



**City of Jordan
City Planning Commission
Meeting April 8, 2008**

Members present: Jeanne Marnoff (Council rep.), Jan Gilmer, Ralf Hafslund, Rob Mishica, and John Watkins,

Official representatives: None.

Staff present: Planning Consultant Joanne Foust, Senior Planner Joe Janish, and Planner Casey MacCallum.

Others present: None,

- 1.0 **Call to Order.** *Vice-chair Jan Gilmer called the Planning Commission to order at 6:09 p.m.*
- 2.0 **Adopt Agenda.** *Moved by Rob Mishica, seconded by John Watkins, to adopt the agenda as presented.*
- 3.0 **Minutes.** *Motion John Watkins, second by Rob Mishica, to accept the March 11, 2008 Planning Commission Minutes as amended. Unanimous approval.*
- 4.0 **2008 Comprehensive Plan Update:** There was a brief discussion of the timeline for completing the remaining chapters of the Comprehensive Plan. As presented by Joanne Foust:

Consultant Foust informed the Commission that the Transportation Chapter is on track to be ready for the May 13th meeting.

Foust also discussed the timeline. Staff is presenting a Comprehensive Plan discussion during the City Council Workshop on May 19th, which would allow the Commission to hold an open house on May 22. A Public Hearing could be held on June 10th and the City Council would then take action on June 16th.
- 5.0 **Public Hearing.** There were two items for public hearing.
 - A. **Zoning Ordinance Amendment – Allowing for Outside Seating Areas for Food Service Business. Opened at 6:12pm.** As presented by Joe Janish. The purpose of this Public Hearing is to allow for the public to provide input on the zoning ordinance amendment and consider adoption of the proposed amendment.

Many of you may be aware of the Freedom to Breathe Act (FBA) took effect Oct. 1, 2007. This expanded the Minnesota Clean Indoor Air Act to prohibit indoor smoking in all workplaces that employ two or more people, or serve the general public. Bars, restaurants, and “any other food or liquor establishment” were directly identified as places where smoking is not allowed. FBA currently allows for smoking outside of the establishments unless a city ordinance prohibits it.

The new law defines indoor area as “..all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18x16 mesh count is not a wall.”

Our local businesses have been affected by this new law. The City of Jordan has received two requests from local bar/restaurant establishments to allow for outdoor smoking patios and also to allow for alcoholic beverages to be consumed. One of the local establishments is also asking for the ability to take and serve food, non-alcoholic and alcoholic beverage orders.

If the City wants to allow for patios where smoking is allowed, the City has two options. The first option would be to allow patios where alcohol and food is served and consumed. The second option would be to limit the patio to smoking areas only with no alcohol allowed.

Patios where alcohol is served and consumed

Under Minnesota Rule §7515.0430 construction of a new patio addition where alcohol will be served and/or consumed requires the liquor license holder to seek an amendment to their on-sale liquor license

from the city. The rule requires that a liquor license specifically describe the premise where liquor will be served. If liquor will be served or only consumed on a patio or outdoor area, the liquor license must clearly identify the additional area.

According to the rule a patio must be compact and contiguous with the existing facility and cannot be separated from the actual bar by street or alleys. Cities could also impose additional restrictions that limit the potential negative effects of moving indoor bar activities to an outdoor patio. Cities could impose conditions that relate to fencing and screening; hours, days and months of operation; noise and entertainment; minor access; patio size, placement and aesthetics; rubbish; recreational fires and barbecues; lighting and illumination; security and supervision; insurance and signage.

As part of the amendment to the liquor license the City would want to document any restrictions on the patio area and the rationale for the restrictions as findings of fact in the resolution approving the liquor license.

Smoking-only patios

In order to regulate outdoor smoking we would need to pass an ordinance. The FBA gives cities the ability to pass an ordinance that is more restrictive than state law. This means the city could pass an ordinance that prohibits smoking on business patios, sidewalks or parking lots, or within a certain distance from building entrances and air intakes. The city could pass an ordinance that allows smoking but establishes conditions upon outdoor patios and outdoor smoking areas. These conditions could follow the same conditions as patios where alcohol is served and consumed.

Proposed Ordinance Amendments

The attached ordinance would allow for outdoor seating areas within the Highway Commercial (C3) and Central Business District (C2) with a Conditional Use Permit (CUP). The purpose of requiring a CUP, relates to some outdoor seating areas could have an adverse affect to adjacent residential areas or businesses. The business would then be responsible to determine if smoking would occur in the outdoor area.

Public Comment: No one commented during the meeting.

Planning Commission Discussion: The Commissioners requested clarification on some items. They discussed the placement and access of the outdoor dining and the restaurant, and allowing non smokers access to the bar without smoking incursion. Regarding the placement of the outdoor dining, the Commission specifically did not want to allow smoking on the front side of the building and including the front side of strip mall dining areas. Other issues included the amount of noise permitted, and including a minimum distance from the main door.

Motion Rob Mishica, second Ralf Halfslund, to continue the item to the next meeting. Unanimously approved.

B. Zoning Ordinance Amendment – Amending Permitted Uses within the Industrial Zoning Classification. As presented by Joe Janish.

Mr. Janish briefly present the details of the changes, but requested to table so the Jordan Economic Development Authority (JEDA) can make a recommendation.

Motion Rob Mishica, second John Watkins, to continue the item after JEDA has reviewed and provided comments. Unanimously approved.

