

APPROVED

CITY OF GRACE
PLANNING & ZONING COMMISSION
RE-PLAT HEARING & SPECIAL MEETING
HELD ON JULY 27, 2023, AT 7:00 P.M.

PRESENT: Chairman Dave Pristupa

Commission Members: Kyle Bingham, Ralph Spackman, Mark Crabb

OTHERS PRESENT: City Attorney Doug Wood, Deneal Walker, Cathy Walker, Mark Covert, Deb Covert, Peter Clegg

Chairman Pristupa called the Re-Plat hearing held on July 27, 2023, to order at 7:01 p.m.

Chairman Pristupa asked those in attendance to state their names for the record:

Kyle Bingham, City Attorney Doug Wood, Deneal Walker, Cathy Walker, Deb Covert, Mark Covert, Mark Crabb, Ralph Spackman, Loy Raye Phillips, Dave Pristupa, Peter Clegg

Chairman Pristupa thanked those in attendance for a coming.

Chairman Pristupa stated the purpose of the Re-Plat hearing.

The City of Grace Planning & Zoning Commission will hold a hearing to re-plat the following parcels: Parcel 1 in Block 3, Lot 7 & 8, 0.08 Acres, Parcel 2 in Block 3, Lot 9 & 10, 0.12 Acres, Parcel 3, Block 3, Lot 11 & 12, 0.012 Acres to add to the Turner Subdivision in a R 2 (multiply-family residential) Zone. The address of the parcels 9th South to 10th South on 4th West.

Chairman Pristupa stated that under city and state code you cannot add property to an existing plotted area without having a Re-Plot. Attorney Wood stated that any time you are changing a plat that has been recorded there is a procedure to follow in chapter 13 Idaho Code.

City Ordinance 4-3-4 RE-PLAT states: Means any change in an existing subdivision that adds land to the subdivision or creates a new road or parcel within an existing subdivision. The procedure for a re-plat are the same as for an original subdivision.

Chairman Pristupa stated that under state code 50-1315 the property cannot be added to existing plated area without having a re-plat. Attorney Wood stated that any time there is a change to a plat that has been recorded there is a procedure under state title 50-1315.

Mr. Clegg asked if someone could define what a re-plat means.

Attorney Wood stated that a subdivision had to go through a process of having a survey setting up the boundaries for the subdivision setting the markers and monuments. Then this is recorded in the county records. Attorney Wood stated that if a person comes in and buys a parcel the buyer will know what they are purchasing and exactly where the property lines are located. Attorney Wood explained that anytime the boundaries are changed, and the paperwork is sitting at the county recorder's office and a change has not been made to correct the re-plat there is a question as to who changed the plat and why,

(The neighbor and I changed the plat). That is why there is a process to re-plat as is required when an area is in a platted subdivision.

Mr. Clegg asked if this was a county code. Attorney Wood stated that it is a state code that requires it to be re-platted and filed with the county.

Chairman Pristupa stated that every city in Caribou County that has subdivisions such as Highline, Burton Canyon Phase 1 and Burton Canyon Phase 2 were platted and registered with the county. This is a record for the city for the subdivisions within the city. If there were property to be added to the subdivision, there is a process it cannot just be added. There needs to be a re-plat which is required.

Attorney Wood stated in this case the City of Grace took the property on 4th West deciding to vacate allowing the property to be sold to the owners of the property adjacent their property. If the property owner were to sell the property in the future, if not re-platted you are selling the existing plat and the new property is not registered. Then it would be two separate properties.

Mr. Walker stated that this would extend the property line to add the 0.12 acres to the existing property.

Chairman Pristupa stated that the three lots on 4th W would extend out to include the property due to the re-plat.

Mr. Clegg stated that it is adding to the lots, is that correct? Chairman Pristupa stated that was correct.

Mr. Walker is concerned not understanding what the re-plat was and if it were going to be re-zoned to a different type of zone. If mini homes or whatever were going to be allowed on the property.

Mr. Walker would like to keep his property in one parcel. If this re-plat is all that it is, then we would be fine and record it with county. Mr. Walker was concerned that a mini home addition would be added.

Chairman Pristupa stated that Mr. Walkers Property is in an R 2 (Multiply-family residential) Zone presently, where multiple families can build a townhouse, apartment complex units, or mobile homes. This does not have to go through the re-plat process. The City of Grace can change the zoning to stated there will not be any multiply family homes in the area. Planning & Zoning and city can change from R 2 (multiply-family residential) Zone or to a R 1 Single family residential) Zone. This process is not being done to the subdivision all the city is asking to adjoin all the properties to the correct parcel. Mr. Walker just wanted clarification on what is being done to the property.

