

CITY OF ELKO
PLANNING COMMISSION
REGULAR MEETING MINUTES
6:30 P.M., P.D.S.T., TUESDAY, AUGUST 4, 2009
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The meeting was called to order by Chairperson Jeff Thompson.

ROLL CALL

Present: Jeff Thompson, Reece Keener,
Brent Elmore, Richard Perry

Absent: Doug Owen, John Anderson,
One vacancy

City Staff Present: Ed Wynes, City Planner
Curtis Calder, City Manager
Scott Wilkinson, Development Manager
Mike Hecht, Deputy Fire Chief/Fire Marshal
Ted Schnoor, Building Official
Jim Conner, City Councilman
Kelly Watson, Planning Technician

APPROVAL OF MINUTES: July 7, 2009 – Regular Meeting

****Commissioner Keener moved to approve the Regular Meeting minutes of July 7, 2009, as submitted. Commissioner Elmore seconded the motion and the motion passed unanimously.**

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 comments made at this time.

II. NEW BUSINESS

A. MISCELLANEOUS ITEMS, PETITIONS AND COMMUNICATIONS

1. Review, discussion and possible recommendation of interested parties to be on the selection committee to select a qualified consultant team from the submitted Statements of Qualifications to provide a comprehensive update of the City of Elko Master Plan. **DISCUSSION AND ACTION ITEM. ACTION TO BE IN THE FORM OF A RECOMMENDATION TO THE CITY COUNCIL.**

Mr. Wynes indicated at last month's Planning Commission meeting the S.O.Q. was reviewed and approved. It has been published and there are quite a few people that seem to be interested. We are asking that you forward a recommendation to the City Council of those people you feel should be on the selection committee. He outlined his memo regarding suggestions for inclusion.

Chairman Thompson asked if anyone had submitted their name from City Council or the Redevelopment Agency Advisory Council.

Mr. Wynes suggested indicating each committee would appoint their own representative to serve. One member of the Redevelopment Agency Advisory Council had previously indicated she would be interested.

Chairman Thompson said we wouldn't necessarily have to give names tonight?

Mr. Wynes said the names of City Staff and the member from Planning Commission would be indicated but the other committees could appoint their own representative.

Commissioner Keener asked about the time commitment associated with the selection committee.

Mr. Wynes said we haven't gotten that far yet. This group will be responsible for reviewing the submittals and scoring them. We may ask for an interview and those people would sit on an interview panel.

Commissioner Perry said we need to choose a Planning Commission representative. I would concur with the action of the committees appointing their own representative to participate.

Councilman Conner said I do believe someone from the Parks and Recreation Board should be included because they are very interested in what is going on and they talk about it at their meetings. There is hopefully going to be a component for that so they should be included.

Chairman Thompson asked for volunteers from the Planning Commission to serve on the selection board.

Commissioner Keener volunteered.

****Commissioner Perry moved to forward a recommendation to the City Council that the following members be appointed to the selection committee to select the consulting entity for the City's comprehensive Master Plan update:**

Delmo Andreozzi, Assistant City Manager

Ed Wynes, City Planner

Eric Howes, Parks and Recreation Director

Scott Wilkinson, Development Manager

Reece Keener, Member of the Planning Commission

1 Member from the City Council

1 Member from the Redevelopment Agency Advisory Council

1 Member from the Parks and Recreation Board

Commissioner Elmore seconded the motion.

The motion passed unanimously.

2. Review and consideration of Annexation No. 3-09, filed by Andrew C. Knudsen and Shannon Knudsen involving approximately 14.75 acres of property to include a portion of the right-of-way for Mountain City Highway (SR 225). **ACTION ITEM.**

The subject property is located generally at the southwest corner of Mountain City Highway and Sundance Drive.

Andrew Knudsen, 4980 W. Bullion Road, asked that the application be forwarded to City Council. He met with Mr. Wilkinson earlier regarding subsequent parceling and that being addressed in the recommendation.

Tammy Parker, R & T Farms, Battle Mountain, owner of a lot on Tamarack Road, said our concern is the road going between that parcel and our lot used to be a fire access road and we were wondering if the City had plans of improving that road upon annexation of the property. What is the affect going to be on the nearby lots?

