



Elko County Planning Commission

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ELKO COUNTY PLANNING COMMISSION MINUTES

THURSDAY, NOVEMBER 17, 2011

5:15 P.M. CALL TO ORDER:

Chairman Judd called the meeting of the Elko County Planning Commission to order at 5:16 PM on November 17, 2011, in suite 102 of the Nannini Administration Building, Elko, Nevada.

Members Present: Mike Judd, Chairman
 Dena Hartley, Vice Chairman
 Jack D. Larason
 David A. Galyen
 David Hough
 Richard Genseal
 Wilde Brough

Absent : None

Others Present: John Kingwell, Associate Planner
 Eleanor O'Donnell, Planning & Zoning Administrator
 Kristin McQueary, District Attorney's Office

PLEDGE OF ALLEGIANCE:

Allegiance was pledged.

COMMENTS BY THE GENERAL PUBLIC:

There were no comments.

CONSENT AGENDA:

No items

PRELIMINARY HEARINGS:

There were no preliminary hearings.

Interpretation of ECC 4-2-2 (H), ECC 4-2-3 (H), ECC 4-2-5 (I), 4-2-6 (I) in reference to the keeping of domestic animals not specifically listed

A public hearing for an interpretation to allow for the keeping of swine, goats & rabbits for hobby or family use in the residential districts on parcels with a minimum of 1 acre.

Letters of support were read into the record by John Kingwell.

November 15, 2011

To: Elko County Planning Commission

My name is Gus Paoli. I have been a member of the Adobe Summit 4-H Club for the past nine years and the Ruby Mountain FFA Chapter for the past four years. I am not able to attend the meeting tonight because I am in Corvallis, Oregon visiting Oregon State University. I would like to go on record as supporting changing the zoning ordinance for Agricultural-Residential Districts to allow goats, rabbits, and swine.

I have raised market hogs for FFA for four years and rabbits for 4-H for seven years and I was not aware of the zoning rules in Elko County that do not permit goats, rabbits, or swine. There are a lot of other 4-H and FFA members like myself that do not realize they are breaking the zoning rules by raising these animals. I feel that the rules should be enforced, or they should be changed so that Elko County residents (youth and adults) are not inadvertently breaking the law.

The skills that I have learned from 4-H and FFA animal projects will help me in my later life. I have learned caregiving skills, leadership, and responsibility. I hope this zoning regulation can be changed to permit goats, rabbits, and swine so that future generations of 4-H and FFA members can continue to enjoy raising animals.

Thank you for your consideration of this matter.

Sincerely,

Gus Paoli
372 Mountain City Hwy, #7
Elko, NV 89801



November 15, 2011

To: Elko County Planning Commission

I apologize for not being at tonight's meeting, but I am in Oregon with my son visiting colleges. My name is Margaret Paoli and I am the General Leader for the Adobe Summit 4-H Club. I would like to go on record as supporting the changes to the zoning ordinance for Agricultural-Residential Districts to allow goats, rabbit, and swine.

I have been a 4-H club leader for many years and my children have been active in both 4-H and FFA. I was surprised to learn this summer that the zoning ordinances for Agricultural-Residential Districts in Elko County allow a "reasonable number of horses, sheep, cows, or fowl per one acre" but not goats, rabbits, or swine. As a parent of children who have raised market hogs and market rabbits, it never occurred to me to check the zoning regulations. Now that I know how the zoning ordinance reads, as a 4-H leader, I cannot just look the other way and ignore it. I feel that I have a responsibility to the members of my club to inform them of the current zoning ordinances and to let them know that certain species of animals are not permitted.

4-H and FFA are incredible youth organizations that help prepare our youth to be tomorrow's leaders. The skills that they learn from animal projects are invaluable. Raising an animal can be a lot of fun, but it is also a lot of hard work and requires commitment. The skills that the 4-H or FFA member learns from their animal project or market project will help them to become a more responsible person. Elko County 4-H members do not just jump into a market project their first year. Before being eligible to sell an animal at the Elko County 4-H Auction, the 4-H member must complete two years of a breeding project in the species that they want to sell.

I would encourage the Elko County Planning Commission to approve the recommendation to include goats, rabbits, and swine as permitted animals in Agricultural-Residential Districts. 4-H and FFA promotes agricultural education through hand-on experiences. These experiences are important if Elko County wants the youth to be future agriculture leaders.

Thank you for your time.

Sincerely,

Margaret Paoli
372 Mountain City Hwy, #7
Elko, NV 89801

Staff report was read into the record.

Agricultural Residential Districts (AR), (AR-CRD-1), (AR-CRD-2), & Special Lands (SL)

The Agricultural-Residential District is intended to provide areas primarily for rural or estate-type living, but allowing certain "hobby and/or recreation" agricultural pursuits to be maintained on land parcels of at least one acre.

Maintenance of Animals: The permanent maintenance of not more than a reasonable number of horses, sheep, cows or fowl per one acre and on a lot occupied by a dwelling shall be a permitted accessory use so long as such maintenance is for hobby or family use only and is in no way a full-time commercial operation. Animals other than those designated shall require Planning Commission approval. The following limitations shall apply:

1. No accessory building used as a stable for any animals shall be located less than thirty-five feet (35') from any dwelling or less than twenty feet (20') from any lot line, or less than sixty feet (60') from any front lot line, any school grounds or any public park or open space.

2. No paddock or other open space set off for use by horses shall occupy any part of a required front yard, or sheds, corrals or barns for any other animals. (Ord. 1975-A, 3-5-75, eff. 4-1-75)

The above is common in all of these districts.

Recommendations and Conditions:

Staff believes that a policy generated by the Elko County Planning Commission allowing FHA, 4H, and similar groups geared towards children promotes agriculture through hands on education and is beneficial to Elko County in promoting future agricultural development.

Staff also believes that domestic goats and rabbits should be allowed for hobby and family use only (includes 4H, FHA, and Similar), and is in no way a full-time commercial operation.

Reasons:

Rabbits and goats for hobby & family use are no more detrimental than the animals listed in the “Maintenance of Animals” portion of the code and are governed by a “reasonable number”.

2. On parcels less than 10 acres, a limit of 2 swine should be established and restricted to FHA, 4H, and similar groups geared towards children.

Reasons:

The Agricultural Residential Districts (AR), (AR-CRD-1), (AR-CRD-2), & Special Lands (SL) districts are residential in nature. The raising of animals for hobby and family use is an ancillary use that is restricted to certain animal’s suitable to be located nearer to residences. You will note in the code that there are setbacks for the keeping of animals from structures and property lines.

The number of swine would be self limiting by the numbers of the members of these organizations wanting to raise swine.

A breeding pair produces approximately 8-14 piglets. Breeding projects should be limited to Open Space parcels which are agricultural in nature.

Swine need a wallow during the warm months to maintain body temperature. A wallow will have a strong odor due to animal waste and would not be conducive in a neighborhood with parcels (1-10 acres).

Swine reach market size in about 16 weeks.

Swine if kept as pets can grow very large 600-700 lbs+. The strength of the animal to break through fences as it becomes larger can create a danger to children in the residential area.

Escape of animals could be destructive to other property due to rooting.

Public comment

Allie Mendez – Lamoille 4-H & Silver Sage FFA member - she raises pigs and rabbits. Discussed the limit on the number of pigs allowed. She had a pig die before market last year and raised a back up just in case and so was able to finish out her project. The family has 3 members and would each like to have a pig with a back up. They get their pigs in March and are sold around the first week in August, which limits the odor. It should be up to the FFA member to keep their animal’s pen clean. She lives on 4-1/2 acres in the Spring Creek Housing 100 section.

Makenna Johnson – Lamoille 4-H and Silver sage FFA member- described the benefits of raising animals. Teaching responsibility and raising money for college. Wallows for swine are not needed if the animals have enough shade to keep them cool, which keeps the odor down. She lived on about 4 acres in the Spring Creek Housing section.

Annika Tingey - Clover Point 4-H club. She raises breeding and market goats and would like to encourage the expansion of the definition of the Agricultural Residential districts ordinance to include goats, rabbits, llamas an alpacas. By raising goats, she has learned responsibility for feeding, watering and caring for them.

Stephen Nameth- Ruby Mtn. FFA member and former Big E 4-H- lives on 2 ½ acres in Kittridge Canyon.

He has raised cows, sheep and pigs over the past years. He has asked his neighbors if they have had any complaints about his animals or any smell. They have not had any concerns. Raising animals teaches responsibility of taking care of animals and exactly where food comes from and how it has been raised. He believes there should not be a limit as long as you are not causing any kind of disturbance.

Casey Dack- Ruby Mountain FFA member – lives on Rockland Drive on 2 ½ acres. She read a letter from her neighbor on the situation and what they thought. There was no concerns with the swine next door, they were well cared for and caused no inconvenience to the neighbors at all. Animals are raised for show & market, they are pets. She raised 2 pigs the first year and 3 last year, but one died.
Commissioner Brough – less than 1% of the US population is in agriculture.

