

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**6:30 P.M., P.D.S.T., TUESDAY, AUGUST 2, 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: Jeff Thompson, Doug Owen, Reece Keener, John Anderson,  
Alene Sutherland, Greg Thornton, Jose Negrete

Absent/Excused: None

City Staff Present: Curtis Calder, City Manager  
Delmo Andrezzi, Assistant City Manager  
Scott Wilkinson, Development Manager  
Josh Carson, Deputy Fire Marshall  
Jeremy Draper, Civil Engineer  
Rebecca Hansen, Planning Clerk

Others Present: Jim Conner, City Council

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES: PUBLIC COMMENT WILL BE TAKEN PRIOR TO ANY  
PLANNING COMMISSION ACTION: FOR POSSIBLE ACTION**

April 19, 2011 – Special meeting

**\*\* Commissioner Keener moved to approve the April 19, 2011, special meeting minutes as submitted, noting he wasn't present but listened to the audio of the meeting in its entirety. Commissioner Owen seconded the motion.**

**The motion passed with Commissioners  
Thornton and Negrete abstaining.**

June 7, 2011 – Regular meeting

**\*\* Commissioner Owen moved to approve the June 7, 2011, regular meeting minutes in their entirety. Commissioner Sutherland seconded the motion.**

**The motion passed with Commissioners Thornton and Negrete abstaining.**

July 5, 2011 – Regular meeting

**\*\* Commissioner Owen moved to approve the July 5, 2011, regular meeting minutes in their entirety. Commissioner Sutherland seconded the motion.**

**The motion passed with Commissioners Thornton and Negrete 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. UNFINISHED 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. **PUBLIC COMMENT WILL BE TAKEN PRIOR TO ANY PLANNING COMMISSION ACTION: FOR POSSIBLE ACTION**

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

Commissioner Thornton excused himself from the meeting due to his wife having an interest in this particular item.

Jeremy Mironas, Tower Engineering Professionals, 2513 Myrtle Court, Fort Collins, CO, representing the applicant provided some RF plot maps. He explained that the predicted coverage with the 50' monopole drastically changes the in-building coverage specifically along Jennings Way and the subdivisions near Wal-Mart. This is the goal because more people today rely on cellular telephones for their primary means of communication. With the proposed 40' tower near the airport, you lose the in-building coverage along Mountain City Highway where all the new

commercial development is. The map with the proposed 25' tower also located near the airport shows you lose coverage when the height is lowered due to topography. The way coverage works is you have to have line-of-sight between the antennas and the device you're using. Radio Frequency energy has some ability to penetrate through buildings, but if it's blocked by a large structure or mountain you do not get the coverage.

Mr. Wilkinson asked if the 25' was not the actual intended height of the antenna, but rather the resultant line-of-sight because of elevation drop.

Mr. Mironas noted that is being mounted at the 25' height.

Mr. Wilkinson asked if 25' was the max height that they could go on that tower.

Mr. Mironas said I believe so, I think that is only a 25' tower.

Mr. Andreozzi noted on the preceding page it looks like that location is the airport as well, but based on a 40' antenna height. Is that correct?

Mr. Mironas noted there are two towers relatively close to each other.

Mr. Andreozzi noted the CVU codes at the top of the plot maps were different and he assumed that meant the locations were slightly different.

Mr. Mironas noted they are different and the codes are the names of the towers; VZW is the Verizon tower and IT is some other tower.

Mr. Wilkinson asked if that was the tower by dispatch.

Mr. Andreozzi wasn't sure. The only one he knew about was the Verizon one where the beacon is.

Cheri Thornton, 2974 Tyler Court, asked if it was acceptable to have a tower in a commercial zone when there was residential zoning near it.

Mr. Wilkinson explained an approved conditional use permit allows a use to be a principle use.

Ms. Thornton asked if any zone could have a conditional use permit granted.

Mr. Wilkinson explained the zones have specific principle uses and specific conditional uses listed, and then gave an example. The commercial zone has a few very broad principle uses listed and says any use typical of a commercial area.

Ms. Thornton thinks this should be industrial not commercial. Her next door neighbor had a Wireless Beehive tower located on their property, and she didn't think those could go in residential zones.

