

APPROVED

CITY OF GRACE
PLANNING & ZONING COMMISSION
CONDITIONAL USE PERMIT HEARING & REGULAR MEETING
HELD ON SEPTEMBER 14, 2023

PRESENT: Chairman: Dave Pristupa
Commission Members: Mark Crabb, Ralph Spackman, Scott Rasmussen via telephone
Zoning Clerk: Loy Raye Phillips

OTHERS PRESENT: City Attorney Doug Wood

Chairman Pristupa called the Conditional Use Permit hearing to order at 7:00 p.m.

Chairman Pristupa asked those present to please state their names for the record:
Doug Wood, Mark Crabb, Ralph Spackman, Loy Raye Phillips, David Pristupa, Scott Rasmussen via phone

Chairman Pristupa stated the purpose of the hearing is for a Conditional Use Permit for Thomas Ag Services, LLC.

Thomas Ag, petitioner, is requesting approval of a conditional use permit #2023-225 to allow grazing of animals behind the warehouse in an I (Industrial) Zone to control vegetation on an undeveloped portion of the property. City Ordinance I (Industrial) Zone: Use District 3-1-1 (F) No livestock permitted, Regulations for the I (industrial) Zone: 3-1-3 (B) Conditional Use Permit. The legal description is: TR SW ¼, SW ¼, SEC. 1, T10S R40 E, GRACE, IDAHO 83241. The address of the parcel is 20 Industrial Park RD., Grace, ID.

Chairman Pristupa stated there is a statement received from Mark Thomas of Thomas Ag. A letter dated September 14, 2023. The Letter states: To Whom it May Concern:
This letter is to formalize my use of animals for weed control on the west end of my property. As you know there are multiple ways to control weeds, but using animals is the most cost-effective solution to the problem. If I can be of further assistance, please let me know. Sincerely, Mark Thomas, Owner

There were five letters sent out to the property owners within 300' and only one was returned.

City of Grace,
Riley Crookston, Superintendent Neutral

There were no comments from the property owners within 300' with concerns of the conditional use permit.

Chairman Pristupa asked for comments. There were none.

Chairman Pristupa moved that the Conditional Use hearing be adjourned. Commission Member Crabb seconded the motion. Motion passed unanimously.

Hearing adjourned at 7:04 p.m.

Chairman Pristupa called the regular meeting of the Planning & Zoning Commission to order at 7:05 p.m.

Invocation: Commission Member Crabb

Pledge of Allegiance: Clerk Phillips

Chairman Pristupa asked if the Commission Members had reviewed the minutes of the meeting held on August 10, 2023, and if there were any corrections or changes? There were no changes.

Motion to approve the minutes of the August 10, 2023, Variance Hearing and regular meeting was made by Commission Member Spackman. Motion was seconded by Commission Member Crabb. Motion passed unanimously.

Report from City Council: Chairman Pristupa stated that the City Council had discussed the building inspector and tabled it to have a joint meeting with Caribou County Planning & Zoning Administrator Ms. Askew and the Caribou County Commission, County Building Inspector Mr. Larkin, and the Grace City Council. There was some negative feedback from a city councilmember that the cost was too much. Chairman Pristupa stated that safety is important for building of homes. Commission Member Spackman stated how is it going to cost too much when it will pay for itself.

Chairman Pristupa opened discussion on the Conditional Use Permit.

CUP # 2023-225 THOMAS AG SERVICES, LLC

CHECK LIST FOR FINDINGS OF FACT

1. The proposed conditional use is necessary for the public convenience at that location.
No
2. The proposed conditional use is so designed, located, and proposed to be operated that the Public health, safety, and welfare will be protected.
Yes, if fenced no wells in the area.
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located; and
Yes
4. The proposed conditional use is designated by this code as listed conditional use in the zoning district in which the property in question is located.
Yes
5. The effect the Conditional Use on the County's Comprehensive Plan
None
6. The effect of development would have on schools, traffic, streets, shopping, public utilities, and adjacent properties,
None, unless the animals were loose and out.
7. Is the application necessary for the public convenience?
No, it is private property.
8. In the case of existing nonconforming use, will a conditional use permit make the use more compatible with surroundings?
Yes, clean up weeds and grass. Will avoid a fire hazard.
9. Will the conditional use be detrimental to the essential character of the district which it is located?
No

Chairman Pristupa asked for comments from the Commission Members. Commission Member Spackman stated that every possibility should be used to maintain the containment of the animals, the use of one or two wires is not sufficient.

