

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**6:30 P.M., P.D.S.T., TUESDAY, JUNE 7, 2011**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

The meeting was called to order by Chairman Jeff Thompson.

**ROLL CALL**

Present: Rich Perry, John Anderson, Jeff Thompson,  
Brent Elmore, Reece Keener, Doug Owen

Absent/Excused: Alene Sutherland

City Staff Present: Curtis Calder, City Manager  
Delmo Andreozzi, Assistant City Manager  
Ed Wynes, City Planner  
Scott Wilkinson, Development Manager  
Josh Carson, Deputy Fire Marshall

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES:** February 1, 2011 – Regular meeting

**\*\* Commissioner Owen moved to approve the February 1, 2011, regular meeting minutes in their entirety. Commissioner Perry seconded the motion.**

**The motion passed unanimously.**

February 15, 2011 – Special meeting

**\*\* Commissioner Owen moved to approve the February 15, 2011, special meeting minutes in their entirety. Commissioner Perry seconded the motion.**

**The motion passed with Commissioners  
Keener and Elmore abstaining.**

March 1, 2011 – Regular meeting

**\*\* Commissioner Owen move to approve the March 1, 2011, regular meeting minutes in their entirety. Commissioner Keener seconded the motion.**

**The motion passed with Commissioner Anderson abstaining.**

**I. PUBLIC COMMENT PERIOD**

This agenda item is to provide time for the general public to address the Planning Commission regarding items of concern not specifically listed on the agenda. Action cannot be taken at this time, but a matter can be set on the agenda for a future meeting, as appropriate.

**There were no public comments made at this time.**

**II. OLD BUSINESS**

**A. PUBLIC HEARINGS**

1. Review and consideration of a request for extension of Conditional Use Permit No. 1-10, filed by Alltel Communications (now AT&T) and Charles Chester, to install a 50' monopole telecommunications tower with 3 panel antennas and the inclusion of omni antennas, replacing the existing 40' tower owned by the State of Nevada Department of Information Technology, and installing radio equipment inside one of the vacant storage areas located in the rear of the lot within a C (General Commercial) Zoning District, and matters related thereto. **ACTION ITEM**

The subject property is located generally northwest of the intersection of Connolly Drive and Mountain City Hwy (2950 Mountain City Hwy).

The applicant's representative noted he was just here to answer questions.

No one from the public was present, but Commissioner Perry said there were questions from a resident sent in.

It was decided to read the questions after staff comments.

Mr. Wynes gave a brief history of the application and the prior meeting. Staff is recommending they get one more year to finish the project.

Mr. Wilkinson noted we are recommending a conditional approval with the eight conditions listed in my memo. I would like the applicant to verify that this location is required for coverage and that you can't co-locate on other towers.

Aaron Boonstra representing AT&T noted cellphone sites are like puzzle pieces. They've deemed this an area they need to increase coverage in, so an RF Engineer and zoning people worked to find a location that best works for them.

Mr. Wilkinson asked if they were looking to improve the coverage because he has AT&T and hasn't found any dead spots.

Mr. Boonstra said yes and to increase the Emergency 911 calls as well.

Mr. Wilkinson asked if he could provide a coverage map.

Mr. Boonstra noted he didn't have one at the time.

Mr. Wilkinson asked if he could provide that with the Building Permit application.

Mr. Boonstra said I believe so. I'll have to contact the RF Engineer.

Mr. Wilkinson noted maybe add that as a condition.

Mr. Andreozzi asked if the airport beacon that has co-location capabilities can be ruled out as a possible site also.

Mr. Wilkinson noted we'd like to see that, but we need to be cautious. We spoke with our attorney and our understanding is once a provider chooses a site location the FCC rule trumps our ability to deny a site location.

Chairman Thompson asked if they had to show need for the coverage.

Mr. Wilkinson noted I'm not even sure they really need to show need. If they can meet other requirements such as FAA height restrictions and things like that, I think they can pretty much get those locations approved.

Chairman Thompson went over the letter of questions from Cheri Thornton, 2974 Tyler Court including: is this site the only option, will the airport tower be considered, and what will they do to mitigate exposure.

Mr. Boonstra answered that he wasn't sure if the airport tower was being considered as an alternative location. He noted there will be three panel antennas running off of 500 watts and they're in the 800-900 megahertz frequency range, and based on FCC requirements anyone outside of 6-10 feet from those antennas is fine.

Chairman Thompson noted some of the residents were concerned about being line of site.

Mr. Boonstra noted that still falls within the 10 feet. It works on an inverse square law, the farther you go out with the distance it decreases exponentially.

Commissioner Perry asked what the distance between the residences and the tower would be.

Mr. Wynes noted about 230'.

Commissioner Perry asked if this is a permanent or temporary installation.

Mr. Boonstra noted he wasn't sure, but the lease agreement is based on years. He thinks after the lease agreement is up they're required to take it down.

Chairman Thompson read a statement into the record from Ms. Thornton's letter regarding the FCC rule and cell companies lobbying to get that put into place, and this should be a social obligation of AT&T to address the safety concerns.