Mr. Wilkinson explained communication towers aren't addressed in City Code because they're not a typical use with day to day operations and people. I don't know how you ended up with one next door. Commercial and industrial zones allow our most intense uses, and I don't think there's anything in the commercial zone that prohibits it. Manufacturing types of uses are listed in the industrial zones. We already have a conditional use permit in place and this is with regard to whether this should be extended. The FCC regulates cell towers. The towers have to comply with all of their exposure rules and regulations for a specific location. Because of that, we cannot deny a permit for environmental concerns, and health issues fall under that. All of this has been held up by Federal Appeals Courts.

Ms. Thornton said this wasn't fulfilled in the first year and now we're almost six months into another try. At what point do we say uncle?

Mr. Wilkinson noted it's up to the Planning Commission. They've asked for an extension. It's being proposed to be granted for one year, and I'm not sure if Code allows for another request after that.

Chairman Thompson said didn't they ask for the extension within that year?

Ms. Thornton said they had a year and have come back and reapplied, as I understand, because they didn't meet their goal.

Mr. Wilkinson said no, they've applied for an extension. We have a CUP approved now. What's been heard over the course of several months now is a request to extend that.

Ms. Thornton asked if the extension was because no work happened.

Chairman Thompson explained it was because of the change of hands from Alltel to AT&T.

Ms. Thornton noted what she had read about is these typically end up near industrial type situations.

Mr. Wilkinson explained when a provider comes into an area they need to be concerned with health risks and whatever else the FCC requires in an application, which would be extensive, for a specific location. If they need to site a tower in a certain location I'm not sure the local authority can deny that based on a zone. If we deny an application we have to have written record with written evidence justifying that and then it goes to a court of law.

Chairman Thompson explained the reason it's been tabled so long is because a lot of public were concerned about health issues, and the first representative didn't have coverage maps with the information we asked for to address the public's concerns.

Mr. Andreozzi explained this use isn't an entitled use by zone, so that's why we're going through this process. We asked the applicant to verify the need for that location and height, and to consider alternative locations because of public concerns. We can condition this, but we can't necessarily deny this. The FCC won't issue a permit unless there are no health risks.

Ms. Thornton explained the reason she even brought any of this up is they're not even 400' away.

Chairman Thompson noted several people came in from that area.

Mr. Mironas explained every broadcasting tower: TV, radio or cellular, broadcast RF emissions. They all have to be licensed with the FCC, and either meet or be below the exposure limits.

Chairman Thompson asked if it had to be for that specific area when applying.

Mr. Mironas said yes. RF radiation dissipates exponentially. I'm a design engineer and have to do some inspection work on cell towers, and have training with RF energy and the absorption rates. RF energy is a non-ionizing radiation. Radiation in this term means anything that emits, so your light bulb radiates light, a tower that's broadcasting cellular waves is radiating RF energy. Non-ionizing radiation does not damage cellular tissue or DNA, therefore it doesn't cause cancer. RF energy is not completely harmless. There are some dangers that come with high level exposure to RF radiation, and essentially what occurs is the water molecules within the cells begin to vibrate and increase in temperature. If you're a tech or somebody that was exposed to high levels of RF radiation you can actually literally cook from the inside out; your body cannot cool itself fast enough and you end up getting heat stroke and dying. To get these kind of exposure levels is when you're on big TV towers and they're broadcasting at full capacity; levels of like 60,000 watts or higher. Most cellular antennas are broadcasting at between 800-960 megahertz, which is 1,000 watts or below. Cellular antennas' RF exposure limits for workers, which are the OSHA standards, are 3' in front of an antenna or 1' behind an antenna. If you're closer than that you have six minutes. When you go out to 300' directly in line with the antenna you are receiving less than 1% of the FCC allowable limit for civilian exposure. Someone standing 100' away is receiving 1.08% of the allowable limits. You would have to have 90 cell towers right next to each other to generate the exposure limit for the general public at 100'.

Chairman Thompson noted that helps explain that a lot.

Mr. Mironas noted there have not been any conclusive studies by any Federal or independent organization that conclusively states that there are adverse health effects from it; that it causes cancer or anything to that nature. The Federal Telecommunications Act of 1996 is what speaks to the environmental concerns. RF energy is a part of our life. It's in everything we do. When you walk outside there is a tower on top of this building; a two-way radio omni antenna. That's broadcasting RF energy right now. In your home a microwave, television, and wireless router for your internet all broadcast Radio Frequency energy.

