work with the community to schedule the appropriate time for those shifts to begin.

Finally, Drinan wanted to touch on a couple of points regarding fiscal impacts. In addition to the initial 4-million-dollar payroll, Niagara anticipates annual property tax generated on site of approximately 1.8 million dollars. Niagara also anticipates that utility, water and sewer, revenue in year one could exceed \$750,000 with the total investment on site anticipated to exceed 135-million-dollars. Niagara looks forward to answering any questions the Commission may have and working closely together with the Planning Commission and the community to move this project forward. Drinan thanked the Commission for their time.

Chair Weber again addressed the audience and reminded speakers to only address the Commission and hold back side comments, so that everyone can hear the speakers. Weber also reminded speakers to be mindful of their time as there would likely be many who wished to give public comment. Weber reminded the audience of the two-minute time limit each speaker would be given along with a reminder to not repeat any questions so that everyone who wishes to speak has a chance to be heard.

Chair Weber opened the public hearing regarding the application for Conditional Use Permit for construction of silos exceeding the maximum height limits for I-1 Zones by the applicant Purple Rain Properties, LLC at 9:37 p.m.

Emily Zweber, 25420 Natchez Avenue, approached the podium to ask a question. “Just a point of clarification, why was the industrial zoning 50 feet for silos and what would make us consider, why was that? What was the initial reasoning for that, and should we consider that initial reasoning for the additional heights?”

Christianson stated that the determination to have a 50-foot maximum height limit in the I-1 Industrial Zoning District was based on industry standards for that zoning district. 50 feet is a typical height that is allowed in an industrial zoning district. City Administrator Terry added, the way City Ordinance is set up allows anyone to build up to 50 feet high in this district but it also provides them with an opportunity to go higher so long as setbacks are increased appropriately and the City has a chance to review the application to ensure that the additional height does not create any additional issues and if it does, would it be something that the City could correct by imposing additional conditions.

Susan McPhee, 23321 Woodland Ridge Drive, approached the podium for comment. “Let me state that the letters just sent out last week only to the residents that live within 350 feet are not the only ones that are affected by this monstrosity that wants to set up shop. Niagara’s line of work involves taking water from a source that a lot of people both in and out of Elko New Market rely upon. It seems that similar tactics were used when Niagara tried to move into Eau Claire. In an article dated May 27, 2022, it stated a California based bottled water company’s proposal to build in Eau Claire had been kept under wraps for months while a deal was being worked on but then it became public a week ago as the project sought the City Council’s approval. The constituents were caught off guard by the major proposal and concerned about it’s use of municipal water. Their council members were smart enough to delay and educate themselves on what could have been their city’s number one water user. A leader in the bottled water industry, wow, now that’s a title that every city strives to obtain. As a resident I’ll sleep better knowing how proud I will feel living in a location known as leader in the bottled water industry. In a flyer titled, building a Niagara Elko New Market partnership, on Niagara’s own website they stated, by accepting this proposal, Elko New Market will position itself as a leader in the bottled water manufacturing sector and secure significant opportunities for future economic growth. I believe this sums up City leadership motivation to approve this project. In their arrogance I believe both Niagara and City leaders assumed that we would be impressed with those labels; however, I would be more concerned about being identified as the City leaders who sold out our water. Niagara has identified themselves at a catalyst for long-term economic growth within the community. They will inject 125 million into the local community. I would ask specifically who or what is slotted to benefit from what sounds so amazingly generous on their part. While injecting this large sum of cash does sound amazing, to most people common sense dictates that Niagara will recoup this initial investment over time. They are apparently asking for subsidies which will help offset their initial investment into our community. The City is slotted to run 24/7, they stated that they will create a whopping 59 plus jobs for the local community. I would like to know if these means that they are going to impose being a citizen of Elko New Market as part of their hiring criteria. Water is Earth’s most precious resource; in fact, it has been referred to as the next oil or gold. Niagara wants to come and profit off this vital resource, one that Minnesota is known for. In fact, often the corporation pays shockingly low rates, pennies on the dollar for this vital resource. In case you haven’t been paying attention, the word drought has been in the headlines. Droughts devastate crops, ecosystems, society, and the environment to include plants animals and fish. Droughts shrink food supplies and damage habitats. Why of all of the industries out there would you even for one minute entertain one involving taking water for profit? And while I would love to suggest that Niagara stay in California, one look at the 2022 US drought map is all I need to see that is not an option for them considering that most of California is in the red. Search the headlines and you will see multiple headlines involving major water sources at record low levels including Lake Mead’s reservoir which supplies water and power to 25 million people. Also due to low levels of water on the Colorado River, the federal government has declared what they refer to as a tier one water shortage for the first time ever. States were told they had to come up with a plan to massively scale back their water consumption. Niagara does get some of their water from the Colorado River when the well they get from draws low. In addition, per a January 2020 article it appears that many recognizable water bottling companies based in California are wearing out their welcome in California. Both citizens and environmentalist concerns listed included, but not limited to, straining aquifer reserves,

improperly disposing of toxic wastewater. Anti-plastic movement studies showing bottle water contains micro-plastics, illegal storing and transporting hazardous waste, dumping of toxic possibly cancer-causing water into sewers. The environmental repercussions are still unknown at that time. Niagara states they are complying with all environmental regulations required by City and State. As far as I'm concerned that's not reassuring. It is also my understanding that Niagara will be storing plastic pellets in the proposed 65 silos to make plastic bottles. It seems extremely contrary to California's environment conscious attitude and their overall war on plastic which includes a long list of plastic items fully banned or restricted. The City of Elko New Market has a Wellhead Protection Plan which you can find on their website. It includes action strategies aimed at protecting our community water supply, an aquifer which supplies our local streams and wells. The implementation of this plan includes educating the citizens, in fact it goes as far as to state that citizens will take ownership in how their actions can impact the public water supply. Citizens will then support and adopt voluntary changes in land use that will help protect water drinking supplies. In summary, it is no surprise that we are being told that we must be do our part, yet we are to look the other way when their very words are contrary to something they feel outweighs these words. I, along with what I assume are the majority of the people here, are stakeholders and are indeed taking ownership in the protection of our water supply to include water quality, may I suggest that you do the same. The founder of Niagara stated that problems are our friends on the road to success, well isn't that admirable. Well, I say that this problem is not Minnesota's friend, and I don't believe that we should further pave their road to success."

