

APPROVED

CITY OF GRACE
PLANNING & COMMISSION
REGULAR MEETING HELD ON
NOVEMBER 11, 2021 @ 7:00 P.M.

PRESENT: Chairman Dave Pristupa
Commission Member: Scott Rasmussen
Zoning Clerk: Loy Raye Phillips

OTHERS PRESENT: Alan Johnson, D. E. Q., City Attorney Doug Wood, Bill Wood

Chairman Pristupa called the regular meeting of the Planning & Zoning Commission held on November 11, 2021, to order at 7:13 p.m.

Invocation: Chairman Pristupa

Pledge of Allegiance: Clerk Phillips

Chairman Pristupa stated that the Planning & Zoning Commission does not have a quorum present so there will be no motions presented for vote information discussion only.

Approval of the minutes of the Planning & Zoning Commission regular meeting held on October 14, 2021, will have to be approved at the December 9, 2021, meeting.

Report from City Council: Commission Member Welch attended the City Council meeting held on November 4, 2021. Information given to Chairman Pristupa as follows:

The Grace City Christmas Party will be held on November 29, 2021, at 6:00 p.m. at the Grace legion building. Information on training for Grace Fire Department. Ms. Hamilton had discussed a youth council to help with service projects in the community. Mayor Bartholome will visit with Principal Brady at the High school to see if there is any interest from students. Idaho Rural Water conference training in May for two City employees to attend. A new holiday was set for June for city employees. Discussed the purchase of a plasma cutter for the shop. Discussion was had on repairs for city trucks. Sanitary wastewater was inspected, the report was good. Suggested purchasing a generator to pump water during power outages.

Zoning Business:

Chairman Pristupa stated that Allan Johnson from the Department of Environmental Quality (DEQ) has been invited to discuss septic systems and water systems in the Impact Area. Then there will be a discussion on the changes for substantial complete and the impact area change or not to change. Chairman Pristupa stated that the Grace Planning & Zoning Commission had met with the Caribou Planning & Zoning Commission to discuss the impact area.

Mr. Johnson from the DEQ stated the rules for rural Idaho septic systems has been delegated to the health district.

The rules are not written to protect ground water or protect the water quality. The health department rules are designed to protect public health in other words there is not to be sewage on the ground where children play, and animals are contained. The subsurface rules need to be followed. The wastewater is going on the ground not creating a human health issue but goes into the aquifer. If the septic systems are few and far between it is not an issue. There are not rules that say if you do the septic system this way you are not polluting the aquifer. When a request is made from the county for a subdivision a letter of request or notification is requested from DEQ for comments on this proposal.

The number one thing that the DEQ looks at in the development for a subdivision is what the lot density is on the request. If it is five acres or more typically there is not much concern with five acre lots. If you have ten lots each is five acres, the homes are going to be far enough away from each other that you will not see ground water pollution concentrated within the area. No concern of elevated levels of nitrates in the water.

If less than five acres, then DEQ will typically recommend connecting to a community sewer system or the city sewer system. Discussion was had on a community sewer system being different that a city sewer system. Mr. Johnson stated that the DEQ will always recommend that the use of a community or city sewer and water system be used if available. The next option would be to do a nutrient pathogen study to evaluate the concentration of how much pollution. Mr. Johnson stated that when talking pollution, it is nitrate because that is what can be measured. When wastewater is put into the ground it does not get treated, it doesn't get cleaned, it is filtered. The soil will filter the particles out so most of the particles cleaned out are viruses, bacteria, etc., are attached to particles and are filtered out in the soil unless the no removed. Discussion was had on the types of soil in the area. There is fractured basalt, lava rock, etc. Anything that is dissolved like pharmaceuticals, caffeine, nitrate, anything that is dissolved in wastewater will go through the soil and end up in the aquifer. There is the Idaho Ground Quality Rules which does not have any quality water standards. There is drinking water standards in the case of nitrates it is 10 mg per liter. The Ground Water Rule really does not have a lot of teeth to enforce. Example if someone came and stated they were doing an in depth ground water study and have determined this person is polluting the ground water. If evidence is presented to cause an environmental hazard, the Ground Water Quality Rule could be used. The water issue is not cut and dried as some other environmental rules.