William Garten, 2030 Royal Crest, said my property is directly affected by this and I was wondering about road structures, entrances and exits off of Royal Crest, Tamarack and Mountain City Highway. Is there a set plan and if there is can we see it?

Carolyn Smith, 1975 Royal Crest Drive, asked about the type of future commercial development, road access to residential and commercial properties, water and sewer, status of Tamarack Road such as paving, property tax effects for existing lots in that area and what the amendments to the parcel consist of.

Mr. Wynes gave an overview of the property on a map stating there is an accompanying zone change to make three acres of property in the southwest corner residential and the access would be off Royal Crest. Tamarack would be improved at some point in the future. There would be a dedication along the west side for Cattle Drive to tie into Section 18 and the commercial properties would take access off Mountain City Highway. Water would come in but sewer would not unless the demand is created by commercial development. He reviewed his memo focusing on the findings and said Staff recommends forwarding an approval to City Council.

Commissioner Keener asked where Tamarack Road was.

Mr. Wynes pointed it out mentioning we're asking the applicant to dedicate thirty feet to increase the size of Tamarack Road.

Mr. Wilkinson said we're asking for that adjacent to the proposed RS Zoning. At this point in time we'd be asking for an access and PUD easement for the remainder of Tamarack from the boundary of the proposed RS Zoning to Sundance. Along the County property is County easement and we're not certain if an actual road needs to be developed for the remainder of Tamarack but that would come about as the commercial property develops and we determine the appropriate ingress and egress for that. The Tamarack right of way to be dedicated with the RS zoning would be paved up to the public right of way for Cattle Drive. Currently there is a thirty

foot easement along the City lots for the future development of Tamarack Road to a full road width. That has not been paved at this time and that would be addressed by the City later.

Ms. Parker pointed out her lot and asked if it was going to be annexed into the City then asked if getting water was a possibility or if they would have to annex.

Mr. Wilkinson told her she could petition the City Council to extend water services to a county property but past actions tended toward annexation. He mentioned if approved the cost would be one and a half times the normal rate.

Mr. Garten pointed out his lot and asked for explanation of Tamarack Road again.

Mr. Wilkinson indicated there is a 30' easement on that lot for access and for the future development of Tamarack Road. If a residential lot were to develop across Tamarack Road from you, half of the road will get paid with the residential development. What will be outstanding is your half of Tamarack and the City's responsibility to get that paved at some point in the future. The lot across Royal Crest towards Cattle Drive has the same situation. For traffic circulation we envision Royal Crest will go up Tamarack to a developed Cattle Drive out to the State Route as things develop. Cattle Drive will not be developed with residential development but later with commercial development. Extending Tamarack down past the County property to Sundance is uncertain at this time and we would create an easement for the half of that would be in the City. You have an easement that would have to be converted to public right of way along with the adjacent property owner to be able to complete that half of the road so the City could actually pave it and complete it as a street. There is a lot of history in your packets. The Knudsen's petitioned the City Council for water service outside the City and the result of that meeting was for them to annex into the City to be able to get water service and develop according to our standards. The motion was not passed in that manner it was a denial. Then they petitioned the City Council to find out what the standards might be which was remanded to Staff. This was followed by the annexation application. He referred to his memo and said we are recommending forwarding an approval for annexation to City Council with the ten conditions listed. One of Mr. Knudsen's concerns was if the annexation is approved how we will go about dividing the property. Currently they're looking at creating seven lots; six residential half acre lots, which satisfies State and City Codes with regard to potable water service and septic for sanitary sewer. That will need to go through the Subdivision approval process which takes several months. One other thing would be offering right of way areas with deed of dedication to City Council and at the same time provide a parcel map to the City which would be processed administratively. The deed of dedications would have to be approved by City Council and recorded for the parcel map to be able to show those right of way areas. Then the parcel map can take up to forty-five days. Afterwards they can do subsequent parceling which is allowed by our City Code and State regulations and requires us to take a more extensive review almost like a subdivision, which can also be processed administratively. It would not change the development standards and the timing for public improvements. Mr. Knudsen did ask me if I would consider amending my recommendation to specifically include addressing the subsequent parceling. The Planning Commission and City Council did approve subsequent parceling for the creation of lots with Royal Crest annexation which information I have available.