Chris Brovold, 4105 Shelly Lane, approached the podium to ask some technical questions. "This whole water treatment thing, and maybe you guys have known about this for a while, but this is kind of my first-time hearing that they are going to even be here. Are they drilling their own well onsite or are they getting their water from our water treatment facility?" City Engineer Revering responded that Niagara would be receiving their water from the City's system.

Brovold continued, "As part of the 2040 plans, we have the new water treatment facility, 2040 plan that facility is capable of handling, what is the gallons per day, gallons per hour, what is it that the City currently uses?" City Engineer Revering again responded to Brovold's question. Revering informed Brovold that the City has examined the capacity to provide water for both phases of the development and has found that it would be able to handle the added capacity. Brovold mentioned that it would be nice to know what those numbers are for what we are currently using and again for what we would be using with Niagara to see what that difference was. Brovold also asked Revering whether the water would be coming from the New Market pressure system or the Elko pressure system. Revering responded that it would be on the New Market system, but he did not want to get too far into any answers until the end.

Brovold continued to try to get through more of his questions. He mentioned that this project will create more wear and tear on the existing system. Brovold acknowledged that he has seen the system and it is an impressive, automated water treatment system and was a great system to put into the community. His question was if Niagara would be helping to pay for any of the wear and tear or improvements to the system as part of this process?

Brovold's next question involved the tiered water rate system for residents in regard to personal home use. If a resident chooses to use more water for lawns or gardening, they will pay a premium for that choice. The more they use, the more they pay. Brovold asked if that would be the case for Niagara as well, or if they would have a special pricing structure? Brovold expects it to be the same case for Niagara as well.

Brovold then asked a question related to droughts and priorities for water use among residents, businesses and industries as a limited supply may be available. He mentioned that Niagara is an automated bottling facility so simply starting and stopping the machines may not always be an option. His question was who would receive priority at that point between the bottling facility and the residents?

Brovold's next question was in regard to Niagara trying to locate or locating in other communities. He wanted to know if the City has reached out to other City Council's to communicate and find out why they decided to either say no or allow Niagara to locate? He thought it would be a good opportunity for the City to get more information regarding their decision.

Brovold's also had a question in relation to the resin used in the bottle manufacturing process. He asked if it would be a pellet resin or a wet resin? Several Staff members informed him that it would be a pellet resin. He asked if there would be any risk of toxicity involving a spill with the resin pellets? He had questions about what type of system would be put in place under the silos to help contain and mitigate any spills or leaks?

The last thing Brovold mentioned was that if the City is pulling more water from the watershed, has the City notified any of the other communities located within the watershed to inform them if this bottling plant were to go in? Specifically, consulting with those communities to understand the development occurring in the entire area and how that will affect the watershed moving forward. His last question was who monitors the aquifer's level? State, DNR, who is in charge and how often do they collect data? Brovold hoped that whoever is responsible for monitoring the aquifer would increase the frequency of their data collections in relation to the new user. Brovold offered the Commission to repeat any of his questions in case he was not clear enough. City Administrator Terry informed him that they may have to come back to him during the answer segment of the meeting.

Jonathan Carlson, 26126 Pillsbury Avenue, approached the podium to give his public comment. "I am the property owner directly North of the proposed development. I just want to share continuing strong objections to the development being proposed involving the I-35 Industrial Park and Niagara Bottling. I have got a lot of objections, but I am going to focus on three main areas. One is regarding environmental impact. As you know, Niagara would consume more water than all the businesses and all the residents in Elko today. There is about 300,000 gallons pumped per day. Niagara's phase one plan calls for 400,000 gallons a day and I believe that doubles if a phase two plan goes forward. On the City's website, you site an unnamed hydrogeology company stating that no undue depletion of the supplying aquifer would occur. I really wonder what the underlying assumptions and data that led to that conclusion. You can enter that question; I'd love to see that study."

“In just June of this year the EPA announced that a thousand-fold decrease in the safe levels of forever chemicals, that are known to cause cancer, are being found increasingly in wells in Minnesota, at an alarming rate. The Sierra Club took all of the available public water testing data from Minnesota and compared it to that standard and said already a million and a half Minnesotans have drinking water systems that exceed the EPA’s new advisory health levels for these forever chemicals. I encourage everyone to Google that. It’s easy to find information on these new chemicals. The Minnesota Department of Health said, “hey it’s an emerging contaminant, there is a lot we don’t know”. So, it’s a risk, drought is a risk. Susan already talked about the Niagara plant in Eau Claire and what the citizens did there. Ironically, they had 16 wells, had plenty of water. Shortly thereafter, they had 8 wells because 8 were contaminated. So, with all of this uncertainty about drought, chemical contamination around water supply and groundwater, with all of this uncertainty, why is now the right time to commit the biggest amount of groundwater in the history of Elko to one for-profit company? Doesn’t make sense.”

“My second area of objection is about unduly prioritizing growth over existing residents and businesses. Residents will pay nearly double the rate per gallon that Niagara pays for water. Residents already face a tiered, progressive rate structure, as was mentioned earlier, that the more they consume the higher the rate they pay for gallon. Niagara will not. Residents already face enforced seasonal water restrictions use, May through September, that they can be charged with a misdemeanor for violating. Niagara will not, yet they will consume more water than all the residents in Elko combined. Does that make sense? Who’s needs are being prioritized with these policies and pricing?”

“Lastly, I would say, if the intent was to place Niagara and the new access road into the industrial park in the place where it will have the most negative impact on the people that live in homes adjacent to that park, you put exactly where it’s being proposed, on the East side of the park. Is the intent here to force all of us, who live on the North side of Deuce Road, across from the industrial park into selling? By making it unbearable to live here as fast as possible? All in service of this 2040 plan that the City Council approved last year. When I read that plan, I wondered what having a home on land that is guided towards industrial rezoning, and I quote, would feel like. I don’t wonder anymore. I know exactly what it feels like. For my family and I this isn’t business, it’s not about money, it’s not about jobs, it’s personal. Our property and our house are directly across the street from the proposed development. Our two adult kids live with their families in the Windrose subdivision in Elko. We love Elko, we live here, we love our neighbors, our roots are here. Is this Planning Commission and ultimately the City Council willing to sacrifice the security of our water supply, the needs of existing residents and businesses and the quality of life of those who will be forced to live next to this plant on the altar of growth? Are 60 jobs and a couple hundred thousand dollars of tax revenue really worth all this? The proposed Niagara water bottling plant is wrong for those of us that are going to be forced to live next to it, it’s wrong for the existing residents and businesses in Elko New Market and it’s wrong for all of those that depend on the area’s groundwater resources. We can and should do better, thanks.”

