



MINUTES  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARING  
SEPTEMBER 8<sup>TH</sup>, 2020 AT 6:00PM  
TOWN COUNCIL CHAMBERS  
22 W 2ND ST. EAGAR

Chair Deanna Davis welcomed all those in attendance and began meeting with Roll Call.

Commission Present: Deanna Davis  
Ron Shepherd  
Shawna Murphy  
Aaron LeSueur  
Joe Sitarzewski  
Dave Kalinowski  
Dan Muth

Commission Absent:

Staff Present: Matthew Mears, Town Manager  
Brett Rigg, Town Attorney  
Britney Reynolds, Community Development Administrative Assistant

PLEDGE OF ALLEGIANCE Chair Deanna Davis lead the Pledge of Alligiance

INVOCATION Commissioner Aaron LeSueur offered the invocation

**ITEM #5 PUBLIC COMMENTS:**

**ITEM #6 ELECTION OF VICE CHAIR**

Britney Reynolds reminded commission of Aaron LeSueur and Ron Shepherd terming in January. Commissioner Dave Kalinowski moved to elect commissioner Shawna Murphy as new Vice Chair. Commissioner Ron Shepherd seconded; all were in favor, motion carried unanimously 6-0.

Vote: Ayes: Ron Shepherd  
Deanna Davis  
Aaron LeSueur  
Joe Sitarzewski  
Dave Kalinowski  
Dan Muth

**ITEM #7 CONSIDERATION OF THE MAY 12<sup>TH</sup>, 2020 MINUTES**

Commissioner Aaron LeSueur moved to approve the May 12<sup>th</sup>, 2020 meeting minutes. Commissioner Dave Kalinowski seconded; all were in favor, motion carried unanimously, 7-0.

Vote: Ayes: Ron Shepherd  
Deanna Davis  
Aaron LeSueur  
Joe Sitarzewski  
Dave Kalinowski  
Dan Muth  
Shawna Murphy

**ITEM #8 PUBLIC HEARING**

**Where Roads Hit the Trails**

**PUBLIC HEARING ON REZONING RZ2020-2; A ZONING AMENDEMENT APPLICATION FOR REZONING OF 210 S. HARLESS ST. ALSO KNOWN AS PARCEL #104-14-005A FROM AR-20 TO R2-7 ZONING.**

Commissioner Dan Muth recoused himself from voting on this item due to conflict of issue.

Eric Eagar appeared as the applicant as he and his father own the property together, but due to illness Mr. Richard Eagar could not attend. Town Manager Matthew Mears informed the commission that changes had been made within the Community Development department and that a lot split was applied for and approved before said changes were made. Due to an oversight on zoning, the property could not legally be split with the AR-20 zoning in place. The Eagars' would like to have zoning changed to R2-7 zoning, which surrounds the property, to allow for two parcels in area and for uses that had been envisioned. Manager Mears stated that staff makes the recommendation to approve the rezoning request. Commissioner Dave Kalinowski asked applicant if property was currently vacant. Eric Eagar explained that there is a house on part of the lot. Eric Eagar also stated about his father, Richard Eagar, cleaning up delabatated old buildings that were on the property as well as his goal of building a new home on the other part of the lot.

Chairwoman Davis asked about written comments or public comments. There were no comments.

Commissioner Joe Sitarzewski asked about access for both sides of property. Would both properties access from one area or would the parcels have individual access. Commission was informed that one parcel would access from Harless St. and the other would be from 2<sup>nd</sup>. Commissioner Sitarzewski stressed importance of not wanting to be a part of cleaning up mistakes as it makes the Town of Eagar and those involved look unprofessional.

Chairwoman Davis closed the public hearing.

**ITEM #9 DISCUSSION AND CONSIDERATION OF ITEM 8.**

Commmissioner Aaron LeSueur moved to approve application RZ2020-2 for rezoning of 210 S. Harless St. also known as parcel #104-15-005A, from AR-20 to R2-7 zoning. Commissioner Ron Shepherd seconded; all were in favor, motion carried unanimously. 6-0

Vote:           Ayes: Deanna Davis  
                      Ron Shepherd  
                      Shawna Murphy  
                      Aaron LeSueur  
                      Joe Sitarzewski  
                      Dave Kalinowski

Chairwoman Davis moved to Item 12 to be discussed first as Item 10 would be contingent on Item #12 outcome.

