



CITY OF ELY

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ELY CITY PLANNING COMMISSION REGULAR MEETING AGENDA

January 26, 2017 2:00 p.m. – Ely Volunteer Fire Hall - 499 Mill Street - Ely, Nevada.

1. Chairman Flangas called the Regular Meeting of the City Planning Commission to order at 2:00 p.m., led in the Pledge of Allegiance and Chairman Flangas asked for Roll Call.

Members present:

- Chairman Ernie Flangas
- Member Jed Peeler
- Member Gary Schielke
- Member Maureen Otzelberger

City Staff present:

- City Administrator Robert Switzer
- City Attorney Charles Odgers
- Deputy City Clerk Jennifer Lee

City Officials and Staff absent:

- Councilwoman Pat Robison
- City Building Official Brad Christiansen

Also in attendance: Members of the public signed in (appears below).

PLEASE PRINT YOUR NAME

Please print your FIRST & LAST name clearly for the
City Planning Com. attendance list. 1-26-17

Michael Brindell #5 _____
 Paula Carson _____
 JENNIFER DEAN _____
 Gloria Labra _____
 Thomas A. Beckert _____
 John Anderson _____
 Juan J. Aguado _____
 Maria Almeida _____
 Mika Luke _____
 George Phachas _____

2. PUBLIC COMMENT:

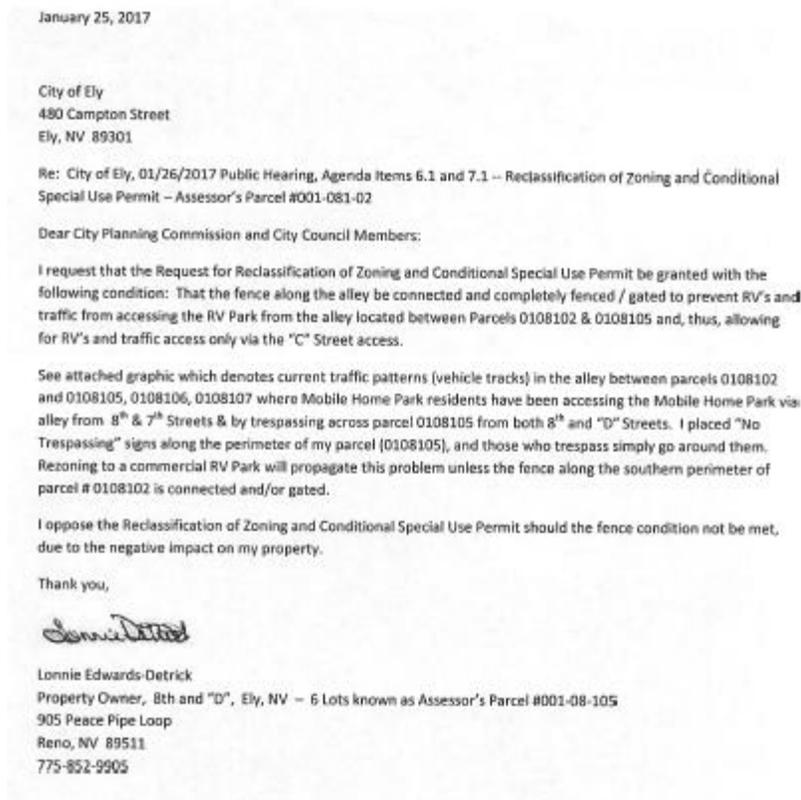
George Chachas stated ongoing concerns regarding the maintenance of the wall on 5th Street; City Planning Commission Members in violation of City Code; encroachment next to his property on 7th Street; and a refund for his building permit on his re-roofing job.

City Attorney Odgers stated as a point of order, this board has no control over the building permits issue by the building official; it is outside of the purview of this commission and under the Open Meeting Law, you can gavel Mr. Chachas down.

3. THE CITY PLANNING COMMISSION WILL RECESS THE REGULAR CITY PLANNING COMMISSION MEETING FOR A PUBLIC HEARING AT 2:00 P.M. ON THE FOLLOWING TOPIC.

1. Chairman Flangas – Public Hearing – Discussion Only – Consideration of an Application for Reclassification of Zoning of Property and Conditional Special Use Permit in order to use the Parcel as a Recreational Vehicle Park. The property location is Apeceche Trailer Court, Block 16, Lot 6-16, City of Ely, NV; the Assessor’s Parcel No. is 001-081-02. The applicant is Gloria Labra.

Deputy City Clerk Lee read the letter appearing below into the record.