Mr. Johnson stated that the DEQ wants to develop a good partnership with the cities and counties. County Planning & Zoning and City Planning & Zoning have ordinances in place.

Mr. Johnson stated a lot of what the DEQ sees is that people are developing in county areas. One reason is that the citizens would rather not hook to city services. Discussion was had that the developer would be paying for the services placed on the parcel being developed. When sold the homeowner pays for the installation for the developed parcel.

Discussion on the cost of drilling a well on private property. Discussion was had on depending how deep the well was drilled. The cost of a well several years ago was \$50.00 to \$60.00 per foot. Discussion on the cost now being around a \$110.00 per foot providing there is water. Discussion was had on drilling from sixty feet to three hundred feet before being able to get good water which brings the cost of well up. There is no guarantee that there will be good water.

Mr. Johnson discussed the development of septic systems. The second thing the DEQ looks at is the number of lots being developed. An average four bedroom house uses three hundred gallons per acre a

day. If there is going to be a group of four bedroom houses which is an average for Idaho. Those homes will generate three hundred gallons per day wastewater (average). If you have eight of those homes on a community sewer system. This would generate 2,400 gallons per day. If you have 8 or 9 homes on a community system, there is 2,500 gallons daily cut off. Again, there is no rule there it just a rule of thumb. This is what the DEQ looks at if there are ten five acre lots or one hundred lots at five acres. This would allow more scrutiny. If the DEQ receives a subdivision proposal for two acre lots but there are two homes or four homes small lots. Small two home family subdivision. There is not to much concern for two homes on two acre lots. If there are ten or more homes then it can be a concern.

The DEQ has personnel employed to cover service Water systems and the different circumstances involved in different area of service water specialist. The DEQ employs a water hydrologist. The DEQ team goes over the proposal and a letter is then sent to the county or city with specifications and recommendations for the proposal.

Mr. Johnson stated that one of the concerns of the DEQ is the area of a designation called nitrate priority area. What this means is that more than 25% of the wells that have been sampled not all the wells have more than 5 mg to 10 mg maximum per liter for safe drinking water of contaminate level. This gives a good indication in this area and all the area from Thatcher up to Chesterfield, around the corner has nitrate contaminate. Discussion was had that the nitrate is not necessarily all from the septic systems, it could be from fertilizer. Without doing the analysis and the isotope testing needed to check the nitrate levels to see where the nitrate contamination is coming from to make a clear call.

Question was asked of the rate of 10 mg was the same statewide? Mr. Johnson stated that the MCL was the same contaminate level for the state. This is federal standard.

Discussion was had on city well number 2 being shut down in 1992 because of nitrate and has not been in use. Mr. Johnson stated that in a discussion with Superintendent Crookston a suggestion had been made to fire the well letting it run for a while getting the stagnant water flushed out and do a water test sample.

Mr. Johnson stated that the nitrate issue has come and gone in cities. Sometimes it is worse because ground water is always moving. The ground water moves slow a condition in the ground water could get better or worse. Mr. Johnson stated that the City of Grace has a legitimate concern to want to protect the aquifer instead of having the expense of replacing the wells.

Discussion was had on nitrate septic systems. A normal septic system will discharge wastewater having about 45 mg per liter of nitrate. There are systems available that are called nitrate reducing systems or advanced treatment systems or extended treatment package systems all being the same type of system. There is an initial unit in the septic tank or an additional little tank. Typically, what it has is a blower in it to blow air into the unit making it so there are different things to help biological activity inside the tank treating it like a sewer plant. Using these types of systems, the nitrates can be reduced by half which is about 20 mg per liter using this advanced treatment package septic system, but there has been some trouble with these systems due to the maintenance required. Most of these systems have a contract to have someone come annually doing maintenance regularly. These systems are costly to begin with. There is a switch required to turn the system on and off. If problems arise you flip the switch and turn it off and it works like a normal septic system. There is no rule to make sure that the advanced system is inspected. The city or, the county, health department do not have rules to enforce the maintenance on

these systems. There is no mechanism to make sure this happens. If someone was contracted to monitor these units it would help. There is nothing stating this is going to happen.