**ITEM #12 PUBLIC HEARING**

**PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2020-2; A CONDITIONAL USE PERMIT APPLICATION TO ALLOW GROW FAST FARMS TO OPERATE PLANTING BUSINESS IN AN INDUSTRIAL ZONE.**

Commissioner Dan Muth recused himself as Steve Hall is a partner in the project and this creates a conflict of interest.

Robert Shatz discussed how Steven Hall is a partner in the company and it is his land that the operation is taking place on at this time. Mr. Shatz introduced Mr. David Vernon who is a member of the management team for the Grow Fast Farms company. Mr. Vernon discussed his many degrees and acalades that he has received during his lifetime. Mr. Vernon discussed that the land at 975 S. Water Canyon Rd. is a homestead. It has never been subdivided so Mr. Vernon believes the property is still considered a homestead area. Discussed land and how roads and powerlines are actually easments and that the property therefore still belongs with the homestead and to Mr. Hall. Mr. Vernon stated that the property should be able to be used for agricultural, residential, and commercial or industrial purposes due to the grandfather law. Stated Mr. Hall does not need to obtain conditional use permits to use land in the manner he chooses because of the land once being a homestead. Mr. Shatz also stated that Mr. Hall gave the road to the town in exchange for something, but due to lack of appropriate records the agreement conditions that were made are unsure.

Planning and Zoning commission asked Mr. Brett Rigg, Town of Eagar attorney, to offer council on homestead act. Mr. Rigg first spoke to the commission about industrial hemp and how in 2018 the Federal Farm Bill was passed that legalized industrial hemp and excluded it from the definition of marijuna. He also stated that on May 14<sup>th</sup>, 2018 Governor Ducey authorized the Arizona Department of Agriculture to license qualified applicants to grow and process industrial hemp. Brett Rigg also shared that the Town of Eagar has a medical marijuana ordianance that he states in hindsight should be

updated as it does not take into contemplation that the hemp plant is now being removed from the medical marijuana definition. Although the Town is working on updating said ordinance, if the commission follows the current ordinance then it would include the hemp plant although it does not contain any THC and is completely legal. Mr. Rigg stated that because they are growing in the Town of Eagar and the Town has a medical marijuana ordinance, but nothing pertaining to industrial hemp, a conditional use permit should be sought by Grow Fast Farms.

Commissioner Ron Shepherd asked for legal advice from Brett Rigg involving imminet domain in regards to the property at 975 S. Water Canyon Rd. Mr. Rigg informed the commission that he believes imminet domain does not apply to this situation and would encourage commission to only look at the conditional use permit and the town ordinance affecting this situation.

Commissioner Joe Sitarzewski discussed how he does not believe that property could continue under the homestead factor as the property has had multiple owners since the time it was originally homesteaded. Mr. Rigg commented that he would research this point, but that he did agree that imminet domain would not apply because of the changes in ownership. Commissioner Sitarzewski also commented on the need to check the easement documents that were created at the time that the easement was granted to determine exactly what was exchanged as well as to see if the easement and rights given were to be carried on or if the rights went to the grantor of the easement at the time.

### **Public Comments**

Chairwoman Davis gave direction that public would be allowed two minutes for comments and for everyone to identify themselves for record.

Tony Childers, resides in Eagar, concerned that Grow Fast Farms could immediately change the growing from industrial hemp to medical marijuana without having discussions with citizens.

Rob Irons, resides in Eagar, feels that citizens were not asked about growing and would like to have explanations of why it would be good for the Town of Eagar. Suggested to look into other economic development opportunities that are not as controversial.

Kemp Smith feels that there has been activity there for months and that the people in the building and running the project are not local people. Discussed that he feels this project was snuck in to the area and once Grow Fast Farms was caught, the company is now trying to do the right thing by coming to the board. Worried about future safety of neighborhood if this project continues.

Karalea Wiltbank, resides in Eagar, she currently has an Arizona state license to grow hemp and grew about two and a half acres plus a 3,000 square foot green house of hemp last year although she did not grow this year. Many people saw her green house last year as it created extreme light at night. Stated how she had to comply with State regulations to maintain license and grew as she was interested to see if hemp could be grown in the area and not for the oils. Ms. Wiltbank is interested in the fiber uses of the plant. Believes this could potentially be a cash/commodity crop as it does not take as much water as other crops and wildlife seem to leave these plants alone. Everyone needs to be educated on industrial hemp and its potential benefit to the community.