Ms. Covert asked if the only one that is being split is Mr. Clegg's parcel. Ms. Covert stated they did not want anything changed on their property. Mr. Covert stated that he did not want to change the zoning.

Mr. Clegg stated that the lots 7 & 8 cannot be changed until the re-plat is done. Mr. Walker stated that it would just change the property line.

Ms. Covert stated if all that is being done is adding the property to the existing property it was okay.

Attorney Wood stated the zoning question is a completely different and is separate from the re-plat. Mr. Walker was concerned that someone would move in if we are the property owners it would not be allowed. Mr. Walker had stated that as long as he owned the property nothing could be built on the property.

Chairman Pristupa stated that there is a 20' setback from 4th W. from the old parcel and now you can move the lot line forward to the west with your structures legally, without the re-plat you cannot build. Mr. Walker stated he would be okay with this.

Ms. Clegg asked could the city have done this before the property is purchased? Attorney Wood stated that it was like platting of a subdivision, abandonment of city streets is a different procedure and process as well. The city may have decided if the city was going to incur the costs of surveys and re-platting it may not be worth the cost to abandon the street so the city will not vacate the street to property owners. In this case it sounds like the city decided to vacate the property and allow the property owners to purchase the property, which the code allows. Then it is up to the property owners as to what they choose to do with the property.

Discussion was had that Mr. Clegg came with a setting permit to allow a home to be put on the property he purchased, the setting permit asked for 18' of the property in the Turner Subdivision, which was not allowed because the property is not platted to the Turner Subdivision. A Variance was required to put the house on the property which did not comply with the 7000 square foot area requirement, being 1000 square feet short of the area requirements of the R 2 (multiply-family residential) Zone ordinance. The re-plat should have been done first before the setting permit and the variance.

Chairman Pristupa stated that letters were sent out to all the property owners in the area, there were no letters returned from citizens within the area.

The only response returned:

City of Grace

Superintendent Crookston

Neutral

Chairman Pristupa stated that the City Supervisor is given a letter to evaluate the area, to decide on what is found within the code of the city. If Superintendent Crookston noted something that was not within the code, he would note it and advise as to the problem.

Chairman Pristupa explained to the citizens that if you receive a letter and do not understand the issue call the city office or any member of the Planning & Zoning Commission. The Zoning Clerk has the information to help with questions.

Mr. Walker stated that his letter did not get returned due to clarification of the re-plat issue.

Chairman Pristupa asked if anyone on the Planning & Zoning Commission had comments?

Commission Member Bingham stated that if the re-plat goes through, and you have multiple lots, do you need to go to the county and combine the lots? To combine lots does not require a re-plat. When a re-plat is done the county assessor will put the addition of the .08 of an acre with the property you own.

Mr. Walker stated that he owned two lots in the Turner Subdivision and asked if those lots were one property? Discussion was had that if they were two separate lots unless combine. Mr. Walker stated that he would have to go to the courthouse and do the paperwork to combine the lots. Discussion was had that Mr. Walker would have to go and request the properties be combined with the county assessor.

Mr. Walker asked if there was a cost involved in the combining of the property? Discussion was had that only the paperwork would be required.

Attorney Wood explained the difference in combining lots and what is being done here tonight is correcting the boundary line for the Turner Subdivision that has been platted, and in combining the parcels that are already in the subdivision and you are trying to add the parcel that was vacated. Attorney Wood stated that Mr. Walker is just changing the boundary line which is different.

Mr. Walker stated that if this is just a boundary change there is no problem with the re-plat.

Chairman Pristupa stated that if Mr. Walker wanted to change the property to two lots it would be his decision.

Mr. Clegg asked if this was for all three properties that purchased by the property owners? Mr. Clegg stated that he was not sure why the re-plat if it was just for his property or what?

Chairman Pristupa stated that Mr. Clegg was requesting a variance to add property to an existing plat. This variance made it a re-plat issue. Chairman Pristupa stated that the cost of the re-plat would be discussed in the next portion of the special meeting.

Mr. Clegg stated he had a large lot and a small lot that he wants to rearrange to make two lots. Mr. Clegg asked if this was going to be part of the re-plat? Commission Member Bingham stated that would require a survey.