Mr. Johnson discussed a development in an area with twenty three lots where the neighbors did not want the development to be built requiring a Nutrient Pathogen study which took three years to complete. Cost would have been five hundred thousand dollars. What the final recommendation was that every home on the plat received restriction to requiring that homes could not be larger than a three bedroom home, no more than four occupants per home, and every home had to have an extended treatment septic system. There is no one to police the system. This is an example when people insist on using these types of systems. Mr. Johnson stated that the DEQ is not trying to say this is not a good option, but this can be a good option to consider. The extended treatment packages do work, provided they are maintained.

Discussion was had on County Ordinance 0901. Mr. Johnson stated that he was aware of this ordinance. The city of Grace was concerned about the impact area and septic systems going into the area of impact. So, the county was asked to come up with this ordinance. It is a county requirement to put in nitrate septic systems. The city of Grace has the same verbiage in Ordinance 284 as the county has in 0901. This ordinance is only binding with the county and whoever the county issues a building permit.

The health district only looks at the soil requirements, setback from well to the drain field being correct. The health district only requires their minimum rules of septic systems and the drain field being adequate. Will a septic system work here? Yes it would, it does not mean that the aquifer is protected.

Discussion was had on not having an aquifer flow study done in the impact area. Even though surface water may drain to the south. The aquifer could be flowing to the north. The aquifer will follow the lay of the land. Lava flows, basalt, lava rock and fractures may make the water flow differently.

The hydrogeology in this county is unique because of all the lava flows and cinder flows. A septic system that is down from a well and turn the well on pumping for a period, there will be a drawdown of the water table which can reverse the water flow towards the well. An example of a hydrogeology study in an area showed the ground water flowed south in the winter and north in the summer. Irrigation drawing the water out and recharge water being put back into the aquifer.

Discussion was had on the concerns of the aquifer. Phase one of Burton Canyon is on city water and sewer. Phase two is also on city water and sewer. The Highline View Subdivision is going to be wells and septic systems on five acre lots and two and one half acre lots. Discussion was had on the way the subdivision is positioned there would need to be a lift station for the sewage, which can be costly. Mr. Rasmussen had stated that a lift station for ten homes would cost about \$125,000. Discussion had on developing more property around the subdivision a larger lift station would be required.

Discussion was had that an updated ordinance for the A (agricultural) Zone had been done. There are three areas in the new ordinance. Less than one half acre, half acre to an acre, and one acre or more which allows people to buy property in the agricultural area in the city limits with animal rights.

Discussion was had that the Planning & Zoning commission is trying to look to future development. Trying to get the County Planning & Zoning Administrator to understand the area of impact for the city. There is an airport in the area that could be developed into a useful tool for the city in the future.

Discussion was had on changing an ordinance having five acres or more or less than five acres would have to be on a city sewer system or a community septic system.

Mr. Johnson showed an idea that the DEQ has for a requirement to be hooked to a city sewer. Mr. Johnson stated a representative from Bannock County had called and asked what rules are required on how far away does it state to hook into the septic system. DEQ does not have a specific rule on when or where to hook into a city system. The rule states reasonable accessible. What is accessible?

Mr. Johnson presented an idea that the hydrogeologist from his office proposed. How many lots in a subdivision and the density of the lots? If you have smaller than an acre. One house would be five hundred feet away required to hook up, whereas if it is a two acre lot the required hook up would be two hundred feet. This is the DEQ's idea, but the county or city could adopt something like this. This makes it a sliding scale as the numbers go up on the scale. Looking at lot density, with five acres or more to hook up would be within fifty feet of the sewer line in order to within five hundred feet to be required to hook to city sewer, whereas on two and one half acres it would have to be within a hundred feet, etc. A forty lot subdivision with less than an acre might have to go four miles or so. The county could require the distance. The expense would be recouped from the sale of the lots. Discussion had there is a city ordinance requiring a home within five hundred feet of the city water and sewer are required to hook into the services.

Discussion was had that a septic tank should be pumped every three to five years and how expensive it is to maintain a septic system. Discussion was had on the tank being filled with solids, something being poured down the drain killing the bacteria in the tank and the drain field needing to be repaired or a new drain field built which is expensive.

Discussion was had that some counties have passed ordinances that state if septic systems are put in within a thousand feet of city services the counties are requiring the subdivision to connect to the city, regardless of lot density or lot size.

