

**Minutes of the July 13, 2010 Jordan Planning Commission/CGO Meeting
6:30 p.m. Jordan City Hall**

Members Present: Rolf Hafslund, Guy Beck, John Watkins, Jeanne Marnoff

Staff Present: City Administrator Ed Shukle, City Planner Joe Janish, Planning Consultant Joanne Foust of MDG, Inc.

Others Present: EDA CGO Liaison Ray Sandey, Mayor Pete Ewals, Jim Fink, Thom Boncher, Tim Koch, Shari Schmidt, Dick Thom, Michelle Bisek, Josh Hein, Chris Schwingler, Stephen Isles, Herb Baldwin, and several residents who did not sign in.

1.0 Call to Order.

The Planning and Zoning Commission meeting was called to order at 6:35 p.m. by Acting Chair Hafslund.

2. Adopt Agenda

Moved by Beck, seconded by Marnoff to approve the agenda as printed. Motion carried 4-0.

3.0 Minutes.

Moved by Marnoff, seconded by Beck to approve the minutes of the June 8, 2010 meeting as presented. Motion carried 4-0.

4.0 Community Growth Options (CGO) Discussion – Highway Commercial Zoning District

A public Hearing was held at this meeting please see item 5.B

5.0 Public Hearings

A. CUP- Ballard Sunder Crematorium (104 First Street).

Mr. Janish indicated the City of Jordan has received a CUP application from Ballard Sunder Funeral Home, to operate a cremation facility at 104 First Street. The site has operated since the early 1900's as a funeral home and the applicants are looking at providing a service in house that they currently outsource. The applicant is looking at one machine that would provide the cremation service and would be housed within the current structure. According to Mark Ballard during 2009 the company had 51% of the families select cremation. This amounted to about 75 cremations, however Mr. Ballard noted that not all of the cremations were done by them. Excluding families that had the cremation done elsewhere (out of state, etc.) Ballard-Sunder Funeral Home transported the deceased to Minneapolis, and again made the trip to pick up the remains. Ballard-Sunder Funeral Home was responsible to handle approximately 50 cremations during the 2009 year, which would equate to about 1 a week.

Janish noted the current zoning of the property is C1 Neighborhood Commercial which is guided as C2 Central Business District. Both of these zoning classifications have the Funeral Home listed as a Conditional Use Permit (CUP). Information provided verbally by the applicant noted the building has been a funeral home since the early 1900's. Mr. Ballard is applying to install one machine in order to conduct cremation services.

In a letter from Mr. Koch, Mortician Investigator with the Minnesota Department of Health, it was stated that the state of Minnesota currently has 51 crematories. Of the 51, 42 are owned by

funeral homes and 21 of the 51 are located in residential areas. The letter states that currently 4 funeral homes are considering adding a crematory. The Minnesota State Health Department of Health currently conducts unannounced inspections of crematories every 2 years. Mr. Koch's letter indicates out of the almost 18,000 cremations last year, our [Minnesota Department of Health] receives very few complaints. Mr. Koch indicated in his 17 years in the office, he could recall less than a half dozen reports of smoke or odor issues. Of those he did recall, all had occurred more than 5 years ago. Mr. Koch cites the low problem rate to technology. Mr. Koch indicates that modern crematory retorts are now very advanced running, mostly by computerized electronics.

Speaking with David Benke, another individual at the Minnesota Department of Health, Mortuary Science Section, it was noted that Bemidji has a crematorium very close to residential areas. International Falls has a crematorium next to a light commercial area which includes floral shops and the like with residential also located behind the structure. Fergus Falls has one located within a fairly residential area and along the river. Mr. Benke also stated not many new crematoriums have been added in the last 5 years. Mr. Benke also noted that the City of Minneapolis has had a moratorium placed on this use because the Cremation Society has a large facility that conducted around 1,000 cremations in the last year. Mr. Benke did state that many of the newer funeral homes are allowing for space within the structures to add a cremation retort in the future.