November 16, 2011

RE: FFA Pig Raising Project – Three pigs per 10 Acres

To Whom It May Concern:

We are neighbors of Casey Dack and live just off Rockland Drive. Casey is an FFA member and has raised pigs in her backyard for an FFA project for the last two years. They built the pigs a nice enclosed pen with a shelter. We have never felt endangered by the animals or had concern to be. We have not been inconvenienced or bothered by the project in anyway. The pigs have been well cared for and we have not had a problem with a smell from the pig enclosure. Casey is a very responsible youth and has done a very good job in keeping the pen clean and presentable.

The FFA project is a very good learning experience for the kids. It teaches them responsibility and the importance of caring for animals along with the need to be a good business person.

Sincerely,



Gordon Miller



Lucy Miller

Marcus Auge – ERO 4-H - He raises goats for meat and dairy production on 2 acres in Ryndon. You need to have more than two to be productive. The goats need to be in an enclosure and are more like pets, they follow him around like dogs.

Commissioner Galyen- how many is enough?

Marcus Auge – at least 3, one to breed and a back up pair.

Mr. Kingwell- How common is it to lose and animal? How many do you lose on average per year out of 10 head herd?

Marcus Auge – probably about 2-3 out of 10, depending on the animals, shelter and the weather. Last year

his goat had quadruplets and only 1 survived.

Commissioner Larason- If you raise goats to breed and meat at least 3 but 4 to 5 to be productive.

Commissioner Genseal- how many goats would it take to compare to six horses?

Marcus Auge – goats are one of the cleanest animals, except for the bucks. He does not think horses would smell that bad and neither would goats if well cared for.

Commissioner Genseal- that is the point, if 5 horses are allowed on 2 ½ acres what would be the difference between having horses or goats, as long as they are taken care of properly.

Allie Mendez- to lose a pig is more common than most other animals. The number of animals allowed should be between the advisors, the member, and their family, with the advisors and leaders discretion.

Raney Guifarro (Elko County 4-H coordinator) - there are 42 kids in the goat breeding projects in Elko County, over 100 rabbit breeding projects. She did not have a specific number of how many animals. Pigs are not a large project for 4-H so she did not have any information on them. Pigs are allowed but they are not allowed to show them at the fair.

Commissioner Genseal – in a normal project how many goats or pigs does the average 4-H'er have?

Ms. Guifarro – goats can start with one and quite often have triplets or quads. Triplets often all survive so the number would be up to four goats in 1 year for a breeding project. There is usually a breeding project along with a market project.

Commissioner Genseal – to have a market project and dairy project there could be up to 8-10 animals.

How large of an area does a goat need?

Ms. Guifarro – not very much at all, usually they are in a pen no larger than this room. Several goats would fit in that with no issues.

Commissioner Galyen – should the leaders/coordinator control the number of animals allowed in the projects? Is it the leader's job to limit the number?

Ms. Guifarro – no, that is not her job, she has found that most parents limit the size of the project. It is the member's responsibility to take of the animals and they usually realize when the number is too many.

Ms. McQueary – what is the cost of a typical project, including feed, vet, and misc cost?

Ms. Guifarro – that would be dependent on each project. Rabbits have a lower cost compared to larger animals. The cost would vary significantly year to year.

Commissioner Galyen – do the members raise enough money to recoup their investment?

Ms. Guifarro – usually yes, the prices at the fair auction are very good and most of the members are able to put money away for college. 4-H is the "Evolution of Responsibility".

Commissioner Wilde – are there requirements on the kids when they take breeding and market projects? Do they have to do other projects or is there just a variety of projects to choose from.

Ms. Guifarro- Elko County is set up as community clubs, not project clubs, so that a member can take several different types of projects within one club. There is an 80% requirement for participating in the clubs activities every year, so that they are involved and learning as much as they can from the projects. They are required to have 2 years of a breeding project before they can sell that type of animal. They can sell an animal for 5 years- 4 in any one type of animal. In order to sell for 5 years they must take 2 years of a breeding project in a different type of animal before they can sell. For example: they can sell 4 years of beef and 1 year of lamb, with 2 years of a breeding project for each type of animal.

Commissioner Genseal – asked Ms. McQueary if there are any types of permits or fanciers that would cover the breeding aspect of this?

Ms. McQueary – (disclosed she is a parent of 4-H kids) There really is not anything in the County to cover this. There is a new law on the books being looked at concerning domestic pet commercial breeding that is in the works, for dogs and cats. Most of the livestock in Elko County is handled on traditional ranches, but there is not just 4-H or FFA members but also families that raise livestock for meat throughout the county.

Parents reign in the number due to the feed costs, which can be a substantial. There is a substantial financial commitment to care for these animals.

Mr. Kingwell- we already allow sheep at a reasonable number. Is there any detriment to keeping goats compared to sheep?

Ms. Guifarro – there is not a whole lot of difference.

Mr. Kingwell – what about the difference from keeping rabbits compared to poultry?

Ms. Guifarro – rabbits are much cleaner.

Commissioner Larason – are kids able get with other kids in their group to help raise the animals on their place if the kids live in apartments, for example?

Ms. Guifarro – there are a few but with the 2 year breeding rule it is less likely for it to happen in this county, but it does happen.

Commissioner Larason – the point being that it would be easy to exceed the number of allowed animals in this type of situation.

Trent Coates – Ag teacher, Ruby Mt FFA advisor – the number of animals is depending on what type of animals. The market pigs are an example of the issue just mentioned where multiple projects may be housed at one members place. Casey Dack has been helping other kids and had two of her own project about 4-5 pigs total that she housed at her place. They had an agreement written out stating each student's responsibilities for those pigs. These projects are supervised agricultural experiences (SAE) the scholarships through the FFA organization are substantial and are directly related to the SAE's. The FFA advisors can be responsible for advising on the number of animals that would be appropriate. The conditions of the animals along with the living conditions are considered when allowing members to take their animals to the show or market.

Misconception on the smell and the facilities needed to keep swine. If fed a healthy diet of grain the smell is not much more than goats, the wallows are discouraged because they are a higher risk for disease with standing water in the pens instead adequate shade, ventilation and a misting system for hot days is recommended. Breeding sow 8-14 piglets one sow can have three litters per year. Selling weaner pigs would not increase the number as much as raising them from farrow to finish. Most of these projects in this area are mostly market not breeding. These animals that are raised for consumption and sale at the FFA sale and personal consumption would not reach the high numbers at all. On a breeding project of swine, it would be hard to achieve their goals on these smaller acre lots just because of the facility restrictions let alone animal restrictions in the county.

Mr. Kingwell – would a 1 acre parcel be a proper size to have a couple sows and raise litters of pigs, for hobby & family use only, not for profit?

Mr. Coates – breeding would be difficult on a small acreage lot if raising farrow to finish, but a litter selling as 2-3 week old piglets (weaners) it would be sufficient for 2-3 possibly up to 4 sows.

Commissioner Larason – limits can be maintained by controlling when the sow breeds again and therefore not having multiple litters per year.

Public comments closed.

Commissioner Hough – recommends to strike the words horse and sheep, cows, or fowl and insert domesticated animals. It would cover a wide variety of animals.

Mr. Kingwell – domesticated animals would also include dogs & cats, so we would have to exclude those since there are laws on the books concerning kennels. Possibly agricultural domestic animals would work.

Commissioner Larason – we should not regulate this so tightly to create a problem for the county.

Kristin – NRS 205.219 defined livestock list for criminal law.

- all cattle or animals of the bovine species;
- all horses, mules, burros and assess or animals of the equine species;

- all swine or animals of the porcine species;
- all goats or animals of the caprine species;
- sheep or animals of the ovine species.

Commissioner Judd – recommends adopting with no numbers.

Mr. Kingwell – if we are considering different species, it would be prudent to do more research into possible problems. Are we talking about just 4-H & FFA?

Commissioner Hough- hobby and family use obviously includes 4-H and FFA.

Discussion followed on types of domesticated animals.

Commissioner Larason – if we fail to mention all the animals, could a provision be made to approach the county with an animal not mentioned without going through the permitting process.

Commissioner Genseal – is there any information on complaints as far as the smell of livestock.

Mr. Kingwell – we get complaints all the time, about the smell or amount of flies. The issue is more of how the animal is taken care of than the number of animals; you cannot regulate someone's care or cleanliness. That is why the staff recommendation is to limit the number of swine in residential areas, however in other agricultural areas and ranches on larger parcels, there shouldn't be a problem.

Commissioner Genseal – do we punish these kids that are taking care of their animals and treating them like pets with no complaints from their neighbors vs. the person who doesn't take care of their animals and causes problems with the neighbors? It is going to have to be taken care of on a case by case basis.

Commissioner Hartley - this not about punishing these kid but setting a standard.