Chairman Thompson asked if the deed of dedication would be done at the same time as the annexation review by City Council, during the zoning or after.

Mr. Wilkinson said property can be offered for dedication that can go straight to City Council with a document and exhibits but if you show an offer of dedication on a map it has to go to Planning Commission and then the City Council for approval.

Mr. Hecht said parts of Tamarack are gravel only and during the winter there is no access for Fire Department vehicles so secondary access into the new residential lots is a concern.

Mr. Calder said as long as property remains outside of City limits the tax structure won't change. Any property that's annexed into the City would be subject to City property tax on top of the County-wide property tax.

Kelly Balok, 2035 Royal Crest, wanted confirmation his taxes wouldn't be affected and wanted to make sure the access for Tamarack would be split between his property and the Knudsen's.

Mr. Wilkinson said there is currently a thirty foot easement on your property created for the possible future development of Tamarack. That road was not paved at the time of parceling and development of those parcels. If this is approved and residential development goes in they will have to pave another thirty foot on their side for sixty feet total. As they develop they will be paving their half of the road. The fact that the 30 feet on your side was not dedicated as a public right of way and paved at the time was probably due to the fact that there was county property across from you and Cattle Drive is not in existence. In order to finish the full width of Tamarack we would need you to offer that easement to the City as public right of way and then the City will work out how they get that paved.

Mr. Balok said so it'd be thirty feet from my property line because my property extends past where Knudsen's fence-line is. Right now the entire access is inside my property.

Mr. Wilkinson said the fence may be improperly located at this point but we look for thirty foot wide easements from both of you.

Mr. Balok wanted verification on the number of residential lots.

Mr. Wilkinson said the original application contained three residential lots but they discussed six half acre lots with City Staff with the remainder zoned commercial. Immediate plans are for residential development with the commercial happening at some later date. There are no concrete plans at this point for the type of commercial.

Mr. Balok asked if there are minimum requirements for the actual home.

Mr. Wilkinson said that is typically addressed in CC&Rs and I'm not aware of them proposing CC&Rs for this development so it would be based on the zoning which allows stick built or manufactured homes.

Ms. Smith asked if existing owners could opt out or not agree to annex their right of way on Royal Crest.

Mr. Wilkinson said that easement was created for the development of Tamarack, but when that question is asked the property owners have the right to say no.

Ms. Smith asked who drafts CC&Rs because Royal Crest had CC&Rs and now there are \$500,000-\$700,000 homes in there and she wouldn't want modular homes going in three houses away affecting her value. She mentioned when the property was for sale earlier, Mr. Knudsen said the commercial development would be storage units. She was also concerned about Tamarack Road getting developed and accesses for residential and commercial.

Mr. Wilkinson said residential will take access off Royal Crest with Tamarack developed adjacent to the residential acreage but not accessed from Sundance because that was designated as an emergency access when Royal Crest was developed. The easement that exists is a County easement. We are proposing the Knudsens offer an access and public utility and drainage easement for thirty feet on their property in the event Tamarack has to be developed. You couldn't justify that being developed with just residential. As commercial development moves forward it may be necessary for that type of road. That will depend on what type of access will be required for the commercial development. With regard to your statement about mini storages our Planning Department recently determined commercial zoning is not appropriate so he would have to come back for a rezone.

Ms. Smith asked if any of the County history could be obtained or if anyone knew what happened with prior County requests as to why the Knudsens are now requesting annexation.

Mr. Wilkinson gave an overview of recent legislation and county changes regarding development and why the Knudsens are requesting annexation.

Karen Johnson, 1910 Royal Crest, said I would also be concerned about the type of homes they are planning to develop. Is it appropriate to ask if they are going to have CC&Rs?

Chairman Thompson said no, that's not part of the annexation process.

