

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

ROLL CALL

Roll Call showed the following Board members present: Chairman Penny Wright, Commissioner Steve Call, Commissioner Fred Titensor, Commissioner Adrienne Alvey, Commissioner Dave Cole, Commissioner Berni Winn, Commissioner Justin Carter

Staff present: Tyrell Simpson, Shawn Oliverson, Lyle Fuller, Becky Cox, Chief Dan McCammon

Others: Dan Keller, Quinn H. Corbridge, Larry Hansen, LeRoy Johnson, Tonya Sharp, Rex Sharp, Matt Gleed, Randon Naegle, Rozanne Hobbs, Sarah Hobbs, Jeremy Hobbs, Jill Parrish, James Parrish, Allyson Wadsworth, Brent Dodge, Dylan Lawrence (via phone)

Meeting was called to order at 6:00 P.M. by Chairman Penny Wright.

REVIEW & APPROVE P&Z MINUTES 10/28/2020

It was moved by Commissioner Fred Titensor to approve the Planning and Zoning Minutes of November 4, 2020, with an added paragraph regarding Scott Palmer's application for variance where Chairman Penny Wright had asked about the water shares creating a financial hardship. The original minutes reflect the changes.

Commissioner Berni Winn seconded the motion.

Vote was unanimous.

APPEAL OF BUILDING

Chairman Penny Wright called Dylan Lawrence, Attorney for Rex and Tonya Sharp, so that he could attend via phone.

PERMIT DENIAL- REX SHARP

Chairman Wright asked the commissioners if there was any conflict of interest. There was none.

Chairman Wright asked the commissioners if any of them had ex parte contact with Sharp's. None of them had.

Chairman Wright pointed out that this was not a public hearing and that she may ask questions of those attending the meeting. She also encouraged the commissioners to ask questions and make sure they received all of the information they needed.

Chairman Wright invited Rex Sharp to the podium to share any information he would like. Mr. Sharp deferred to his attorney. Chairman Wright asked the commissioners if they had any questions for Mr. Sharp.

Commissioner Steve Call pointed out that Mr. Sharp's application states his willingness to make improvements to the road and work with adjoining land owners to do so, he asked if Mr. Sharp had approached any of the adjoining land owners about being willing to help with improvements to the road. Mr. Sharp deferred to his attorney, stating that he had all the relevant information, but that he hasn't worked anything out with them. Commissioner Justin Carter asked where the house would sit in relation to the road. Mr. Sharp did not know the exact distance from the road but estimated about 50 (fifty) feet. Chairman Wright invited Dylan Lawrence, Attorney for the Sharp's, to make any comments that he wished to make.

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

Mr. Lawrence pointed out that all the Sharp's would like to do is build a home and there is nothing unusual about what they want to do. The property is located in the transitional zone which allows residential use. The issues that are the basis of the denial don't relate to the structure that they want to build, they relate to conditions and issues on property that is owned by other people. The purpose of the transitional zone, as stated in the Preston City Code, is to discourage the establishment of new agricultural operations in those parts of the city, but if the Sharp's can't build a home on their property there is little else that they can do with it other than agriculture. Allowing them to build on their property promotes the purpose of the transitional zone. They own this real property and they are entitled to due process and protections and there needs to be a pretty strong reason to deny someone the right to build a home on their property.

Mr. Lawrence explained that on the road in question, there is an existing home past the Sharp's property. If there are issues with the road they already exist and are not being created by the Sharp's wanting to build a home there. Usually when you are denying someone an application it is based on the effects caused by that application and that is not the situation here because the road issues already exist. Mr. Lawrence does not think that it comports with constitutional provisions to require someone to make improvements that are not on their property in order to receive a building permit.

Mr. Lawrence addressed four reasons for denial based on the staff report from City Engineer, Tyrell Simpson. First, proximity to a fire hydrant. He said that the citations of city code in the staff report came from the subdivision code, which does not apply to this application.

Second, the grade of the road. The 8% of required hard coat in the code comes from the subdivision code and does not apply to this property. The Sharp's have said that they are willing to comply with the 10% grade to comply with Fire Marshall Matt Gleed's recommendation.