Chris and Jenna Dodge, reside in Eagar, have three children that attend the middle school in town. They own and operate the hemp farm in St. Johns as well as other areas. Works in both industrial hemp and medical marijuana and has for years. Asked questions of Grow Fast Farms about where processing is taking place and how plant materials will be used. They hold two different licenses in Arizona and are currently, with town support, building a farm in Springerville. Jenna Dodge discussed how their three children work at the industrial hemp farm and are well educated about plants. Chris Dodge stated that this is a terrible time for Grow Fast Farms to be getting into industrial hemp business as prices are down. He does believe medical marijuana and industrial hemp are the new future and are both agricultural products. Believes people need to embrace the new future.

Spencer Baker, Eagar resident, not for or against this process, but concerned about the future of this project. Wondering if this farm/plant will be a giant eye-sore in the future. Will the farm/plant actually provide labor for the people in town as currently Grow Fast Farms does not employ anyone from town. No security for the plant area. Will these answers be provided by a contract that would be made between the Town of Eagar and Grow Fast Farms?

### **Commission Interaction**

Commissioner Sitarzewski asked Grow Fast Farms if it was intended for the entire 120 acre area to be used for the purpose of growing the industrial hemp product? Mr. Shatz informed him that less than 0.3 tenths of an acre are being used currently for this project. Commissioner Sitarzewski asked if the company will be using an on-site well or if municipal waters will be used. Mr. Shatz informed commission that currently municipal waters are being used, but Mr. Hall is looking into having well being used after current period is complete. Commissioner Sitarzewski asked if Grow



Fast Farms would be improving the entire property or if improvements would only be completed in the growing area? Mr. Shatz informed the commission that plans do include that Grow Fast Farms is planning to improve entirety of area. Commissioner Sitarzewski informed Mr. Shatz that the permit will go to property owner and will dissolve with the property owner as well. Lease needs to be corrected to ensure no further issues.

Commissioner Shepherd shared his disapproval of hearing about this matter so long after production started and stated he would have appreciated Grow Fast Farms coming to the commission before the project even started. Commissioner Shepherd stated that in documentation provided by Grow Fast Farms that there would be around 200 jobs available to Eagar residents. Stated that no jobs have been offered to the residents. Mr. Shatz discussed future potential agreements with the White Mountain Apache Tribe for lumber that the company will use to build the "new American home" that would be processed on the property at 975 S. Water Canyon Rd. Acknowledges that the company is only using Tribe members for growth production at this time, but in the future with a greenhouse the company would hire Eagar residents. Commissioner Shepherd asked why this operation is taking place in the Town of Eagar as the company has a Fort Apache address and is hiring mainly White Mountain Apache Tribe members to work the product.

Mr. Shatz explained that the

partners address was the only way to get mail and to proceed with business set-up so they used that address. Mr. Shatz also explained that the White Mountain Apache Tribal Council is not allowing the growing of industrial hemp to take place on tribal land. Stated that the tribe is looking into ordinance that will allow the growth to take place on tribal land. Commissioner Shepherd spoke in regards to the assumption by Grow Fast Farms that State law trumps local law. He stated that he was unsure if that assumption was valid in regards to local zoning code and regulation. Discussions of state law preempting the Town of Eagar code were had between Mr. David Vernon and commissioner Shepherd.

Chairwoman Davis asked for legal council to help clarify this matter. Mr. Rigg informed all that this is not a simple and clear cut situation. There have been many discussions happening within the State of Arizona over the last year. Mr. Rigg explained that according to the Town of Eagar code, all parts of the plant genus cannabis are considered medical marijuana by code and therefore it would include industrial hemp as medical marijuana under the current code.

Commissioner LeSueur asked Mr. Rigg if the conditional use permit could be worded to only allow industrial hemp with the condition that, if the company decided to change from industrial hemp, the company would have to apply for another conditional use permit?

Mr. Rigg stated that the commission should limit the conditional use license to strictly industrial hemp as defined by Arizona State statute and as regulated by Arizona Department of Agriculture.