Ms. Thornton appreciated the explanations.

Mr. Andreozzi noted the Planning Commission may want to consider a several month extension rather than a year since this has been tabled, and they've essentially already enjoyed an extension.

Mr. Wilkinson read out of Section 3-3-2 (C) (7) of the Communications Act regarding zoning, and said I don't think we would be able to take into consideration the zoning of the property. He then read another portion of the Act regarding environmental effects to stress what he had said earlier. He explained the former City Planner recommended a conditional approval with the eight conditions as listed in his memo dated April 18, 2011, and the Development Department also recommends conditional approval with the eight conditions listed in the memo dated April 25, 2011.

Mr. Mironas asked if the year would start today if not shortened.

Chairman Thompson said yes.

Commissioner Keener wondered if the proposed location was considered for different heights.

Mr. Mironas explained that is done prior to even seeking an application.

Chairman Thompson asked why a taller tower wasn't considered.

Mr. Mironas explained they look at blending into surrounding areas and taller towers are more expensive.

Commissioner Sutherland asked if the applicant was planning on renting out space to other vendors.

Mr. Mironas noted not at this time.

Commissioner Sutherland noted that might cause more concern for the local residents.

Mr. Mironas noted there are structural capacities and they are typically designed from the beginning for a set number of antennas.

Mr. Wilkinson noted the drawings included with the original CUP are what have been approved. That was not a condition on the original conditional use permit either.

Ms. Thornton said if three or four more were to come in their emissions could be higher correct?

Mr. Mironas explained additional carriers would also have to go through the FCC application process under that original license.

Chairman Thompson asked what other types of carriers because they won't let their competitors on there.

Mr. Mironas noted there are circumstances where competitors co-locate. I don't think it was a condition or the plan to have multiple carriers.

**\*\*Motion:** Conditionally approve the extension request for Conditional Use Permit No. 1-10 for one year to begin August 2, 2011, with the following conditions:

1. Conditions No. 1-8 as listed in the memorandum from Ed Wynes, City Planner dated April 18, 2011, stated as follows:
  - 1) That Conditional Use Permit No. 1-10 is approved for the location of a cell tower in accordance with the submitted site plan labeled Exhibit "A".
  - 2) The Conditional Use Permit will expire if not activated (Building Permit issued) within one (1) year of the date of approval.
  - 3) If no building permit is obtained within one (1) year of the date of approval, this permit shall be void and a new CUP application will be required if necessary.
  - 4) The applicants should clear the cell tower with the FAA and the airport.
  - 5) If applicable, the cell tower shall have the capacity to be occupied by more than Alltel (now AT&T), and the State of Nevada antennas.
  - 6) If the cell tower is not in use by Alltel (now AT&T) and any other provider for a period not to exceed one (1) calendar year, the tower shall be removed by the last occupant or user of the tower.
  - 7) There shall be no signs or notices posted on the cell tower.
  - 8) Any excavation to provide utilities between the storage unit and the tower shall be repaired and repaved in the same manner as the parking or driving area surrounding the antenna site.
2. Conditions No. 1-8 as listed in the memorandum from Scott A. Wilkinson, Development Manager dated April 25, 2011, stated as follows:
  - 1) This Memorandum supersedes the Development Department's memorandum dated March 29, 2011.
  - 2) The Conditional Use applies to the lease area only.
  - 3) Consideration for blending the tower into the surrounding environment.
  - 4) Provide documentation supporting the proposed height of the tower as required to achieve area coverage.
  - 5) The applicant files FAA Form 7460-1 and obtains approval for the monopole from the City of Elko Airport Director.
  - 6) Climbing pegs are omitted from the pole.
  - 7) The applicant obtains a building permit within one year from the date of approval and begins construction of the monopole within 18 months of the date of approval.
  - 8) All proposed easements are of record before a final certificate of completion is issued.

Commissioner Keener's findings are this application is in conformance with the Land Use component of the Elko City Master Plan, the Streets and Highways components of the Elko City Master Plan, Section 3-2-3 of the Elko City Zoning Ordinance, Section 3-2-4 of the Elko City Zoning Ordinance, Section 3-2-10B of the Elko City Zoning Ordinance, Section 3-2-17 of the Elko City Zoning Ordinance, Section 3-2-18 of the Elko City Zoning Ordinance and the findings as listed in the memo from Ed Wynes, City Planner dated April 18, 2011, stated as follows:

•The proposed use does conform with the purpose or intent section of the Zoning Ordinance. This project is within a commercially zoned area that is adjacent to a residential zoned area to the

rear of the Chester Plumbing shop property. As such, a CUP is required as stipulated in section 3-2-10B (J).