6.0 New Business. There was 1 items of new business.

- A. Sign Ordinance Discussion.** As Planner Casey MacCallum presented: the three items that were discussed were (1) a motion or guidance regarding the timeline; (2) a discussion on the legal issues; and (3) guidance on the Purpose Statement.

Timeline. Staff is recommending the following timeline for developing the Sign Ordinance.

- April 8 Decision regarding the purpose, timeline, and general guidance; and discussion of the legal issues.
- May 13 Discuss definitions, specifically sign area and Residential Districts signage; and a discussion of murals. Finalize Purpose Statement. Discuss dates for public meetings with businesses.
- June 10 Discuss Industrial District signage, Neighborhood Business District (C1) signage, Central Business District (C2) signage, and Highway Commercial District (C3) signage. Finalize Definitions and Residential Districts Signage.
- July 8 Discuss public meetings with businesses and make final revisions. Reexamine the Purpose statement and make findings.
- August 12 Final discussion and recommendation to the City Council of the Sign Ordinance. Possible Public Hearing.
- September 9 Public Hearing. Potential discussion of guidelines for the C2 district.

Content Neutral. Planner MacCallum explained the legal issues in signage.

The City cannot regulate signs based on the message content or the identity of the speaker. These are protected by the First Amendment and codes with provisions exempting certain groups or uses become very legally weak. Also the City cannot differentiate or treat two groups differently, which is fundamentally protected by the Constitutions and Judicial cases.

The City does have the right under the Police Power to regulate the total amount of signage, the size of any one sign, the height, location, lighting, material, color or motion for the signs on any property within a zoning district. We can define the calculation of the sign area, and allow or prohibit specific types of signs, so long as all groups within the zoning districts are treated the same. Provisions for variances should be provided, along with non-conforming status for existing signs beyond what we are allowing.

Purpose Statement.

The purpose statement is intended to provide the reader with guidance on how the Ordinance was created, and established; and the political and legal foundation. At this time we should provide a consensus view on the purpose for rewriting the Sign Ordinance; The Commission will review the purpose statement after it has worked out the details of the other sections. Attached you will find several purpose statements from other Cities Sign Ordinance's.

The League of Minnesota Cities has the following advice: A Statement of Purpose. The statement of purpose is a guide to how the ordinance was drafted and should be applied. It should establish that the ordinance should not be read to include content-based restrictions. It should also include a statement of the government purposes and describe how the ordinance is narrowly tailored to meet those purposes. It may also help to draft findings of fact that discuss the governmental interests that the ordinance is addressing and how the ordinance addresses them.

Below staff is providing two purpose statements for the Commission to review, comment on, and make a recommendation for staff to return to the next Planning Commission meeting with a finalized purpose statement.

The first statement is a short version. The second purpose statement provides more detail, background and guidance

Purpose Statement 1: The purpose of this section is to provide for the necessary communication by protecting the health, safety, welfare and aesthetics of Jordan. This section regulates the construction, assembly, illumination, type, size, number and location of signs in each zoning district.

Purpose Statement 2: In order to secure, protect, maintain and regain the natural beauty, aesthetic appeal; and protect the health, safety and welfare. Jordan is nestled in the bluffs of the Minnesota River Valley and an amazing aesthetic appeal appreciated by the residents and people traveling through; and the City does not want signage to diminish that aesthetic appeal nor the ability to allow appropriate communication for businesses, commercial, and industrial properties along Highway 169.

Jordan was founded in 1854 but many of the buildings in the traditional downtown date back to the late Federal Republic Era, around 1825. Clustered in a dense part of town these building

façades have created Jordan's identity for almost two centuries. Therefore the Jordan Planning Commission and Jordan City Council are regulating the signage in this dense area to reflect, and enhance the building façades and Jordan's identity.

More recently the City of Jordan has seen a large increase in the population, from 3,800 people in 2000 to 5,500 people in 2005 (44%) and a projected 7,200 in 2010 (89%). The traffic along Highway 169 has and is expected to also increase substantially creating a significant commercial market demand for those properties and therefore the City is promoting more signage and communication in the C3 and I districts to capture and guide this market potential.

Within all zoning districts the Sign Ordinance is regulating the number, location, size, type, illumination, and physical characteristics of signs for the aesthetics, health, safety and welfare of Jordan. These standards to (1) permit businesses a reasonable and equitable opportunity to advertise their name, business and operation material; (2) preserve and promote civic beauty, and prohibit signs which detract from Jordan's identity; (3) ensure that signs are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists; (4) preserve and protect property values; (5) ensure that signs are in proportion, scale, and architecturally compatible to the structures on the property; (6) limit visual clutter and excessive signage by reducing the amount of temporary and allowed signs to those necessary for business practice, for example temporary signs for grand opening, annual sales or moving.

Planning Commission Discussion: the Commissioners agreed to the five month timeline, and had no questions about the legal issues. They came to a consensus upon preferring purpose statement 2.

- 7.0 Old Business.** There were no items of old business.
- 8.0 Planners Report.** There were no items on the Planner Report.
- 9.0 Commissioners report.** Jan Gilmer discussed some maintenance issues around town. Rob Mishica requested information on street lights, specifically the one out side of his business. Ralf Hafslund requested information about the MDT visit this fall.
- 10.0 Adjournment.** *Moved by Rob Mishica, seconded by John Watkins, to adjourn at 7:40pm. Motion unanimously approved.*

Respectfully Submitted,

Casey MacCallum
Jordan City Planner