Commissioner Perry noted this is the second time there have been concerns from residents regarding cell towers. I asked Mr. Wynes what zoning district cell towers are in. Our Code really doesn't address them. The only reference is in Light Industrial and Industrial Districts it says utility companies are a permitted use. We need to address this in our Zoning Districts whether a specific zone or x many feet from residential. This one is piggybacking on an existing tower that's being used for another purpose. In my opinion this does negatively impact the neighbors; it will be right at eye level of several windows.

Mr. Andreozzi noted this has been discussed amongst Staff. There has been a lot of technology that's transpired since our Zoning Ordinance was adopted. Renewable Energy is new and an upcoming issue that hasn't been contemplated. Elko County recently went through a very in depth process regarding that. My earlier comment wasn't to imply that you need to demonstrate to us that you can't co-locate at the airport. My question was have you even evaluated that location. We're asking cell towers to have co-location capabilities as a condition because we want to minimize the number of towers if possible.

Mr. Boonstra asked to be shown where the airport tower is.

Commissioner Perry asked Mr. Wynes to get a distance from the airport tower to the proposed tower.

Mr. Boonstra reminded the Commission the sites are like puzzle pieces and that site might not be part of the puzzle they need.

Mr. Wynes said a little over 1,000'.

Mr. Boonstra noted I will bring it up to the RF Engineers to make the decision. There are other factors that go into co-location such as the height they need may already be taken up by someone else, etc.

Commissioner Perry asked if they were intending on constructing in the next month.

Mr. Boonstra noted he wasn't sure, but within the next year.

Mr. Wilkinson noted we need to be cautious about things like creating zones because we're extremely limited on what we can do.

Commissioner Perry said clearly you don't put cell towers in residential districts.

Mr. Wilkinson noted there's one in Spring Creek.

Chairman Thompson noted we're not denying them, just asking them to look at other areas.

There was more discussion on the past applications, zoning, coverage maps, etc.

Glen Murphy, 2975 LaNae Court, had environmental concerns regarding types of batteries and blending, is there going to be a generator and what type, will it have carbon emissions, mitigation for possible leaks, and security.

Mr. Boonstra noted the equipment will be in the unoccupied building on site. There will be battery backup units, but he's not sure of the type. There will be precautionary measures in case of spillage; dampening devices that are thrown on for easy cleanup.

Chairman Thompson asked if that is covered under the Building Code.

Mr. Wilkinson noted the Fire Department will look at that as hazardous materials.

Mr. Carson noted there are provisions for use and storage of batteries, generators, fuel, as well as fencing. I believe on this plan they're calling for bollards for vehicle protection.

Mr. Boonstra noted I don't see a generator in our drawings. I believe there is a security camera outside the building right now with locked doors. You have to go through a door to get into the site.

Mr. Wilkinson noted this is private property. One of the conditions was to omit the climbing pegs on the pole.

Mr. Boonstra noted right now there are no plans for blending. There may be an option to do a stealth monopole, but I would have to go back to AT&T to find out.

Mr. Wilkinson noted the prior approval showed a monopole.

Commissioner Keener asked how much coverage would be lost if there was a reduction in height.

Mr. Boonstra noted an RF Engineer determines that.

Commissioner Keener asked if that could be looked at to alleviate some concerns.

Mr. Wilkinson noted that needs to be deferred to the coverage map. At the hearing they talked about needing that extra 10'.

Commissioner Perry noted there are already 40'-50' high electric lines and poles.

**\*\* Commissioner Keener moved to table Conditional Use Permit No. 1-10 to the July meeting in order to give the applicant sufficient time to provide City Staff and Engineering with coverage maps, and to discuss tower height requirements and possibly evaluate other sites. Commissioner Perry seconded the motion.**

**The motion passed unanimously.**

## **B. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS**

1. Review and consideration of Site Plan Review No. 1-11, filed by Elko Mountain Village, LLC, to increase the previously approved density of 217 residential units to 379 residential units within a PUD (Planned Unit Development) Zoning District, and matters related thereto. **ACTION ITEM**

The subject property is located generally 1,732 feet southeast of the corner of S.R. 227 (Lamoille Highway) and Powder House Road (APN 001-770-009).

Aaron Robertson, 83 N. Cambridge Drive, Rigby, ID, noted we've gone through several different variations and layouts dealing with topography. Our hope is we've come up with something that's exciting and beneficial for all. There is a serious need for housing in Elko. He gave an overview of the submitted application.

Mr. Wynes gave an overview of his memo noting this site plan is a guideline. They still have to go through a formal presentation for a PUD, which would go to the City Council. They will have to show property lines and the rest of the situation. The density and parking are appropriate. I have some questions related to the project as a whole, but not this particular project.

Mr. Wilkinson noted I looked at this application as whether it would really satisfy a PUD District. I provided quite a bit of detail and Code analysis in my memo. He then gave an overview of his memo. I believe this fits in an R District extremely well if they meet the setback requirements, etc. The type of action you need to take is determining whether this type of development's suitable for that type of district, and supporting an application to the City Council for a PUD because our Code has not authorized the Planning Commission to approve PUDs; NRS references the City or County with a couple hearings occurring. If they include subdivision of property with the PUD then it would go to the Planning Commission. We're recommending the Planning Commission forward a recommendation of denial to the City Council under a PUD application based on the reasons stated in my memo.