Chairman Pristupa stated that the watering of the animals would be one concern that it could become a mud hole. Several years back horses had to have a full water tank with open hoses left for the animal to play with causing the water to run on the ground instead of in the trough.

Commission Member Crabb asked if Mr. Thomas is grazing that piece of ground does he intend on leaving the animals there permanently, through the winter. Commission Member Crabb has a concern with the animal being left without feed and is concerned with the animals being abused.

Chairman Pristupa stated that the recommendations and stipulations could be listed on the conditional use permit that grazing of property could be allowed for a specific time to keep the weeds down.

Commission Member Crabb stated that there are different ways of getting around the uses. Discussion was had that the Planning & Zoning Commission can make the recommendations that the animals are grazed from May to October as recommended on other Conditional Use Permits if approved. Discussion was had that the grazing at the sewer plant has a period allotted for grazing.

Commission Member Spackman stated that if it is overgrazed it will be pounded down to dirt and become a feedlot. Commission Member Crabb asked if it became a feed lot at that point? Discussion was had that if the weeds and grass are gone then the animals need to be removed.

Commission Member Rasmussen asked if the Conditional Use Permit was okayed if there would be stipulations added that there are so many head of livestock allowed, would not like to see a feed lot on the property. That would trim the idea of having animals to create a problem like having only three or five horses. Chairman Pristupa stated that this can be addressed. The parcel is not very large so there should be an amount allowed. The person who would be grazing the property does not abuse his animals.

Chairman Pristupa asked the Planning & Zoning Commission to address the stipulations identified and decide on approval. Commission Members recommended the following stipulations on Conditional Use permit 2023-225: only 3 head of horses, gaze May to September, if no feed available must move from the property, and no open hoses for watering the animals.

Chairman Pristupa asked all those in favor of approval of Conditional Use Permit #2023-225, with stipulations on watering, number of animals, and time allowed to graze. Motion was seconded by Commission Member Crabb. Motion passed unanimously.

Chairman Pristupa stated that Mayor Barthlome wants to amend the Setting Permit Application to include Portable Carports. Citizens will be required to apply for a setting permit to put up a portable carport. Discussion was had that there is not an ordinance or regulation for portable carports in the City of Grace.

Discussion was had on getting the requirements down properly on the setting permit application. Discussion was had on the setbacks on the property which might be an issue so that a variance would be necessary.

Chairman Pristupa asked for a motion to put portable carports on the setting permit application. Requiring that a setting permit is required to place a carport on property in the City of Grace.

Commission Member Spackman made a motion to add the portable carports to the setting permit application. Motion was seconded by Commission Member Rasmussen. Motion passed unanimously.

Chairman Pristupa stated that other business would be Planning & Zoning Commission training.

City Attorney Wood stated that you all have heard the saying that no good deed goes unpunished. Attorney Wood stated that a while ago the County Planning & Zoning Commission asked Attorney Wood to do some training. Attorney Wood stated that he had been asked to do training for the City of Grace Planning & Zoning Commission, because the curriculum was in place.

Attorney Wood stated first thank you for being concerned enough to take time out of your life to give your time and attention to maintaining the city. It is an important role that is being provided.

Attorney Wood stated that the Planning & Zoning Commission has the authority to make recommendations on conditional use, subdivision regulations, plat, and zone amendments. The Commission also provides recommendation to the city council on area of impact amendments, comprehensive planning amendments, zoning ordinance amendments, developmental agreements, and plat proposals. In considering the comprehensive as a planning & zoning ordinance. The commission may conduct citizen meetings, hearings, surveys, site visits, and consult with public officials regarding these things.