Third, accessibility of a turnout for emergency equipment. Mr. Gleed has identified that they will need to build a turnaround on their own property and two turnouts on the road. Mr. Lawrence referred to the easement agreement between Mr. Sharp and Mr. LeRoy Johnson and said he feels that staff based the decision on that agreement. He explained that it is not the city's role to make a decision about property disputes, which is the role of the court system. The proper way for the city to handle it is to set a condition on the approval that addresses it, but not to deny the permit based on it. He said that an appropriate condition should not require the Sharp's to install the turnouts on someone else's property over which they have no control, but to make good faith efforts to install the turnouts.

Fourth, road conditions and emergency vehicle access. Mr. Lawrence stated that there is a disconnect between subsection D in the building permit code and the way that is has been applied. Chief Dan McCammon stated in a letter that he had concerns about accessing the road in bad weather, but that access can be provided for most of the year. Mr. Lawrence said that the standard in subsection D does not require access all of the time in all conditions, just an adequate level of services. Many large vehicles access the road and one new home is not going to change

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

the level of access on the road. The Sharp's are also willing to enter into a legally binding document stating that they will improve and maintain the road. Mr. Lawrence said that the Sharp's are not trying to get out of any requirements, but they are trying to do what they can to make the improvements and comply with city code.

Chairman Wright invited the commissioners to ask questions of Mr. Lawrence. Commissioner Titensor asked Mr. Lawrence to address the width of the road. Mr. Lawrence stated that the easement agreement between the Sharp's and the Johnson's is for a 25 foot easement with the surface of the road being 17 feet, and he believes that the Idaho Supreme Court precedent is clear that a turnout is encompassed within that easement despite the language about the 17 foot surface. He also reiterated that a dispute about the easement is not for the Planning and Zoning Commission to resolve but address it with some sort of condition on the building permit.

Commissioner Call stated that the city has an obligation to provide services to the property, even if they aren't responsible for making a decision on the property dispute, and asked Mr. Lawrence how the city can get out of the liability issues if there ever is a problem. Mr. Lawrence stated that the issue already exists and isn't being created by the Sharp's building a home. Commissioner Call replied that there is no need to make it worse. Mr. Lawrence replied that the addition of one new home was not going to add much to the already existing problems and there has to be some flexibility to uphold due process for the Sharp's. He also stated that the Sharp's are willing to improve and maintain the road, which would improve the situation not make it worse, and this would be a benefit to everybody.

Chairman Wright asked City Engineer Tyrell Simpson to approach the podium to answer questions that they may have.

Commissioner Dave Cole asked if there is a clear definition of what a turnout is and if it could be included in the 25 foot easement. Commissioner Call referred him to the fire code that Mr. Gleed had submitted, that stated it must have a good road surface capable of supporting the fire apparatus in the area. Commissioner Cole asked if that would be in addition to the road surface. Commissioner Call stated that that is how he interpreted it. Mr. Simpson said that that's how he interpreted it also.

Chairman Wright asked about the surface of the road and what Mr. Simpson's definition of a road up to code would be. Mr. Simpson stated that Mr. Gleed would be the one to look at the road and make sure it met the requirements for his fire trucks. Chairman Wright asked if it was strictly the Sharp's responsibility to upgrade the road since the Hobbs' also lived at the end of the road. Mr. Simpson stated that one of his concerns is that it is a private road and there is no way to enforce who will improve or maintain it. It's not enforceable through the city because it's a private drive. The city is not saying that the road has to be paved in order to build, but the road does have to be accessible to fire trucks and other emergency services. Therefore, it is the Sharp's responsibility to make the road usable.

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

Chairman Wright asked City Attorney Lyle Fuller to approach the podium to answer questions.

Commissioner Alvey stated that the first time the Sharp's submitted their building permit she had asked Mr. Fuller if the subdivision code was applicable and Mr. Lawrence had brought up that it was not, she asked Mr. Fuller to address that. Mr. Fuller stated that that has changed since they were here the first time. Mr. Lawrence researched the details and Mr. Fuller agrees that the provisions of Title 16 don't apply.

Commissioner Call asked if they could ask the Sharp's to sign a release of liability for the city and emergency service providers. Mr. Fuller answered that it could be a possibility if the Sharp's were willing to sign a waiver or a release, but that may not apply to the next owner if they were to sell the property. Mr. Fuller also mentioned that the Hobbs' had applied for a building permit for a second home and that it had been denied, but that there could be more people down there in the future. He stated that it is difficult to sue a city on a claim that they did not provide adequate services.