Attorney Wood asked if Mr. Clegg was changing the lots themselves, if so, it might require a survey. The problem is the county shows the lots as being recorded not attached to the Turner Subdivision. Discussion was had on changing from east to west or to something like north south. This would have to be part of the process as well. Mr. Clegg asked about the survey. Attorney Wood asked for clarification on the boundaries. You are changing from east west to north south. There will not be a survey required just a re-plat to state it needs to be changed. Doing this now would make it a better fit.

Chairman Pristupa asked if there was any other discussion? If there is no more discussion the hearing is adjourned at 7: 22 p.m.

PLANNING & ZONING SPECIAL MEETING

PRESENT: Chairman Dave Pristupa
Commission Members: Kyle Bingham, Mark Crabb, Ralph Spackman
Zoning Clerk: Loy Raye Phillips

OTHERS PRESENT: Attorney Doug Wood, Deneal Walker, Cathy Walker, Mark Covert, Deb Covert, Peter Clegg

Chairman Pristupa called the special hearing meeting to order at 7:23 p.m. held on July 27, 2023.

Invocation: Commission Member Bingham

Pledge of Allegiance: Clerk Phillips

Chairman Pristupa opened the special meeting for discussion on the Re-Plat.

Zoning Clerk Phillips had two questions for Attorney Wood.

Does the city have to re-plat all vacated property in the Turner Subdivision?

Attorney Wood asked if the vacated property in the Turner Subdivision was changing lines?

The property has not been re-platted at this time. If the property was to be sold the property lines would have to be changed because it is not part of the plat. Attorney Wood stated that it is a good idea to make sure that the record of lots match what is on the plat.

Question was asked if it would be a good idea to go back and re-plat or leave it as it is? Attorney Wood recommended to do the correction and do the re-plat.

Has the City of Grace set a precedence by not re-platting other vacated properties in the city?

Attorney Wood stated that the city has not set a precedence, sometimes things fall through cracks, sometimes issues are brought to the city's attention such as the issue that is being discussed here. The city should take into consideration if these properties that are going to be vacated there may be a chance that a citizen would like to change a boundary and re-plat then the discussion comes up where is the cost of that lot going to come from. Attorney Wood stated that would lie with the individual who is benefiting from the vacated property. If the citizen can purchase ground that the city has vacated which will benefit the individual of the vacated properties and the property owner wanted one continuous lot, there should be no issue with getting the property surveyed and going through the re-plat process.

Discussion was had that there are properties that are vacated in the City of Grace that are not platted and have been sold to the property owners. Discussion was had on vacating alley ways and roadways adjoining the properties on platted subdivisions.

Attorney Wood stated it would be a good idea to make the property match the plat and what is happening in the city and what is upon record at the recorder's office so that if someone does build across where there is a vacated property the next successor with interest is not having a problem with the alley, etc. wanting to use the alley. There needs to be a record of the vacated property.

Commission Member Spackman asked for clarification on the difference between platting and just adjoining, we have this plat that shows all the lots. Lots 1 & 2 are purchased individually, and you want to combine them. Chairman Pristupa stated that the county assessor would combine the two properties into one lot with the proper paperwork, if there is a property purchased to the north that isn't platted, then there would be a re-plat required. Commission Member Spackman stated here is the main lot, if there is a piece of property to the north of the lot that has not been platted and you purchased, then it would have to be re-platted? Commission Member Spackman stated, if a property became available to purchase another lot and combine it with the main lot to build a house, and another lot become available which are all outside the subdivision, so they were purchased as well. These lots are all next to each other and they show on the plat that same thing. Question was asked if they were all platted? Question was asked how would you know? The county plat records would help.

Chairman Pristupa stated that an example would be the Burton Canyon phase 1, these lots were platted up to 28 lots. One landowner owns three lots, several property owners own two lots,

two property owners owns 1 and ½ lots. If the property owner wants to combine those lots for tax purposes into one property, they go to the county assessor. If one property owner has property that has property behind them and wants to purchase 2 acres of property from the owner behind them and wanted to combine them with their property in the existing Burton Canyon Phase 1 Subdivision, they would have to re-plot and annex into the city the new property.

Commission Member Spackman asked why the owner would go to the cost and expense, time, etc. and do that? Is there an advantage?

