

**MINUTES OF THE PROCEEDINGS
OF THE PLANNING COMMISSION OF THE CITY OF JORDAN
IN THE COUNTY OF SCOTT
April 13 2021**

1.0 CALL TO ORDER

Present: Tom Sand, Robert Whipps, Bill Heimkes, Jane Bohlman, Bob Bergquist, Jeff Will, Brenda Lieske

Also Present: Nathan Fuerst, Planner/Economic Development Specialist; Ben Schneider, Planner; Revée Needham, Planning Intern; Al Weierke, Jake Weierke

Meeting called to order at 6:33 pm.

2.0 ADOPT AGENDA

Sand asked if the agenda was changed. Fuerst clarified that it was not changed, but there are two public hearings under 4A.

Motion by Bohlman, second Lieske to adopt the agenda as presented. Vote all ayes. Motion carried 6-0.

3.0 APPROVAL OF MINUTES

A. Planning Commission Meeting Minutes, March 9, 2021

Motion by Whipps, second Bohlman to approve the minutes as presented. Vote all ayes. Motion carried 6-0.

4.0 NEW BUSINESS

A. PUBLIC HEARING – C-1 Rezoning

Heimkes joins at 6:39pm.

Schneider presents the rezoning and text amendment for the newly revised Neighborhood Commercial District (C-1). The parcels to be rezoned have been slightly modified from those identified in the Comprehensive Plan to remove two parcels without a road access, the removal of a parking lot parcel, and the addition of a parcel so the entire building (which encompasses two parcels) is one zoning district. The current C-1 district provisions are not compatible with the parcels to be rezoned, as many are residential so the text amendment is modifying the district. Much of the design standards and provisions match the R-2 district, which is the majority of the parcels to be rezoned, with the added flexibility of commercial uses as conditional uses. One notable change is the parking requirements, which are proposed to be reviewed by the Planning Commission and City Council, as some parcels downtown have parking available in front of their parcel. Since the staff report was published on Friday, “retail” was added as a conditional use, and gas stations were added as a conditional use. One parcel in the C-1 district, on Broadway St., has a purchase agreement with the City to allow for future gas station development.

Bergquist asks if the parcel is next to Pekarna’s. Schneider clarifies it is at 609 Broadway St., adding that gas stations are allowed in the current C-1 district. Staff propose adding the condition that a gas station must abut a collector or arterial street and follow the same design criteria as the C-3 district, which would eliminate a gas station being allowed across from a residential home. Another change since the first C-1 draft language, is the removal of a special home occupation permit in the C-1, and instead requiring a CUP. The process for review is similar, and the CUP will save money in the long-term as it doesn’t require renewal. Schneider presents a flow chart on

the application process for a proposed commercial use in the new C-1 district and asks the Commission to discuss having all commercial uses as conditional. Staff engaged in extensive public input, sending mailers to affected properties, hosting an informational session, sending a follow-up mailer with a survey, as well as the public hearing notice to affected and neighboring properties. The survey received 11 responses, indicating residents' desire to remain in their homes long-term, with some concerns for traffic and noise but overall little concerns about the change.

Chair Sand opens the public hearing at 6:55pm.

Al Weierke, owner of 609 Broadway St: Presents a purchase agreement with the City which signified a gas station and car wash could be built if they remain the owners. Schneider clarifies that car wash was added as an accessory use to a gas station.

Weierke notes that in 2004, there were 57 permitted uses for this parcel and now it's down to 4 permitted, signaling that the zoning district is more restrictive than it needs to be. The CUP process is difficult and costs money, with having commercial uses as conditional uses. Schneider states that Weierke may apply to have the property rezoned, which would require a separate application process.