George Chachas stated I'd like to support this application. However, those people have been using that property for years as it stands now, for trailers and RVs; it's already grandfathered in. There's no law I know of that says you can't have a small trailer. You're considering changing

the zoning to C-2, which I consider spot zoning. You approved a re-zoning for another individual in that same area and stated that they needed a fence; they've yet to put it up. Yet, now there's a concern that these people have to put up a fence. When you have a mobile home park, it's imperative that you have the ability to move through the alleyway or the street uninhibited by a fence. If in fact there is trespassing, that can be taken care of easily rather than mandating a fence. You have other properties that do not have a fence; it would be unfair to make these folks do that. Give these people their money back.

Gloria Labra stated I barely took over this property in August. I wasn't aware of any situation before I took over and it would have been nice to know before if you guys had any problems. They had RVs for so many years, since 1978, so why the changes now? Why do I have to pay to have it re-zoned when it's not my problem? My ex-husband used to have it.

Juan Apeceche stated that trailer park was mine for the last thirty-five years. When I bought it, there were RVs already there; I'm pretty sure it was forty years. Why shouldn't we be grandfathered in? Why these changes after so many years? It makes me wonder what's going on. It should be grandfathered in. I bought it in 1980, there were RVs there already and nobody said anything.

Mike Brindell stated I've been living there for nine years now. About trespassing, there's a lot of young kids that go up and down their alley all the time. When that guy put those posts up there, I never cut through there or saw anybody cut through there. In the morning time when I walk my dog, I see people that have bent over their posts and tore their signs down; I don't think it's the people living in the trailer court that's doing any damage there. On the thing about everybody moving out of there, with the money I get from the VA, I can't afford to move any place else. There's nowhere else I can afford. There's no housing because I checked on that; the three housing projects here are two years backed up. I've got a lot of medical problems.

4. DISCUSSION/POSSIBLE ACTION ITEM PERTAINING TO THE PUBLIC HEARING.

1. Chairman Flangas – Discussion/For Possible Action – Consideration of an Application for Reclassification of Zoning of Property and Conditional Special Use Permit in order to use the Parcel as a Recreational Vehicle Park. The property location is Apeceche Trailer Court, Block 16, Lot 6-16, City of Ely, NV; the Assessor's Parcel No. is 001-081-02. The applicant is Gloria Labra.

Chairman Flangas stated over a year ago we checked all the areas with mobile homes/trailers in the city of Ely and all owners were notified of the fact that certain areas would be within City regulations of the ordinances of the City and also the statutes of Nevada. This property in question is zoned as a mobile home park. There is a difference between residential living in mobile home units and an RV park, which is recreational vehicle parking overnight or five to ten days. There's also different types of ordinances regarding what would have to be done for it to become an RV park. Right now, the MH-1 zoning that is there is acceptable. The reclassification to a C-2 makes it commercial and a Special Use permit could only be used by that owner, so we could have a potential problem with the zoning. The area in question is totally out of a commercial area, zoned residential. I do not like spot zoning commercially within the

community. We've been working hard to make our community conducive to new housing. To re-zone it to C-2 would make it possible for the owner to change their mind and open a bar; that is not conducive to residential living. I have no problem with permanent mobile housing in that area. I have a problem with recreational vehicles in and out, day and night; it isn't good for homeowners

City Attorney Odgers read the email appearing below from City Building Official Brad Christiansen.

From: Brad Christiansen <bchristiansen@elycity.com>
Sent: Thursday, January 26, 2017 7:50 AM
To: Charles Odgers
Subject: Ms. Labra

Chuck,

I will not be in the office today. I wanted express my opinion on the zone change and special use for the property located at 730 Ave. C.

I do not approve of the zoning change, the current zoning MH-1 (mobile home park) was changed last March to correct improper zoning for the use (mobile home park) the current use fits with the surrounding zoning. A C-2 (commercial) zone does not fit with the residential zones surrounding it. The EPC and CC need to invision having commercial zoning and its uses in a residential area. If the zone change is approved there are many changes to the infrastructure within the park that are required by building codes. If this request is approved it will also be setting precedence to similar zoning change requests in the future.

Again I am strongly against the approval of this request.