Chairman Pristupa stated that first there would only be one tax notice from the county assessor. If you place an attached structure to your home the tax base would go down because of the attached structure. There is less problem with the setbacks when the lot lines between the two properties are made into one property. Commission Member Spackman had concerns with this, was property needing to be re-platted?

Chairman Pristupa stated that property owners should be aware of the platted areas within the area of property they are purchasing.

Chairman Pristupa stated that looking at the city code and the state code to make sure what the process would be, the city code states that any time you change boundaries with a platted piece of property it is required not an option to have a re-plat. The variance for Mr. Clegg needed to have the re-plat done. If the re-plat is not approved, then the variance becomes null and void.

Mr. Clegg asked about the re-plat requiring new drawings and different boundary changes and surveys. There is not a different survey, but the new property must be added to make the proper sections on the west side to the existing property in the Turner Subdivision. Attorney Wood stated that it becomes an amended plat. Attorney Wood stated that the re-plat is an amendment to the existing plat to connect the properties.

Attorney Wood informed the homeowners they should talk to the surveyor who surveyed the property and have the surveyor do a corrected legal description for the plat lines and file with the county clerk.

Discussion was had on the city having a survey made of the vacated property done prior to the sale. Question was asked who pays to have the markers changed on the property? Attorney Wood stated that the owner would have to pay. Discussion was had that on the old survey markers and the correction to move to the new survey markers. Chairman Pristupa stated that if you were to ask Mr. Olorenshaw, stating that this property was surveyed by him what would it take for us to have you extend the plat lines so that the amended maps and legal description are filed as an amended re-plat. Mr. Clegg questioned the small piece of property being extended out. Discussion was had that Mr. Clegg would have to let Mr. Olorenshaw know that there is a need to change 18' from the platted lot in the Turner Subdivision and add to the new lot being re-platted.

Ms. Covert stated that there was to be nothing changed on the property they purchased.

Mr. Clegg stated that the cost would be the changing of the plat lines on the existing plat and new plat.

Discussion was had on the recording costs with the county. Chairman Pristupa stated that the Planning & Zoning Commission do not set the fees for the recording cost. Attorney wood stated that the county clerk is where the fees would be paid, needing to check with the clerk.

Attorney Wood stated that any plat map would have to be certified by a civil engineer or a surveyor, then the property would be certified and amended on the map.

Chairman Pristupa stated that to Ms. Walkers question the existing markers from the back will extend to the new markers on the front of the new acreage, the property will be longer, and the descriptions will be different on your legal deed.

Attorney Wood stated that if the Walkers were to sell their property you do not use the prior legal descriptions because it will no longer be correct, if you were to sell or transfer there would need to be the correct description of the property. Attorney Wood stated that the County Assessor cannot give legal descriptions. The surveyor is the only one to do that from the survey. Attorney Wood stated that the paperwork has to go to the Caribou County Clerk's office and then to the assessor's office.

Chairman Pristupa asked if there was anymore discussion on the re-plat?

Chairman Pristupa stated that on July 13, 2023, a variance was approved contingent to the re-plat amendment.

Commission Member Crabb made a motion to recommend approval of the re-plat amendment.

Commission Member Spackman felt that the paperwork needed to be finalized, the surveyor to do the legal description, and have it recorded. Chairman Pristupa stated that the re-plat would go to the county and to the city. The Planning & Zoning Commission need to make sure that it is documented for a requirement to be done so that Mr. Clegg can continue with the building. Discussion was had that the re-plat is required for Variance 2023-01.

Motion was seconded by Commission Member Bingham. Motion passed unanimously.

Chairman Pristupa stated there was no other business at this time.

Announcements: City Council meeting Assignments:

August 1, 2023 & August 16, 2023, Chairman Pristupa

September 3, 2023 & September 20, 2023, Commission Member Spackman

Variance Hearing and regular meeting scheduled for August 10, 2023

Comprehensive Plan hearing on August 16, 2023, a joint hearing with the city council.

Ms. Morton, SICOG will be here to present the new Comprehensive Plan, less the maps on the impact area which the Commission are still working with Ms. Askew. Commission Member Bingham stated the meeting will be held at 6:00 p.m. There is still information needed on the water consumed in the city for the comprehensive plan.

Chairman Pristupa thanked those in attendance for coming to the special meeting and invited the citizens to the comprehensive hearing on August 16, 2023.

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

Meeting adjourned at 7:50 p.m.

ZONING CLERK

APPROVED: _____
CHAIRMAN/VICE CHAIRMAN

DATE: _____