Ali Klement, 26511 Xerxes Trail, approached the podium. “So, first I would like to say thank you to the Niagara representative for being here tonight to tell us the same information we can find out on the website and only that information. I would also like to point out that every

single person in this room and in that room drove through a winter weather storm to be here today, I didn't realize we could just phone it in, but I think that this is the first of probably many times that you will see preferential treatment to Niagara over the residents from the City Council and the Planning Commission."

"So, first I would like to make it clear that I am not, you know what? I was going to make it clear that I am not against the industrial park but after tonight I don't think I want to make that clear anymore. I am not against development in Elko New Market, in fact I strongly support development. The development of responsible, self-sustaining businesses that don't seek to privatize declining public resources for individual profit. Which is not Niagara bottling. Take for example Los Lunas, New Mexico. In the middle of a historic drought, in the middle of the desert, the Niagara bottling plant in Los Lunas requested to more than double their water consumption. County residents and local farmers stood up to them and they backed down. Now Niagara is coming back for a fourth time with a renewed request to double the amount of water that they take per year from the Albuquerque aquifer. For the fourth time in five years, residents of Los Lunas, New Mexico, have organized protests and rallies to stop their city council from granting Niagara's request. Local opposition to Niagara's request in Los Lunas, New Mexico, is overwhelming. From the ongoing survey, 79.9% reported being very dissatisfied with Niagara Bottling's operation. 93.5 strongly opposed Niagara's request for more water. 76% are extremely worried about Niagara's current use of local water. Another 16% are very worried. Those are not the only ones who oppose Niagara's taking of community water. People in Bloomfield, Connecticut also protested the secretive water deal that Niagara negotiated with their city leaders and water authority. Just last year in Eau Claire, they successfully protested this exact same bottling plant, exactly what we're talking right now. In fact, much of the information Elko New Market City is offering the residents on the City's website is word for word the same information Niagara likely supplied Eau Claire City Council to offer to their residents. Obviously, this templated information, insert city name here, comes directly from the marketing department of Niagara Bottling and tells residents exactly what Niagara Bottling wants them to know, not much. I believe the Elko New Market City Council has been less than transparent, while quickly moving towards the approval of Niagara's 425,000 planned square foot plastic bottling plant that after Niagara's phase two will be permitted to use 310 million gallons of Elko New Market's water per year. In perpetuity, forever. There is no end date. No end date. I and many other residents oppose the City Council permitting Niagara to profit off of 310 million gallons per year of Elko New Market's water until there has been a comprehensive environmental impact study of how this would affect the local water supplies including the wells, the rivers, the wetlands and the lakes. A comprehensive study that is not done or paid for by Niagara Bottling or it's subsidies or Ryan builders. Again, for those in the back, I support development of responsible, self-sustaining businesses that do not seek to privatize declining public resources for individual profit. That is not Niagara Bottling."

Chair Weber asked Klement if she had any specific questions to which Klement replied that she did. Weber notified Klement that she was already approaching five minutes and wants to offer the chance for others to speak as well as it was already past 10 p.m. Klement continued with her questions.

“So, in the current economy, where manufacturing facilities are struggling to fill their open positions, does the benefit of creating those fiftyish additional jobs outweigh the cost to the environment and to the Elko New Market residents? Has the City already signed any contracts with Niagara including non-disclosures? Can we see them now that the non-disclosure time has passed? Will the City be signing the contract to provide water to Niagara? If so, what are the terms of the contract, how many years? Because I was told it’s indefinitely. Is there a provision for inflation, change of water flow, or value? Can we the people, the citizens, see the contract before the public meetings? So, we have time to digest what and who’s rights.” Chair Weber interjected and notified Klement that she was past six minutes and wanted other people to be able to speak as well. Weber also let Klement know that she was hearing repetitive questions being asked so she was wondering if perhaps some of the experts in attendance could answer the questions that have already been asked.

Klement again continued on with her questions, “Would the potential inability of Elko New Market to provide the volume of water sought by Niagara that they’ve contracted for leave them in jeopardy, Elko New Market in jeopardy, of a lawsuit? If unable to provide it? I mean it’s a contract, right? Will residents continue to be asked to conserve water by taking shorter showers and not watering their lawns while Niagara profits from drawing 310 million gallons of Elko New Market’s water per year, forever? Since they are using the same water, although much more of it, will Niagara company be charged the same rate, the ridiculous rate that you charge us residents? Would the water that Niagara actually puts in the plastic bottles to sell, and would be making a significant profit on, be sold to them at a higher commodity rate? That more accurately reflects the value of water in that form? Who will be eating the \$3,084,745 dollars in connection fees not paid, the City of Elko New Market or is that Scott County? Minnesota? According to the City, Niagara is requesting the reduction in sewer availability charge and water availability charge connection fees in the amount not to exceed \$3,084,745 for Niagara Bottling to assist with the project. This is connection fee assistance, and this isn’t even counting the assistance because of all the jobs they are going to create. So, who eats that money, those connection fees, do the new residents?”

Chair Weber asked if Klement had any other questions that have not already been asked? Klement responded by saying that she did not. Weber thanked Klement for her time and advised Klement that it would be appropriate to have City representatives speak. Klement quickly returned to the podium for a final question. She asked if the Planning Commission would consider the comments and questions of those who spoke tonight or if they were going to just do what they were going to do anyways. Chair Weber once again clarified that tonight’s public hearing was for the Conditional Use Permit application in regard to Purple Rain Properties request to construct silos that exceed the maximum City height requirement for that specific zoning district. Weber explained to the audience that the City Council will be discussing the recommendation provided by the Planning Commission at their December 15th City Council meeting. Klement vehemently demanded answers to her questions to which City Staff and Chair Weber informed her will be answered following the public hearing. Klement took her seat.