Commissioner Titensor asked if there was any reason they could not approve the building permit if the Sharp's could confirm road access. Mr. Fuller replied that the city doesn't need to weigh in on the easement dispute, but if the city wanted to approve a building permit with the condition that those issues be worked out that is within their jurisdiction. They would probably want to require some kind of documentation that it had been done. Commissioner Titensor asked if they could approve a building permit with the condition that the road be improved up to standard. He said that he feels like they are in the middle of a neighbor dispute instead of a planning and zoning issue and is uncomfortable with that. Mr. Fuller replied that the Sharp's have a settlement agreement with Mr. Johnson for an agriculture easement. Once they have a final building permit and pay Mr. Johnson Five Thousand Dollars (\$5,000) then it becomes a residential easement. He said that it would be reasonable for the city to approve a building permit on the condition that they could show that the dispute had been worked out to meet the requirements laid out.

Commissioner Carter asked about the water main and if it has to be put in and how that would work where there is not an easement to have access for it. Mr. Fuller replied that Mr. Simpson could address that issue better from an engineering aspect, but that he thought that was one of the things that was in the subdivision code when the building permit came through the last time around. Mr. Simpson confirmed that is no longer grounds for denial. Commissioner Cole asked what the water line would be for, if it would serve as culinary water and a fire hydrant. Mr. Simpson clarified that that requirement came from the subdivision code that does not apply and is no longer a requirement for this building permit. Commissioner Winn asked if that leaves them with only one water source, no backup water. Commissioner Call stated that he thought it was one shared connection. Mr. Simpson said that the city water line is a four inch line that goes to the end of 4th South and there are three connections there, one to the Hobbs, one to the Johnson's and one to the Sharp's. He said that one of the concerns is that there is a four inch line and the nearest fire hydrant is 2500 feet away so the city cannot provide fire protection from the nearest fire hydrant.

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

Commissioner Winn asked if considering exclusion from city limits is still an option. Mr. Fuller said that he and Mr. Lawrence have had some conversation about that but that it was not something that they have formally approached the city about. Commissioner Winn asked if there was a lot of work to that. Mr. Fuller replied that it would be work on the applicant side and then the city would have to decide if they wanted to approve it or not. But there would be an issue of having a water connection with the city.

Chairman Wright asked Matt Gleed, Fire Marshall, to approach the podium to answer questions.

Chairman Wright referred to a letter written by Mr. Gleed and asked him why he did not address the fire hydrant. Mr. Gleed said that in Idaho the water can be provided by cisterns, fire hydrants, water tanks or a fire apparatus. He said that they do have the capability to meet that water flow requirement with a fire apparatus. Chairman Wright asked him to clarify exactly what the turn around and turn out requirements would be. He responded that the state requirements are that any home more than 150 feet off of the main road requires a turn around and a driveway over 200 feet and less than 20 feet in width can require, by obstruction of sight, a turnout. The turnout has to be 10 feet wide and 30 feet long, the same surface of the road. If the road is 20 feet wide from the top to the bottom then there is no turnout required but there would still be the requirement of the turnaround at the bottom. Commissioner Carter asked if the 20 foot road would encompass a turnout. Mr. Gleed said that the minimum road width is 12 feet but then would have to have the 10 foot wide, 30 foot long turnout so that trucks would be able to pass each other. If the road is 20 feet wide the whole way then there does not have to be a turnout. Mr. Gleed also mentioned that even if the property was de-annexed these standard would apply because they are state standards.

Commissioner Call asked Mr. Gleed if he has been to the property and inspected it for the drawing that he had submitted and if the drawing accurately reflects where the turnouts would need to be. Mr. Gleed stated that he had and that the location of the turnouts could be a little bit flexible, the lower one has to be within 150 feet of the turnaround at the bottom but the top one has to be there. Chairman Wright asked Mr. Gleed what the specifications of the road are for it to meet the standards for a fire truck. Mr. Gleed responded that Mr. Sharp would have to hire someone who worked with roads and could certify it would hold up and be an all-weather surface so that it would hold up to the weight limit of the fire apparatus. Chairman Wright asked if Mr. Sharp only has to do that for his property. Mr. Gleed said no, it would be the entire length of the road.

Commissioner Cole asked who would inspect the road and ensure that it was done. Mr. Gleed stated that he would be responsible for that, along with the turnaround and turnouts.