Mr. Carson noted we are changing Code additions on July 1, and all aspects of this plan will have to meet Code.

Mr. Andreozzi noted the Development Department did a good job analyzing the Code and project. We have a developer trying to get the highest and best use, but I'm not sure this development fits in this zone.

Mr. Robertson noted based on Staff feedback from the original site plan review we went back and redesigned the layout. Tonight Mr. Wilkinson is objecting to the usable open space. We've struggled with that. Staff has noted they like the layout and are sensitive to our needs; however they see it as a different zone. Looking at City Code Section 3-2-15 E (1), we're taking a very steep hillside and trying to flatten it as best we can to make the space as usable as possible by adding parks, trails and flat areas. We meet the Code as it's outlined and we're able to interpret it based on the idea we've taken space that's unusable and turned it into usable landscape space that is pleasing to the eye and usable for walking or outdoor activities. The purpose of the PUD is to take ground that people would struggle with in your normal Code and tweak it so it becomes more usable and community friendly. We feel like we've done that to the best of our ability. We don't see the need to go through a complete rezone when we're meeting the requirements within the Code. If it's based on interpretation of what is usable open space, I fail to see how we're not meeting that by having green lawn, shrubbery, parks, trails and sitting bench areas. If our interpretation is wrong we can rezone.

Chairman Thompson said our agenda says we're to approve, conditionally approve, or disapprove, but it sounds like we forward a recommendation to the City Council.

Mr. Wilkinson noted the Planning Commission should be on board with the substantial change from the original site plan submitted with the zone change to PUD. They put a lot of time, money and effort into this, but the question is, are we creating usable open space as the intent of the PUD. City Code Section 3-2-15 A (1) mentions open space for recreation and preservation of natural amenities, but what's being proposed is grading the entire 35 acres and development of a large apartment complex with townhomes. That may be the best use of the property, but do we have a PUD or an apartment complex. Are we generating usable open spaces as outlined for the objective and intent of the PUD district? I don't think lawn or yard areas work. That's what you need to determine.

Chairman Thompson noted I was handed this by the Planning Department; we're supposed to forward a recommendation of approval, conditional approval, or disapproval of the proposed development and inclusion of the site plan as part of a Planned Unit Development application for consideration by the City Council under NRS 278A 440 – 278A 590 inclusive.

Mr. Wilkinson noted regardless of the action you take the applicant can still submit an application to the City Council for a PUD. I think the Planning Commission recommendation would have an impact on the City Council view. I'm going to have the same arguments at the City Council meeting.

Commissioner Perry noted I understand your argument, but going through four CUPs for apartment complexes over the last year we don't really have a good zoning district for this. If we were to recommend a different zone it would be R3 with a CUP. This does fit the PUD housing types. It comes down to the question of the open space. The density is a little over 10 which isn't near as high as some of the things we've seen come through over the last year with CUPs. We do need the housing and it develops Powder House Road, correct. This would be the first development on that side of the highway on Powder House Road which is a significant positive

for the City. I don't think this is clean and clear on whether this should be PUD or R3 with a CUP.

Mr. Wilkinson said we'll need a legal opinion, but for property previously zoned R a CUP is still required. I'm not sure if R3 falls under that.

Commissioner Perry said whether we ask them to rezone back to something in residential or not it's still going to go through the CUP process?

Mr. Wilkinson noted possibly. That is in Section 3-2-15 E (2). I don't want to spend money on legal fees if this is not going to move forward.

Commissioner Perry said their density is less than 12 with 2.04 parking spaces per unit.

Mr. Wilkinson noted the Code states it can't be more than 12, which is more restrictive than the other zones. The reason being the intent of the Code is to create this usable open space. I don't believe we're meeting the intent and objective of the PUD with an apartment complex being constructed over the majority of the area and a lot of the slope areas that are less than 10% being yards surrounding the buildings. I don't deny we need the housing. I think it's a great project and location. We're excited about other possibilities on other parcels in the area for the Planned Commercial and things like that, but do we have the correct zone? If you look at the plan there is one trail connecting a higher and lower elevation. There are some basketball courts and pavilion areas, but those are things you see in a typical apartment complex.

Commissioner Perry asked if there was any legal precedent to prohibit them from building this under a PUD.

Mr. Wilkinson said I would look at their civil improvement plans and deny them based on the zone and then they could appeal that to the City Council. If the developer wants to move forward under a PUD they have to make application to the City Council.

Chairman Thompson said so it's just our recommendation.

Mr. Wilkinson noted if it were a different zone it wouldn't go to City Council. It would come back to the Planning Commission as a CUP. We may already be faced with a CUP. They may subdivide the property, and will want to run the PUD application concurrently. If that's the case it will come back to you anyway.

Chairman Thompson asked if Section 3-2-15 B would come into effect if they subdivided.

Mr. Wilkinson noted they will need the common ownership issue addressed so we don't have areas going to disrepair. There has been discussion about each building within the apartment complex being its own lot with a portion of the parking lot, etc. That concerns us because not only how do you keep the grass mowed, but who's responsible for paving and maintenance of parking areas and things like that. There would have to be an association which falls under NRS

guidelines. All those things would have to be addressed with a PUD application, much more than what we have before us tonight.