Tim Zweber, 25240 Natchez Avenue, approached the podium for public comment. Zweber thanked the Commissioners for taking the time to hold the hearing as it was getting late. “I have a couple of questions, again, not about the silo, I apologize, I understand, but I have to

get them asked sometime. There are a lot of private wells around here and I don't feel like there has been a very adequate study done on how this much water usage would be affecting well owners because I was told it wouldn't be a problem when the City grew and I had to drop my well another stick, so I am a little bit weary of if that is actually true." Zweber motioned to Dave Hume of LRE Water and hoped that he could provide some answers. "Another question is how can the City limit water if we find that we are depleting the aquifer faster than it is replenishing in our corner of the Jordan Aquifer, because we kind of are at the end of it? Another thing is the storage silos for water, I'm guessing that is like 435,000 gallons of water, same question as the resins. What happens if someone forgets a valve? The biggest thing that I am concerned about is by-products from filtering water. I know that when we filter contaminants out of water that we don't want into bottled water, or in our water, we end up with lots of calcium, magnesium, iron, all of these things and there's also a lot of heavy metals and some I believe radon, radioactive elements like radon that we have to do lots of mitigation in basements for in this area, it's also in the water if I remember right. So, I am curious what they are planning to do with those by-products from filtering water if this should go through? That's my questions, thank you everyone."

Larry Schofield, 11550 Deuce Road, approached the podium to give comment. "You can tell from the address; I am right directly across from this Lot 1." Schofield asked if Staff would be able to display a map that was displayed during the presentation. While Christianson brought up the map of the development, Schofield showed a map he had brought with him that depicted an earlier concept plan for the site. He noticed that the access road to County Road 2 was further to the West or right in the center of the development. He wanted clarification on where the access road was being proposed currently. His concern was that traffic exiting the development would shine their headlights directly at his house. He was also concerned about the noise generated from stopping and starting semi-trucks.

Christianson responded to his question on the location of the access road into the property. She said that a temporary construction access would be provided on the East side of the development as Ryan Companies builds the main access road into the property to the East of the Park's Auto property. The temporary access would only be allowed for the duration of the construction of the Niagara facility or until the main access road is completed and adequate for their use. City Administrator Terry clarified that it would most likely take most of a construction season to complete the facility. Schofield asked if Christianson was able to bring up the map and City Engineer Revering assured him that they would bring it up as part of the answering segment. City Administrator Terry confirmed with Schofield his specific questions that would be answered during the answering segment. Schofield had a final question as to why the location of Lot 1 was selected and not any of the property within the industrial park further to the East along the freeway?

A member of the audience informed the Commission that the recording had ended. City Administrator Terry let them know that was internally within Zoom; however, the City is recording the meeting separately so it should all still be recorded.

Kristy Thompson, 25831 Pillsbury Avenue, approached the podium to ask questions. Her first question was whether it was the building or the silos that would be subject to the increased setbacks. City Staff let her know that it would be both, the building and the silos that are

subject to the increased setbacks as part of the CUP application. Her next question was if County Road 2 was considered a local road or an arterial road? Christianson informed her that it is considered an arterial roadway. Thompson asked the Commission and City representatives if anyone lives adjacent to the proposed project and if they would like to have this next to their house? Her next question was in regard to a proposed stop light that would be part of the project. Christianson clarified that it would be a streetlight at the proposed intersection into the industrial park. City Engineer Revering clarified that it would be a streetlight for illumination rather than a stop light for traffic. Thompson thanked the Commission.

Stephanie Adams, 9055 Glenborough Drive, approached the stadium to deliver a couple of comments and questions. Adams asked how many members of the City Council actually live in Elko New Market? City Administrator Terry let her know that all of them do as it is a requirement to serve on the City Council. Adams then asked if anyone of the Commission would live close to the proposed project and if it would affect them? Adams next question involved the location of where the construction equipment and material would be stored during the construction process. City Engineer Revering said that they would only be able to store the supplies on the property in question, unless they were to lease additional land for that purpose. He explained that it is similar to when a new house is built, the builder may only use their property for storage of equipment and materials. Adams next clarified the size of the building in relation to the Amazon warehouse in Lakeville and noted that the proposed Niagara building would only be 60-65% of the size of Amazon. Adams had a question on fire services as presented. Her question was just because the Fire Department has equipment to reach the height of the silos, do they have the ability to combat a fire in the 425,000 square foot building? City Administrator Terry answered the question by stating that, as it is the case with any city which has large industrial users, mutual aid would be activated with the surrounding cities. Christianson also stated that the building would have to meet fire code which would include the installation of a fire suppression/sprinkler system. Adams final question was in regard to the silo height and if they would interfere with any airports/parks in the area? City Engineer Revering did not think they would have any affect on air traffic as there are currently transmission lines on the property that would exceed the height of the silos. Adams finished her time with a statement, “just because you can, doesn’t mean you should... by any means”. Adam’s thanked the Commission.

Jason Scherman, 1314 Overlook Street, approached the podium. Scherman mentioned that many communities share the aquifer, so he was wondering what kind of environmental impact studies have been done to justify that we are not harming any of those other communities. Scherman brought up the history of when the current water treatment plant was built. His next question was regarding the potential pollution created as part of the development. Specifically, his question related to the heavy metals and other elements that are filtered out of the water and where they would be stored or disposed of. He wondered if there were any mitigation plans in the case of a natural disaster. He also wondered if the manufacturing of plastic bottles would affect the air quality. Scherman mentioned that we are located in a drought area currently and that should be considered as well. Scherman asked if we know if there is a limit to the amount of water that Niagara is going to tax off of the City connection? Scherman also asked if the City has communicated with other city councils that have had similar proposals

from Niagara? Scherman thanked the Commission for their time and appreciated them listening to his comments.

Nicholas Fifield, 23041 Woodland Ridge, approached the podium. Fifield informed the Commission that there is process that the public can take to petition for an EAW and some members of the public have been in communication with the EQB in order to petition for that environmental assessment. He encouraged anyone in the audience who had information for the petition to contact him. Fifield wanted to know if this would be the only opportunity the public had to oppose this project. City Administrator Terry informed him that the City Council would be hearing the applications at their December 15th meeting and pending an approving or denying vote, that would be the last opportunity. Fifield wondered if they would have any say on building permits or those types of items. City Administrator Terry informed him that those are administrative processes that are laid out in State Building Code and City Ordinances and are not challengeable as they are strictly an administrative process. Fifield urged the Commission not to vote to close the hearing and have it continued to further research environmental concerns that may have caused other communities to reconsider a Niagara development.