Mr. Kingwell – It probably won't be these kids that will cause problems but how do we say FFA & 4-H members can do this and not just a property owner. Somewhere there has to be a line drawn either a farm or a residence. A residential property with hobby agricultural uses family use.

Chairman Judd left the meeting 6:30:48 PM. Commissioner Hartley led the meeting.

Commissioner Galyen – what is staff looking for?

Mr. Kingwell- we are looking for an interpretation to allow for these uses. An interpretation is not part of the code it is more like a policy.

Commissioner Hough – would like a month to think on this and write up a few suggestions.

Commissioner Brough – are we looking for what is appropriate for a minimum of 1 acre or less?

Mr. Kingwell – residential parcels (1 – 10 acres)

Commissioner Judd returned to the meeting and resumed the chair. 6:33:36 PM

Commissioner Hough – there is always going to be someone who is going to push the limit, but these kids are being supervised, it is an educational project.

Mr. Kingwell – there is the option to go forward for 4-H & FFA and like organizations and come back at a later time to fix the county code so it fits everyone, which would give an interpretation to allow these projects to continue.

Commissioner Hough – we are talking about a supervised project.

Chairman Judd - what number are we going to give it, how many swine?

Discussion followed on a reasonable number for acreage or per individual.

Commissioner Hartley – there is a problem with the large pigs that may have several litters per year.

Chairman Judd – from what we have heard the FFA members don't keep the pigs very long they are market animals and kept for only a few months.

6:41:32 PM FTR interruption

INTREPRETATION MOTION: Commissioner Galyen made a motion to interpret the Elko County Code 4-2-2 (H), 4-2-3 (H), 4-2-5 (I), 4-2-6 (I) to include a reasonable number of domestic animals for FFA, 4-H and similar groups geared toward children, seconded Commissioner Hough.

Motion carried unanimously.

Discussion followed

Ms. McQueary – County Code 4-9-2 Whenever there is a doubt as to the district classification of a use not listed in this Title, the Planning Commission shall thereupon make such investigations as are necessary to compare the characteristics of the use in question with those of the listed uses in the various districts. If the use is found to be, in all essentials, pertinent to the intent of this Title, of the same character as a permitted or as a conditional use in any district or districts, the Commission shall so determine. The determination shall be a public record.

This is a stopgap measure, such as this interpretation, is this use similar enough to the permitted uses of cows, sheep and horses to be treated the same. It seems like the only issue is with pigs at this point.

VOTE:

AYE:	Mike Judd Dena Hartley Jack D. Larason David A. Galyen David Hough Richard Genseal Wilde Brough
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NAY:	None
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ABSENT:

ABSTENTIONS:

6:44:43 PM – Recess 5 minute break

6:50:25 PM Meeting reconvened.

Microphones were mistakenly muted until 6:51.20 PM approximately 1 minute.

Chairman Judd (during this time) suggested revisiting this issue at a later time to expand what we voted on this evening.

4-H Wind Experience Presentation

Some of the presenters had to leave due to the late hour.

Ranay Guifarro 4-H coordinator & Torria Petrie gave a presentation on the 4-H Scientific Wind Experience. Torria Petrie explained the project concerning the wind turbines. Including the points: different types of windmill styles and blades, the number and pitch of the blades, and how this affects the efficiency of the wind turbine energy generation

Ms. McQueary - How many children were involved in the Wind Turbine project?

Ms. Guifarro – the project was held over 2 Mondays at the Adobe Middle School with the Science Club; there were 18 kids involved in the project this year.

PUBLIC HEARINGS:

#11-2000-0006, Jordanelle Third Mortgage, LLC.

A public hearing for a change of zoning from Open Space to Agricultural/Residential for the residential development of single family lots with a minimum parcel size of 1.0 acre. A parcel of land containing 234.80 acres within the S1/2 NE1/4, SE1/4 of Section 28, Township 34 North, Range 55 East, MDB&M. The applicant and owner is Jordanelle Third Mortgage, LLC.

Commissioner Hartley made a disclosure she had a couple meetings in the last few weeks with a builder she represents but those meetings will in no way affect her vote.

Ms. McQueary - questioned the connection.

Commissioner Hartley – as a real estate agent she could eventually sell houses in this area on equal footing with all other real estate agents.

Ms. McQueary - asked if she would disclose if this relationship becomes closer as this issue moves forward and maybe abstain in the future.

Staff report was read.

**STAFF REPORT #11-2000-0007
ZONE CHANGE**

PLANNING COMMISSION MEETING DATE: November 17, 2011

1. APPLICATION: A request for a change of zoning from Agricultural/Residential to Commercial-1 to correct the existing zoning for the established use of water utilities infrastructure including water storage tanks, buildings and associated uses as allowed within the Commercial-1 district for the Spring Creek Utilities Co.

2. LOCATION: Spring Creek Subdivision, Tract 103, Lot 33, Block 3, located in Section 13, Township 33 North, Range 56 East, M.D.B.&M. The physical address is 391 Blakeland Drive in Spring Creek, NV.

3. BACKGROUND INFORMATION:

APN:	053-003-033
Owner(s) of Record:	Spring Creek Utilities Co.
Previous Applications on Property:	None
Size of Property:	2.135 Acres
Access:	Blakeland Dr.
Master Plan:	None
Comments:	See Attached
Current Zoning:	Open Space

4. PROJECT IMPACTS:

A. AFFECT UPON THE EXISTING LAND USE PATTERN IN THE AREA:

The current utilization of this Ag/Res parcel is for water infrastructure for the surrounding area providing potable and fire fighting water. The uses on the parcel include two (2) water storage tanks, a 1400 sq. ft. building housing a booster station and supplies used for

maintenance of the system. Trips related to maintenance of equipment currently take place at this site and are not expected to increase. The area will be security fenced.

All of the surrounding parcels are zoned Agricultural/Residential. The change of zoning request will be limited to ECC 4-4-3(A) 2. (Public Services) and ancillary uses related to the Utilities. Additional permitted uses related to Commercial-1 zoning would not be conducive to the area. Access is from Blakeland Drive.

The parcel is located near the intersection of Spring Creek Parkway and Blakeland Drive. See attached map.

B. AFFECT UPON THE HEALTH, SAFETY AND GENERAL WELFARE OF THE AREA:

The parcel upon which "Tank Site III" sits was transferred in March of 1971 to Spring Creek Utilities Company from the Cattleman's Title Guarantee Company. The use has been established for many years.

5. CONSISTENCY WITH EXISTING ZONING AND MASTER PLAN:

A. COMPATIBILITY OF PROPOSED ZONING WITH EXISTING ZONING AND DEVELOPED USAGE IN THE AREA: The proposed is being applied for under ECC 4-4-3(A) 2. (Public Services). Surrounding parcels are restricted to Agricultural Residential Uses. The proposed has been approved by the Spring Creek Association ECC 4-9-4 and is currently an established non-conforming use.

B. CONFORMS TO THE EXISTING MASTER PLAN OF THE AREA: The Spring Creek Subdivision is not a portion of the Spring Creek Lamoille Master Plan and therefore there are no zoning designations to comply with. A copy of this report has been forwarded to the Spring Creek Association Office.

6. STAFF COMMENTS:

A. AFFECT UPON THE EXISTING LAND USE PATTERN IN THE AREA: The use has been established for many years.

B. AFFECT UPON THE HEALTH, SAFETY AND GENERAL WELFARE OF THE AREA: The use as established fills the need of potable and fire fighting water and is essential to the area residents.

C. COMPATIBILITY OF PROPOSED ZONING WITH EXISTING ZONING AND DEVELOPED USAGE IN THE AREA: The request is to bring an existing use into compliance with local zoning codes. The developed use has existed for many years.

D. CONFORMS TO THE EXISTING MASTER PLAN OF THE AREA: The Spring Creek Subdivision is not a participating member of the Spring Creek Lamoille Master Plan and therefore no zoning designations have been placed within the subdivision.

E. Prior to the completion of this report comments may or may not have been received from the following solicitations. All returned comments will be attached to this report:

- Nevada Division Forestry
- Nevada Division of State Health
- Nevada Division Water Resources
- Nevada Division of Environmental Protection
- Nevada Public Utilities Commission
- Elko County School District
- Elko County Highway Department
- Elko County Manager's Office
- Elko County Building & Safety
- Elko County Sheriff's Office
- Spring Creek Association

7. STAFF RECOMMENDATIONS, FINDINGS AND CONDITIONS:

Based upon the above stated analysis and findings, staff recommends **Approval** with the following conditions and restrictions.

A. At the time of any development as allowed within the district, the developer shall comply with all applicable provisions of the Nevada Revised Statutes, federal Laws, local building and development requirements and statutes.

B. Said change of zoning to Commercial-1 shall be limited to ECC 4-4-3(A) 2. (Public Services) and ancillary uses related to the Utilities. No other permitted or conditional uses within the Commercial-1 zoning district shall be allowed unless approved under a separate application.