Planning and Zoning Commissions deal with a broad range of situations that are a day to day business of the city making recommendations and decisions on land use applications. The Commission must also deal with long term issues of planning for the future growth and development of the community, as such the planning and zoning commission through it actions must respond to the challenges of the moment, in addition to proactively preparing for the future. The commission has kind of a balancing act that sometimes is a delicate one.

Attorney Wood stated that recommendations the commission make to the city council are important because the commission are the boots on the ground. The commission get to talk to the individuals, do site visits, and study things out for when the commission makes recommendations.

Discussion was had that site visits were not allowed for the commission previously. Discussion was had that the state allows the site visits.

Attorney Wood stated that maybe the city could restrict or expand whatever rules and responsibility that they ask the commission to do. Discussion was had on violating state code. Discussion was had on having permission to go on private property. Attorney Wood stated that you cannot trespass on some one's property. Discussion was had that all the commission members should be involved in a site visit.

Attorney Wood stated that the commission is a Quasi-Judicial Council, the commission is bound by the same regulations as the city council.

Attorney Wood stated that Idaho has open meeting law that state: Whenever two of the board members discuss business or issues that are before the commission there needs to be an agenda published and needs to be in a meeting setting.

Attorney Wood stated that if the commission were to go do a site visit it should be stated on the meeting agenda. Invocation, Pledge of Allegiance, then go through any of the public hearings, then if there is a site visit it is on the agenda. This is part of our open meeting. The commission will do a site visit on this property. Question was asked if the site visit would have to be on the same day or another day. Attorney Wood stated it needs to be on the same day and posted on the agenda as part of the meeting. This is Idaho State code on open public meetings.

Commission Member Spackman asked if there was anything against doing a drive by? Attorney Wood stated that an individual could not do a site visit but can drive by.

Attorney Wood stated that there are some things that the commission need to be careful with. One is Conflict of Interest, where there is a situation maybe a family member or someone you might not think is very close to the commission member and there is no relationship, cousin or son-in-law, or someone within two degrees of relationship to the member. In this case the member should recuse themselves and step back and not participate in the business making process. The reasons are obvious as to why the member should not be involved. Problems can arise if someone were on the planning and zoning commission and were a developer or contractor this could get out of hand.

Attorney Wood stated that another item that can be a problem are gifts. Attorney Wood stated someone who is looking for a decision to go in their direction, to give a gift, or do something nice for the member of the commission. This may cause a sense of owing someone, be very careful about these gifts. The commission member should state that it is so nice of you, and I appreciate this but there is this matter pending and I probably shouldn't accept the offer or the gift. Even something as small as a plate of cookies.

Attorney Wood addressed threats. This has come up sometimes where a patron stated that he would not vote for the person due to a pending issue.

Attorney Wood stated that when the commission makes decisions, they should be fair, and unbiased decisions that take into consideration the totality of the circumstances for that item being determined. If this happens the number one thing to do is to disclose it, and number two would be to recuse yourself from the discussion. This saves a lot of issues on items being discussed.

Attorney Wood stated not to use this position for personal gain, don't let people bribe you. Attorney Wood stated that most things are just common sense on items that the commission do not have issues with, that are non-applicable.

Attorney Wood stated that what he has observed tonight the commission is doing a great job of taking into consideration the factors that are supposed to be considered in making decisions. There are factors that if the city makes a decision that is contrary to what the citizens are requesting. The citizen has a right to appeal to a court of law for judicial review. The court will look at what is supposed to be looked at. That process starts with the planning and zoning commission in making these decisions. The commission goes through the factors that need to be considered. The decision made on the hearing tonight the questions were asked does it do this, does it do that and do we need to be concerned about

this and then making the proper recommendation about the number of animals, and the reasons for this decision. If this goes to the court the city Attorney must defend the issue. Attorney Wood could say this was factored and is not just a willie nellie decision that was made. The Planning & Zoning Commission used reason. The commission did not want mud puddles, feed lots, someone subverting zoning laws, and so the commission added a time limit for the animals and the manner of usage of the parcel. This makes the city Attorney's job much easier to go before a judge and to represent the city. The planning & zoning commission followed the law and did everything correctly in their decision making. The person was given due process, they followed what they were supposed to in their quasi-judicial roll and the commission used good sound reasoning behind the decisions. The commission should continue to do the correct procedure.