Ms. Johnson asked when that could be addressed or protested.

Chairman Thompson said there will be the rezone and then there will be a public hearing for the subdivision review.

Mr. Wilkinson said that can be addressed during the rezone which will be heard tonight because there may not be a subdivision process due to the small number of lots being created. I'm not sure if they can provide that answer but manufactured homes are allowed in our Code and I don't think we have a zone that requires CC&Rs.

Mr. Wynes said there is nothing in the Subdivision Code or Zoning Ordinance requiring CC&Rs and we can't enforce them. We can not ask for them but if they are voluntarily provided we will accept them. They can say something but if they don't do it we can't tell them they have to do it. That is the homeowner's responsibility of they sign the CC&R's they can say you better live by them.

Ms. Johnson asked if adjacent subdivision owners could do something to make sure their home standards are the same as ours.

Mr. Wynes said no way.

Mr. Knudsen said I've talked to these homeowners in the past about plans and apologize for not bringing them up to date but we are personally trying to build a home on one of those lots. We are trying to be very cautious and aware of what happens with the residential and commercial property because we are also going to be one of the residences there. I believe all of the questions have been answered.

Mr. Balok asked if manufactured homes or stick built will be put in and if they will be the same quality of what's already there.

Mr. Knudsen said to date manufactured homes have not been thought about until you spoke of it and I'm not going to promise anything because I've looked at manufactured homes that can appraise at the same value. There are modular homes in the same area already.

Commissioner Keener asked about the preference on the right of way width because the City's Civil Engineer, Jeremy Draper's memo stated forty foot and Mr. Wilkinson's memo stated thirty foot.

Mr. Wilkinson said I think that was in regards to Cattle Drive. In order to have a ninety degree alignment at the State Route we're going to need that to taper out to a fifty-five foot width which would extend for fifty feet. For Tamarack we would need thirty feet where the proposed RS Zoning is and then we would need a thirty foot wide access and PUD easement from the boundary of the proposed RS zoning to Sundance. We'd also need the property on Sundance dedicated to public right of way.

Commissioner Perry wanted verification on subdividing into six residential lots with the remainder commercial and asked if the intent was to sell for individuals to build on and not for development and then sale.

Mr. Knudsen confirmed it was for individuals to build on and said I'm not a contractor.

Commissioner Perry then asked Mr. Knudsen to point out the understood paving obligations and asked if he envisioned a cul-de-sac or direct Tamarack access.

Mr. Knudsen confirmed direct Tamarack access.

Commissioner Perry asked about the contingency of Cattle Drive based on the commercial development.

Mr. Knudsen said a commercial developer would have to come in right away to have that developed. My intentions right now are the RS zoning so we can get into a home. We don't have any immediate plans for commercial.

Chairman Thompson said your home and residential lots would create somewhat of a buffer from the commercial development.

Mr. Wilkinson said due to the proximity of the commercial to residential zoning a Conditional Use Permit will be required.

Chairman Thompson said which would require notification of all the property owners around.

Commissioner Perry asked if the block of land that is currently County land now becomes an island within the City and if all those lots are on wells.

Mr. Wynes confirmed both.

Mr. Wilkinson requested amending his conditions to include approval of subsequent parceling as a clarification for the Knudsens and cited the wording for the additional condition.

Chairman Thompson verified that would be item number eleven of your conditions.

Mr. Wilkinson indicated State law allowing local jurisdictions to adopt ordinance or code to review a parcel map within a 5 year period and treat it as a subdivision by reviewing all of the criteria, require all of the improvements as you would at the tentative stage of the subdivision process. The City of Elko has included that in our Code.

Commissioner Perry questioned whether conditions nine and ten should go with the rezone rather than the annexation.

Mr. Wilkinson said I would prefer that they're in the annexation because they discuss some of the development standards which were a big concern with the City Council and the Knudsens.