Mr. Johnson stated that a discussion with the County Planning & Zoning Administrator on developers investing money can get thirty percent on their investment, it is a good return. Discussion was had that some developers make one hundred percent money back plus an additional fifty to seventy percent return.

Discussion was had on requiring annexation into the city and tie into the city system. The phase one subdivision had paved roads, curb, gutter, electricity, phone, cable, gas, water, and sewer all included in the lot when sold. The city had to tie the septic and water lines into the homes. The homeowner would be billed monthly for the city services. Mr. Rasmussen will cover the cost on phase 2 of the Burton Canyon subdivision. The cost is returned when the lots are sold. The same issue could have been done on the new subdivision.

Discussion was had that the septic systems on the fifty acres prior to the ordinance change will be grandfathered in under the ordinance in force at that time. The nitrate septic tanks will be excluded. Discussion was had that if the subdivision is bordering the city, it should annex into the city and hook to city services.

Chairman Pristupa thanked Mr. Johnson for the information provided and answering the Planning & Zoning Commissions questions.

Substantial Complete:

Attorney Wood has suggestions on the substantial complete ordinance. There are really no teeth other than you must reapply for a permit, if not done in a years' time. There are a lot of good things in the resolution. It does not have any definition what is meant by substantially complete. Mainly roof, walls, doors, windows but missed the siding. Attorney Wood stated that it should say everything on the outside should be complete and the finishing work on the inside.

Discussion was had that in the Burton Canyon Subdivision that the requirements needing to be completed in one year were yards, and outside finish of home completed. If a contractor is building the house there is one year after the contractor has completed to finish the yard and everything else.

Discussion was had on definition of when a yard is finished or landscaped. Question asked when a home is built the ground around the home settles and fill dirt is required. If the home is finished and it is fall the ground will have to settle. How do you deal with the landscape part of the substantial complete? Does it require a year's time after the home is complete? Can this part of the substantial complete be part of the setting permit? Attorney Wood stated that it is an ordinance, and it can be crafted the way the commission would want it. This is something that would create a problem with sidewalks, driveways cracking before the settling of the ground.

Attorney Wood stated that concern about the landscaping is important, but more concern on the substantial complete of the house. Is the structure complete? Attention to all the utilities need to be connected to avoid building just the structure which would solve problems later.

Discussion was had on substantial complete for the electrical, plumbing, needing to be completed on the interior of the house, does not have to have the sheet rock installed but electrical needs to be completed. Exterior of the house must be complete. The roof, garage, driveway needs to be completed so cars are not parked on the streets.

Discussion was had on specifying the type of siding as stucco, wood, brick, vinyl, or aluminum, and wood for the exterior finish.

Attorney Wood stated that section 4 of the resolution 171 reads: If the permit holder does not immediately obtain a new setting permit and continues work after being notified that a new permit is required, the commission will notify the city council of said violation (3-5-4, City Code). That is a good place for the city to add a penalty. The city has ability to fine for noncompliance for ex amount of dollars. Discussion had that a resolution can be changed without a hearing whereas an ordinance would require holding hearings.

Discussion was had on the Planning and Zoning commission reviewing the permit seeing that the work is complete. The city staff signs all permits. The Planning & Zoning Commission do not sign setting permits. Attorney Wood stated that a review of the outstanding zoning permits can be done by the Planning and Zoning Commission. This might be another change that could be made to the resolution.

Discussion was had on city articles read from other cities and towns that the mayor has the authority to create a code enforcement officer with knowledge of the uniform building code, and enforce what the city code and ordinances, and resolutions state. The mayor can hire a code enforcement officer to enforce the building codes, ordinances, resolutions, etc., who are legally able to go onto properties to

do the inspection and if the citizen refuses, then a warrant is issued to go on the property. Discussion was had that most citizens in the City of Grace would allow the inspection. Comment made that none of the city workers can go on private property. The city employee can knock on the front door but are not allowed to do anything more.

Attorney Wood stated that it would be easy to knock on the front door and state that an inspection on the permit needs to be done in order to complete an occupancy permit on the permit. Most all property owners would be willing to allow the city employee to check the information on the permit to get a completion of occupancy and avoid fines, fees and penalty. The city of Grace does not use a completion of occupancy permit. The setting permit is for the building and setbacks.