C. Any portion of the parcel utilized for storage of materials shall be fenced to discourage vandalism and theft. Said fence shall be a screened structure to maintain the visual aspects of the neighborhood. The fence shall at all times remain in good repair.

D. If said property is sold in whole or otherwise conveyed to a new owner or owners, the deed of conveyance shall contain verbiage that identifies and adopts the recommendations, findings, conditions and requirements of approval of this specific zone change or property, pertaining to any proposed development, either commercial or residential.

Basis for recommendation:

1) The parcel to be rezoned is currently being utilized for water utilities and will correct a non-conforming use within the Agricultural Residential zoning district.

2) The Spring Creek Association has issued a letter of approval zone change.

Note: The recommendations of this report are based on the fact that prior to the completion of this report staff had not received any negative or adverse comments to the proposed. Should testimony from the public arise before or during the public hearing opposed to the proposed or providing adverse or contradictory information staff may withdraw its recommendations.

John W. Kingwell

Elko County Associate Planner

Kristin left the meeting 7:06:09 PM

Kristin returned to the meeting 7:08:02 PM

Commissioner Hough- are they going to be filing a subdivision map on this and will the county require full improvements?

Mr. Kingwell – this has been developed up to this point through the parcel map process however, it is getting to the point where subdivision requirements are coming into play, the applicant is aware of this, and a secondary access has already been started. As it goes through the process, the roads and different aspects and improvements are required.

Commissioner Hough – are we going to subdivide it with parcel maps instead of a subdivision map.

Public Comment opened.

Scott MacRitchie – (Jordanelle Third Mortgage) they haven't made any plans of what they are going to do. They are already bumping into the border of a subdivision anyway. So we are going to have to file subdivision maps soon, they are aware of it.

Commissioner Hough – you are aware that you will eventually have to do subdivision maps. How do you have it divided now?

Mr. MacRitchie – you are allowed to do parceling and subsequent parceling, so that is what they have done.

Commissioner Hough – so you are going to take 234 acres and subdivide it.

Mr. MacRitchie – but only about a third of that is usable.

Commissioner Hough – so you are actually only going to subdivide how many acres?

Mr. MacRitchie – I don't know exactly, we are currently doing about 1.5 to 3 acre lots.

Commissioner Hough – a third is less than 100 acres so about 70 lots at the most.

Mr. MacRitchie – the challenge becomes the same whether we do parcel maps or a subdivision at that level. They are already talking to Randy Brown about switching gears and doing a subdivision instead of just parcel maps.

Ms. McQueary – under Elko County Code 5-2-7:

A second or subsequent parcel map affecting a single parcel or contiguous tract of land under the same ownership, ownership by a partnership or corporation of which an individual is a principal or officer, ownership by persons of first degree of consanguinity, or reacquisition of a parcel of land that was subject to previous division by the owner, shall require all the improvements of a subdivision under this Title, for purposes of this Section.

Mr. MacRitchie – the only reason it was started off that way is because we had no idea if there was a market there. To go through a major process in a year's worth of time, in order to make that all work, and not even know if it is worth doing it, with a plan that is so big with no adaptability. Until we knew what works and what the market was, it would have been very difficult for us to come in, lay out a big piece of land, and say this is how we want to develop it all. Therefore, we are fine-tuning it until we get something that is working.

Commissioner Hough – the only thing that makes sense is to do it as a phased project.

Public Comment Closed.

MOTION: Commissioner Hough moved to approve #11-2000-0006 Jordanelle Third Mortgage, LLC. with the staff's findings and recommendations, Commissioner Hartley seconded.

Motion passed unanimously.

VOTE:

AYE: Mike Judd
Dena Hartley
Jack D. Larason
David A. Galyen
David Hough
Richard Genseal
Wilde Brough

NAY: None

ABSENT:

ABSTENTIONS:

#11-2000-0007, Spring Creek Utility Company,

A public hearing for a change of zoning from Agricultural/Residential to Commercial-1 to correct the existing zoning for the established use of water utilities infrastructure including a water storage tanks, buildings, and associated uses as allowed within the Commercial-1 district. Spring Creek Subdivision, Tract 103, Lot 33, Block 3, located in Section 13, Township 33 North, Range 56 East, M.D.B. & M. The physical address is 391 Blakeland Drive, Spring Creek, NV. The applicant and owner is Spring Creek Utilities Co. MCO.

Mr. Kingwell- apologized the 30 closest property owner notification included incorrectly an office building. It is correct on the agenda.

Staff report was read. Misprint in staff report - zoning Agriculture Residential not Open Space.

**STAFF REPORT #11-2000-0007
ZONE CHANGE**

PLANNING COMMISSION MEETING DATE: November 17, 2011

1. APPLICATION: A request for a change of zoning from Agricultural/Residential to Commercial-1 to correct the existing zoning for the established use of water utilities infrastructure including water storage tanks, buildings and associated uses as allowed within the Commercial-1 district for the Spring Creek Utilities Co.

2. LOCATION: Spring Creek Subdivision, Tract 103, Lot 33, Block 3, located in Section 13, Township 33 North, Range 56 East, M.D.B.&M. The physical address is 391 Blakeland Drive in Spring Creek, NV.

3. BACKGROUND INFORMATION:

APN: 053-003-033
Owner(s) of Record: Spring Creek Utilities Co.
Previous Applications on Property: None
Size of Property: 2.135 Acres
Access: Blakeland Dr.
Master Plan: None

Comments: See Attached
Current Zoning: Open Space

4. PROJECT IMPACTS:

A. AFFECT UPON THE EXISTING LAND USE PATTERN IN THE AREA:

The current utilization of this Ag/Res parcel is for water infrastructure for the surrounding area providing potable and fire fighting water. The uses on the parcel include two (2) water storage tanks, a 1400 sq. ft. building housing a booster station and supplies used for maintenance of the system. Trips related to maintenance of equipment currently take place at this site and are not expected to increase. The area will be security fenced.

All of the surrounding parcels are zoned Agricultural/Residential. The change of zoning request will be limited to ECC 4-4-3(A) 2. (Public Services) and ancillary uses related to the Utilities. Additional permitted uses related to Commercial-1 zoning would not be conducive to the area. Access is from Blakeland Drive.

The parcel is located near the intersection of Spring Creek Parkway and Blakeland Drive. See attached map.

B. AFFECT UPON THE HEALTH, SAFETY AND GENERAL WELFARE OF THE AREA:

The parcel upon which "Tank Site III" sits was transferred in March of 1971 to Spring Creek Utilities Company from the Cattleman's Title Guarantee Company. The use has been established for many years.

5. CONSISTENCY WITH EXISTING ZONING AND MASTER PLAN:

A. COMPATIBILITY OF PROPOSED ZONING WITH EXISTING ZONING AND DEVELOPED USAGE IN THE AREA: The proposed is being applied for under ECC 4-4-3(A) 2. (Public Services). Surrounding parcels are restricted to Agricultural Residential Uses. The proposed has been approved by the Spring Creek Association ECC 4-9-4 and is currently an established non-conforming use.

B. CONFORMS TO THE EXISTING MASTER PLAN OF THE AREA: The Spring Creek Subdivision is not a portion of the Spring Creek Lamoille Master Plan and therefore there are no zoning designations to comply with. A copy of this report has been forwarded to the Spring Creek Association Office.

6. STAFF COMMENTS:

A. AFFECT UPON THE EXISTING LAND USE PATTERN IN THE AREA: The use has been established for many years.

B. AFFECT UPON THE HEALTH, SAFETY AND GENERAL WELFARE OF THE AREA: The use as established fills the need of potable and fire fighting water and is essential to the area residents.

C. COMPATIBILITY OF PROPOSED ZONING WITH EXISTING ZONING AND

DEVELOPED USAGE IN THE AREA: The request is to bring an existing use into compliance with local zoning codes. The developed use has existed for many years.

D. CONFORMS TO THE EXISTING MASTER PLAN OF THE AREA: The Spring Creek Subdivision is not a participating member of the Spring Creek Lamoille Master Plan and therefore no zoning designations have been placed within the subdivision.

E. Prior to the completion of this report comments may or may not have been received from the following solicitations. All returned comments will be attached to this report:

- Nevada Division Forestry
- Nevada Division of State Health
- Nevada Division Water Resources
- Nevada Division of Environmental Protection
- Nevada Public Utilities Commission
- Elko County School District
- Elko County Highway Department
- Elko County Manager's Office
- Elko County Building & Safety
- Elko County Sheriff's Office
- Spring Creek Association

7. STAFF RECOMMENDATIONS, FINDINGS AND CONDITIONS:

Based upon the above stated analysis and findings, staff recommends **Approval** with the following conditions and restrictions.

A. At the time of any development as allowed within the district, the developer shall comply with all applicable provisions of the Nevada Revised Statutes, federal Laws, local building and development requirements and statutes.