Janish contacted the following communities in regards to if any issues had been reported in the past against the crematoriums:

- Bemidji, which has two funeral homes with cremation abilities; the person I spoke with had been with the City for the last 2.5 years and has not had any complaints filed against the properties.
- St. Cloud, which has two funeral homes with cremation abilities; the person I spoke with indicated that no complaints have been filed against the business.
- Worthington, which has two funeral homes with cremation abilities; the person I spoke with indicated that no complaints had been reported to their knowledge.
- Fergus Falls, which has two funeral homes with cremation abilities; noted he had recalled some issues when it first started but no complaints since that time.
- Janesville, which has one funeral home with cremation abilities; no complaints on the property.
- Eagan, which has one funeral home with cremation abilities; allows cremation facilities as a permitted use within the Limited Business and Neighborhood Commercial areas, and a device such as the one proposed would be only conditioned upon the international building code and fire regulations. This means the City of Eagan would not notify the residents or surrounding business owners of such an installation and does not require a CUP. The person I spoke with had been with the City for the last 14 years and has not heard of any complaints filed against the property.

Janish also noted he received information from another City in which it had considered a crematorium in the past. The matrix provided was compiled by the City of White Bear Lake, which includes information on other cities as well and did contain some duplication of community responses.

Janish further reviewed the responses Mr. Ballard provided for the questions as the related to a CUP.

- The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
The applicant has indicated that this proposal would not impact existing parks, schools, streets and public facilities and utilities which serve or are proposed to serve the area.

- The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

Ballard-Sunder Funeral Home has been providing professional service and guidance to the families of Jordan at this location for generations. In recent years more and more families in the Jordan area are choosing cremation as their means of final disposition. Installing a modern crematory will help us better serve today's and future needs of our community. The new advanced computerized equipment will be housed in our current facility, which is where we provide respectful and discreet preparation of the dead.

- The Structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

No. Adjacent properties will not notice any difference in our operation. Modern crematoriums do not emit odorous or visible emissions. Further, the advanced crematory technology exceeds all state and national emission standards.

- The use in the opinion of the Council is reasonably related to the overall needs of the City and to the existing land use.

Yes. Ballard-Sunder Funeral uses innovative and customized services to help each family we serve. Demand for cremation services has grown significantly in the past few decades both nationally and locally. We currently utilize a crematory facility in Minneapolis, which requires the transport of a loved one to and from the funeral home. By having a crematory at our funeral home, it will be easier for family members to be part of the cremation and celebration of life services. In keeping with our philosophy to serve all of our families' wishes for their loved ones, we believe adding a crematorium on-site at our funeral home will better meet the needs of the families we serve.

- The use is consistent with the purposes of this Chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.

Yes. See previous responses.

- The use is not in conflict with the comprehensive plan.

Yes. See previous responses.

- The use will not cause traffic hazard or congestion.

(CITY INSERTED) Information from Mr. Sunder indicated the cremation would not increase traffic but would reduce the number of trips. Currently Ballard-Sunder Funeral Home obtains the body, preps the body and then takes it to Minneapolis. The Funeral Home then again travels to Minneapolis to pick up the remains. With this CUP these two trips would be reduced.

- Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, or general unsightliness.

No. As previously stated, the crematory services will be provided inside the current funeral home structure, and as noted, modern crematoriums do not emit visible or odorous emissions.

Chair Hafslund opened the hearing at 6:55 p.m.:

Jim Fink, 204 East First Street, questioned if Mr. Ballard could describe the facility. Mr. Ballard indicated that a retort chamber would include a burner, afterburner and would be monitored by computer. Mr. Fink noted he is concerned with the emissions specifically the amount of mercury and hard metals that would be emitted. Mr. Ballard noted that he had a copy of the Engineering

Evaluation Test Results that Mr. Fink could review. Mr. Fink indicated he is looking for an amount of pollutants this device will emit.