Janelle Kuznia, 26675 Grand Avenue, approached the podium. Kuznia seconded Fifield's comments. Kuznia stated that the Planning Commission has a chance to table this issue and listen to those in the community who have given their comment tonight. Kuznia believes that more community input is needed along with the proper environmental studies before the project moves forward. Kuznia stated that no one wants this project. She asked the Commission again to table the discussion tonight. She mentioned that those who live in the area of the proposed development are not ready for it. She added that questions needed to be answered and environmental studies needed to be done. Kuznia mentioned that there are lawsuits across the nation in cities that are shutting down these bottling companies because they are killing their aquifers. She asked the Commission if they were going to be progressive and allow Niagara to locate here? "Then what, how are we going to get them out?" Kuznia again stated that the public was not ready and that the process was happening too fast. Kuznia stated that she was citizen of the City, for the last 25 years, and she did not know about the project. Kuznia did not think it was fair. It's not just about what Ryan or Niagara wants, it's all the other people that live here. Kuznia mentioned that this project would have a multi-generational impact, so she questioned the hurry. Again, Kuznia asked the Commission to table their discussion and wait for an environmental impact study.

Deb Pexa, New Prague, approached the podium for comment. Pexa mentioned that she was here today because there is no such thing as an Elko New Market aquifer. The aquifer serves so many and has an impact on so many of us. Pexa urged the Commission to vote no or to table all further decisions or recommendations related to the Niagara proposal. Pexa believes that it is a short-sighted decision that will have long lasting impacts and is not worth the risk. Pexa read an example of a 2019 Dakota County decision to reject a bulk water user in Lakeville, similar to Niagara. Due to the decision, Dakota County put into effect a one-year moratorium on the construction of any new high-volume wells to give officials time to strengthen their groundwater protection laws. Pexa admitted that the proposal from Niagara bottling was not all that different than the Lakeville example. Pexa believes that Niagara is seeking communities that will provide water from city systems in an effort to avoid drilling a

new well. Pexa restated that Niagara would be allowed to withdraw up to 310 million gallons of water per year, at a bulk rate, and with no end date. Pexa stated that Niagara would potentially have priority access to the water. Pexa believes City officials should strike down the proposal for the same reasons Dakota County and Eau Claire Wisconsin did as well.

Pexa continued, “I have heard responses by Elko New Market leadership about sustainability of the aquifer. They’ve said, ‘Environmental work has been done and we are assured that the additional resource usage won’t deplete or jeopardize our water resources.’ But as I understand it, in considering this development, Elko New Market has not engaged in specific aquifer modeling that takes into account the long-term uncertainty of climate change in this region. Given that there isn’t a specific timeframe for Niagara’s access to our groundwater, they can withdraw in perpetuity. Regardless of the stated aquifer, I think leaders are asking the wrong question. It isn’t if we can sustain that level of groundwater withdrawal, the much more important question is should we withdraw that level of groundwater for this particular use. It doesn’t matter if the aquifer can support 100 Niagara’s. This is not how we want to use our water resources; this proposal represents an outdated and unsustainable business model. One final point. I don’t understand what Elko New Market is getting out of this. To me, the numbers don’t add up. There may be some jobs but no guarantee they are going to go to anyone in Elko New Market. There will be additional utility funds, but they are only going to support the utility itself. So, the only real fund of general revenue is created by the project is the \$175,000 in annual property tax from Niagara which is on their FAQ. However, Elko New Market is also considering a 3-million-dollar subsidy to Niagara. If that subsidy is approved, the meager property tax revenue would disappear for 17 years as an offset to that subsidy. Where is the benefit to Elko New Market? I urge you to vote no to table tonight and all other questions related to Niagara. Our groundwater is too precious to allow this sort of outsider development. Thank you.”

Susan McPhee, Lakeville, approached the podium to ask a question. “I am just curious if any of the other communities that are attached to this aquifer have been contacted about this proposal and if not, why? Since it will affect them as well.”

Jami Carlson, 26126 Pillsbury Avenue, approached the podium to give her comment. Carlson stated that she did homework on the City website and looked at the photos of the Commissioners and noted that a lot of the woman looked young. She stated that there was nothing wrong with that but sometimes they could learn from someone who is a little older who has “been there, done that”. Carlson mentioned she called the Better Business Bureau and talked to several employees. She mentioned that three of the BBB’s branches were not willing to accredit any accreditations to Niagara Bottling. Carlson explained the history of the BBB’s grading system. All three branches of the BBB mentioned gave Niagara a 0 out of 5. Carlson stated that, “They all had backflow from environmental hazardous”. Carlson then explained that she contacted a well man up North by Black Duck, Minnesota. According to Carlson the man explained that even if Niagara were to connect to the system there would be some type of unexpected runoff. Carlson stated that this means there will be runoff, contamination and it will enter surrounding wells. She mentioned that when it gets into people’s wells, that’s when it becomes about money because people will start lawsuits. Again, Carlson recommended that the Planning Commission call the BBB to find out what they think about Niagara. Carlson thanked the Commission for all of their time tonight.

Discussion followed on appropriate next actions as the Chair was not seeing anyone else willing to give public comment. A member of the audience stated that some of the answers to the questions will create additional follow-up questions. City Administrator Terry assured the audience that the City has brought in experts to help answer questions and they will try to be as thorough as possible; however, it may not be possible to answer every single question to the level of detailed desired. This means that those who have questions may need to follow up with City Staff or consultants after the meeting to get the information that could not be provided tonight. Planner Skluzacek informed the Commission that no one in the extra room had any further public comment.

A member of the audience asked a quick question in regard to the venue for the December 15th City Council meeting. He asked if there would be a larger venue available? City Administrator Terry replied that any change in venue location would require an additional notice for the meeting to be published which is not always possible considering notification timelines. Terry did say that the City would provide for additional seating where possible for the next meeting. Terry stated the importance of staying informed on City meeting dates and times by visiting the City website or Facebook page. Meeting notices are also posted in the New Prague Times when required under State Statute. Terry also mentioned that the next meeting would be virtual, and people will have the option to attend virtually as well as in person.