Chairman Wright asked Jeremy Hobbs to approach the podium to answer questions.

Chairman Wright asked Mr. Hobbs how many businesses they have. He replied that they have three. She asked him what kind of traffic they

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

have driving down that road for their businesses. Mr. Hobbs replied that they don't have any business traffic there, just their personal traffic to their home. He stated that none of the businesses are running anymore. When they were running a construction business the biggest vehicles they had on that road were pickup trucks.

Chairman Wright thanked Mr. Hobbs and asked Police Chief Dan McCammon to approach the podium to answer questions.

Commissioner Call stated that his biggest concern is that Chief McCammon stated in his letter that services can be provided some of the time but not all of the time. He asked who would draw that conclusion. Chief McCammon stated that the weather would determine whether they could get down there or not. He said that he has never been down there in bad conditions but given the state of the road there are some concerns about certain times of the year in spring runoff and muddy conditions. There is a pretty good trench that goes down one side of the road that could cause problems when it is slick and muddy. He is concerned that there are times they would not be able to get down there. Chairman Wright asked if the Sharp's were willing to improve the road would that improve their ability to provide services. Chief McCammon said that he would not be able to determine that until he saw the improvements, but there would need to be improvements before he could say he could provide services year round.

Chairman Wright thanked Chief McCammon and asked Mr. Lawrence if he would like to address any of the concerns he had heard.

Mr. Lawrence asked if any of the commissioners had any particular questions that they would like him to follow up on. There were none. Mr. Lawrence said that he would like to speak to the reference to excluding the property from city limits. He said that they had discussed it early in the process but because of the lack of standards for the process and not really knowing how it would go they did not end up focusing on it.

Commissioner Cole asked Mr. Lawrence if there was any way to have some sort of binding agreement with the Sharp's to release the city, the ambulance district, the police department and the fire district from any liability if they can't get down there in an emergency. Mr. Lawrence said that it would be a decision that the Sharp's would have to make and they would need something more concrete to look at before they could say whether or not that's something they would do. Chairman Wright invited Mr. Sharp to the podium to answer that question. Mr. Sharp said that they would definitely consider it, he would want his attorney to weigh in on it but that they would definitely talk about it. Chairman Wright asked Mr. Sharp if he is willing to accept the financial responsibility to upgrade the road. Mr. Sharp replied that he has already said that he would do that. Commissioner Call asked Mr. Sharp how he would address the issue of the turnouts. Mr. Sharp said it has been an issue for two years and all he is trying to do is build a house. He said he is not trying to hurt anybody or make their jobs difficult, he would just like to build his house. As far as a turnout, he would have to talk to his attorney and see what the possibilities are. He said that he had discussed the turnaround with Mr. Gled already and had a plan for that and the lower turnout that they could move down a bit to put it on his property.

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

The upper turnout is in question. Commissioner Call said his main concern is the liability issue. Mr. Sharp said that he believes he can make the road safe enough that it won't be a concern.

Commissioner Carter asked Mr. Sharp if he knows how much it would cost to improve the road and if he is fully aware of what it would take. Mr. Sharp replied that he did have a good idea and that he works for a company that would help him out.

Mr. Gleed stated that if there was an agreement or release of liability there wouldn't be an insurance company that would insure them. He said in his opinion they need to stick with the standards. Commissioner Cole said that he felt the agreement needed to be in addition to the improvements to the road because even after the improvements they may have trouble getting down there, especially in heavy snow. Mr. Gleed responded that maintenance is part of the fire code and Mr. Sharp has agreed to maintain the road. The road would have to be improved from where the city road ends all the way to the Sharp's property.

Chairman Wright invited Mr. LeRoy Johnson to the podium to make comments. Mr. Johnson stated that he owns the property that the easement is on. It has cost him \$25,000 of court costs to get to the settlement agreement and that the agreement states the road is only seventeen feet and that isn't going to change. He also stated that the Sharp's were told before they bought the ground that there was not a right of way. He said that he has thirty acres there he could develop if they put a water line in but there has to be a fire hydrant, and he was denied a building permit for a little storage shed because there wasn't a fire hydrant close enough. He stated that if we are going to make laws they need to be for everybody not just one person.