Whipps asks if there are pages missing from the purchase agreement. Weierke replies yes, but the pertinent pages are included. Lieske notes that 57 permitted uses are not needed and asks Weierke what he's looking for. Weierke replies he is unsure, and cites ideas such as bike shop, garden supply store, rental, convenience stores etc. Bohlman asks if those uses would all fall under the definition of a convenience store. Fuerst replies that a convenience store is more comparable to the storefront of a gas station with grocery items. Schneider adds that a garden store could possibly fall under a retail store, which is allowed in the proposed C-1 provisions. Weierke responses that he was also considering a hardware store, antique store, bookstore, and appliance store etc. Sand replies those, and other uses permitted in 2004, might all fall under the definition of a retail store. Fuerst clarifies that even if a use isn't expressly allowed in the C-1, language is included to allow the zoning staff to allow uses similar in nature to those listed. Weierke closes citing that he is open to a rezone, the County lists his property as industrial, and is taxed higher because of this, as the taxes are related to the use and not the zoning.

Chair Sand closes the public hearing at 7:10pm.

Lieske agrees that a special Home Occupation permit should just go through a CUP. Whipps clarifies that a car wash is included in the zoning district. Schneider replies it is an accessory use. Bohlman asks if auto repair is allowed. Schneider replies no. Bohlman asks about the auto repair downtown. Fuerst clarifies that property is legal non-conforming, as the use was established before the zoning. Schneider clarifies that property owners are allowed to continue the use once it's been established, but a new structure would need to follow the current zoning provisions. Bergquist asks if this is included in the text amendment. Schneider clarifies that legal non-conforming is in a different part of the zoning district and is included in MN State statute. Whipps asks about the criteria for a gas station in the C-1. Schneider replies that the text amendment proposes uses the C-3 gas station requirements as they are more detailed. Whipps asks for a comparison of the two criteria in the future, and then reads from the zoning text. Schneider replies the additional provision for the C-1 is the arterial or collector street requirement. Fuerst adds this would be Broadway St., Varner St., or Second St. Whipps notes that besides Weierke's property, few, if any, would meet the minimum lot size for a gas station. Schneider replies that this "future-proofs" the C-1, in the event that the C-1 zoning district is expanded in the future. Bohlman asks if a gas station could be next to a home. Schneider replies that currently, no, but in the long term, it's possible. Will clarifies that alleys don't count as an arterial street. Fuerst adds that arterial/collector streets are higher traffic volume streets. Whipps suggests limiting grocery/convenience stores to higher volume roads, to limit traffic in residential neighborhoods. Schneider adds that if Weierke would like to be rezoned, that would be addressed at a later date.

Whipps notes that it couldn't be zoned industrial. Fuerst replies yes, as that would be spot zoning, so it would be challenging. Whipps likes the C-1 zone, to make zoning more congruent in the area.

Motion by Lieske, second Whipps to recommend approval of Ordinance 2021-06 to City Council. Vote: all ayes. Motion carried 7-0.

Motion by Whipps, second Lieske to recommend approval of Ordinance 2021-07 to City Council.

Will asks if this draft includes gas stations. Whipps notes that by including gas station, this honors the purchase agreement and the permitted uses, so long as the company owns the property. Will asks if this would mean the uses are allowed under C-1 and not need to be rezoned. Whipps replies yes. Will asks if Weierke has the option to rezone in the future. Fuerst replies that staff can work with Weierke on his specific property. Whipps adds that this amendment doesn't change Weierke's position.

Vote: all ayes. Motion carried 7-0.

B. Zoning Code Discussion – Secondary Accesses

Fuerst presents that the City has received several inquiries about secondary accesses in the R-2 district and currently it is not allowed, as it is not expressly permitted in the Code. However, it is allowed in the R-1 district, with 6 condition primarily intended for safety, impervious surface limits. After speaking with public works and engineering, it appears the sixth condition, "on corner lots, both accesses and driveways shall be onto the same street right-of-way" appears to be for aesthetic reasons. The most recent request is a property across from the elementary school and there is a lot of traffic in the morning, so the owner asked for a secondary access. Staff are asking for Commission input on the conditions and if they would like to see a text amendment to apply secondary accesses to the R-2 district.