Skluzacek approached the podium to notify the Planning Commission that he did receive a question in the extra room. The question asked was if the questions asked tonight were going to be posted on the City's website. City Administrator Terry responded that the testimony gathered tonight would be included in the information packet that will be provided for the City Council at their next meeting. That packet will be available on the City's website immediately after it is provided to the City Council so the public will have a chance to review the information at the same time the City Council does.

Tami Chamberlin, 24126 Beard Avenue, approached the podium for public comment. Chamberlin admitted that she was a little confused and wanted some clarification. She stated that the meeting tonight was to hear the application for CUP for the construction of silos but wondered if everything else had already been passed. City Administrator Terry explained the process of subdividing a property which was the preliminary plat application that was discussed earlier on the agenda. An applicant must rezone a property before it is platted. In regard to the site for the development, they need special approvals through a CUP for the additional height of the silos. All other discussions are policy issues that are not necessarily related to the land use applications received. The City Council will take those policy considerations into account at their December 15th meeting before they make a final decision relating to the land use applications. Terry explained what exactly the City Council would be considering as part of their public hearing for business subsidies on the 15th. Chamberlin asked if the Planning Commission had already decided on their recommendation for the City Council regarding the land use applications. Chair Weber responded that yes, they provided a positive recommendation to the City Council regarding the rezoning and preliminary plat that were covered earlier on the agenda. Chamberlin thanked the Commission.

Stephanie Adams, 9055 Glenborough Drive, approached the podium to ask a question. Adams presented the public viewing copy of the Planning Commission packet from the extra room and asked where they are available. Christianson informed her that they can be found on the City's website, and it was posted on Friday. Adams had a follow up question involving notifying other communities on the aquifer. City Engineer Revering assured her that they already had that question, and it would be answered following the public hearing. Adams thanked the Commission.

Hearing no more public comment, Chair Weber closed the public hearing at 10:43 p.m.

City Administrator Terry addressed Chair Weber and mentioned that there a lot of pieces to this. Terry asked for the audience's patience as they work through questions due to the volume and variations of questions received. He reminded the audience as they approached the end, if there was a specific question that remained unanswered to remind the Commission.

The first questions Terry wanted to cover involve the water. Questions were asked that related to the capacity of the aquifer, who is responsible for monitoring the aquifer, and what the impact on surrounding wells would be. Terry asked Dave Hume, a consulting hydrogeologist, and Seth Peterson, the head of the environmental division at the Burnsville Bolton & Menk office, to start tackling those questions that had been asked.

Dave Hume, LRE Water Hydrogeologist, addressed the Commission to help answer some of the questions asked. Hume mentioned that he has worked in the Twin Cities for 20-30 years on groundwater resources and groundwater supply, as well as other areas in the Upper Midwest. He has had experience with many aquifers including the Jordan Aquifer which supplies water for Elko New Market. Hume presented slides with information relating to the aquifer today.

Hume's first slide detailed the extent of the Jordan Aquifer across the Midwest. He noted that three formations make up the Jordan Aquifer. The formations are the St. Peter Sandstone, the Prairie du Chien Group (fractured limestone), and the Jordan Sandstone. These three formations together make up the larger Jordan Aquifer. The Jordan Aquifer is the most extensive and continuous aquifer in the Northern Midwest of the United States. It is mostly a confined aquifer. The Mt. Simon Aquifer to the north in Dakota County is the aquifer that Dakota County denied the well application on from a comment during the public hearing portion. The two aquifers are separated hydraulically; however, there is some leakage in which the Mt. Simon Aquifer occasionally recharges the Jordan Aquifer. The Mt. Simon is still off-limits according to DNR statutes for further production so that is one of the reasons that denial occurred. Seth Peterson of Bolton & Menk interjected and let the audience know that the visual they were looking at of Minnesota, Iowa, Wisconsin, and Michigan were not the only States in which the Jordan Aquifer ran. The map was cut off to better show our area, but the aquifer continues south into Missouri. It is bounded by the Missouri River on the south and also runs through the northern part of Illinois up through Chicago. Peterson stated that this is a very large body of water that was being discussed.

Peterson presented another slide which detailed how much water is pumped from the Jordan Aquifer in Minnesota and Elko New Market. Minnesota, as a whole, pumps over

91,000,000,000 gallons of water per year from the Jordan Aquifer which represents 99.6% of the State's use of that specific aquifer. Elko New Market's new water appropriation request to the DNR, if approved, would see the City pumping approximately 365,000,000 gallons per year which accounts for only 0.4% of the total water pumped in Minnesota from the Jordan Aquifer.

Hume presented a slide on how confined aquifers recharge over time. Recharge occurs from the infiltration of precipitation and leakage through rock and soil layers above and below. Water in an aquifer is under pressure. When pumped, water is released from storage and replaced by water in storage and recharge. No dewatering of the aquifer's saturated zone occurs during pumping.

Seth Peterson presented the next slide relating to groundwater resource protection. He noted that the Department of Natural Resources, DNR, handles all permitting for water appropriations. Water Appropriation Permits are required for all cities with public water supplies. High volume wells and users, for example agricultural uses, are also monitored. Water level monitoring required for wells is reported annually to the DNR. Wellhead Protection Plans are required every 10 years for all public water suppliers and are amended when new wells are added to the system. Water Supply Plans are required every 10 years as well for all public water suppliers. All of the above information is taken into consideration by the DNR to ensure that our groundwater resources are protected and can continue to be a viable resource into the future. Peterson mentioned that the MET Council is also reviewing this information as Elko New Market is subject to their water planning as well. Hume addressed multiple audience questions relating to notifying other communities that pump from the Jordan Aquifer and stated that the DNR handles that as part of their permitting process.

Peterson's next slide addressed City tools for water allocation detailed in the City's current Water Supply Plan. Allocation priorities are listed under the "Allocation and Demand Reduction Procedures", section. Residential allocation receives the first priority in the event of a shortage or issue with water supply. Commercial/Institutional/Industrial receive the second priority for allocation. Lastly is non-essential (i.e., car washes) which takes the least priority. The City's current Ordinance also states requirements, Emergency Restrictions: Whenever the City Council determines it in the public interest, the City Council may, by Resolution, further limit the use, times and hours during which water may be used from the City water supply system by giving notice by publication or by posting in the City Hall and at such public places as the City Council may direct. The City is currently evaluating additional Ordinance language that could be included.