****Commissioner Perry moved to forward a recommendation of approval to City Council for Annexation No. 3-09 subject to the following conditions:**

- 1. Upon annexation the Owner file a parcel map showing dedications for Cattle Drive and Tamarack Drive along with any required public utility and drainage easements. Cattle Drive Right-of-Way is to be 55 feet in width at the intersection with State Route 225, maintain a 55 foot width for 50 feet and then taper to a 40 foot width at the south west corner. Tamarack Drive Right-of-Way is to be 30 feet in width adjacent to the entire residential area. Sundance Drive Right-of-Way is to be not less than 30 feet in width or of sufficient width to maintain the existing alignment. The Tamarack Drive easement is to be 30 feet in width beginning at the east boundary of the residential area to Sundance Drive, or upon annexation, the Owner shall submit appropriate legal descriptions to the City of Elko for above referenced Right-of-Way. The City of Elko will draft the Deed of Dedication documents for submittal to the Elko City Council. Upon acceptance of the Deed of Dedication by the Elko City Council, the City will properly record the documents.**
- 2. The Owners agree to construct that portion of Tamarack Drive to City standards for a local residential classification.**
- 3. The Owner/Developer will install dry sanitary sewer service including a sewer main when residential development occurs.**
- 4. The use of individual sewage systems for the residential development will require State approval.**
- 5. Residential lots have a minimum area of 0.5 acre.**
- 6. Residential lot driveways will be constructed to the City detail developed for RS zoning where curb, gutter and sidewalk will not exist.**

7. **Commercial development may require the extension of sewer mains to the property depending on the type of development.**
8. **All lots within the annexed area will connect to City sewer when required as stipulated in City Code.**
9. **Cattle Drive will be constructed to City standards for a minor arterial classification when commercial development occurs.**
10. **Public Improvements will be completed on the State Route 225 as required when the commercial property develops.**
11. **Approval of subsequent parceling within the stipulated 5 year time frame specified in Section 3-3-60(3) of Elko City Code if no public dedication is shown on the proposed maps.**

Commissioner Perry's findings are the annexation appears to be a logical and orderly growth to the City of Elko and is consistent with future implementation of the Master Plan; the annexation is in substantial compliance with the Land Use component of the Master Plan as the map shows this as high density residential, commercial and low density residential; Section 3-2-4(C) Annexation of Territory to the City of Elko; NRS 268.572 Legislative declaration; NRS 268.646 Factors to be considered in review of proposed annexation; NRS 268.663 Inclusion of county road, state highway or railroad in annexed territory.

Commissioner Keener seconded the motion with similar findings.

The motion passed unanimously.

B. PUBLIC HEARINGS

1. Review and consideration of Rezone No. 4-09, filed by Andrew C. Knudsen and Shannon Knudsen to consider a change in zoning from Elko County AR (Agricultural Residential) to RS (Residential Suburban) for approximately 3.65 acres and C (General Commercial) for approximately 9.34 acres upon acceptance of annexation to the City of Elko. **ACTION ITEM**

The subject property is located generally at the southwest corner of Mountain City Highway and Sundance Drive.

Chairman Thompson asked that all public testimony provided during Annexation No. 3-09 be a part of this item.

Andrew Knudsen, 4980 W. Bullion Road, noted he addressed the concerns of the public during the annexation process.

Janet Eldringhoff, 1983 High Noon Road, questioned if there were no immediate plans for commercial why the Knudsens wouldn't just zone it all RS.

Chairman Thompson said it's up the property owner how they rezone but that property along Mountain City Highway lends itself to commercial better than residential.

Mr. Wynes said one of the questions asked early on was regarding an amendment. The original maps designated the residential suburban as three acres but Staff found the area to be 3.65 acres. The City's Master Plan has this area designated as high density residential, but on two sides it's commercial and on the other two sides is low density residential. Staff is concerned because that goes against planning references. Usually high density residential goes behind commercial property off of a major highway with secondary access. The second thing is whether this application needs to be preceded by a Master Plan amendment. I included a good legal opinion written in 1989 for Nova Horizons vs. Reno City Council as to why it is not required by state law that zoning be the same as the Master Plan, only substantially comply with it. I am indicating very strongly that there is a mistake in the Master Plan for the fact that that is high density and it should be commercial and it will if this zone change goes through part of it will be commercial and the rest of it will be residential which the lower section of that could be considered as low density residential. Staff does recommend approval based on what we have prepared in our Staff report.