Chairman Thompson noted it will probably last for more than one meeting at City Council.

Mr. Wilkinson noted the tentative approval before City Council is a public hearing. The final approval doesn't have to be a public hearing as long as there haven't been significant changes from the tentative approval. There's quite a bit involved and there's a lot of information that has to be presented.

Commissioner Perry asked the applicant if he wanted to proceed with a PUD or rezone the property.

Chairman Thompson said it sounds like rezoning would be quicker or as quick and less painful.

Mr. Robertson noted there isn't a good fit in your zones, so we were encouraged to go toward the PUD. Section 3-2-15 A (4) allows freedom to take a creative approach. This was a challenging site and always will be. We thought it would be easier if Staff could consider the challenges along with the development rather than trying to fight our way through any of the other zone requirements. The process does not become simpler by taking it to a rezone. It creates a two month delay for the rezone and then we still have to go through a CUP process. The market's good and we have things in motion. We've been in contact with various organizations to identify the needs of the community both on the residential and commercial sides. Due to the cost that is borne in putting in a water tank and improving some major city roads and arterials up in this area, and because this is really funding that, we need something that has some good density and the PUD offers all those things with some freedoms. We're meeting the parking requirements, keeping our density low, and trying to maximize the usability of the open space. To say the open space isn't usable because it's in the yard, I use my yard.

Chairman Thompson said but do you let the public use it?

Mr. Robertson noted this is going to be a private facility, but the owners can invite the public. We're not trying to dedicate the parks to the City. The public will end up using it. We're not going to have gate codes on our amenities. There are a lot of pulls in a lot of different directions and we feel this is the closest we can come. If there are some tweaks or if we need to rezone we're not going to disappear. We just don't see a clear cut basis why this won't work. This brings a higher level to rental properties than currently exists and I think there's a need for that. It's an enhancement to your hillside. With the commercial area that surrounds this residential area we will take the same approach trying to match the topography and constraints of the site with the demands of the community. We will come back with a subdivision process. We've engaged attorneys to make sure we're making our obligations and have a solid foundation for the H.O.A. that will take care of the streets, parking, etc. This is a lot of money, so it's in our best interest that this is set up clearly, effectively and professionally up front to protect our investment. Without having the basis for the site plan first we can't move forward because so much is based on that.

Mr. Wilkinson said I agree with about 98% of what you said, but we still have the special assessment district issues out in front of us, application has not been made to the City, or there's going to be a request from the City Council for contributions so we can avoid special assessment. All of those are unknowns at this time. This isn't happening within two months. All the ownership gets tied into your special assessment district and how your consultants can put together your cash flow models. The Council still has to accept that. I agree, this site has some topography issues that probably necessitate grading the whole thing, but does it fit under a PUD.

Commissioner Keener noted it's evident there are some practical difficulties that exist with developing this parcel, and it's highly unusual to have opposing recommendations from Planning and Engineering. I don't ever remember that. I'd like to hear from the City Manager.

Mr. Calder noted at the time I reviewed the flow sheets I was not comfortable in taking sides either. I wanted to hear the arguments. Even after hearing the arguments it's a close call. If the Planning Commission feels it can legally fit in the PUD, you're talking about intent issues, than I would probably keep it in the PUD. Ultimately the City Council will review it anyway. Mr. Wilkinson brought up some good points too; this is tied to a lot of other issues such as the special assessment district, which will finance a lot of the public improvements.

Commissioner Perry noted there really isn't a good zoning district in the city for this until we have a multi-family residential zoning district. I don't see any reason we shouldn't go forward with approval and move it along.

Chairman Thompson noted it's going to move forward regardless of the outcome.

Commissioner Perry said if it's denied it won't unless they appeal.

Chairman Thompson said ours is a recommendation to the City Council.

**\*\* Commissioner Perry moved to forward a recommendation of conditional approval for Site Plan Review No. 1-11 as a P.U.D. application to the City Council subject to the following conditions:**

- 1. The site plan approval shall be null and void after one (1) year from the date of final approval unless a subdivision application has been submitted for this property.**
- 2. The City would acknowledge and review only one (1) extension of time request for this application.**

**Commissioner Perry's findings are this Site Plan Review is consistent with the Land Use component of the Elko City Master Plan as the Master Plan as it was approved a couple weeks ago has this area as high density residential, the Streets and Highways component of the Elko City Master Plan and Section 3-2-15: PUD (Planned Unit Development) District.**

**Commissioner Keener seconded the motion with additional findings that there are practical difficulties resulting from the area topography and the action will not negatively impact neighboring properties.**

**The motion passed 5 to 1 with Chairman Thompson voting against.**

**Chairman Thompson recessed the meeting for five minutes.**

### **III. NEW BUSINESS**

#### **A. PUBLIC HEARINGS**

1. Review and consideration of Variance No. 4-11, filed by Blaine & Karen Mowrey, for a reduction of the required side yard setback from three feet (3') down to one-half foot (1/2'), in conjunction with building an open-sided carport in an R-SA (Single Family and Multiple Family Residential-Special Area Overlay) Zoning District. **ACTION ITEM**

The subject property is located generally on the south side of Ouderkirk Avenue, approximately 590' east of South 5<sup>th</sup> Street (760 Ouderkirk Avenue).