There has been discussion on the possibility of hiring the Caribou County Building Inspector as a code enforcement person to enforce the ordinances of the city. Discussion was had on the cost of permits issued by square footage. Discussion was had that everyone wants their house built correctly. Discussion on a building inspector knowing all the things required for code when building a home, making sure that contractors and electricians are doing work correctly. Discussion held on using a building inspector to make sure that the building is complete. Not everything is about the dollars spent on building a home. Most people are happy to spend the extra so that things are done right. Mr. Poulsen inspects the rebar before the cement is poured and inspects the building at various times during construction. Discussion had on using common sense when building a home.

Discussion was had on Resolution 171 stating that the Planning & Zoning Commission can inspect the zoning permits. It is easily visible to drive by and look at the home listed on the permit. It has been fourteen months and the house is not complete where does the inspection stand. There is no teeth to enforce the completion of the outside of the home listed on the permit.

Discussion had on paying a \$100.00 to get another permit for the house from the City of Grace compared to purchasing a \$3,000 or \$4,000 dollar county building permit.

Question asked if Resolution 171 can have changes made to improve and add the siding to the requirements. The Setting Permit instructions, siding is not listed as substantial complete. Discussion had on exterior finish being clarified. Discussion was had on someone from the Planning & Zoning Commission being able to drive by to make sure the items listed on the substantial complete are finished. If not complete, then a letter is sent from the City Council.

Attorney Wood stated that it would be beneficial to have the interior of the home like the electrical inspected, etc. The exterior of the home is all that the city of Grace can inspect. The problem would be that it would cause problems if there were people tramping through the new construction. Discussion was had that a code enforcement officer could be hired. The mayor has the authority to appoint someone to enforce the codes. Attorney Wood stated that the City superintendent has the authority to enforce the code. Discussion was had on hiring someone with experience. Discussion was had on having the code enforcement officer employed parttime. Pay would be for a maximum of ten hours per week. Discussion had that Mr. Poulsen may not know the codes for the city of Grace but is aware of the codes required to build a home.

Discussion was had that a better way would be to hire a building inspector. The building inspector could be asked to look for compliance of the substantially complete codes.

Discussion was had on inquiring about information from Mr. Poulsen on becoming a building inspector. It would cost \$695.00 to enroll in an online class to take a course test and they are required to have an Inspector Certificate Ass. card. Mr. Poulsen stated that being a high school graduate and having some building experience would help in getting an education to apply for college to get the required education to be a building inspector. Mr. Poulsen stated that most contractors in Caribou County know the standards required for snow loads, frost and etc. Discussion was had that Mr. Poulsen must know the uniform building code as well as other requirements for building

Discussion was had on asking the county to allow a contract with the building inspector to inspect homes in Grace. Discussion was had that this would be the cheapest way to get a building inspector. The city would only pay for the use of the inspector and bill the homeowner. The fee would be based on square footage at a cost of \$2,000 paid by the homeowner. Then it is not a cost that the city would have to pay. Then the City could feel good about the code enforcement. Discussion had on a fee of \$67.00 per square foot charged for the City of Montpelier costing \$1,200 to \$1,400 per square foot.

If a homeowner did not get the permit renewed, then the fee would be more. This would help the city know that work is still being done on the permit. Attorney Wood stated that how the resolution is written the homeowner is given a year and if not renewed the permit is noncompliance. Attorney Wood stated that if a setting permit is not reissued and the house is not complete. Then a fee or fine is owed and the permit needs to be renewed to complete in a certain amount of time.

Attorney Wood stated if you are not going to issue a setting permit and the house is not complete something needs to be issued to finish the home. Discussion was had on issuing letters and fines not being complete. Some fines are \$50.00 per day, when does this stop? Is it legal to put those fines on the citizens property tax? Discussion was had that homes completed under the resolution 171 are allowed to just wrap the outside because siding was left off. It detracts from the neighborhood. The bigger concern is for the homeowner because the wrap will not hold up to winter weather conditions in Idaho.

Attorney Wood stated that there is a way to follow up on the permits to be complete. Discussion had on taking Resolution 171 and make the changes adding siding would that improve the resolution giving it teeth being beneficial.

Attorney Wood stated these are suggestions on the substantial complete.

Attorney Wood stated a better way would be to hire a building inspector. The building inspector could be asked while doing the inspection can the codes be inspected for substantially complete. Attorney Wood stated that Blake Poulsen would state that is what is done in the inspection of the building.