Attorney Wood stated that the commission should learn to agree to disagree sometimes on issues. The commission might be on opposite sides of the issue with your neighbor on the commission. When that happens don't make the issue that was disagreed on bigger than the relationship. Try to keep it focused on the big picture. We all want what is best for the city, that is why the commission is here, it's not for the big bucks you are paid. When you keep the big picture in mind it is easier to recognize the person next to you even though you do not agree with what is obviously the correct decision. You can agree to disagree and still maintain a relationship that functions for the benefit of the community. Sometimes it is very difficult to do. When you have issues of disagreement stay civil, keep a civil tongue, keep a civil mind, don't say things you will regret later, and try to understand where this person is coming from. Try to see it from their perspective and hopefully they are doing the same. This way there can be a bridge built over the issue, understanding each other's opinions more and what that person adds.

Discussion was had that sometimes people express a viewpoint about a situation and what needs to happen with the issue.

Chairman Pristupa reminded the Planning & Zoning Commission to read the AIC Manual, it will help the commission with our duties as a commission and in the future, because everyone in Idaho, the counties, the cities, view the planning structures the same way, using the same documents. If you want to do something with your property you will know what is needed and how to proceed with the county or the city, what can be done and not done.

Attorney Wood stated that sometimes even in the county the commissioners will not or do not follow the recommendations by the planning & zoning commission, it is the commissioners' call. The commissioners can change how things are done. Attorney Wood stated that it doesn't mean that one is right, and one is wrong, it just means that is the decision, or duty of the commissioners or the city council. The Planning & Zoning Commission has done their job. Just remember you can agree to disagree.

Chairman Pristupa stated that the AIC Manual listed the power of the planning & zoning commission. More than the commission realizes. Attorney Wood stated that the planning & zoning commission has an important function to make recommendations to the city. Most of the judges will follow the recommendations of the city in litigation, because of the correct percentage of information the commission has given the city with sound reasons of information to follow.

Chairman Pristupa stated that the commission can solicit funds from federal, and the state and the funds do not have to come from the city council, this comes within the limitations established, hiring, or

contracting with planners and engineers, architects, legal assistance. An example would be if someone developing a subdivision and if the commission does not understand the plan there can be assistance to review, overseeing the comprehensive plan process which was just done. Private property with the consent of the owner bringing legal action as necessary, making recommendations to the governor, these are the powers that the zoning commission have.

Attorney Wood stated it is a sufficient goal, that is why the training started off thanking you for taking time out of life to serve on the commission.

Question was asked if any member of the planning & Zoning commission had been in contact with Attorney Wood 24/7. Attorney Wood stated that when Chairman Pristupa emailed the copy of the Building Contractor contract to him that he informed Chairman Pristupa he would forward it to the city because it had to go through the city. Chairman Pristupa stated that he had asked Attorney Wood to review and see if there was something that could be doable for the city, Attorney Wood was to review as the planning & zoning commission were already in the process of presenting it to the city council. Attorney Wood stated that the city is still considering the issue. Chairman Pristupa stated that it had been discussed at city council meeting. The city is going to meet with the building inspector, county planning and zoning and the commissioners. Mayor Bartholome did not include the city planning and zoning commission. There are several commission members that are in favor of a building inspector. There is a misconception on items that the county building inspector inspects. Discussion was had on the cost of the inspection and how it will benefit the safety of the construction of buildings in the community. That is one of the items for this commission is their job to look out for the safety of the community.