Commissioner Perry noted the last update to the Master Plan map shows that parcel having all three of those zones and that's why he quoted that in the motion for annexation.

Mr. Wynes said I think it could be one, two or three of them; it's a conglomerate. It's hard to make a formal determination on which way it would go. That is why the Master Plan is a master plan it's not hard and fast. You can move lines around; that is why if you design a master plan you don't use property lines, you use bubbles so you can move things around to fit the development potential. You want to put your zoning in between streets so those maps could allow this type of development to work out appropriately in that area.

Mr. Wilkinson said we support the proposed zones and we support a recommendation to City Council to adopt the proposed zones.

Mr. Hecht noted based on the annexation conditions, at the end of the residential lots the Knudsens would need to build the secondary access through Tamarack up to standard. The Fire Department will push for an all-weather twenty foot width from the residential to Sundance for a secondary access if annexed in.

Mr. Knudsen said from what I know Tamarack already is a secondary access for the development on Royal Crest.

Mr. Hecht said it is but it's not brought up to our standards as an accessible road during the winter for the Fire Department. You are adding an additional subdivision. The County owned it before so we could not require the developers of Royal Crest put in gravel any further than their development because it was County on both sides of the road. With annexation we would like that improved for access if something happened at the intersection of Royal Crest and Sundance.

Mr. Wilkinson asked if it would be possible to beef up existing County road portion of Tamarack to use as a sufficient secondary access since it's partially graveled. The road that accesses the existing three homes now is insufficient for the Fire Department's truck access and as you develop the residential they will require a graveled road to be extended from the edge of your pavement to Sundance. Another alternative might be to bring the other road up to the standard for secondary access.

Mr. Knudsen questioned whether the City would maintain Tamarack if it was developed to an all weather road.

Mr. Wilkinson indicated my impression was that the road was sufficiently developed for a secondary access but the Fire Department has indicated that might be substandard and will need the access easement to be developed to a gravel road. Another possibility may be to take a look at the existing road and make improvements to provide the secondary access for the potential development and the Royal Crest area.

Mr. Hecht said County might be willing to help out with improvements since part of it is theirs.

Kelly Balok, 2035 Royal Crest, noted in the winter even four-wheel drive vehicles can't get through Tamarack because the County doesn't maintain it. He also noted that Royal Crest is not maintained by the City but a resident does for the residences during the winter.

****Commissioner Keener moved to forward a recommendation of approval to the City Council for Rezone No. 4-09.**

Commissioner Keener's findings are the rezone is consistent with zoning on the Mountain City Highway corridor, the Streets and Highways component of the Elko City Master Plan, Section 3-2-21, Section 3-2-10 and Section 3-2-5.

Commissioner Perry seconded the motion.

The motion passed unanimously.

2. Review and consideration of Conditional Use Permit No. 5-09 filed by Alfredo Nunez to consider an extension, enlargement and/or change of a nonconforming use consisting of the construction of a roof connecting the existing garage and residence in connection with a residential use in a GI (General Industrial) zoning district.
ACTION ITEM.

The subject property is located generally on the northwest side of Douglas Street 100' west of Second Street (149 Douglas Street).

Mr. Wynes said this problem was found by the Building Official as noted in his comments so the applicants came in seeking a remedy. Based on the zoning the only option was to get a conditional use as stipulated in Section 3-2-19, Non-Conforming Uses. In looking at this further we could recommend approval but we had a major problem that has not been resolved. Staff is recommending approval of this application based on the findings and conditions outlined in my memo. The rationale behind condition one is if we take the garage out of the equation then we're not worried about setbacks which is the major problem. The Building Official has indicated the garage is a non-rated building and it would probably be impossible to get it to be a structure that would be fire resistant.

Mr. Wilkinson said the real issue with this project is the minimum setback of three feet required under the I.B.C. We're recommending approval of Conditional Use Permit No. 5-09 based on the conditions in my memo.