Commissioner Call asked Commissioner Titensor to expound on his idea of a waiver. Commissioner Titensor explained that he doesn't have one and he is stuck on the one item of the width of the road. He feels like it is still a neighborly dispute on a right of way. Chairman Wright asked for Mr. Lawrence's opinion. Mr. Lawrence stated that he's not asking them to resolve the dispute, which is not their role. He said that the appropriate response is to not deny the application based on that issue, but to include a condition of approval for the building permit.

Commissioner Titensor responded that they would accept an application once the issue was resolved but why would they accept an application that needs a legal resolution before they can address the other issues? Mr. Lawrence stated that the sequence is to approve with a condition, not to deny it outright, and that the easement agreement has already been signed but to get it recorded it takes the Sharp's having a building permit and paying the \$5,000.00. Even if it's got conditions of approval in it, without an actual building permit there is no ability to request the recording of the residential easement.

Commissioner Titensor asked Mr. Fuller to address the sequence of how things should work out. Mr. Fuller stated that they have the ability to approve a building permit with conditions. He said that Mr. Lawrence has suggested that it would be more appropriate to grant the approval with conditions than to require that they resolve the dispute before they get approval. It may take a long time for them to resolve the dispute. He

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

recommended that if they are inclined to approve the permit, they do so with conditions to satisfy the Preston City code and the fire code before they get a final approval. Commissioner Carter asked Mr. Fuller to clarify that if they approved it with the conditions for improving the road, which would mean that those improvements would take place before construction on the home would begin. Mr. Fuller responded that yes, the approval would be subject to them coming back and showing that it had been done. He also reminded them that there are other issues before them, not just the road.

Commissioner Titensor commented that there are other issues with the building permit and if they approve it on condition of improving the road without addressing the other issues it makes them a poor governing body to not have dealt with all the issues. Mr. Fuller responded that there are other settings such as conditional use permits and variances where things could be approved with conditions.

Commissioner Call said that his concern with moving forward is having some kind of release of liability and something worked out on the road to meet state fire codes before issuing a building permit. Commissioner Titensor stated that he is not a fan of asking them to sign a release of liability, but he thinks it is fair to have them confirm access and adhere to regular building codes for fire and water lines and things, but step one is the access. Commissioner Call said that he thinks there should be a condition that they keep and maintain the road. He asked if that is Preston City responsibility or the fire marshal to ensure that that is done. Commissioner Cole read from a letter from Mr. Lawrence that the Sharp's are willing to sign a document requiring them and their successors to improve and maintain the road. Chairman Wright said that it is a private road and it is their responsibility but no one can police it. Commissioner Alvey said that a document like that would release anyone from liability because it is a private road and their responsibility to keep it in a condition to allow emergency vehicles to access it. Chairman Wright asked Mr. Simpson if he had any comments. He stated that all of his concerns are in his staff report.

Commissioner Carter asked if there is an expiration date on the building permit if it was approved and all conditions met, it may be a long time for the conditions on the road to be met, and may even be impossible as the court has decided that it is a seventeen foot road. Mr. Fuller clarified that it was not a court case but was decided by negotiated settlement between the two parties. He agrees that a time limit would be appropriate. Chairman Wright asked Mr. Simpson if there is a time limit between a building permit being issued and the beginning of the construction. He responded that it is one year. If it is not within one year then they need to reapply for the building permit.

Commissioner Titensor moved that they approve the building permit on the condition that they can confirm access and once they can confirm access they need to adhere to the conditions set forth in the staff report.

Commissioner Call seconded the motion.

Mr. Fuller asked for clarification on the motion. Would they include in that motion the condition that they would enter into an agreement that they will maintain the road if the permit is granted? Fred responded that

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

that was one of several that they had discussed, including the condition of the road, the water line, the fire hydrant, the grade of the road, turnouts- all of the items that they had addressed. Commissioner Winn asked if they were to take care of the road from their house to the top, or the whole thing. Commissioner Titensor said that his motion is saying that they have to confirm access before they accept all of the other conditions, and if they needed to spell them out they could do that. But before he wants to accept an application he wants to confirm access. Chairman Wright stated that she didn't think they could include the fire hydrant because the property doesn't fall under subdivision code.

Mr. Fuller suggested that if they do vote this way they allow staff to put together a written explanation of what is being approved and the conditions so that it is more detailed and bring it back for approval at the next meeting. Mr. Titensor agreed that his motion was pretty vague. Commissioner Call commented that it would be a good idea to have staff put something together. Commissioner Titensor rescinded his motion.