Mr. Fink also questioned the amount of noise that would be generated from this machine. Mr. Ballard indicated that he has not experienced noise from the many times he has been to other crematories. Mr. Ballard indicated he intends to install the machine next to the chapel room within the existing structure and also intends to run the machine during visitations.

Thom Boncher, 113 Marlane Circle, indicated he was in receipt of a letter Mr. Mishica wrote noting Mr. Mishica's concerns and also had a few questions. Mr. Boncher questioned if a furnace of this nature is considered industrial and should not be included. Chair Hafslund noted that the cremation device could be used as part of CUP for funeral homes within the C1 and C2 commercial zoning areas. Mr. Boncher also questioned the number of cremations Ballard-Sunder expects to handle. Mr. Ballard noted that in 2009, Ballard-Sunder Funeral Home was responsible to arrange 50 cremations out of the 75 cremation services that had occurred and for the 2009 year the funeral home had about 150 funerals. Mr. Ballard also noted that he would be agreeable to not conducting cremations for other funeral homes. Mr. Boncher also noted he would like to see hard numbers on the emissions of the device.

Tim Koch, Minnesota Department of Health, Mortuary Science Section, Division of Compliance Monitoring, noted that the MPCA currently exempts crematoriums and the amount of mercury relates to the type of dental fillings individuals have. Mr. Koch indicated that today's dentistry is moving away from fillings that contain mercury.

Tim Koch, also noted that state law does not require that fillings be removed from the individual prior to cremation however the University of Minnesota has a world wide patent that includes a foam applied to the tooth which then prevents the mercury from being vaporized.

Colleen Herzog, 132 Rustle Road, noted her family has used Ballard-Sunder Funeral Homes in the past and has the upmost respect for the company. Ms. Herzog noted she is in favor of the proposed CUP.

Shari Schmidt, 104 2nd East Street, noted that she has a concern with this proposal because of the daycare nearby and fish downriver.

Dick Thom, 211 Varner Street, noted that the air, within Jordan, can at times not blow which cause the exhaust of 169 to build up in the area. Mr. Thom noted that if the air is not moving within the area the smoke with mercury and plastic would "hang" in the air. Chair Hafslund indicated that the afterburner is present within the device and reduce any particulates from being emitted.

Michelle Bisek, 101 1st Street West, noted she resides across the street, operates a daycare and has four children of her own and is concerned with children and the emissions from a cremation device.

Josh Hein, 108 Varner Street, questioned Tim Koch if he could explain what a safe level of mercury or dioxin is. Mr. Koch noted that the levels are not within his jurisdiction. Mr. Hein noted that when mercury will enter the Mill Pond and creek and mercury stops fish from reproducing.

Mr. Ballard passed around an aerial photo of Lakewood which conducts around 1,700 cremations (according to Mr. Koch). Mr. Ballard pointed out Lakewood is between Lake Harriet and Lake Calhoun, and Lakewood has been in operation for over 100 years.

Someone from the audience questioned when all the crematoriums where constructed. Mr. Koch noted in Lakewood's case two of the four retorts are oil burning and 2 additional ones had been installed in the last 10 years. Mr. Koch also noted in 1996 24 retorts had existed in residential areas and 2 or 3 had been added each year and then the crematorium growth stagnated. As of now, Mr. Koch was aware of 4 funeral homes looking at adding crematoriums.

A resident at 775 Dakota, questioned that Ballard-Sunder Funeral Home has two additional locations and why Jordan. Mr. Ballard noted the two other locations include Prior Lake and Shakopee and the Jordan site is the main site. Mr. Ballard noted that Ballard-Sunder Funeral

Home is a Jordan Business and all paper work and preparation is done in Jordan. The other sites could be thought of as satellites.