Mr. Schnoor said I was doing an inspection on the adjacent property with some fire damage and noticed there was some extensive construction going on. My main concern was the storage building is made out of old railroad ties which have no fire resistance in fact they are an accelerant. There are certain firewalls and/or assemblies that can provide the rating that is required for the proximity of that building to the property. However, I would like to see a survey to make sure the thirteen inch separation is accurate. My concern is threat of fire because there is another accessory structure on the adjacent property which is only about thirty inches away from this building. If the applicant has room to construct the proper fire assembly and not intrude upon the adjacent property then this can go through with the proper plans and permits and meet the minimum requirements of our code.

Commissioner Perry asked if this is issued with a condition to require the applicant to obtain required building permits then what you have stated will suffice for minimum standards.

Mr. Schnoor said if he has the room to be able to do the proper construction without intruding upon the adjacent property and can verify that. He has another step and that is proper plans, permits and verification of the conditions that actually exist on site.

Commissioner Keener asked in order to receive the required permits the structure would need some type of fire rating.

Mr. Schnoor said there needs to be an assembly which is defined as construction of a wall that provides fire protection. The Code doesn't just specify it needs to protect the outside but also protect fire from inside the structure so that both properties are somewhat protected from one another. That's possible to do if he has the room which is why he needs to verify the property line.

Mr. Hecht said we're looking to make sure the addition on the side of the building isn't going to encroach on the next property.

Mr. Wilkinson said if you are built right on that property line than you can talk to your neighbor about acquiring a portion of their property if there's room between their buildings and your buildings to accomplish this.

Mr. Wynes asked that his first condition be struck because it's in conflict with the intention of the Building and Development Departments.

****Commissioner Perry moved to conditionally approve Conditional Use Permit No. 5-09 with the following five conditions:**

- 1. This Conditional Use Permit will expire within one (1) year if no building permit is activated within that time period for the construction of the roof.**
- 2. If the applicant seeks to make other additions or modifications to the buildings on the property in the future, he will have to seek a new Conditional Use Permit before any building permit will be issued.**
- 3. The applicant is to verify that the storage building is not constructed on the property line allowing for the possible construction of an exterior fire wall without encroachment onto the adjacent property.**
- 4. Provide evidence that no type of easement exists along the side lot lines of the property.**

5. The applicant is able to obtain the required building permits from the City of Elko.

Commission Perry's findings are the proposed use conforms with the purpose or intent section of the zoning ordinance, the City Master Plan, the nature of the proposed use and location factors do not result in any negative influence or affect on adjoining properties, the location of buildings, parking and related facilities do not result in any negative influence or affect on adjoining properties, and Section 3-2-18 of the City Zoning Ordinance (Conditional Use Permit Procedures).

Commissioner Keener seconded the motion with similar findings.

The motion passed unanimously.

After the vote, Commissioner Perry noted this is the second one of these conditional use permits down in that area and everything is residential but is zoned GI. This is an area of the Master Plan that should be looked at and possibly updated.

3. Review and consideration of Variance No. 3-09, filed by Isabel Castro for a reduction of the required front yard setback from fifteen feet (15') to four feet (4') and the interior side yard setback from five and one-half feet (5 ½') to two feet (2') in an RMH2 Zoning District, in connection with the placement of an existing carport. **ACTION ITEM.**

The subject property is located generally on the north side of Bullion Road approximately 250' east of Errecart Boulevard (410 Bullion Road).

Bertha Gonzalez, representing Isabel Castro, said he is asking you to pass the carport. He wasn't aware he needed to get permits for that. He originally put the mobile home on the foundation and wasn't planning on putting a carport in there, so he just bought one and didn't leave enough space on the property to put the two-car carport in there. He doesn't have room anywhere else on the property to put the carport because if he moves it to the other side of the driveway he will be blocking the Fire Department because there is a fire hydrant.

Mr. Wynes noted Staff recommends approval with the two conditions listed in his memo.

Mr. Wilkinson noted there was some background information provided in his memo. One of the things looked at was vehicular access along one side of the property with possible relocation to the backyard but they do have a developed backyard and that entire property is in a FEMA floodplain. One concern is the height of the structure creates sight issues with certain types of vehicles. Development is recommending conditional approval of the variance with the conditions listed in his memo.