Dave Hume presented the next slide which featured a local cross section map provided by the Minnesota Department of Health as part of the City's Wellhead Protection Plan. He then showed an additional graphic of a cross section which helped him explain what the DNR looks at as part of the permitting and approval process. Hume went back over the process involved with drawing down and recharging an aquifer as well as gave a technical synopsis of how the pressure in the aquifer causes water to rise, in Elko New Market, approximately 140 feet from the top of the aquifer in the City's wells.

Dave Hume next responded to a question regarding drought. He presented a slide on the historical groundwater levels in the Jordan Aquifer near Elko New Market. The slide detailed how aquifer levels have remained steady, (actually slightly increasing), over 40 plus years and even with all of the development that has occurred during that time. The graph shows dips associated with drought. However, it also showed climbs following periods of drought. Data for graphs used was in relation to DNR Observation Well #119589 collected from 1979 to 2022 and DNR Observation Well #80440 collected from 2015 to 2022. A member from the audience asked Hume why data was not collected further back on the second well? Hume explained that data only existed dating back to 2015 because that is when the well was drilled. Peterson mentioned that this data shows that the DNR has been paying close attention and monitoring the level of the aquifer dating back over 40 years. Peterson asked City Administrator Terry if there was anything else they would like him to touch on. Terry responded that yes, there was another question; however, he wanted to see if anyone had questions relating to County Road 2 so Scott County Engineer Toni Winiecki, who was volunteering his time to be at the meeting, could leave for the night? Seeing no questions, Winiecki was excused from the meeting.

Terry asked if Peterson could touch on wastewater. One of the questions asked involved the filtering of water and what happens with that filtered material. Peterson explained that the City does filtration of the water already. When those filters are backwashed, the water flows into the City's wastewater system which is sent to the Metropolitan Council system. The Metropolitan Council then treats that water. Peterson explained the how the reverse osmosis filtration works which Niagara is likely to use. Peterson stated that it is similar to how calcium and rust are removed from a home's drinking water through a water softener system except Niagara will not be using salt. Peterson replied to a question asked relating to heavy metals in the water and stated that the City does not have any heavy metals in their public water supplies. What the City does filter out is mainly calcium and magnesium. Peterson did acknowledge that the City also filters out radium as part of the filtration process and is removed along with the magnesium and is treated by the Metropolitan Council.

A member of the audience asked a question addressed to Hume regarding if there are any studies that show a relation between high-volume draws and recharge associated with the area of the draw compared to the aquifer as a whole? Hume addressed the question by saying the DNR does look at that. Water level monitors are located in City wells, and they are always producing data that is used by the DNR in their monitoring efforts. Those monitors are located across the State in every city with a well and is submitted annually to the DNR for review. Peterson gave details on tests used by the DNR along with the Minnesota Department of Health when examining a potential new well.

A member of the audience asked if Niagara were to use a chemical process instead of reverse osmosis, would that make a difference? Christianson and Peterson assured the member of the audience that chemicals would need to be properly stored and regulated through Scott County. Similar to how the City stores and uses chemicals at the water treatment plant.

Discussion followed relating to the City's new water appropriation request to the DNR and how it related to the project. Terry stated that the City would have made a new request with or without Niagara; however, Niagara directly influenced the amount in the request. A

member of the audience felt like the City was trying to hide their request and wondered why they didn't know about it. Terry stated that normally these appropriations requests are not controversial and are handled administratively in cities across Minnesota.

A member of the audience asked if utilities have already been extended to the site. Terry answered that yes, utilities were extended to the edge of the site in 2019. Discussion followed on the history of the extension of public utilities to the site. A member of the audience asked if Hume could address PFAS, the forever chemical. City Engineer Revering mentioned that would have been addressed while discussing the aquifer's vulnerability assessment done by the State. Hume added that as far as surface contaminants go, there would have to be a source that was here locally to create something that could infiltrate and impact the aquifer locally here. Peterson added that PFAS has been discussed a lot in Minnesota. PFAS are found over in Woodbury, Lake Elmo, and the Cottage Grove area and is not found in other areas. The DNR has been monitoring PFAS levels statewide.

There was a question from the audience asking that if the aquifer was so big, why do cities ask residents to conserve water? City Engineer Revering replied that there are a couple reasons. One would just be for the sake of the resident's water bills. The other reason being that operating a water treatment plant is complex. The City asks for conservation to moderate usage so that not everyone is watering their lawn at the same time which causes additional stress on the system. It helps to also simplify operations and can be used to help delay the need for upgrades or a new plant.

There was a question asked to Hume. The member of the audience stated that Hume has worked with glacial water supplies; so, he must have worked out West. The question to Hume was, would you consider our water is underpriced here for putting in a facility like this? Hume admitted that was a good question. The member of the audience stated that Niagara is not likely looking for the city with the most expensive water to locate there so he thinks that we must have undervalued water.

A member of the audience clarified that they looked at Niagara's website and it said, "Niagara uses state of the art purification, filtration, and disinfection technologies to produce safe and refreshing products for our customers to enjoy." The member of the audience agreed that that sentence sounded good but wondered exactly what it meant. City Administrator Terry interjected and said regarding the City's system, the City wants to know how much water Niagara is going to use and when they are going to use it. Niagara will need to provide to the Metropolitan Council as part of their application for wastewater, what they will be discharged into the system. How Niagara treats the water is less of a concern for the City as it does not impact how much water they will be using. The treatment is more relevant to the Metropolitan Council as that is where the wastewater is being sent. It will also influence how much the Metropolitan Council will charge Niagara to treat their wastewater. There was a question in relation to where the water Niagara would be using would be coming from. City Engineer Revering answered it by saying that it would most likely be a combination of water stored in the tower and water pumped directly to Niagara and just depended on where the water was at that specific moment.

Patrick Drinan, Niagara Bottling, quickly explained the process of how Niagara will receive their water from the City. He explained that it is similar to any other water user, and they will be metered for usage to determine their bill. Water comes into a holding tank and is pumped into the silos for storage until ready for filtering by reverse osmosis. The reverse osmosis is really a filtration system to purify the water before it goes into the bottling process. Drinan stated that the water and plastic are separate processes and stored separately. There are catchment systems located underneath the silos that would allow for collection of any leak or spill. The plastic pellets are then blown into an injection mold machine to make the caps and into a machine that makes a preform that is then heated and blown into a bottle shape. Only then is when the water touches the bottle. Drinan then explained the rest of the manufacturing process. Terry restated the questions relating to the facility's environmental impacts. Drinan stated that there are no odors emitted as part of the manufacturing process and Niagara is not even required to get EPA air permits. The process is contained to the facility. There is a quality assurance lab with technicians on site doing regular testing of products at every facility.