B. Said change of zoning to Commercial-1 shall be limited to ECC 4-4-3(A) 2. (Public Services) and ancillary uses related to the Utilities. No other permitted or conditional uses within the Commercial-1 zoning district shall be allowed unless approved under a separate application.

C. Any portion of the parcel utilized for storage of materials shall be fenced to discourage vandalism and theft. Said fence shall be a screened structure to maintain the visual aspects of the neighborhood. The fence shall at all times remain in good repair.

D. If said property is sold in whole or otherwise conveyed to a new owner or owners, the deed of conveyance shall contain verbiage that identifies and adopts the recommendations, findings, conditions and requirements of approval of this specific zone change or property, pertaining to any proposed development, either commercial or residential.

Basis for recommendation:

1) The parcel to be rezoned is currently being utilized for water utilities and will correct a non-conforming use within the Agricultural Residential zoning district.

2) The Spring Creek Association has issued a letter of approval zone change.

Note: The recommendations of this report are based on the fact that prior to the completion of this report staff had not received any negative or adverse comments to the proposed. Should testimony from the public arise before or during the public hearing opposed to the proposed or providing adverse or contradictory information staff may withdraw its recommendations.

John W. Kingwell
Elko County Associate Planner

FTR interruption 7:34:33 PM

Commissioner Hartley -disclosed she is on a joint cooperative committee of the Spring Creek Association & Spring Creek Utilities; her participation on the committee has no bearing on this issue.

Ms. McQueary – questioned the joint committee’s purpose and then asked for Commissioner Hartley to abstain to avoid the appearance of impropriety.

Commissioner Hough- disclosed he was directly involved in this project before his retirement from Chilton Engineering. He is no longer involved since his retirement.

Ms. McQueary- questioned his involvement and any connections he might still have to Chilton and then asked for Commissioner Hough to abstain to avoid the appearance of impropriety.

7:38:17 PM several interruptions.

Commissioner Hartley left the meeting 7:40:10 PM

Public Comments -None

MOTION: Commissioner Brough moved to approve #11-2000-0007, Spring Creek Utility Company, Commissioner Larason seconded. The motion passed.

VOTE:

AYE:	Mike Judd Jack D. Larason David A. Galyen Richard Genseal Wilde Brough
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NAY:	None
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ABSENT:

ABSTENTIONS:	Dena Hartley David Hough
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Ms. McQueary- if the commissioners notice an agenda item they might have a conflict of interest with please contact her prior to the meeting, she would be able to do a better job of analyzing conflicts of interest if she had a little more time to think about it.

Commissioner Hartley returned to the meeting 7:41:54 PM

#11-6000-0003, LCM Enterprises / Larry C. Mason,

A public hearing for a variance from the required fifteen foot (15’) rear yard setback to six feet (6’) and the

required side yard setback of ten feet (10') to nine and one half feet (9-1/2') within an Industrial zoned district to accommodate a preexisting structure presently used as a transmission shop. A 1.027 acre parcel of land located within a portion of Section 14, Township 33 North, Range 56 East, M. D. B. & M. described as Lot 8 of Block A of the Ruby Mountain Industrial Park Subdivision. Physical address is 1180 Silver State Drive, Spring Creek, Nevada. Property owner and applicant is Larry C. Mason.

Staff report was read.

STAFF REPORT #11-6000-0003
VARIANCE

PLANNING COMMISSION MEETING DATE: **November 17, 2011**

1. APPLICATION: A public hearing for a variance from the required fifteen foot (15') rear yard setback to six feet (6') and the required side yard setback of ten feet (10') to nine and one half feet (9-1/2') within an Industrial zoned district to accommodate an existing structure presently used as a transmission shop.

2. LOCATION: A 1.027 acre parcel of land located within a portion of Section 14, Township 33 North, Range 56 East, M. D. B. & M. described as Lot 8 of Block A of the Ruby Mountain Industrial Park Subdivision. Physical address is 1180 Silver State Drive, Spring Creek, Nevada.

3. BACKGROUND INFORMATION:

APN.....061-001-013
Owner(s) of Record..... LCM Enterprises, LLC / Mason Larry C.
Previous Applications on Property...None
Size of Property..... 1.027 acres
Access.....Silver State Dr.
Master Plan.....Spring Creek, Lamoille Master Plan, Phase I
Comments.....Attached if Received

4. PROJECT IMPACTS:

A. EXCEPTIONAL OR EXTRAORDINARY CIRCUMSTANCES OR CIRCUMSTANCES OVER WHICH THE APPLICANT HAS NO CONTROL:

- o The variances are requested to bring an existing structure into compliance with the rear and side yard setbacks. The applicant purchased the property with the building in place. The proper building permits were issued for the building and a final inspection was signed by the acting Building Official. Elko County does not require a property survey prior to construction which in this case caused the discrepancies in the setbacks.

B. NECESSARY FOR THE PRESERVATION OF OTHER PROPERTY RIGHTS LOCATED IN THE SAME ZONING DISTRICT OR VICINITY:

- o A policy does not exist requiring a boundary line survey. Due to the lack of surveys in

obtaining building permits, several discrepancies have brought forward to the Planning Commission for variances. This is another example of the same. The discrepancies in this instance were not intentional but were created due to the lack of defining the boundaries.

5. CONSISTENCY WITH EXISTING ZONING:

A. DETRIMENTAL TO THE PURPOSES OF THIS ORDINANCE OR TO PROPERTY IN THE ZONE OR VICINITY IN WHICH THE PROPERTY IS LOCATED:

- ECC 4-9-5 (B) 1. The structure requiring variances from the required setbacks was existing when purchased by the applicant. The setback discrepancies could have been avoided with a survey before construction of the building. Setback discrepancies were discovered when applicant started to fence the property.
- ECC 4-9-5 (B) 2. The side yard discrepancy is 6 inches and poses public welfare or adjoining property issues. The rear yard discrepancy is 9 feet. The use of the structure is for vehicle transmission service. A fire wall was required by the Building Official at the time of construction along the rear property line indicating the discrepancy was discovered after the structure was under construction.
- ECC 4-9-5 (B) 3. The strict application of the regulation to be modified would result in practical difficulties or hardships inconsistent with and not necessary for the attainment of the general purposes of this Title. These difficulties would require moving of the structure and or purchasing a portion of the adjoining rear property. The side yard discrepancy is minimal and creates no welfare issues to other properties.

B. THE REQUEST IS THE MINIMAL VARIANCE WHICH WOULD ALLEVIATE THE HARDSHIP:

- The variance requests are the minimum allowable to bring this parcel into compliance.

6. STAFF COMMENTS:

- There have been other variances granted within the area due to measurement error, parcel, topography, and existing structure restrictions.
- There have been other variances granted within the Spring Creek area due to parcel, topography, and existing structure restrictions.
- Prior to the completion of this report, comments were solicited from the following agencies. Those comments received are attached at the end of this report.

Elko County Highway Department
Elko County Managers Office
Elko County Building & Safety

7. STAFF RECOMMENDATIONS, FINDINGS AND CONDITIONS: Based upon the above stated analysis and findings, staff recommends **Approval** with the following conditions and

restrictions.

A. Conditional Use is subject to restrictions and conditions as outlined in Elko County Code 4-9-6 attached at end of report.

B. A rear yard setback of 6 feet and side yard setback of 9 feet 6 inches shall apply to the existing transmission shop only. Any alterations to the structure or additions, or other addition of structures to the property will comply with the required setbacks of the Industrial (M1) district.