Mr. Schnoor noted they're showing two foot setbacks on the side property line and they need to move that over to three foot sideyard setbacks for Building Code.

Mr. Hecht questioned the easement and location of the hydrant.

Mr. Wilkinson said the hydrant's on the opposite corner of the carport so that won't be an issue.

Mr. Hecht asked if the variance was for the whole lot or just the carport area.

Mr. Wilkinson noted it was just the carport area.

Commissioner Keener asked about the condition numbers from Mr. Wilkinson's memo.

Mr. Wilkinson noted it was just a typo and should be one and two.

Commissioner Keener indicated the Building Official indicated the sideyard setback would need to be increased to three feet and what Mr. Wilkinson's thoughts were on increasing the side yard setback to three feet because it wasn't in his memo.

Mr. Wilkinson said he wasn't sure if that was required because the carport is open-sided.

Mr. Schnoor noted it is and Mr. Wynes has it in his conditions.

Mr. Wilkinson said to be clear for the applicant, in order to get a building permit they need to pick this up and move it over one foot.

Ms. Gonzalez asked over one foot from the sidewalk inside the property?

Ms. Watson clarified from the side not the front.

Commissioner Perry said it looks like the conditions Mr. Wynes and Mr. Wilkinson have are the same.

****Commissioner Keener moved to conditionally approve Variance No. 3-09 subject to the following conditions:**

- 1. The variance is granted for the reduction of the required interior side yard setback from five and one half (5 ½) feet to three (3) feet on the east side of the property and the required front yard setback from fifteen (15) feet down to four (4) feet as shown on site plan labeled Exhibit "A".**
- 2. A building permit must be obtained for the work to be started; said permit must be obtained within 12 months of the date of final approval of this application.**
- 3. The property owner is able to obtain the required approvals and permits for the structure from the City of Elko.**
- 4. The variance is granted for a time period of one-year to be consistent with 3-2-22(5).**

Commissioner Keener's findings are there are some practical difficulties which create hardships for the property owner including the fire hydrant position and the floodplain designation. The variance is consistent with the Streets and Highways component of the City Master Plan; Chapter 3-5 Mobile Home Parks, Mobile Home, Manufactured Home Subdivisions and Recreational Vehicle Parks; Section 3-2-5E(G) of the Elko Zoning Ordinance (Standards for Accessory Buildings) and Section 3-2-22 of the Elko City Code. The property is characterized by a specific circumstance or feature. There is a fire hydrant in the front left corner of the property adjacent to the city street that would make it hard to drive into the proposed parking area on the right side of the living unit. The unique feature does result in practical difficulty or hardship. The fire hydrant would cause a problem with free access into the property along the right side of the living unit. The circumstance is

unique and does not generally apply to other properties in the area or vicinity. It is not common to see a fire hydrant in the driveway of a residential property. Granting of the variance will not adversely affect other properties or affect public interest, health, safety or welfare, sight distance, visibility, size, height, mass of structure. The carport is open on all four sides so there are no sight problems or other type of problems. Granting of the variance will not impair the purpose and intent of the Code. The front setback requirement will not be impacted by placing the unit in the front setback area. Granting of the variance will not affect natural resources in the surrounding area.

Commissioner Elmore seconded the motion with similar findings.

The motion passed unanimously.

III. REPORTS

A. Summary of City Council Actions.

Mr. Wynes noted the rezone on Alta Vista was tabled until August 25, 2009.

B. Summary of Redevelopment Agency Actions.

Mr. Wynes noted there was discussion on overlay zoning and there are comments going back to them August 13, 2009, which may end up before the Planning Commission for your review.

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.

Chairman Thompson asked if it was appropriate to state that the variances meet all the criteria listed in the memo or should we read each one.

Mr. Wynes noted it was appropriate if you agree with all the findings.

G. Staff.

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.

IV. ADJOURNMENT

There being no further business, the meeting was adjourned.

Jeff Thompson, Chairperson

Reece Keener, Secretary