Blaine Mowrey gave an overview of the submitted application.

Mr. Wynes gave an overview of his memo recommending approval of the variance subject to the two conditions listed in his memo and adding a third condition that all water coming off of the roof must be controlled so that none of it flows onto the neighbor's property. The slope in that area is such that it would run across the neighbor's property.

Mr. Wilkinson took a black and white view of the application. He overviewed the Background Information in his memo and recommended a denial.

Chairman Thompson asked if he would be ok with two and a half feet.

Mr. Wilkinson noted I'm not sure if there are extenuating circumstances that require more than nine feet.

Mr. Mowrey noted if he went with the three feet setback it would only be eight feet between the steps and the posts. He has an eight feet wide trailer that he backs up to the garage in the back yard and that would be difficult to maneuver.

Mr. Wilkinson noted looking at the site plan dimensions it appeared there was enough room. Maybe there's a little discrepancy in the drawings plus you have new information to consider.

Commissioner Perry visited the site and met with the applicant. There is a concrete structure to catch the drainage already in place from the old carport. There is something exactly like this two houses down that he is following to make sure the Building Department will approve it. It sits way back off the road, so it wouldn't cause a visual blockage.

Chairman Thompson also visited the site. There was a truck parked there and with the existing posts it looked plenty wide.

**\*\* Commissioner Perry moved to conditionally approve Variance No. 4-11 subject to the following conditions:**

- 1. The variance is granted for the reduction of the side yard setback for a carport from the existing three feet (3') down to six inches (6") as shown on site plan labeled Exhibit "A".**
- 2. A building permit shall be obtained within one (1) year from the date of final approval of this variance or this variance shall be deemed null and void.**
- 3. As part of the design and construction of this, all water coming off of the roof drains onto the applicant's property and not onto the neighboring property.**

**Commissioner Perry's findings are the property is characterized by a specific circumstance or feature: the property is only 50' wide with the house sitting 16' from the side property line and a 4' step extending into the 16' side yard. This doesn't leave enough room for the carport unless the applicant moves closer to the side property line. The unique feature does result in a practical difficulty or hardship: without going to 6" from the property line for the footings of the carport, there would not be enough room to park a vehicle in the driveway. The circumstance is unique and does not generally apply to other properties in the area or vicinity. Granting of the variance will not adversely affect other properties or affect public health, safety or welfare, sight distance, visibility, size, height, or mass of structure: the applicant will be required to keep all the water draining off the carport on his property. Granting of the variance will not impair the purpose or intent of the City Code. Granting of the variance will not affect natural resources. The variance is consistent with the Streets and Highways component of the City Master Plan, Section 3-2-5E of the City Zoning Ordinance, Section 3-2-14B of the City Zoning Ordinance, Section 3-2-5G of the City Zoning Ordinance and Section 3-2-22 of the Elko City Code.**

**Commissioner Owen seconded the motion with the same findings and conditions.**

**The motion passed unanimously.**

- 2. Review and consideration of Conditional Use Permit No. 4-11, filed by Ruby Mountain Injection, LLC, to allow an automotive repair shop within a C (General Commercial) Zoning District, and matters related thereto. The proposed location is within the Central Business District. **ACTION ITEM****

The subject property is located generally on the northwest corner of Idaho and 8<sup>th</sup> Streets (777 Idaho Street).

Jaimere Doñez noted he and his partner Mike Dorn would like an approval.

Mr. Wynes noted there is a special provision in the Commercial Zoning District and especially the downtown area that requires a CUP for an auto repair facility. We are recommending approval subject to the two conditions as listed in my memo.

Mr. Wilkinson also recommends approval with the two conditions as listed in his memo.

Mr. Carson recommends approval subject to a condition that they complete the issued items at the pre-license inspection.

Chairman Thompson asked the applicant if he was ok with the conditions.

Mr. Doñez said yes.

Chairman Thompson asked if the building was for auto sales before.

Mr. Wynes noted it was a gas station. The last thing was used auto sales.

Commissioner Perry asked if the CUP was required because that's a requirement in the General Commercial Zoning District or because this is triggered because it's in the downtown overlay.

Mr. Wynes noted it's in the downtown area.

Commissioner Perry said so if it was general commercial on exit 298 we wouldn't have to do this.

Mr. Wynes said it would be a straight approval.

Chairman Thompson asked if it had to change uses first since it was already used for that.

Mr. Wynes said it hasn't been used for an auto repair facility for a number of years.