Commissioner Shepherd addressed issues related to medical marijuana code that Grow Fast Farms did not have answers to as it is not a part of their State license mandates to provide. Asked about the stated eight acres of growth area. Grow Fast Farms will not be changing from current 3/10s of an acre as the license will no longer be valid at the end of December.

Commissioner Kalinowski shared his distaste for entirety of this process. Agreed with commission that homestead has to be renewed with each owner. Discussed visions of what Grow Fast Farms wants to take place, but does not see a real business plan for the future. Medical marijuana definition and code is what the commission has to work with so decisions need to be based on that code.

Commissioner LeSueur lives in the area of the operation. He was aware of the fact that the area was zoned industrial when he bought his property and that a power plant or any other industrial venture could happen on that property.

Believes that commission got off track as far as the conditional use permit was concerned and feels that if the commission can word the permit as industrial hemp. Discussed that permit should be approved as long as wording stated the permit is for industrial hemp only and if the company wants to grow medical marijuana, then a new conditional use permit should be applied for at that time.

Commissioner Murphy agreed with commission on disappointment in the way the business started. Believes Grow Fast Farms should have been more open about project and potential future with residents. Agrees area of growth is an eye-sore and would be great to see improvements to that area. Would agree to conditional use permit as long as the wording stated for industrial hemp only and not for anything other.

Further discussions took place in regards to farm and how it can affect the Town of Eagar and marketability.

Commissioner LeSueur asked about what can legally stop this from happening in the town?

Mr. Rigg stated that a conditional use permit did not need to be issued if the commission feels that any parameters for the permit have not been met. Mr. Rigg gave other options of how the commission could proceed or not proceed with this permit request. Stated that there are grounds for denial as there are parts of the application that are questionable or are

unclear.

**Closing Statement**

Mr. Shatz stated that the company apologizes for the misunderstandings and steps not being followed properly at the beginning of this process. Grow Fast Farms wants to work with the Town and develop a better relationship to continue growing business in the future.

**ITEM #13 DISCUSSION AND CONSIDERATION OF ITEM 12**

Mr. Rigg stated that as there is no code pertaining to industrial hemp the commission may fall back on State statute in this matter.

Commissioners discussed different aspects of permit and concerns each had in regards to Grow Fast Farms industrial hemp endeavor. Discussed concern about code not addressing industrial hemp and the need for council to determine if industrial hemp, now that it has been legalized, be excluded from the medical marijuana definition. Discussed wanting to shorten timeframe, but conditional use permits are an annual permit. Commission was informed that ordinance is drafter that will remove hemp from medical marijuana definition. Mr. Rigg did suggest that the commission needs to look at this case through the medical marijuana code as there are no other guidelines for commission to follow. Keep commission from getting into litigation problems. Mr. Shatz stated that harvesting would take place during the next few weeks and living would be ceased at that time with the understanding Grow Fast Farms would be submitting and application for rezoning of the area.

Commissioner Joe Sitarzewski moved to deny CU2020-2; A conditional use permit application to allow Grow Fast Farms to operate planting business in an industrial zone, as the town code of medical marijuana does not cover industrial hemp and there is currently no town code for industrial hemp and the commission does not have the authority to approve this permit based on the town code. Ask that the Town of Eagar work on addressing industrial hemp code and, during that time, Grow Fast Farms commence to harvest under Arizona State statute and the permit received from Arizona Department of Agriculture. Commissioner Aaron LeSueur seconded; all were in favor, motion carried unanimously 6-0.

Vote:	Ayes:	Deanna Davis
		Ron Shepherd
		Shawna Murphy
		Aaron LeSueur
		Joe Sitarzewski
		Dave Kalinowski

**ITEM #10 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2020-1**

A CONDITIONAL USE PERMIT APPLICATION TO ALLOW GROW FAST FARMS STAFF/EMPLOYEES TO LIVE ON SITE DURING GROWING PROCESS.

This item was removed by Chairwoman Deanna Davis

**ITEM 14 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2020-3**

A CONDITIONAL USE PERMIT APPLICATION TO ALLOW CARY LYNN PRICE TO CONSTRUCT A RV PARK AT 787 N. MAIN ST.

This item was removed by Chairwoman Deanna Davis

**ITEM #16 REPORTS**

No Reports

**ITEM #17 ADJOURNMENT**

Commissioner Dave Kalinowski motioned for meeting to adjourn [7:56p.m.].



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Chair Signature



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Director Signature