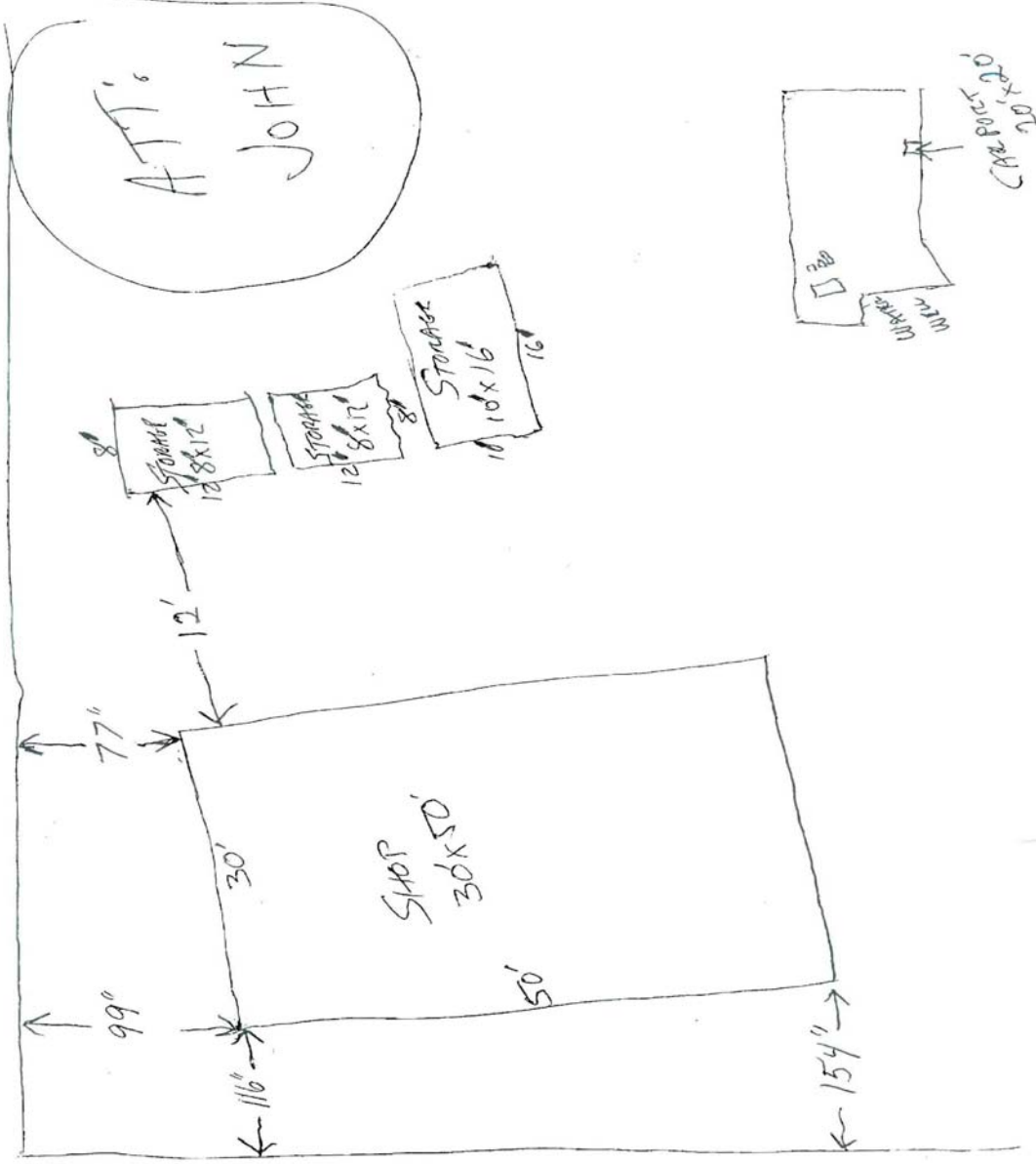
Basis for recommendation:

- The variance requests are the minimum needed to correct the discrepancies and meet the intent of ECC 4-9-5.
- The structure existed before the applicant purchased the property.
- The structure was permitted and signed off as compliant by the Building Official.
- The structures rear wall has been built as a firewall to satisfy fire codes.
- Unnecessary hardships would be created by moving the structure.

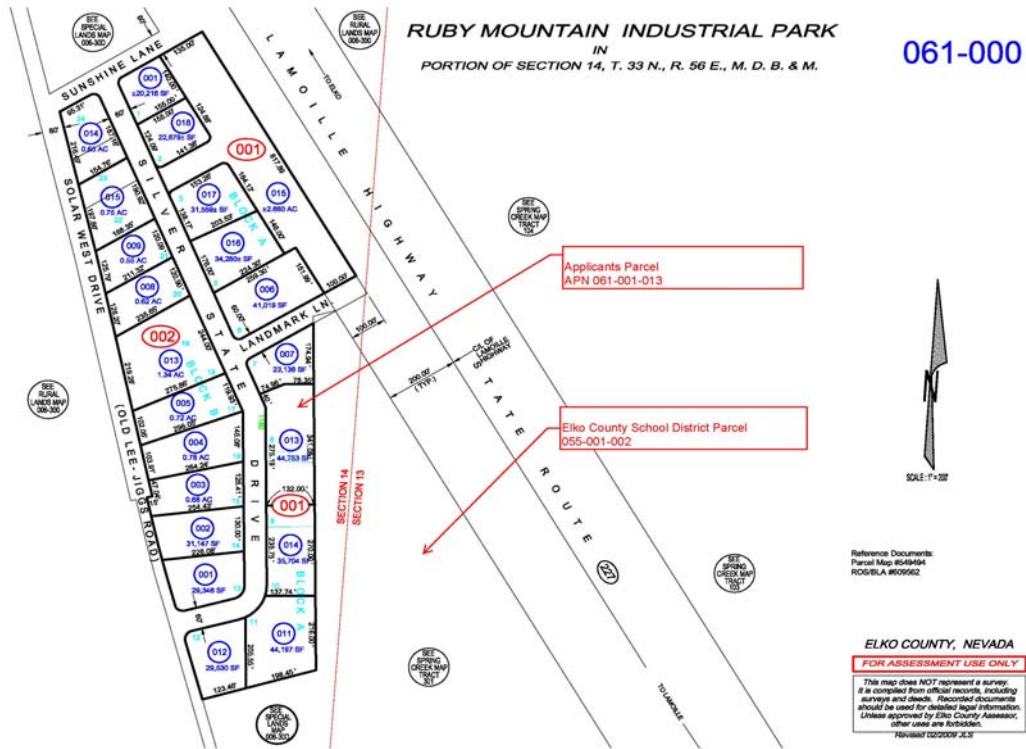
Note: *The recommendations of this report are based on the fact that prior to the completion of this report staff had not received any negative or adverse comments to the proposed. Should testimony from the public arise before or during the public hearing opposed to the proposed or providing adverse or contradictory information staff may withdraw its recommendations.*

Report prepared by:

John W. Kingwell
Elko County Associate Planner



PK# 738-3526



Discussion on the drawing provided and the location of Silver State Drive on the drawing followed.

Public Comment - None

MOTION: Commissioner Brough moved to approve #11-6000-0003, LCM Enterprises / Larry C. Mason with staff recommendations Commissioner Hartley seconded. The motion passed unanimously.
VOTE:

AYE: Mike Judd
 Dena Hartley
 Jack D. Larson
 David A. Galyen
 David Hough
 Richard Genseal
 Wilde Brough

NAY: None

ABSENT:

ABSTENTIONS:

#11-1500-0001, A Request by Elko County Commission for review of the minimum parcel size for wind machine installations

Alternative parcel sizes are to be considered, and a report forwarded to the Elko County Commissioners.

Mr. Kingwell- reviewed the zoning districts height restrictions. Open Space has no height restrictions.