- The proposed use does conform with the City Master Plan, e.g. Land Use Component and Streets and Highways Component. The proposed location is within a commercially designated area.

- The nature of the proposed use and locational factors do not result in any negative influence or affect on adjoining properties. There is an existing tower on the property which is currently 40 feet high. The proposed cell tower will be more visible due its solid construction and a height of 50 feet, but it should not impact the adjacent residential neighbors. There is currently a small aluminum or steel lattice tower at 2970 Tyler Court that is approximately 20 feet tall. This is a Wireless Beehive internet access site. This site is in the residential area northwest of the proposed cell tower location.

- The location of buildings, parking, and related facilities do not result in any negative influence or affect on adjoining properties. There will be limited parking and related facilities associated with this new antenna location. All of the proposed electronic equipment will be in a storage shed unit in close proximity to the antenna and all cables will be buried from the storage shed unit to the antenna.

- 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. There should be limited vehicular traffic to the antenna site once the construction phase of the project is completed.

- Other factors or conditions influencing location in the particular zoning district do not result in any negative influence or affect on adjoining properties. The properties that back up to the Chester Plumbing property are currently looking into the Nevada State Bank and the Home Depot buildings. The addition of the proposed cell tower should not cause any major problems.

If not required by the FAA, the tower will not be lit, so there may be no problems with a light shining into the residences' windows. There are no good options as to reducing the visual impact of the proposed tower. It cannot be made to look like a tree, a church cross or anything else because any stealth attempt would be out of place in the neighborhood.

**Action:** Conditionally Approve, **Moved by** Reece Keener, **Seconded by** Jose Negrete

**\*\*\* The motion passed with Commissioner Thornton abstaining.**

### **III. NEW BUSINESS**

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

1. Review and consideration of Rezone No. 8-11, filed by Elko Mountain Village, LLC, to consider a change in zoning from PUD (Planned Unit Development) to R (Single Family and Multiple Family Residential). **PUBLIC COMMENT WILL BE TAKEN PRIOR TO ANY PLANNING COMMISSION ACTION: FOR POSSIBLE ACTION**

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 tried getting approval of a site plan for the current PUD zoning, which we changed to as a recommendation from Ed Wynes. Mr. Wilkinson, upon reviewing our plan and proposal, has recommended we go to the R zone. As we understand it, the intent is to use a development agreement and the conditional use permit. To our knowledge we don't have anyone opposing what we're trying to do; in fact, we have quite a bit of support.

Mr. Wilkinson noted the Planning Dept.'s memo recommends you pass a do adopt recommendation on to City Council, and the Development Dept.'s memo recommends you forward a recommendation of approval to City Council with no conditions.

Mr. Andreozzi recommends forwarding a recommendation of approval.

Chairman Thompson noted this fits better.

Mr. Wilkinson said the findings might be that the zoning is in keeping with the Master Plan proposed land use designations for the area.

**\*\*Motion:** Forward a recommendation to City Council to adopt Rezone No. 8-11.

Commissioner Keener's findings are this is in conformance with the Land Use component of the Elko City Master Plan, the Transportation component of the Elko City Master Plan, Section 3-2-5 (E) of the City Zoning Ordinance, Section 3-2-21 of the City Zoning Ordinance and the proposed zoning is consistent with the City Master Plan for the proposed land use designations of the area.

**Action:** Approve, **Moved by** Reece Keener, **Seconded by** Doug Owen

**\*\*\* The motion passed unanimously.**

2. Review and consideration of Preliminary Plat No. 5-11, filed by Elko Mountain Village, LLC, for the development of a subdivision entitled Elko Mountain Village Multifamily Subdivision involving the proposed division of approximately 35.01 acres of property into 81 lots for multiple family residential development. **PUBLIC COMMENT WILL BE TAKEN PRIOR TO ANY PLANNING COMMISSION ACTION: FOR POSSIBLE ACTION**

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).