Khris Ward, Niagara Bottling, was able to connect virtually to help answer some questions in regard to Niagara's water processing. Ward highlighted that this is municipal water provided to the plant which is already considered safe for consumption. Niagara is further treating the water for purity, so no additional contaminants are created as part of the process. It is similar to an at home reverse osmosis system or a Britta filter. First the water goes through a carbon tower which removes any chlorine. The water then goes through the reverse osmosis system which extracts anything left in the water. From there, it is fed into those storage silos. Bottles are then filled with the water stored in the silos. All new Niagara facilities are certified zero waste and they try to eliminate anything going to a landfill as part of their manufacturing process. Ward further went into the details regarding the manufacturing process. Ward mentioned that he was happy to answer any other questions that the Commission might have.

Chair Weber asked the Commissioners if they had enough information to consider voting on the application for Conditional Use Permit to allow for the construction of silos that exceed maximum height requirements for the I-1 Limited Industrial Zoning District. Weber then addressed a member of the audience and stated that she had ended the public hearing portion already and the Commission has taken a lot of time to answer questions and go through information and she appreciates all the questions that have been received. She then again clarified what the purpose of the public hearing was for tonight and that additional questions not in relation to the height of the proposed silos can be asked at the City Council meeting on December 15th.

Chair Weber went down the line and asked the Commissioners if they had enough information to proceed. Commissioners Schroeder and Hanson said that they did. Commissioner Smith mentioned that no matter what action the Planning Commission took tonight, Niagara would be able to build 50-foot silos without any kind of CUP. Commissioner Pipo agreed with Smith and said he did have enough information to vote on the application.

City Administrator Terry stated that Staff and consultants would be able to stay after the meeting to address questions one on one. He also mentioned that a lot of the questions received would be more appropriately answered by the City Council at their December 15th meeting, but he still wanted to stay after to collect those questions in anticipation of the December 15th

meeting. Chair Weber thanked Terry and announced that she believed the Commission was ready to take a vote. Chair Weber asked the Commissioners if they had any concerns. Commissioner Schroeder stated that it looked like Niagara was willing to meet the increased setbacks required as part of the CUP. Commissioner Smith noted that the silos were going to be located on the south end of the property and not the north.

Commissioner Pipo had a question for City Administrator Terry. His question was if the information gathered from other cities would be a part of the City Council presentation on the 15th. Terry responded by saying the cities that the City has contacted are the cities where Niagara did get approved to build. The reasoning being that those cities know what Niagara is like and have experience with how they are operating. If they didn't, everything would be speculation. Terry mentioned that the City is looking at only the cities that have recently had Niagara come into build because the Staff that worked with Niagara is likely still there. Terry mentioned that the City is still in the process of contacting those other cities; however, the cities Staff did hear back from have had positive feedback and no issues were revealed to City Staff.

A motion was made by Hanson and seconded by Weber to recommend approval to the City Council of Purple Rain Properties, LLC's request for a Conditional Use Permit to allow for construction of up to three 60' high silos and up to three 65'-9" silos in conjunction with their planned manufacturing/warehouse/distribution facility proposed on Lot 1, Block 1, Park I-35 Industrial Park, with the following considerations and findings:

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.**
Finding: Allowing additional building height for silos in conjunction with a proposed industrial use is consistent with the 2040 Comprehensive Plan by supporting the Economic Development goal which calls to attract, expand and retain businesses and industries in Elko New Market as a means of adding value to and diversifying the City's tax base.
2. **The proposed use is or will be compatible with present and future land uses of the area.**
Finding: The request for additional building height will be compatible with present and future industrial land uses and will conform with all applicable performance standards contained in the Zoning Ordinance.
3. **The proposed use conforms with all performance standards contained in this title.**
Finding: The proposed increase in building height conforms with all applicable performance standards contained in the Zoning Ordinance, including a required increase in front and side setback requirements.
4. **The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.**
Finding: The request for increased building height to allow construction of silos has no impact on the intensity of use of the site and will not impact on the City's service capacity. Existing public services (i.e. fire protection services) can accommodate the increase in height.

5. **Traffic generation by the proposed use is within capabilities of streets serving the property. The increased intensity of use (height) does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.**
Finding: The increase in building height to allow 65'-9" high silos 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 increased intensity of use.**
Finding: Constructing silos at 65'-9" in height has no impact on the intensity of use on the site.
7. **Public utilities and services including fire protection services are adequate.**
Finding: Public utilities and services planned to serve the site are adequate. Fire protection services can accommodate the proposed 65'-9" high structure.
8. **For each additional ten feet (10') above thirty-five feet (35'), front and side yard setback requirements shall be increased by five percent (5%).**
Finding: Based on the proposed silo height of 65'-9", the front and side setback shall be increased by 20%, resulting in a front setback requirement of 36' and a side setback requirement of 12'. The location of the proposed silos meets the increased setback requirements.
9. **The provisions of section 11-4-5 of this title are considered and satisfactorily met.**
Finding: Section 11-4-5 related to essential services are proposed to be satisfactorily met.

Motion to approve conditional use permit carried: (4-1). Smith opposed.

8. GENERAL BUSINESS

A. None

9. MISCELLANEOUS

A. Purple Rain Properties, Supplemental Parking Memo

Christianson explained a reduction in parking requirements for the project due to what their actual need for parking will be. That was accomplished by doing an analysis of parking requirements according to the IT Manual. Christianson said it was provided as a supplemental memo for the Planning Commission's information.

B. Park I-35 / Beverage Manufacturing Facility – Frequently Asked Questions

Christianson also stated that the FAQ from the website was also included in the Planning Commission packet as reference material.

C. Community Development Updates

None.

D. Planning Commission Questions & Comments

None.

10. ADJOURNMENT

It was moved by Weber and seconded by Smith to adjourn the meeting at 11:42 p.m. Motion carried: (5-0).

Submitted by:



Jake Skluzacek
Planner 1