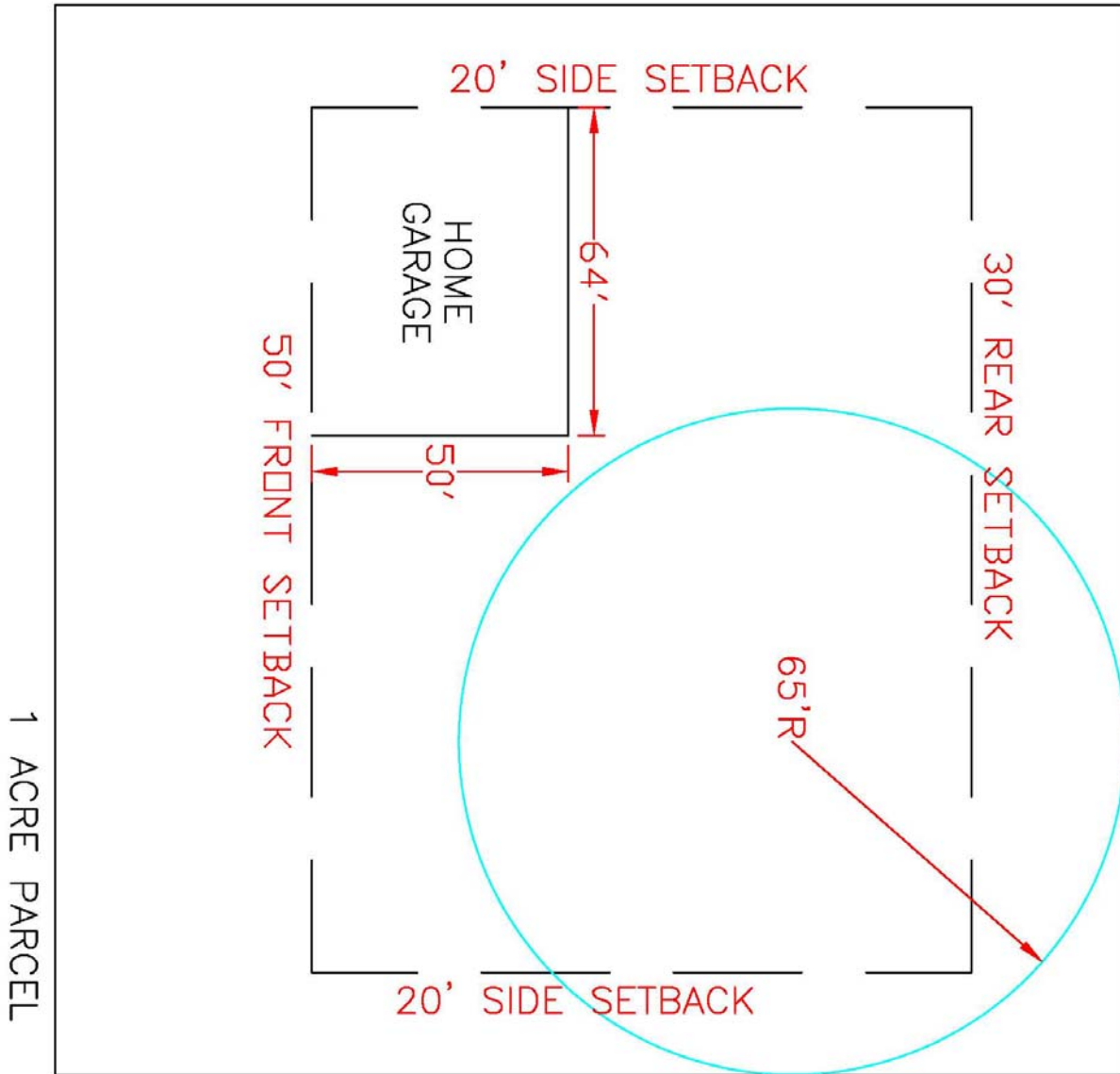
Minimum Parcel Size for Wind Turbines

AR, AGRICULTURAL RESIDENTIAL – Minimum parcels size is 1 acre. The primary use is residential. ECC 4-2-3(E) Building Height: No building or structure shall have more than three (3) stories or a height in excess of forty feet (40'). No accessory building shall have a height in excess of twenty feet (20').

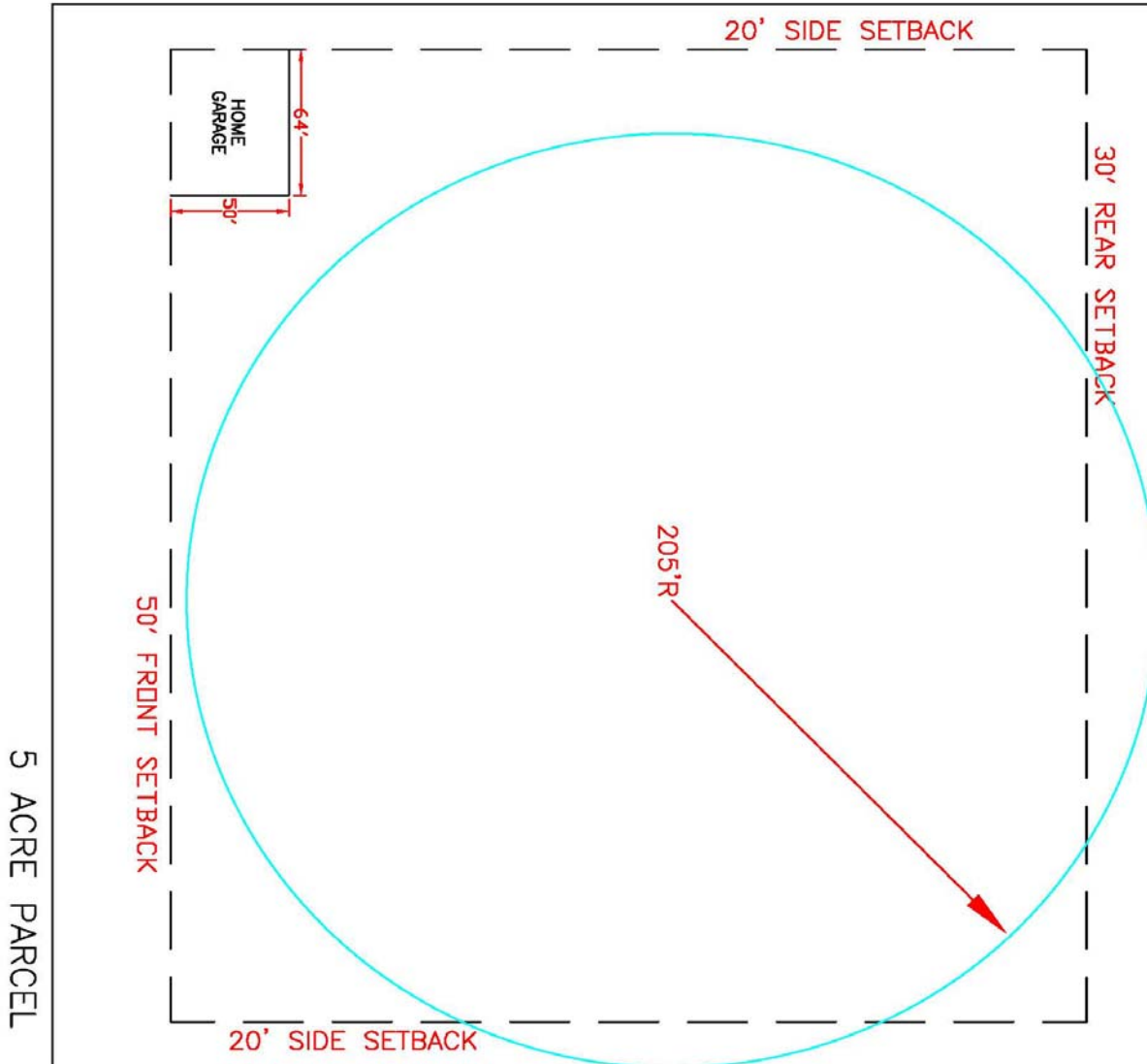
AR-CRD-1, AGRICULTURAL-RESIDENTIAL CONSERVATION RESERVE DISTRICT: -
Minimum parcel size is 2.5 acres. The primary use is residential. ECC 4-2-5(F) Height: No building shall have a height of more than forty feet (40').

AR-CRD-2, AGRICULTURAL-RESIDENTIAL CONSERVATION RESERVE DISTRICT: -
Minimum parcel size is 5 acres. The primary use is residential. ECC 4-2-6(F) Height: No building shall have a height of more than forty feet (40').

SL, SPECIAL LANDS DISTRICT: - Minimum parcel size is 10 acres. ECC 4-2-2 No building or structure shall have more than three (3) stories or a height in excess of forty feet (40'). No accessory building shall have a height in excess of twenty feet (20').



Example
Total overall height 43'



Example
Total overall height 135'

Mr. Kingwell- a meeting with County Commission and Planning Commission would remove part of the appeal process.

Public Comment

Chairman Judd asked for only new comments.

Katie McConnell- (Copenhaver & McConnell law office) presented a letter from the City of Elko mayor.



City of Elko
City Hall
1751 College Avenue
Elko, Nevada 89801
Phone: 775-777-7110
Fax: 775-777-7119

November 17, 2011

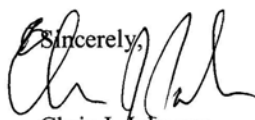
Dear Elko County Commissioners and Planning Commission,

An issue regarding the new Elko County Wind Machine Ordinance has recently been brought to my attention. As I understand, the current ordinance allows for large wind turbines to be placed on parcels as small as one acre. As Mayor, I am concerned that this size allowance may have a serious effect on our City residents.

I appreciate that the Planning Commission has put a great deal of work into the new Elko County Wind Machine Ordinance and understand that this is a matter for the County to address. However, I believe that allowing such large structures on small residential lots in highly populated areas, within the County and near City boundaries, may pose a serious problem with noise, height, property values, and the overall aesthetics of our community. It is my opinion that a minimum of ten-acre parcels is a more reasonable restriction to allow for large wind energy structures in appropriate locations.

Please note that this letter only represents my personal opinion as Mayor, as the City Council will not be considering this item until the November 22, 2011 Council meeting (see enclosed agenda). As such, I encourage the County to send a representative to our upcoming meeting.

Thank you for your time and attention to this matter. Please let me know if I can be of further assistance.

Sincerely,

Chris J. Johnson
Mayor, City of Elko

W/enclosure

Cc: Elko City Council
File

Ms. McConnell- has looked into some of the other wind ordinances from other counties in Nevada. Lyon County does have a minimum parcel size of one acre, but there are height maximums for different types of parcels. The other thing she wanted to make clear since the last time she was here. She noticed there was a lot of discussion about the Nevada Revised Statutes regarding wind machines and energy, and what the

planning commission could or could not do putting these ordinances in place. The revisers note related to wind machines. A revisers note I what attorneys and others go back to see what the legislators planned when they enacted these laws. So it being left out of the NRS doesn't hurt the statute, it doesn't say you can't regulate for parcel size, it actually says that if what they were looking at when they enacted the statute. Second NRS 278.580 Building codes: Adoption; fees for permits; applicability to State and Nevada System of Higher Education; authorization of use of materials and technologies that conserve resources in construction and use of solar or wind energy; A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of: Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures to the extent the local climate allows for the use of such materials, technologies, resources and systems. This allows you to take into consideration the local area the climate, and the specifics of this county.