Whipps points out that if the same conditions are used, then this wouldn't solve this particular request, as it's a corner lot. Fuerst replies yes, and offers to remove the sixth condition. Will says the criteria appear to cancel each other out, saying the accesses need to be 20 feet away but also onto the same road. Fuerst replies the criteria limit the number of lots that can have secondary accesses. Whipps says that in this request, the neighbor may not like a secondary driveway in the backyard, which would remove trees and possibly leave cars out, creating an eyesore. Bohlman replies that an alley would have solved this concern. Will is sympathetic to this request, as the road is busy, but thinks a text amendment is costly and may only benefit a few properties, and thinks that spot zoning or the Council reviewing requests on a case-by-case basis could work. Whipps asks how many requests have staff received. Fuerst replies 3 in the past year, although each have their own reasons and asks if the Planning Commission would like to see a text amendment. Will suggests removing condition 6. Sand asks if the City has an opinion. Fuerst replies that conditions 1-5 appear reasonable and condition 6 appears to be for aesthetic reason, and that cities vary in if they allow secondary accesses or not. Bergquist thinks this case should be allowed a secondary access. Sand suggests doing it on a case by case basis. Whipps hesitates to spend the costs for just one request. Bergquist asks how much does it cost. Whipps replies a couple thousand dollars. Fuerst clarifies that smaller text amendments are often bundled with other housekeeping items to save costs. Whipps asks how many secondary accesses have been permitted in the R-1. Fuerst replies none in the past two years. Schneider clarifies that R-1 parcels tend to be larger and have bigger garages whereas R-2 parcels are smaller. Fuerst adds that generally R-1 lots are in newer subdivisions with a different layout than R-2. Will asks about the impervious surface requirement. Fuerst replies that properties in the R-1 and R-2 are limited to 40% impervious surface. Whipps asks if the house is considered impervious. Fuerst replies yes, anything preventing water from infiltrating is considered impervious, such as rooftops or asphalt. Will asks about sheds and solar panels. Fuerst replies that sheds are considered impervious and

that a ground mounted solar array would be different than a rooftop mounted solar installation. Schneider adds that for this particular request, it appears that the property would meet the impervious surface requirement. Whipps adds that allowing it may make the owner happy but the neighbor unhappy. Bergquist is in favor of allowing it for this request to prevent a death. Bohlman asks if it's cheaper to amend than change the City Code. Fuerst replies that this would require amending the City Code, and the subsequent costs associated with publishing it and editing the online City Code. Bergquist asks how this homeowner could start the process. Fuerst replies that the homeowner could apply for a text amendment to change the City Code or remove his current driveway and install a new one on the other road. Whipps notes that it's likely the garage doesn't have doors on both sides, so cars would sit in the secondary driveway. Bergquist asks if the homeowner could apply for a variance. Fuerst replies that is not the best solution, as one cannot create their own problem and this particular homeowner has the option to remove one driveway and install another, which likely doesn't meet the practical difficulty test as required by state statute for a variance. Bohlman asks if staff have received input from the neighbors. Fuerst replies no, the neighbors have not been contacted. Sand says that if it's on someone's property, it's up to their discretion. Bergquist says we should ask the neighbors, the property looks to be well-maintained and that the costs of amending the Code are less than the cost of a life. Fuerst clarifies this couldn't be done on a case-by-case basis and asks if the Commission would like to see a text amendment. Sand asks the Commissioners for their opinion. Sand and Whipps say no. Bohlman says maybe. Will says no but thinks there should be some sort of a solution, whether that's moving the driveway, backing into the driveway etc. Lieske says that it appears the decision is based on the cost of the text amendment and that doesn't feel right, the request seems reasonable. Bergquist agrees with Brenda, as does Heimkes. Sand says the Commission appears divided, and suggests to staff to be creative and revisit in the future. Will would like to know how many properties this would impact. Bergquist would like to know the cost. Whipps says that we shouldn't change the Code for one single request, and this hasn't been an issue in the past. Fuerst will revisit this further down the road, possibly as part of housekeeping changes. Whipps suggests eliminating condition 6 in the R-1 as well.