**\*\* Commissioner Keener moved to conditionally approve Conditional Use Permit No. 4-11 subject to the following conditions:**

- 1. The Conditional Use Permit is approved for an auto repair shop in the Central Business District within the C (General Commercial) Zoning District in accordance with the submitted site plan labeled Exhibit "A".**
- 2. The Conditional Use Permit will expire if not activated within one (1) year of the date of approval.**
- 3. A reduced Pressure Principle Assembly is installed on the water service.**
- 4. The sanitary sewer discharge from the indoor sump is capped preventing discharge from the sump to the sewer.**
- 5. Conformance with the Fire Department's requirements for the pre-inspection for the City Business License.**

**Commissioner Keener's findings are the proposed use does conform with the purpose or intent section of the City Zoning Ordinance: this site has been a gas station/garage in the past and this use would fit right into that similar type of use. The proposed use does conform with the City Master Plan, e.g. Land Use component, Streets and Highways component: the previous Master Plan had the property designated as commercial; the**

**newly adopted Master Plan Land Use map has the area designated as Downtown Mixed Use. In both cases this type of commercial activity would fit the approval of a C.U.P. The nature of the proposed use and locational factors do not result in any negative influence or affect on adjoining properties: the building exists and a similar use was once being conducted on the property. The location of the buildings, parking and related facilities do not result in any negative influence or affect on adjoining properties: the use of this property will not have any impact upon the parking for adjacent businesses. The quantity and distribution of traffic does not result in any negative influence or affect on adjoining properties or on the general patterns of traffic flow and circulation within the area or vicinity: the volume of traffic generated by this business will not cause any major problems with the flow of traffic in the area. Other factors or conditions influencing location in the particular zoning district do not result in any negative influence or affect on adjoining properties: the proposed use will not be a major noise generator, nor will it be a major source of vehicles parking in other business' parking areas. The C.U.P. is in conformance with the Land Use component of the Elko City Master Plan, the Streets and Highways component of the Elko City Master Plan, Section 3-2-3 of the City Zoning Ordinance, Section 3-2-4 of the City Zoning Ordinance, Section 3-2-10B of the City Zoning Ordinance, Section 3-2-17 and Section 3-2-18.**

**Commissioner Owen seconded the motion with the same finding and conditions.**

**The motion passed unanimously.**

**Chairman Thompson moved discussion to agenda item III. B. 2.**

## **B. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS**

1. Review and consideration of Annexation No. 1-11, filed by KLO Global, LLC, involving approximately 0.776 acres of property to include a portion of the right-of-way for Mountain City Highway. **ACTION ITEM**

The subject property is located generally south of Mountain City Highway, approximately 118' east of Sundance Drive.

Commissioner Perry disclosed that he has a business partnership with the applicant on a separate property and recused himself from the item.

Mike Lostra, 930 College Avenue representing the applicant, noted this is a house cleaning item. Helen K. Harris annexed property into the City in 2006. After the annexation a triangular piece of that property was traded with the County. Because of that, the city line now goes through the property. The traded land was never annexed. KLO Global has recently bought the property and has submitted plans for Rabbit Brush Run apartment complex. Phase 2 of the project is in the City and County, so we're trying to clean this up before we get to that level.

Mr. Wynes noted Staff has no problems with this; it is a housecleaning process. We've tried to determine the best way to proceed with this and we recommend approval.

Mr. Wilkinson noted we recommend this be forwarded to the City Council with a recommendation to approve.

Mr. Andreozzi said we recommend approval as well.

Chairman Thompson asked if this was the end of the City property.

Mr. Andreozzi said no. It goes into half of Section five. The property we acquired from the BLM is north of this area.

**\*\* Commissioner Keener moved to forward a recommendation of approval to the City Council to for Annexation No. 1-11.**

**Commissioner Keener's findings are this property was sold to the applicant as part of the larger property to the south and as being within the city limits of the City of Elko, this annexation is a housekeeping issue and the applicants want all of their property within the Elko City limits. The annexation is in conformance with the Land Use component of the Elko City Master Plan, the Streets and Highways component of the Elko City Master Plan and Section 3-2-4 (C) Annexation of Territory to the City of Elko.**

**Commissioner Owen seconded the motion with the same findings.**

**The motion passed unanimously with  
Commissioner Perry recused.**

**Chairman Thompson moved discussion to agenda item III. B. 3.**

2. Review and consideration of Final Plat No. 4-11 for Brookwood Estates Subdivision Phases 2 & 3, filed by Brookwood Development LLC, for the proposed division of approximately 16.18 acres of property into 54 lots for single family residential development. **ACTION ITEM**

The subject property is located generally on the west side of North 5<sup>th</sup> Street, approximately 100 feet north of Rolling Hills Drive (APNs 001-61I-044 & 001-610-090).

Lana Carter, 421 Court Street representing the applicant, noted with Phase 2 we will be dedicating Rocky Road to its new alignment and we will be abandoning Rocky Road at its current alignment.

Mr. Wynes had no problems with the application subject to Mr. Wilkinson's conditions.

Mr. Wilkinson's General Comments in his memo are specific to the plat. Civil Improvement Plans have been submitted, but are yet to be reviewed for comment. We're recommending a conditional approval subject to the eight conditions listed in my memo. Condition one was added

by City Council when they reviewed the Preliminary Plat. The agreement has been drafted and is being reviewed by legal counsel. That will probably be heard towards the end of the month and then the Final Plat can be heard in July. The construction of Rocky Road has been an issue for a long time. The bonding is to make sure that will be constructed within the timeframes outlined in the agreement. What we need to do for the Map of Reversion is merge two pieces of property to eliminate potential property line conflicts with the layout of the subdivision. That has already been filed and will be heard by City Council next Tuesday.