Brad Christiansen
Building Official

City Attorney Odgers stated I'd like to speak to the City ordinances. Back in January of 2015, the City Council charged Brad and I with looking at zoning issues regarding mobile homes vs. recreational vehicles. On or about October 2015, the ordinance was finally ratified. Under 12-15-4 (A), there are several things that make this application to where you cannot approve it. Under 12-15-4 (A)(1): "After January 1, 2015, no "recreational vehicle", "motor home" or "travel trailer", as defined by section 12-1-1 of this title, will be allowed to be used as a primary residence under any circumstance except those already provided in this title, specifically as temporary housing. Subparagraph (3): "Affected owners of recreational vehicles, motor homes and travel trailers who had their recreational vehicle in place prior to January 1, 2015, may apply for a special use permit." Subparagraph (5): "Individuals seeking a special use permit to keep a recreational vehicle in any zone as a primary living space, must meet the minimum setback requirements for mobile homes for any zone, and must meet water, sewer, power and other federal and state regulations for placement of these services to be the same as a recreational vehicle park within six (6) months of being granted a special use permit." Subparagraph (6) – and this is the killer: "Affected individuals shall have forty five (45) calendar days from the passing of this section in which to apply for a special use permit. Failure to apply within the forty

five (45) calendar days shall forever revoke the property owner and/or occupant of the ability to obtain such a special use permit.” The reasoning behind drafting this was to deal with recreational vehicles located in residential zones and the City Planning Commission and City Council not wanting that to occur. This is codified. This is the law within the City of Ely. The application is asking you to violate this law. Based upon City Code 12-15-4, I recommend the application be denied.

Member Peeler stated I’m pretty familiar with the property. There’s seven dwellings and only one of them is a mobile home. The RVs are already there and they’ve been there for a long time.

City Attorney Odgers stated but they also failed to comply with the requirement to apply for a special use permit to stay there.

Member Peeler stated a lot of it is they just didn’t know that the ordinance was passed and it’s not easy when you find it in the legal section.

City Attorney Odgers stated I understand, but that’s what the law requires us to do, to publish it in the *Ely Times*.

Member Peeler stated I understand that, but what do you do with people who have no knowledge of it?

Chairman Flangas asked were the property owners notified of the ordinance?

City Attorney Odgers stated I believe Mr. Apeceche, who is the owner of the property, was notified. Back in March of last year, Brad and I came before this Commission and the City Council to change all the mobile home parks to MH-1 or MH-3, as appropriate and the Apeceche Trailer Park was one of them; neither Mr. Apeceche or anyone from that park came forward and said ‘Whoa! You can’t do that to us.’ Right now, the park is compliant for our zoning and our planning for zoning. Now we’re looking at spot zoning, which we’re trying to get away from. Pat Robison is ill and sent me the following text: “Chuck, I don’t think I can make Planning Committee. I would like to advise the Committee to vote no on re-zoning for the same reasons that the Building Inspector and the advice of the City Attorney. I don’t have your email, so hope this is sufficient. (I could find the email, but I just need to sleep.) Thank you. Councilwoman Pat Robison”

Member Peeler asked are you and Brad going to force the corrections necessary out there, so the people have decent utilities with the park owners?

City Attorney Odgers stated as a MH-1, it needs to meet the requirements of NRS 119(K).

Member Peeler stated so, you’re on it.

City Attorney Odgers stated it’s going to have to happen.

Member Peeler stated good. It should be a function of the person owning the park.

City Attorney Odgers stated it is. The problem is an MH-3 does not allow recreational vehicles of any kind.

Member Peeler asked would you have all those people evicted because they can't comply?

City Attorney Odgers stated the owner of the trailer park would be responsible in locating them additional housing. The ultimate problem is: A. Does it meet the requirements under Nevada Revised Statutes 119 for a recreational vehicles park? It doesn't meet the State/federal guidelines on placement of utilities.

Member Schielke moved to recommend denial of the application for reclassification of zoning of property and conditional special use permit in order to use Apeceche Trailer Court (APN 001-081-02) as a recreational vehicle park.

Juan Apeceche stated any RV after three months is permanent by State law.

Member Peeler seconded Member Schielke's motion and asked would you amend your motion to recommend grandfathering in the six to seven RVs with people there now and not allow any new RVs in?

Member Schielke amended his motion to reflect the same. Member Peeler seconded the amended motion. The motion carried unanimously.

5. ITEMS FOR DISCUSSION/POSSIBLE ACTION OF THE PLANNING COMMISSION.

1. Commission Members – City Administrator Switzer – City Attorney Odgers – Discussion/For Possible Action – Review of and possible direction to City Attorney to work with White Pine County to reinstitute a Regional Planning Commission, per White Pine County Commission request.

City Administrator Switzer stated in your packet you have a letter from District Attorney Mike Wheable, on behalf of the County, that the City and this board should consider re-establishing a regional planning commission.