Attorney Wood stated that if the city were to ask, he would suggest that it would probably be a good thing to have a building inspector, to enforce the codes, an agreement could be structured with the county building inspector if the county would allow it. That is only part of the equation, and it could be structured where it doesn't burden the citizen and the city could make some money. Attorney Wood stated that the citizen would have to pay for the inspections. The citizen must pay for the electrical inspections, sewer, and plumbing inspections. Discussion was had on the county commissioners allowing the building inspector to have a little more work. Attorney Wood stated that the county commissioners are aware of the health and safety of the citizens in the county, and I have seen this many times. Attorney Wood likes the idea that the city is going to discuss the building inspector with the county. Chairman Pristupa stated that he does homework on issues assigned to the planning & zoning commission, the commission approved the document and had it presented to the city council in May 2023, and has visited with City Superintendent Crookston about his feelings on the issue. The planning and zoning commission for the county really does not have jurisdiction in the city, which is kind of strange to request inviting the county planning & zoning committee to discuss the building inspector, but there was no discussion with the city planning & zoning. It was presented to Attorney Wood to see what his thoughts and ideas were on the issue as city attorney, because he knows the feelings of the commissioners and how they model items in agreements.

Attorney Wood stated that whenever he receives something involving the city it is forwarded to the city. Attorney Wood does not want to have a conflict of interest between the planning & zoning and the city council. Chairman Pristupa stated that it is doable and has possibilities. The City of Grace uses a setting permit for the building of new homes, there is no strength to enforce the construction and safety of a new home. The new home is being built on the guidelines of the application.

Question was asked when a house is purchased does the buyer send an inspector into the house? Attorney Wood stated that the buyer beware. As a buyer of the home, it is on buyer to have an inspection. Discussion was had that as a contractor a building inspector can be hired. Paying the inspector to check items. A building inspector should be someone that has no attachment to the contractor.

Attorney Wood stated that honestly when there is a building inspector involved the builders appreciate the information presented by the inspector. The building inspector looks at their work and appreciates the fact that a problem was found. It is the consensus that the contractor appreciates the help.

Chairman Pristupa stated that Grace does not need to be made into a big city but a safe city. Attorney Wood stated that here again you don't want overbearing government. A building inspector protects the contractor when done with the house, the homeowner cannot say you didn't do this and the contractor can say the work was done, the documentation is here and signed by the building inspector.

Chairman Pristupa stated that the Planning & Zoning are waiting for Ms. Askew to come back with the documentation on the Impact Area. The Impact Area was approved when Ms. Ashley was Administrator of the County Planning & Zoning Commission, and then COVID came, and things were left and then Ms. Askew was appointed Administrator of the County Planning & Zoning Commission and there was some items needed discussing. One of the things discussed was north boundary being left at Rich Road. Attorney Wood had recommended not to change the boundary, stating it is better to keep it where it is at the present time. This was discussed with Ms. Askew, and we are waiting for the finalization of the boundaries. This planning & zoning commission like working with Ms. Askew. Chairman Pristupa stated that it is important to keep a good relationship with the people in the county. Attorney Wood stated that the big picture is that all of us are on the same page. We all want the same thing, what is best for the county and the city. These are our neighbors that we work with.

Chairman Pristupa thanked Attorney Wood for the training and information.

Planning & Zoning Commission Assignment City Council Meeting:
September 20, 2023, Commission Member Spackman
October 4, 2023 & October 18, 2023, Commission Member Rasmussen

Chairman Pristupa stated that the Planning & Zoning Commission have had their allotted meetings and would not want to meet in October if possible.

Chairman Pristupa asked if any Commission Member had any further business? There was none.

Motion to adjourn the regular meeting was made by Commission Member Spackman. Motion was seconded by Commission Member Rasmussen. Motion passed unanimously.

Adjourned: 7:57 p.m.

ZONING CLERK

APPROVED: _____
CHAIRMAN/VICE CHAIRMAN

DATE: _____