Mr. Andreozzi said Public Works supports conditional approval of this application.

Commissioner Perry asked if Rocky Road was the dirt road currently there.

Mr. Wilkinson noted that is the existing Rocky Road that will be abandoned.

Commissioner Perry asked if North 5<sup>th</sup> Street gets paved by Phases 2 and 3 as a part of this project.

Ms. Carter said yes.

Commissioner Perry said the other side is City owned right, so does the City build the other half?

Mr. Wilkinson noted typically they go past centerline to accommodate two travel lanes, parking and things like that. We'll match what's up there. I can't remember what the width is.

Commissioner Perry asked if that happens during Phase 3.

Mr. Wilkinson noted the frontage will be done with each phase. We will abandon the existing Rocky Road and dedicate the realigned Rocky Road with Phase 2, but during Phase 2 we will connect Rocky Road at the cattle-guard for County ground with Wright Way. That will provide through traffic to Brookwood and North 5<sup>th</sup> and then Rocky Road gets realigned across City property. There will be an all-weather gravel road constructed that will tie in with that alignment through Phase 3, which will be constructed to a full-width collector standard.

Commissioner Perry asked where Jennings Way comes in to that.

Mr. Wilkinson said Jennings Way comes across North 5<sup>th</sup> to the north of that.

Mr. Andreozzi said it comes in by that power substation.

Commissioner Perry said so really not far from where Rocky Road is going to be.

Mr. Wilkinson said it would cross North 5<sup>th</sup> where that main drainage is, but then it does bisect Rocky Road by the substation.

Commissioner Perry noted the applicant has built some nice homes and it's a nice addition to the City.

Chairman Thompson said it is real nice.

**\*\* Commissioner Perry moved to conditionally approve Final Plat No. 4-11 for Brookwood Estates Subdivision Phases 2 & 3, and forward a recommendation of conditional approval to the City Council subject to the following conditions:**

- 1. Conditions No. 1-8 as listed in the memo from Scott A. Wilkinson, Development Manager to Ed Wynes, City Planner dated May 31, 2011, stated as follows:**
  - 1) City Council approval of an agreement pertaining to the construction of Rocky Road prior to Council consideration of the Final Plat.**
  - 2) Appropriate bonding for the construction of Rocky Road on file with the City of Elko prior to City certification of the Phase 2 Final Plat.**
  - 3) Submittal of civil improvements plan prior to Council consideration of the Final Plat. The Final Plat submittal is required to comply with all applicable provisions of Chapter 3-3 (Subdivisions) of the Elko City Code.**
  - 4) The Final Plats for Phase 2 and Phase 3 are revised based on the comments in this document.**
  - 5) The map for reversion to acreage associated with the project is of record prior to City Council approval of the Final Plat.**
  - 6) State approvals for the subdivision.**
  - 7) A Performance Agreement with regard to the dedicated public improvements shall be in place prior to the City of Elko Certifying the Final Map as required in 3-3-44.**
  - 8) Appropriate security is required prior to the City of Elko Certifying the Final Map as required in 3-3-45.**

**Commissioner Perry's findings are the approval of this subdivision map is consistent with the newly updated City Master Plan.**

**Commissioner Owen seconded the motion with the same findings and conditions.**

**The motion passed unanimously.**

**Chairman Thompson moved discussion to agenda item III. B. 1.**

- 3. Review and consideration of Temporary Use Permit No. 1-11, filed by Plumb Line Mechanical, to allow the placement and use of a trailer for additional sales office space on a temporary basis, and matters related thereto. **ACTION ITEM****

The subject property is located generally on the southwest corner of Commercial Street and Barengo Way (449 W. Commercial Street).

Dennis Moore, Operations Manager, noted we want to expand and are looking for other property, but would like to have something in place to use on a temporary basis.

Mr. Wynes noted Staff doesn't have a problem with this and recommends approval subject to the condition in my memo.

Mr. Wilkinson pointed out there is duplicate numbering for his conditions. We struggled with this one because other temporary uses were required to construct public improvements, but in return we gave them a longer time frame for the Temporary Use. This is an existing business who is trying to relocate. In trying to be consistent with what we've done in the past and some issues we have today with regard to similar circumstances, we are recommending they put in public improvements on West Main Street. There are five conditions in my memo. If you were to move forward we would agree the use is for one year, but we would like to see that's not extended unless the applicant demonstrates they are in the process of purchasing another piece of property for relocation.

Mr. Carson said the only conditions I have is they maintain any and all permits required for Building and Fire, and that access is maintained at all times.

Mr. Andreozzi noted I concur. The public improvements are an ongoing issue, but are required for any project that happens in the city. Our Code is specific in trying to recapture missing infrastructure with expansions, enlargements, etc. On Idaho Street there is a lot of missing infrastructure on the south side, and now the taxpayers are paying for that. The suggested condition from Staff is reasonable. It gives them time to do this on a temporary basis. We hope they can find a facility that meets their needs. There is a lot of missing infrastructure in this area and needs to be addressed as we move forward. We support the temporary use and feel the one year recommendation is fair.

