



**City of Jordan
City Planning Commission
September 13, 2011
Meeting was at Jordan High School Auditorium**

Members Present: Chairman Rolf Hafslund; Council Representative Mayor Pete Ewals; John Levar, Jeanne Marnoff

Staff Present: Senior Planner Joe Janish, City Attorney Annette Margarit, Planning Intern Isaac Kerry

Others Present: Kitty Burton, Gene Flynn, Mike Nevins, Michelle Bisek, Joyce Hennager, Robert Envall, Jim Fink, Myrna Pekarna, Thom Boncher, Scott Guss, Beverly Guss, Carol Tillman, Brenda Lieske, Jim Holle, Kathy Lopic, Jessica Devine, Missy Allen, Gregg Busch, Lucille Hogan, Maddie Lambrecht, Jacqueline Wesbrook-Shaw, David Cooper, Jim Pensyl, Kathy Mattson, Randy Mattson, Connie Crimi, Dan Elke, Mark Ballard, Chris Schwingler, Jim Schwingler, Kat Pass, Kristin Stocker, Lisa Ohm, Shari Schmitt, Ansley Peters, Julie Bischke, Tim Bischke, Dick Thom, Heidi Lawrie, Linda Hanner, Tanya Velishek, Bob Malz, Mike Shaw, Tom Sand, Karen Theis, Scott Murray

1.0 Call to Order.

Chair Hafslund called the Planning Commission to order at 6:35 pm.

2.0 Adopt Agenda.

Janish requested agenda item 5(a) be moved before Public Hearings and item 5(b) be moved to after 4(b).

Motion Marnoff seconded by Levar to approve agenda with changes. Motion unanimously approved.

3.0 Approval of Minutes.

A. August 9, 2011 Meeting Minutes

Motion Ewals, seconded by Marnoff to approve the August 9, 2011 minutes. Motion approved unanimously.

5.0 New Business

A. Interviews: 2 Individuals

Gene Flynn and Robert Envall were interviewed by the commission and allowed to ask the commission questions. Levar requested that members of the public be given a chance to question the candidates. Both candidates were questioned by the audience.

Chair Hafslund closed the interview process for consideration. Commission deferred action on appointments until later in the meeting.

4.0 Public Hearings.

A. Text Amendment: LED Signage for Highway Commercial (C3)

Chair Hafslund asked staff to detail proposed changes. Kerry described proposed changes to city sign ordinance in order to regulate dynamic signs. Kerry noted that cities typically regulate signs of this nature due to safety concerns, and aesthetic reasons. Changes being considered due to request from Frandsen Bank and Trust to install a new LED sign. Jim Holle from Frandsen Bank and Trust addressed commission about reasons for new sign and its technical capabilities.

Thom Boncher. Pointed out that the proposed code did not include size and where the sign was directed.

Jim Pensyl, 756 O'Day Drive. Asked the commission to consider regulating the brightness of the sign.

Randy Mattson. Informed the commission there are no toxic materials in LED light.

Chair Hafslund closed the public hearing.

Ewals raised concerns about the proposed 3 second interval, saying it was too short. He also thought that the code amendment should regulate size.

Chair Hafslund also had concerns about 3 seconds being too short and that the code should possibly make a distinction between scrolling text and animation as well as regulating size.

Levar agreed that size and brightness should be regulated, as well as ensuring the color does not interfere with traffic lights. Levar asked if the proposed ordinance would prohibit the requested use by Frandsen Bank. Janish said that his understanding was that the current regulations would allow maintenance on the sign but that updating the sign to LED technology was not simple maintenance.

Jim Holle stated the only thing he is attempting to do is change the light bulbs in the sign.

Motion Hafslund, second Ewals, that the item be tabled until staff provide additional research for a future meeting including brightness and size, as well as speed of scrolling text. Staff should also look into an ordinance for scrolling signs. Motion passed unanimously.

B. Variance Request: Commercial Highway Lot Width; 210 Eldorado Drive

Janish described application for variance allowing lot to be split. Janish noted the current code requires a lot width of 150 feet and the applicant is proposing to split the current lot into two with lot widths of just over 115 feet. Janish recited the reasons the applicant believes the property meets the variance requirements.

Kitty Burton spoke to the benefits of the lot split including new taxable buildings and jobs.

Chair Hafslund opened to public comment, no comments, closed hearing.