Impact Area:

Attorney Wood stated that a confirmation from Commissioner Bryce Somsen this evening that the Commissioners had discussed the Impact Area at their meeting on November 8, 2021. The County Commissioners looked at the map that the City of Grace had prepared and decided to leave it alone. Attorney Wood stated that the City of Grace has a lot of good representation with County Commissioner Mathews because he likes to see what Grace is going to do.

Discussion was had on the items that are near the city limits like the pipeline, river, lava flow, etc. A community well and sewer system could be drilled on the north side of the river if needed to develop

the area. The area could be improved if someone purchased three hundred acres to develop a huge manufacturing plant. There are things that could be developed to affect the city of Grace with pollution, contaminations, traffic. The city needs to investigate the future. It could be 20 years or 5 years that this would be a possibility.

The County Planning & Zoning Administrator stated it is all agricultural. Discussion with County Planning & Zoning Administrator that someone could apply for a zoning change. The County Commissioners would have to give a valid reason for not approving the change.

Discussion was had that the City of Grace is not going to shrink.

Discussion was had to leave the impact area at Rich Road on the north, leaving the impact area as was established in the proposed ordinance.

Discussion on subdivisions bordering, the city should be required to be annexed. The subdivision should be on city water and sewer. Determination between the City Council, Planning & Zoning, and the contractor of how this would be done. If a lift station is required, the city can determine that the contractor develop the lift station, because the subdivision is benefiting from the lift station.

Attorney Wood asked Clerk Phillips to send the word version form of Resolution 171 and Ordinance with substantial complete to his email so the changes can be made. Discussion was had on the Setting Permit Application that there needs to be the changes made also.

Discussion was had on the proposed Ordinance that states what the impact area will include. The County Commissioners agreed to leave the impact area where it is. Chairman Pristupa stated that in the meeting with the County Planning & Zoning Commission the Administrator had talked about five acres or more on septic systems and less than five acres would be required a community septic system or hook to a city sewage system and stating forty acres are required to build in the county. Requiring five acres in a subdivision.

Discussion was had on needing a code enforcement officer. Attorney Wood stated that Superintendent Bredehoft used to do the code enforcement. Attorney Wood stated that Superintendent Bredehoft would call and have his office write a letter regarding the code. A code enforcement office could go to the door and state you are in violation of cats, dog, weeds, junk, and setting permit. If that does not work, then a formal letter can be sent. Then the city Attorney is asked to send a formal letter to enforce the problem and if that doesn't work the court would be involved. Attorney Wood stated that if there is not a legal way to enforce the fees and fines the judge cannot enforce the ordinance. Attorney Wood stated that if the fees are listed in the ordinance the code enforcement officer can write citations. Discussion was had that if the fine is not paid that the assessment will be applied to your taxes. The fine could be applied the same as if your fee at the landfill is over the five ton limit. It is due and payable and can be applied to the tax assessment if not paid.

Chairman Pristupa thanked Attorney Wood for coming to the meeting. Chairman Pristupa stated that if Attorney Wood needed more information; it would be provided.

Chairman Pristupa stated that Commission Member Smith is stepping down. If there is anyone in the Impact Area that the Commission would add to the list from the west, north, south, or east needing to be added. The Commission needs to list the names in priority. Discussion was had on what the new

member would bring to the commission and what do you want. Discussion was had that those in the impact area are representing all those in the impact area. The Planning & Zoning can make suggestions only. Discussion was had on listing people that are maybe a little older and are not involved with family youth activities.

Chairman Pristupa stated that Commission Member Welch is obligated to attend the next city council meeting on November 17, 2021.

Chairman Pristupa is obligated for the City Council meetings to be held December 1, and December 15, 2021.

Chairman Pristupa stated that the City Council meets on December 1, 2021 and the Planning & Zoning Commission has a meeting scheduled for December 9, 2021. Discussion was had that Attorney Wood would need time to go over the information and send it back. Discussion was had on getting the Planning & Zoning Commission together at the next meeting to pass the substantial complete.

Chairman Pristupa stated there was no other business to discuss.

Meeting adjourned at 8:36 p.m.

ZONING CLERK

APPROVED: _____
CHAIRMAN

DATE: _____