Jim Fink, 204 1st Street, noted the Planning Commission spent a lot of time within the last year looking at the ordinance for the downtown central business district and this CUP impacts all the C2 property owners. Mr. Fink noted this project involves a lot of unknowns. Mr. Fink provided a copy of a court case between Roselawn and the City of Roseville. Mr. Fink noted that too many questions remain to approve tonight. Mr. Fink also noted he had a copy of Mr. Mishica's letter and both agree that the jury is still out on this type of use. Mr. Fink noted that the proposed Highway Commercial district has Funeral Homes as a permitted use.

Mr. Ballard provided additional photos of funeral homes that have crematoriums. The crematorium photo's provided showed commercial, residential, parks, and lakes nearby.

Josh Hein, noted that the beaches on Lake Calhoun and Lake Harriet are routinely closed, and have fish warnings not to eat the fish.

Chris Schwingler, 7989 Old Highway 169, noted that from the photos high mercury content is not present because vegetation is not able to grow with mercury in soils.

Stephen Isles, 100 2nd Street, indicated he would have concerns with odors. Mr. Ballard noted he has not experienced odors or ash at Lakewood and would be comfortable with this as a condition to his CUP.

Herb Baldwin, 4196 185th Street West, noted he is representing Jordan Area Visioning Alliance (JAVA). Mr. Baldwin noted that the issue tonight is not the crematorium but the stigma. The Planning Commission needs to look at storage, screening, and traffic from the site. Mr. Baldwin noted questions exist on the contamination of air, water, and soils. Mr. Baldwin suggested the following recommendations: Continue the hearing and receive a detailed plan, require an EAW, discuss with the DNR, create a group of residents to develop a list of questions to address and work together to arrive at responses.

Mr. Ballard noted that due to the Shoreland ordinance the building could only be expanded by a few feet, and has no ability to enlarge the structure.

Chair Hafslund questioned if anyone had additional questions or comments. With none being heard Chair Hafslund asked Mr. Janish to read Mr. Mishica's letter.

Chair Hafslund closed the Public Hearing at 8:38 p.m.

Commissioner Beck questioned who would install the machine. Mr. Ballard noted that local contractors install the device and the manufacturer checks it over prior to training, and calibration. Mr. Ballard also noted he had hoped to attend the training courses in the next week or see if he receives approval from the City of Jordan, and the operator needs to be certified in order to operate the device.

Commissioner Beck noted he has a concern with a lack of standard for the emissions, and noted the crematories need to develop a standard.

A Commissioner questioned what is cremated. Mr. Ballard noted it depends but would typically involve a cardboard alternative, clothing, rosaries, floral arrangements, pictures, and some folks send personal notes.

Marnoff made a motion, seconded Watkins to make a positive recommendation to the Jordan City Council to approve the CUP permit to operate a Crematorium at Ballard Sunder Funeral Home (104 First Street) with the following conditions:

- Copies of paper work related to maintenance, certificates to operate, are required at time of yearly review.
- Emissions must not exceed 20 Percent opacity;
- Combustors must be equipped with afterburners that maintain flue gases at 1,200 degrees Fahrenheit for at least 0.3 seconds;
- Ash must be stored and transported in a way that avoids its becoming airborne.

- The applicant is not able to conduct cremations for the other funeral homes.

Motion carried 4-0.

B. Highway Commercial Zoning District and Performance Standards.

Foust noted that tonight's public hearing has been scheduled to accept input on proposed amendments to the following sections of the City Code, Section 11, Zoning Ordinance:

Section 11.40, Highway Commercial zoning regulations including the purpose of the district, permitted, conditional, interim and accessory uses, lot requirements, design and performance standards and variances from the regulations.

Section 11.80, Subd. 2C. Architectural Controls and Building Materials relating to highway commercial buildings; and

Section 11.02, Definitions to include a definition for Temporary Outdoor Seasonal Sales.

Foust highlighted changes from the last meeting which included some text changes to the proposed code as it related to Automotive sales, and outside display of items for sale.

Chair Hafslund opened the public hearing at 9:55 p.m.