Janish gave a brief history of the area. City Attorney Margarit stated that the problem with the new variance laws is that there needs to be a unique problem with the property. Burton stated she had in writing she would be allowed to split the lot. Chair Hafslund stated that if Ms. Burton would give staff

this information the city attorney would review it and see if it would be sufficient grounds for granting the variance and brought up at a later meeting.

Motion Hafslund to table the item until the special meeting on September 27th, Marnoff second. Motion passed unanimously.

Motion Levar to table 5.0 (B) Minor Subdivision Request 210 Eldorado Drive, until the meeting on September 27th as well, Marnoff second. Motion passed unanimously.

C. Text Amendment: Adding a definition of Funeral Home which may include Crematorium

Janish noted the City of Jordan issued a Conditional Use Permit (CUP) for a crematorium in 2010. The issuance of the CUP was contested in court. The Judge had stated: “Due to the nature of the Court’s decision, remand for amended findings it (sic) not appropriate. However, the City and/or Funeral Home may certainly pursue an amendment of the Ordinances and further action as appropriate.”

Janish indicated the discussion tonight was meant to be a high level discussion about the language of the ordinance proposed. Members should consider comments during the hearing and consider changes to the ordinance along with a recommendation to the City Council.

Janish noted the locations in which a funeral home can be located within the City of Jordan and also reviewed information from the Minnesota Department of Health related to existing locations of funeral homes. Janish noted that the draft ordinance was provided for members review along with a letter from a resident with concerns about locating a crematorium within the City of Jordan. Janish also noted members have a copy of Judge Hanson’s Judgment, the EAW decision by the State Department of Health, and the Land Use Basics Pyramid of Discretion.

Chair Hafslund opened the hearing at 9:09 p.m.

Jim Fink, 204 East First Street. Mr. Fink indicated the City of Jordan has a second chance to fully explore this subject and should not make a decision quickly, but look into the impacts of a crematorium being located within the City of Jordan.

Randy Mattson, 208 Crestview. Indicated he believes Judge Hanson made an error in her court decision and would like to see the City adopt the language presented.

Tim Bischke, 205 East Street. Stated he served the City of Jordan as a Planning Commissioner for 10 years and believes the City failed to conduct their due diligence the first time this item was up for discussion. Mr. Bischke noted that a Funeral Home is a place for preparation for final disposition and crematorium is a final disposition, making these two separate uses and not accessory. Mr. Bischke noted this would be spot zoning as presented.

Chair Hafslund, indicated this is not spot zoning but the amendment would apply to the several zoning districts in which a funeral home is currently a permitted or conditional use.

Nancy Murray, 112 Hillside Drive. Murray indicated that as part of the Comprehensive Plan zoning should be reviewed and neighborhood commercial zoning should have limited uses, while this

amendment would actually allow another use, making this amendment a conflict of the Comprehensive Plan.

Brenda Lieske, 124 Rustle Road. Indicated she believes that crematoriums are part of a funeral home and supports the text as proposed.

Jim Pensyl, 756 O'Day Drive. Expressed concern with the verbiage because the Judge's order indicated that a crematorium and funeral home are not the same. Mr. Pensyl also questioned the infrastructure that a funeral home would need in order to accommodate a crematorium retort. Mr. Pensyl indicated that the Planning Commission should spend more time reviewing the language prior to a recommendation to the City Council.

Dan Elke, 976 Bridle Creek Drive. Mr. Elke noted he has thought that the current funeral home had a crematorium and doesn't understand why everyone is afraid of one operating now. Mr. Elke stated most people he speaks with thought one has been in operation and thought most funeral homes had crematoriums within their establishments.

Jeanna Orris, 775 Dakota Point. Read the definition of "funeral home" from the Webster Dictionary on her cell phone, asked the Planning Commission to make a decision in a timely manner [and she stated she believed it includes a crematorium].

Kathy Lopic, 102 Sawmill Road. Provided the definition of "subordinate" from the Webster Dictionary accessed via her cell phone. Lopic stated that crematoriums are stand alone facilities and are not an incidental or subordinate use.

Julie Bischke, 205 East Street. Bischke indicated the staff provided information about cities that allow for crematoriums while others such as Lake Elmo, South St. Paul and Roseville don't allow for crematoriums or have voted them down. Of particular concern is the release of mercury in the emissions, which has a detrimental impact on the environment. Mrs. Bischke asked the Planning Commission to deny or table the language tonight.

Tom Sand, 112 Rustle Road. Stated that the Minnesota Department of Health indicated the emissions are very little and no concern exists.