Mr. Robertson noted the plan is to have 13, 24-plexes and 67 townhomes. Each 24-plex will have its own lot for financing reasons. Each townhome will have its own lot for individual ownership. We would need approval from City Council because we do not meet the design

standards. Based on a preliminary review of staff's comments, there's nothing I see that we can't change or review and appease them prior to the City Council meeting. The apartment complex will be maintained universally by a H.O.A. (Home Owner's Association) along with the townhome lots. However the townhome backyards will be fenced and privately maintained by the individual owners.

Mr. Wilkinson pointed out this is still being called PUD zoning until the R zone is approved, and then went over the Planning Dept. memo. We have a precedent for an agreement to develop land for substandard lots with two other subdivisions. The recommendation is a conditional approval with the two conditions listed. We need to look at legislative action by the State; there may be something that requires us to go to three years on that approval. The Development Dept. memo shows the different phasing based on the PUD application and the subdivision application. The engineer broke that out into more phases because he didn't think that would be very legible. As we move forward we'll need to sort out your actual construction phasing. Bolded comments must be finished before this can go to City Council. We recommend conditional approval with conditions No. 1-3 as listed because number 4 is redundant. The applicant's engineer has contacted me for a little more clarification and I'll get in touch with them. Our City Engineer didn't have a chance to look at the plat, so he may have some additional comment for City Council.

Mr. Andreozzi reiterated the Planning Dept.'s conditions.

Mr. Carson explained there are some reviews still required along with any additional comment from the 2009 International Fire Code or other adopted Codes and Ordinances. We recommend conditional approval.

Mr. Draper didn't have a chance to look at this between taking vacation and time spent on the Idaho Street project. He will review this before it goes to City Council.

Commissioner Keener thanked staff for their thorough review.

**\*\*Motion:** Forward a recommendation of conditional approval for Preliminary Plat No. 5-11 to City Council with the following conditions:

1. Conditions No. 1-2 as listed in the memorandum from the City Planning Department dated July 27, 2011, stated as follows:
  - 1) That the preliminary map approval shall expire unless the sub-divider presents a final map for all or a portion of the subdivision within two (2) years of the date of approval of the preliminary map by the Elko City Council.
  - 2) Conditions as outlined in the Development Department's memo dated July 27, 2011.
2. Conditions No. 1-3 as listed in the memorandum from Scott A. Wilkinson, Development Manager dated July 27, 2011, stated as follows:
  - 1) The Preliminary Plat submittal is revised based on exceptions identified above before the application is presented to the City Council.
  - 2) State of Nevada approval is required.
  - 3) Final Plat civil improvements are to comply with Chapter 3-3 of City Code.

Commissioner Owen's findings are this conforms with the Land Use component of the Elko City Master Plan, the Streets and Highways component of the Elko City Master Plan, Section 3-3 of the Elko City Code, Section 3-2-15 of the Elko City Zoning Ordinance and the findings as listed in the memo from the City Planning Department dated July 27, 2011.

**Action:** Approve, **Moved by** Doug Owen, **Seconded by** Jose Negrete

**\*\*\* The motion passed unanimously.**

Mr. Robertson asked when this will go to City Council.

Mr. Wilkinson explained when all the noted changes are submitted and reviewed by staff, plus we have a notice requirement for the City Council hearing of ten days that will drive that meeting.

Mr. Robertson said if everything was submitted by next Tuesday, then we could make the fourth Tuesday meeting correct?

Ms. Hansen noted the legal notices have to be submitted the meeting before in the morning.

#### **IV. REPORTS**

##### **A. Summary of City Council Actions.**

Mr. Andreozzi noted at the last City Council meeting the PUD (for Elko Mountain Village) was denied, the KLO annexation and rezone was approved, and they upheld your decision on the Uribe appeal. I saw Bob Morley in Mr. Wilkinson's office today, so I think they're brainstorming on some other ways to skin that cat.

##### **B. Summary of Redevelopment Agency Actions.**

Mr. Andreozzi noted the RDA Plan update was adopted.

##### **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.**

Mr. Andreozzi noted Ms. Hansen is in the process of collating the old chapters of the Master Plan that weren't updated, so that it's all in one comprehensive book for everybody. We got two applications for our vacant Planner's position.

Chairman Thompson thanked staff for all their hard work, and officially welcomed Jose Negrete and Greg Thornton to the Planning Commission.

**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. Additionally, the Planning Commission reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any 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