Commissioner Carter stated that what they need to confirm is they have the seventeen foot access, they need two areas that are twenty-two (22) foot by thirty (30) foot for the turnouts, if they have that it would be in code.

Commissioner Cole stated that if they pulled from Mr. Lawrence's letter it summed up what the Sharp's are willing to do and was more specific and they could add it into the motion. It states that the Sharp's agree to construct a turnaround on their property, enter into a binding document requiring them and their successors to improve and maintain the road, and construct a turnout on their property and to work in good faith with the property owner in regards to construction of the upper turnout. Commissioner Cole said that those could be the conditions to include in the motion to help clarify with more detail. Mr. Fuller asked if they would be telling the Sharp's that their duty would be to work in good faith to construct the upper turnout and that's it or would their duty be to actually put in a turnout. Commissioner Cole said that he thinks it should be done, not just try to get it done, that in order to get a building permit all of the conditions must be met.

Commissioner Titensor stated that he does not feel that it is fair to ask Mr. Simpson to do any more work on this, he has submitted a staff report with all of the information they need and done a lot of work for them. He also stated that he didn't think tabling the issue would help, there is no more information to be had.

Commissioner Cole asked Commissioner Titensor if he felt that what he had read for the conditions would address what he was thinking for access. Commissioner Titensor clarified that they would confirm access by putting in the adequate access. Commissioner Cole responded that yes, they would put in the proper turnarounds and turnouts and road improvements. Chairman Wright stated that before they do anything they are going to have to address the access to the easements and if that never gets done the house would never get built. Commissioner Cole responded that it is not their responsibility to settle that dispute, just to clarify what needs to be done and then it is their responsibility to figure out how that would get done. Commissioner Call stated that in regards to

CITY OF PRESTON PLANNING AND ZONING MEETING

December 9, 2020

the upper turnout they work in good faith and complete the upper turnout.

Commissioner Cole made a motion to approve the Sharp's building permit on condition that they agree to construct a turnaround on their property, they agree to enter into a legally binding document requiring them and their successors to improve and maintain the road in question, in response to the turnout location the Sharp's agree to construct a turnout close to the lower part of their property and agree to work in good faith and to procure construction of the upper turnout.

Commissioner Carter asked if the specifications of the road would be done to meet the fire code. Commissioner Cole responded that it would have to be in compliance with the Fire Marshall's code. Commissioner Carter asked if that would have to be completed before they could begin construction on the home. Commissioner Cole responded that it would need to be completed before they get the building permit. It would be a conditional approval to get the building permit. Commissioner Winn asked if they could word it to state that it would be granted once the road conditions are met.

Commissioner Alvey made a motion that the building permit be approved once all staff conditions are met. Commissioner Winn stated that she would second that. Commissioner Titensor said that that one was easier to understand. Commissioner Cole asked if they would need to define which staff conditions. Commissioner Titensor said that they were stated in Mr. Simpson's letter dated October 6, 2020 to the Sharp's. Mr. Fuller stated that he would be more comfortable if the conditions were spelled out to give the Sharp's a checklist of what they need to do and gives the commissioners concrete things to talk about when the Sharp's come back for the building permit.

Chairman asked for a second. Commissioner Titensor stated that there was a first and second on Commissioner Alvey's motion and that there are two motions on the table. Commissioner Call seconded Commissioner Cole's motion.

Chairman Wright asked for a vote on Commissioner Cole's motion that they approve the building permit for the Sharp's on the conditions that they construct a turnaround on their property, record a legally binding document that requires them and their successors to improve and maintain the road in question according to Mr. Gleed, construct a turnout within their property very close to the lower turnout identified by Mr. Gleed's letter, and work in good faith with neighboring property owners to construct an upper turnout, these requirements being met within one year and before receiving a building permit.

Mr. Lawrence asked to clarify the one year. He had understood that the requirement was that construction begins in one year and it sounded like they were saying things needed to be completed within one year. Mr. Fuller said that city code says construction of the building would commence one year after the permit is granted. They would need to clarify if that is one year after the conditional permit is granted or if it is after the conditions have been met and the final permit is granted. The code does not address that issue. Commissioner Call stated that the code says after the building permit is issued, which would be after the

CITY OF PRESTON PLANNING AND ZONING MEETING
December 9, 2020

conditions are met. Mr. Fuller suggested that they could impose a condition stating when the conditions needed to be met so that it wouldn't drag on for years. Commissioner Titensor stated that the motion on the table included a one year time limit. Commissioner Cole clarified that they would have one year to meet the conditions and then one year to commence construction on the house.