Mr. Moore asked for clarification of Mr. Wynes' condition. It may be difficult to find a place and develop within a year. If we spent \$75,000 - \$100,000 putting in the curbs and gutters, that money could be used towards new property. The conditions will fall on the owners of the property upon the lease or sale of the property, so in two years you will get the curb and gutter. We'd like you to consider two years with no curb and gutter with the stipulation that at that point if we have not moved we have to put it in.

Mr. Wilkinson asked if the property was leased from the Railroad.

Mr. Moore said no. It's owned by another enterprise.

Mr. Wilkinson said that's a good point. If there's a change in use we will have another opportunity to address the public improvements. Locating and developing a new property will not happen in a year, that's why I recommend they demonstrate they are under contract to buy one and then we can extend it another year. Is that reasonable?

Mr. Moore asked for clarification then said yes.

Chairman Thompson asked how long they have been there.

Mr. Moore said seven years.

Mr. Wilkinson said the property is in the Redevelopment Area.

Commissioner Perry noted there is sidewalk on Commercial Street. Is this specific to putting curb, gutter and sidewalk on Main Street or Commercial Street?

Mr. Wilkinson said West Main. West Commercial is Railroad property. We don't believe we can require public improvements on Railroad property.

Commissioner Perry noted that makes sense. You can still see tracks buried and none of the properties have public improvements.

Mr. Andreozzi noted it's like a roadway easement. The City of Elko has to maintain it or it reverts back to the Railroad. That's part of the area we're trying to acquire.

Commissioner Perry said but Main Street is a City road.

Mr. Wilkinson noted we have limited public improvements on West Main. With the case of FedEx, they were not an existing business. They wanted to come in and test the waters making money for three years. We felt they needed to put in public improvements and move on to permanent installation. Here you have an existing business. Just down the street we have a business trying to co-locate with another business putting up a temporary structure and we have the issue of do they need to put in public improvements. Now they are actually going to co-locate inside the existing office. We're getting a legal opinion to see if that constitutes a change of use. These issues come up all the time because people don't want to spend \$100,000 if they're going to relocate, but there's no guarantee to the Planning Commission or the City that they will relocate.

Commissioner Perry said another one is on Wilson and 5<sup>th</sup>.

Mr. Wilkinson said they had to put public improvements in place. That was with regard to permanentizing the structure.

Commissioner Perry asked the applicant for verification of the building on the lot.

Mr. Wilkinson noted if they have to provide some kind of documentation after one year then we don't lose the ability to require them in the near future.

Mr. Andreozzi noted if they put in a permanent structure smaller than 400 sq. ft. we would not be able to have them install the public improvements.

Mr. Wilkinson noted a lot of the Code is written because of all the missing infrastructure.

Commissioner Keener asked for clarification of condition number one of Mr. Wilkinson's memo regarding utilities and accessibility.

Mr. Wilkinson noted that pertains to the structure itself. The second condition number one pertains to site and civil improvements. If you're not looking at site improvements you can keep it simple by just going with a one year temporary use if they provide some type of documentation that shows they've optioned or purchased property and can extend.

Commissioner Keener asked if they could delete the second and third sentences.

Mr. Wilkinson noted you would just ignore all my recommended conditions and use a portion of Mr. Wynes' memo with a twist that they provide documentation. The reason I recommend one year is I'm concerned about setting a precedent. If they haven't been able to find a piece of property and get it under option or actually acquire it within a year I don't think they're serious about relocating.

**\*\* Commissioner Keener moved to conditionally approve Temporary Use Permit No. 1-11 subject to the following condition:**

- 1. This permit is allowed for one (1) year with a possible one (1) year extension based on documented progress of obtaining and acquiring a new commercial space for the business.**

**Commissioner Owen seconded the motion.**

**The motion passed unanimously.**

#### **IV. REPORTS**

- A. Summary of City Council Actions.

Mr. Wynes noted the Master Plan was approved at the May 24<sup>th</sup> meeting by all members. Rezone No. 6-11 was also approved which is the Iron Horse RV Park property.

- B. Summary of Redevelopment Agency Actions.

Mr. Wynes noted the RDA Advisory Council passed some proposals on to RDA that will be heard June 14<sup>th</sup> in addition to the RDA Plan update. We had to wait for the Master Plan to be adopted because the wording in the Master Plan gave us the authority to take care of the RDA Plan. It will not have to go to City Council.

- C. Professional articles, publications, etc.
  1. Zoning Bulletin
  2. Zoning Practice
- D. Preliminary agendas for Planning Commission meetings.
- E. Elko County Agendas and Minutes.

F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.

G. Staff.

Chairman Thompson congratulated Commissioner Perry for his election to City Council.

Everyone else congratulated Commissioner Perry.

Commissioner Perry noted it has been an honor to serve for the last five years. I learned a lot from some of you. Thanks to City Staff for their time and effort. I will write a letter of resignation and hope you get a great replacement. I also hope some of you will want to run for City Council some day.

Chairman Thompson congratulated Commissioner Elmore on his final meeting as a Commissioner.

**NOTE:** The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time.

## V. ADJOURNMENT

**There being no further business, the meeting was adjourned.**

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Jeff Thompson, Chairperson

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Reece Keener, Secretary