Ron Jabs questioned if a lot that is currently smaller than the proposed 20,000 would be able to have a commercial building constructed on the lot. Janish and Foust noted that it was their understanding the existing lot would be a lot of record so it would be able to be developed on "its own" without being required to have neighboring properties combined to meet the minimum requirement. Mr. Jabs also questioned the amount of landscaping commercial properties have to have and pointed out a few inconsistencies with the number. Mr. Jabs also noted it might be appropriate to allow for taller structures with a Conditional Use Permit.

Janish noted that a note had been passed to him earlier in the meeting. The note was from an individual who is involved with a local gas station in the city and is questioning why bagged mulch is not permitted as part of the outside display and noted he would like to see it permitted.

Chair Hafslund closed the hearing at 10:35 p.m.

Moved by Watkins, seconded by Beck to make a positive recommendation to the City Council with the correction to the landscaping requirement to reflect a 10% requirement, allow for bagged mulch as part of the outside display, allow for taller structures as a CUP. Motion carried 4-0.

6.0 New Business

A. Site Plan Radermacher

Janish stated Radermacher Fresh Market is intending to construct a fueling station at 560 West 2nd Street. The station would consist of 3 pumps which would allow for 6 vehicles to pump fuel. The reduction in parking stalls may in the future prohibit the use of temporary sales centers that have typically occurred on the property. Janish noted the site plan appears to meet the setback requirements and at this time meet the City Code.

During the Planning Commission meeting questions about safety measures for drive offs and spills occurred. It is estimated not many drive offs would occur because the pumps would not begin to fuel until either funds are inserted or a credit card is swiped through the pump. However, if someone drives off with the nozzle in the tank, safety mechanisms would be in place to stop the gas from continuing to spill.

The concrete pad the pumps are constructed on is sloped towards the center of the island which would cause any spills to drain to the center in order to have it properly cleaned up. It was also questioned if someone hit one of the pumps what would happen. If one of the pumps is tilted, the fuel automatically stops pushing fuel through the lines.

The planning commission also questioned the ability to have a trail along 282 in the future and if enough room was available. According to the City Engineer it would be possible to have a trail on this side of the road with "benching" it into the bank.

Moved by Watkins seconded by Beck to approve the site plan as presented with the following conditions:

- The developer shall verify the existing location of the water service line and sewer service line.
- The developer shall install a new water service shutoff at the property line adjacent to TH282.
- The applicant will need to obtain a utility permit for the proposed storm sewer outlet from MNDOT and provide a copy of said permit to the City prior to issuance of the building permit.
- The shaded area marked "new asphalt paving" on sheet A1.1 is partially located on MNDOT Right-of-way. A MNDOT permit is necessary for this pavement work. A copy of this permit will need to be provided to the City prior to work starting.
- Provide an electronic CAD drawing that can be used to check turning radii for the fuel tanker trucks and fire trucks that will enter, navigate around and exit the property. Review of this information may result in the need to alter the plan to accommodate the fuel truck and fire truck turning movements.
- City Code requires a minimum drive aisle width of 23 feet. The drive aisle immediately in front of the hardware store is shown to be only 20' 4" wide. This must be revised to 23.
- The plans shall be revised to not reflect the 20' setback shown on the parcel labeled "Creek Lane."
- Testing of the water line will need to occur to be certain no leaks are present.

Motion Carried 2-1 (Beck, oppose) – 1 (Marnoff, abstain).

7.0 Old Business

None

8.0 Planners Report.

Janish noted that the packets included a court case from Minnetonka that relates to variances. Mr. Janish stated the City Attorney would be present at the next meeting to discuss how this court case impacts potential variances in the City of Jordan.

9.0 Commissioner Reports.

No reports were provided.

10.0 Adjournment.

Moved by Beck, seconded by Watkins to adjourn the meeting at 10:49 p.m. Motion carried 4-0.

Respectfully submitted,

Joe Janish

Senior Planner