Mayor Ewals, indicated that mercury bio accumulates, and can be dangerous over time and level of exposure.

Dave Murray, 206 First Street East. Stated that Rawlins, Wyoming conducted tests of a cremation retort and discovered the emissions were far above what was supposed to be present. Mr. Murray suggested the Planning Commission consider denial of the amendment.

Michelle Bisek, 101 First Street West. Indicated she has four children and crematoriums have known emissions. The current crematorium at one point ran for more than eight hours. Bisek indicated that family members have health issues and the emissions from the crematorium could impact these health issues. The crematorium would impact the things people commonly enjoy such as sitting in the front yard

and hanging up laundry. Mrs. Bisek also stated she has run a licensed daycare for over 15 years and has lost a family due to the crematorium. Bisek questioned how this fits into the comprehensive plan.

Jason Allen, 955 Ridge Street. Allen asked the Planning Commission to look at the facts. Allen noted his mother lives just south of the existing crematorium and he would not want to put his mother in harm's way. He stated he does not believe his mother is harmed by the current crematorium. Allen noted that he has no concerns over the text amendment and would like to see it added to the City Code.

Shari Schmidt, 104 Second Street East. Questioned if this text amendment would require that a funeral home be operating as a legally functioning funeral home or if it would be able to add a retort if it was grandfathered in.

Jacqueline Wesforde-Shaw, 4406 Sand Creek Blvd. Noted she had a letter from the Metro West Building Inspections that a crematorium is considered an incinerator, and questioned if zoning allows for incinerators.

Chair Hafslund, noted that a crematorium and incinerator are different and not considered the same.

Christa Oldsberg, 204 1st Street. Noted she had a letter from the City's own building inspector indicating that the inspector classified the crematorium as an incinerator. Oldsberg also indicated that the planning commission needs to look at the comp plan and determine if the amendment would be in conflict with the intent of the plan. She believes it is in conflict. Oldsberg stated the commission should look at different zoning districts for this use.

The hearing was closed at 9:47 p.m.

Commissioners indicated that they had hoped comments would have been received related to how to amend the language for everyone to be comfortable with the text. Unfortunately, the comments focused only on allow or don't allow a crematory within a funeral home. Commissioners discussed that the overriding concern heard was with mercury emissions from cremations. Members discussed the possibility of removal of teeth which contain mercury fillings. Commissioners also discussed how Highway Commercial was the only zone in which Funeral Homes are permitted and that it may be appropriate to change it to a conditional use within the highway commercial. Members stated that due to the issue of the mercury, the possibility of removing teeth with amalgam fillings could be an additional requirement. Members also noted that dental standards are changing and mercury fillings are become less common, meaning in time, fewer people will have mercury within their fillings. The Commission also noted that the number of cremations that would occur at a property would be based on the size of the facility, because the current language would not allow for cremations for other funeral homes.

Commissioners stated they wanted the council to realize the changes from the original proposed language are meant to help alleviate the concerns that the Planning Commission could identify during the hearing and try to find a compromise.

Planning Commission modified the original proposed language based on comments from the hearing and voted in favor of the modified ordinance of removal of fillings containing mercury and also adding that all city requirements are met.

Motion Levar, seconded Marnoff, to amend the drafted language to include a requirement for removal of fillings containing mercury prior to cremation, and insert language that cremation retorts shall follow city requirements as well as state and federal. Motion passed unanimously (4-0).

5.0 New Business.

A. Interviews: 2 Individuals

Levar moved to appoint Gene Flynn to fill a position on the commission. Marnoff second. Motion approved unanimously. Consideration of Envall postponed until the commission can review additional applicants.

B. Minor Subdivision: 210 Eldorado Drive

Tabled until September 27, 2011.

6.0 Old Business.

None.

7.0 Planners Report.

A. Possible Special Meeting for Scott CDA/Library/Clinic & Pharmacy Sketch Plan Review Proposed for Tuesday, September 27th.

Marnoff moved to hold the meeting at 7:00 p.m. on Tuesday, September 27th. Second Levar. Motion passed unanimously.

8.0 Commissioner Report.

Ewals thanked Guy Beck for his time on the commission. Levar stated he sympathized with Beck's concerns.

10.0 Adjournment.

Motion Levar, seconded Marnoff to adjourn the Planning Commission meeting at 10:26 p.m. Motion unanimously approved.

Respectfully submitted,

Joe Janish
Senior Planner