Chairman Flangas stated I'm in favor because we're sharing the building inspector and the secretary with the County. I would like to see a meeting with the two remaining members of the County Planning Commission.

City Attorney Odgers stated if someone was adversely affected by an RPC decision, than the appeals process would be to take it to the appropriate governing board. The second major issue is one of budget. In preliminary discussions with the County Commission, Mr. Wheable and members of the City Council back in November, the idea is there would be one attorney – that would be me as opposed to rotating attorneys through – so the advice stays consistent; Mr. Wheable is in favor of that.

Member Peeler stated I think the RPC's a great idea because we got a lot done.

City Attorney Odgers stated it will make life for Brad easier because he'd only have one meeting for the RPC to attend. As far as efficient application of ordinances, it's better to have one body responsible.

Member Schielke asked would the City be relinquishing more power to the County?

Member Odgers stated no. It would be a seven-member board based on three from the City, three from the County and one member at large.

Chairman Flangas asked the member at large would be appointed by whom?

City Attorney Odgers stated it allows for an election or appointment.

Member Otzelberger stated in July that building agreement ends.

City Attorney Odgers stated unless the parties can come to an agreement.

2. Members – Discussion/For Possible Action – Approval of Minutes: December 22, 2016.

Member Schielke moved to approve the December 22, 2016 Minutes. Member Flangas seconded the motion. The motion carried unanimously, with Members Peeler and Otzelberger abstaining due to their absences at the December 22, 2016 meeting.

6. REPORTS

• CHAIRMAN

Chairman Flangas stated I know our City is working hard to get financial assistance to improve our community. Is there any intent by the City officials to go to Carson City?

City Administrator Switzer stated I haven't seen the BDRs that would address those specific issues.

Chairman Flangas stated it infuriates me the State RTC is paying for two statutes in Vegas when we have pot holes here. Clark County rezoned a street and calls it a state highway. Also, Elko County received 3.4 million, 3.4 million to Washoe and 3.3 million to Clark County; White Pine County did not get a penny.

City Administrator Switzer stated we had an opportunity to help ourselves to help fund the transportation network in our County; that measure did not pass, but we would have had additional funds from the sale of diesel fuel. The fuel tax monies that fund street departments in the County and the City have remained stagnant for ten years now.

Chairman Flangas stated Ms. Titus is on the federal board for communities, for infrastructure: There was a 4.5 million grant to Clark County for drone operation instruction. Ms. Titus should represent the other parts of Nevada. I see on the City Council agenda to do a cultural district on the main street; that could jeopardize a lot of property there. The Planning Commission should be a factor in this community and assist in the planning of it.

Member Schielke stated I've inquired about crumbling infrastructure and the answer was 'we don't have the money'. Vegas requests grants.

City Administrator Switzer in the past twelve months, we've completed a major project from the Golf Course to Avenue C of over \$250,000. We're currently working on the Ely Avenue to 15th Street water line in the amount of \$366,000 awarded last March. Our City Engineer and myself have gone to Carson City to present for CDBG grants. Next year we'll have NDOT's Aultman Street project; in connection with that, we've been outlining financial resources to replace

water/sewer lines under those roadways. We are moving forward. As part of that system, the State will be reconstructing our storm drainage system, which should alleviate Central Ely flooding; as part of this, we should be able to appeal to the Core of Army Engineers to remove the need for flood insurance. In April, Murry Street will be re-done from Aultman to 1st Avenue.

Member Schielke asked why can't we get a loan from the State and do the whole street?

City Administrator Switzer stated the City Council made a commitment to replace the pavement from Aultman to 1st Avenue, using all the money available for that project. The paving from the RTC program will be all the money in the County this year. We've looked at grants to complete that, but they're usually up to a 60% grant; there's really no such thing as a 100% grant, other than our regional transportation grants. It costs a million dollars for a mile of roadway and obtaining the grants is very competitive. An assessment district increase property taxes three times.

7. PUBLIC COMMENT:

George Chachas stated I'm concerned you are eliminating affordable housing and not encouraging it. These people there are not paying by the day. If you want to clean up this community, start with main street and look at how many doors are closed.

8. ADJOURNMENT: THIS MEETING MAY BE ADJOURNED BY APPROPRIATE MOTION OF THE PLANNING COMMISSION.

Member Peeler moved to adjourn the Regular Meeting of the City Planning Commission at **3:14 p.m.** Member Schielke seconded the motion. The motion carried unanimously.

CHAIRMAN

ATTEST