Commissioner Larason- that statute was brought up during the workshops, it was not for the board to decide what kind of a venture a resident should attempt to do. We considered it and said it was left up to the resident to decide if they want to take the risk in putting a wind machine up, where there might not be enough wind to provide a sufficient amount of energy to warrant the building of it. Every time a law/code is sent to a supreme court, if the language is specific and identifies, they will let it stand on its merits. It told us we should develop a code and the only time we could deny somebody the use of one of these wind machines is on a reasonable cause. It is on that reasonable, that we addressed the noise standards, the setbacks standards, no one has brought any information that said that these requirements that we have put into place are not reasonable.

Ms. McConnell- reasonably restrict is the language that is in the statute, a parcel size is a reasonable restriction. From the last meeting she understood that the consensus was that the law as it is written would not allow for a minimum parcel size. She did some research and the point about the revisers note is that it doesn't prohibit the minimum parcel size; it says when they were enacting this law that is something they looked at.

Commissioner Larason – we killed two birds with one stone when we set up the standards for height and off sets from property lines. Therefore, in his opinion, they answered and satisfied the small acreage issue.

Public Comments closed.

Discussion followed on the issue.

Commissioner Hartley- would rather see the AR zoned parcel size a minimum of 5 acres.

Commissioner Hough- NRS 278.02077 “Prohibition against prohibiting or unreasonably restricting use of system to obtain wind energy; exceptions. For the purposes of this section, “unreasonably restricts the owner of the property from using a system for obtaining wind energy” includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system.

We do set a height restriction, which is: on a 5 acre parcel an overall height of 135 feet that is the optimal height for generating wind energy, 2.5 acre parcel to 90 feet, now we are getting into the borderline of where this project may or may not make economical sense. On a 1 acre parcel an overall height of 43 feet, at that height with today's technology does not make economic sense and in this situation solar panels would make a lot more sense, however NRS 278.02077 again we are talking about the State of Nevada legislature is basically giving people a property right, this is your personal property right. The problem he has with this

is property rights have been take away by zoning, by planning, just about every statute or ordinance that has ever been enacted dealing with property is a take away, but now we have one statute that is giving, and we are talking about getting into the business of taking away again. He thinks we are not in the business to telling people how to spend their hare earned money. If somebody wants to put up a 43 foot tower for generating wind energy, which he will not get a return on, a fool and his money are soon parted, but never the less, He just does not see meddling with this ordinance, the way that the planning commission approved.

Chairman Judd- during the nine months of study on this ordinance, a couple of companies came in and said that 43 feet would not produce enough energy? The companies would not tell people that it would produce enough energy when it will not.

Commissioner Hough- any decision is appealable to the County Commissioners and the District Court.

Commissioner Hartley- but at what expense? It costs a lot of money to appeal it to the County Commissioners.

Mr. Kingwell- we are being asked to write a report with supporting reasons for a minimum parcel size, which will then be taken to the County Commissioners, they will actually be the ones that will rule on it.

Commissioner Galyen- for the record he supports Commissioner Hough's previous statement.

Public Comment

Harry Botts - new developments are being developed every day. He questions why the strong push for restricting the region because as the ordinance reads now it pretty well restricts what size property you can put it on. Smaller turbines, which are being pushed by the State of Nevada, are becoming better. We are going to be able to put them onto the corners of our houses, and put 4 or 5 of them together. They will be able to generate enough power to be of value. The ordinance restricts us enough as it is now, at least it gives us a chance to bring it before the commission and have our hearings for what we want to put our money into.

Bob Milligan – talked about reasonable restrictions and other alternatives. He showed a picture of a Honeywell wheel-shaped WT6500 rooftop turbine from the Popular Science magazine 9/2011. The Wind turbine takes very little wind and is 6 feet in diameter, which would currently meet the codes. There are other alternatives out there for wind energy.

MOTION: Commissioner Larason moved to prepare a letter (statement) to the County Commissioners. In the letter, list the reasons that we designed and devised the code the way we did and that we do not feel that it needs to be changed. Also, include the reasoning of Commissioner Hough this evening, seconded by Commissioner Brough. The motion passed.

Commissioner Brough- in the county there are several pieces of property that are one acre amongst thousands of acres of uninhabited property. If we change it to a minimum parcel size then we restrict those 1 acre parcels that are not in or close to town. He sees no reason to restrict further.

Commissioner Hartley- in those cases those people can come in for a variance, it is a case by case basis. She is thinking about those properties that are close to and abut a city property line. The 40 acre parcels that could be divided into 1 acre parcels and having 40 wind machines on them. She asked for a clarification of the reasons to be included in the letter.

Discussion on the reasons continued.

Commissioner Larason- during the process of the 9 months to create this we discussed each one of the reasons why each one of the restrictions were put on the machine: height, off sets from houses, height from the structures, the amount of decibels of noise were all addressed.

Chairman Judd- the research on the shadow flicker.

Commissioner Larason – all of these issues were considered before the vote was taken and the ordinance passed.

Chairman Judd – basically the most opposition is for the aesthetic view because it is in front of somebody’s window.

Ms. McQueary- to address Commissioner Hartley’s comments, within 1 mile of the city limits the county planning staff has to notify the city of proposed actions like conditional uses and zone changes.

Commissioner Hartley- but once we have this minimum parcel size of 1 acre how does this board deny a conditional use permit application, because it is already well within the minimum parcel size. She feels that it should be a 5 acre minimum parcel and in the case of a 1 acre parcel on a ranch somewhere can be dealt with by a variance.

Commissioner Hough- physical restrictions were put in place because of safety concerns a 1 acre parcel will not support a tower height of 43 feet for a wind machine. The safety considerations alone will limit the implementation of most wind machines on smaller parcels.

VOTE:

AYE: Mike Judd
Jack D. Larason
David A. Galyen
David Hough
Richard Genseal
Wilde Brough

NAY: Dena Hartley

ABSENT:

ABSTENTIONS:

#11- 1200-0001, Spring Creek Lamoille Master Plan Review

The 1st of a series of public hearings to review/amend the Spring Creek / Lamoille Master Plan, Phase I through Phase IV. The review and/or amendments of Master Plan and all public hearings are to be conducted as per N.R.S. 278.150 through 278.260 inclusive.

Mr. Kingwell – would like to solicit comments from this board and the public to be addressed during the Spring Creek/Lamoille master plan information gathering process. The Spring Creek/Lamoille Master Plan is available online on the Elko County website.

Commissioner Larason –what are some of the items?

Ms. McQueary left the meeting 5:30:55 PM

Mr. Kingwell – round-a-bout location, Ruby Vista development, changes in commercial areas, change of zoning on the Forsberg property, demographics, inventories of zoned parcels, changes in policy for water, USGS is completing their water study soon, etc.

Commissioner Brough- do we try to assume future limitations?

Mr. Kingwell- There are 4 phases to the Spring Creek/Lamoille Master Plan, we look at future uses that would work well in the area. It is just a plan, the last time this was updated it was in 2006. It is updated every 5 years or so, unless something major happens.

Ms. McQueary returned to the meeting 8:33:12 PM

Public Comments

Mary Winter– (Spring Creek Association) but also here as a stakeholder of the Nevada Statewide Bicycle Plan – would like a bicycle plan integrated within the Spring Creek/Lamoille Master Plan.

Mr. Kingwell- we will be including this in the plan under the recreation portion of the plan.

Ms. Winter– potential bike plans can be included when major road projects are planned and possible funding options are available when included in master plans. She will working on details for a bike plan and send it in.

Public Comment closed.

This issue will be continued at the December 15th meeting.

APPROVAL OF MINUTES:

October 20, 2011 – Regular Meeting Minutes

Corrections and additions to the minutes were discussed. Commissioner Galyen noted several corrections.

Commissioner Hartley asked to be able to review the minutes further and approve at the next meeting.

Ms. McQueary- stated that it is alright to email the secretary with changes to the minutes before the meeting so that corrections can be made and a second draft be made before the meeting to be approved.

MOTION: Commissioner Hartley moved to table the October 20, 2011 minutes to the next meeting Commissioner Larason seconded. Motion passed.

VOTE:

AYE:	Mike Judd Dena Hartley Jack D. Larason David A. Galyen David Hough Richard Genseal Wilde Brough
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NAY:	None
------	------

ABSENT:

ABSTENTIONS:

STAFF AND COMMISSIONERS COMMENTS:

There were no comments.

COMMENTS BY THE GENERAL PUBLIC:

There were no comments.

ADJOURNMENT

Meeting adjourned at 8:45:05 PM.

Minutes Clerk: Eleanor O'Donnell

Date Approved: December 15, 2011