Vote was as follows:

Chairman Penny Wright-	Nay
Commissioner Alvey -	Nay
Commissioner Titensor -	Nay
Commissioner Cole -	Aye
Commissioner Winn-	Nay
Commissioner Carter -	Aye
Commissioner Call-	Aye

Motion failed by majority vote.

Chairman Wright called for a vote on Commissioners Alvey's motion that the building permit be approved on condition of all requirements in the staff report being completed. Commissioner Carter asked if there is a time limit attached to it. Commissioner Titensor replied that there is not in the motion on the table. Commissioner Carter asked which staff specifications, the Fire Marshal or the City Engineer. Commissioner Winn said that Mr. Simpson's has all the road specifications. Commissioner Cole asked if that was not the same thing that he had said in his motion. Commissioner Winn said that it is close. Commissioner Alvey pointed out that it does not include the part about working in good faith. Commissioner Titensor stated that was the reason he voted against Commissioner Cole's motion because it included the verbiage about the good faith with the neighbors and he didn't think that was fair to ask them to work in good faith together. Commissioner Cole pointed out that the second part of that was that it would be completed but that he could understand why they didn't like that wording.

Mr. Fuller asked for clarification on if they were referring to the staff report from Mr. Simpson dated December 9, 2020. He stated that it did not impose any conditions so they would need to be more specific. Mr. Titensor said that he was referring to a staff report dated October 6, 2020. Chairman Wright pointed out that the October 6, 2020 report did specify that they would need to put in a fire hydrant. Commissioner Winn said that the letter from Mr. Gleed, dated August 18, 2020, contained all of the measurements and requirements for the road and the turnouts.

The motion died for lack of a vote.

Commissioner Titensor moved that they approve a building permit for the Sharp's on condition that the Sharp's provide confirmation of access and that they adhere to the requirements on the staff report dated October 6, 2020 and that they can adhere to the requirements from the letter from Fire Marshal Gleed dated August 18, 2020, and that they must commence construction of the road within one year and complete the road within one year.

CITY OF PRESTON PLANNING AND ZONING MEETING
December 9, 2020

Commissioner Winn seconded the motion.

Chairman Wright pointed out that the staff report referenced in Commissioner's Titensor required a fire hydrant and that requirement was no longer in effect because it's not in a subdivision.

Mr. Fuller clarified that the document dated October 6, 2020 was not a staff report but a letter from Mr. Simpson to the Sharp's.

Commissioner Titensor restated his motion. Commissioner Titensor moved that they approve the building permit for the Sharp's contingent upon them confirming access and that they adhere to the letter that was addressed to them by staff on October 6, 2020, outlining the actions they need to take to get the building permit, and adhere to the requirements from Fire Marshall Gleed dated August 18, 2020. They would need to commence construction of the road within one year and the road would need to be completed within one year.

Commissioner Winn asked if that excluded the fire hydrant. Commissioner Titensor stated that he would remove the fire hydrant requirement from the conditions.

Commissioner Winn seconded the motion.

Chairman Wright called for a vote.

Vote was as follows:

Chairman Penny Wright-	Aye
Commissioner Alvey -	Aye
Commissioner Titensor -	Aye
Commissioner Cole -	Aye
Commissioner Winn-	Aye
Commissioner Carter -	Aye
Commissioner Call-	Aye

Motion approved by unanimous vote.

COMPRE
-HENSIVE
PLAN AND
ZONING
DISCUSSION

Chairman Wright postponed discussion of the comprehensive plan and zoning until next meeting due to time constraints. She asked that it be put as the first item on the agenda for the next meeting.

APPROVED
BUILDING
PERMITS

The commissioners reviewed the following approved building permits, there was no discussion or comments.

Tom Madsen	520 N 800 E	Accessory Bldg
Colleen Jensen	620 E Oneida	Addition
Tony Crockett	582 Eagle Dr.	House

CITY OF PRESTON PLANNING AND ZONING MEETING
December 9, 2020

ADJOURN Meeting was adjourned at 7:57 P.M. by Chairman Penny Wright.

Becky Cox

Penny Wright, Chairman