5.0 OLD BUSINESS

6.0 PLANNERS REPORT

A. General Updates

Fuerst announces that construction season is ramping up and many permits are coming in. Bergquist asks what types. Schneider replies fences, decks, and sheds. Fuerst notes that the City held a groundbreaking for the new Advantage Health Center building and that there will be a groundbreaking ceremony for the 282 roundabout. Bohlman asks about the access during construction. Fuerst replies that there will be phases, and there is more information on the website. Whipps asks about road work on 282. Fuerst replies the signs say May 3rd. Heimkes asks for an update on the Dakota development. Fuerst replies that talks are ongoing and there may be a predevelopment agreement. Schneider says that Bridle Creek 10th addition has submitted their final plat for 32 more lots and that will be going to Council on Monday. Heimkes asks if it will be cheaper with the sewer and water work already in. Schneider replies that either way the developer pays for those improvements, but the lots may be sold faster since that work is already done. Fuerst announces the City entered into a predevelopment agreement with the city lots on El Dorado Dr for a mixed use residential project. Will asks if that use is allowed in the area. Fuerst replies that multifamily housing is allowed in the C-3 district if there is a PUD and at least 40% of the ground floor is commercial use. Will replies that it is odd, as no other buildings on El Dorado Dr. have mixed uses.

B. Next Meeting- May 11, 2021

7.0 CITY COUNCIL MEMBER UPDATE

Heimkes notes that there will be a lot of work and responsibility for the Planning Commission if upcoming projects go through.

Whipps points out that the Planning Commission should put more weight into discussions, and not kick the responsibility forward to City Council, as many items end up on the Consent Agenda and are not being discussed as much. Heimkes agrees, saying that we should feel confidence in bringing items forward to Council. Will replies that as a Commission, we only make recommendations and ultimately it's up to Council to decide.

8.0 COMMISSION MEMBER UPDATE

Bohlman asks about the parcel on the corner of Rice St and 4th St and if it's been sold. Schneider replies that staff are unaware of any sale. Bohlman replies that her husband was told he couldn't buy it. Fuerst replies that was not the case, his proposed use isn't allowed in the C-3 zoning district. Schneider points out that the garages to the north are legal non-conforming uses.

Bohlman asks what the parcel can be used for. Fuerst replies that the Triangle Lane area is a good example of the C-3 uses. Bohlman notes that the parcel is small for many of those uses. Fuerst notes that a variance cannot be granted for a use, only setbacks, height etc. Whipps points out that the easements on the parcel also make development challenging.

Bohlman says that the lot lines on Scott County's GIS and the City of Jordan's GIS are different and asks if they could be updated to match. Fuerst replies no, the boundaries on GIS are only approximate, not precise, and that to know the exact property boundaries, one needs to get a property survey. Bergquist asks about fences. Schneider replies that for a fence permit, a survey is needed or neighbor signatures. Fuerst clarifies this policy was recently updated, as it is expensive to get a survey and that it is the property owners' responsibility to locate property boundaries.

Whipps adds that this turns it into a civil dispute, and not up to City Council, so you could sue your neighbor but it is better to talk to your neighbor beforehand to avoid this altogether.

Bohlman asks if you get a survey, do you turn it into the City to update the GIS. Fuerst replies that the digital property boundaries will not be changed, as they are only approximate, but a survey will be kept in the property file for future use. Whipps asks if newer plats can be used for property boundaries. Fuerst replies that while it is useful, the final plat does not have structures located on it. Bergquist notes that his neighbor installed a fence on his property and if he should sue the city. Whipps replies that he should sue his neighbor. Fuerst replies that he cannot comment on Bergquist's specific case, as he would need to look into it further, but that it is up to the property owner to locate their property boundaries before installing a fence. Bergquist asks why we don't have a Kwik Trip.

9.0 ADJOURNMENT

Motion by Whipps, second Will, to adjourn at 8:29pm. Vote all ayes. Motion carried 7-0.