

**MINUTES OF THE PROCEEDINGS
OF THE PLANNING COMMISSION OF THE CITY OF JORDAN
IN THE COUNTY OF SCOTT
JUNE 8, 2021**

1.0 CALL TO ORDER

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

Also Present: Nathan Fuerst, Planner/Economic Development Specialist; Ben Schneider, Planner; Revée Needham, Planning Intern; Naomi and Jerry Chanen, 607 Blue Heron Cir.

Meeting called to order at 6:32 pm.

2.0 ADOPT AGENDA

Motion by Whipps, second Bergquist to adopt the agenda as presented. Vote all ayes. Motion carried 7-0.

3.0 APPROVAL OF MINUTES

A. Planning Commission Meeting Minutes, May 11, 2021

Motion by Bohlman, second Lieske to approve the minutes as presented. Vote all ayes. Motion carried 7-0.

4.0 NEW BUSINESS

A. PUBLIC HEARING – Residential Landscaping Review

Fuerst presents that staff began working code enforcement on 607 Blue Heron Cir. In the fall of 2020, which was appealed to City Council and Council directed this to Planning Commission for a comprehensive review of residential landscaping requirements. The property has an alternative ground cover, mulch, in the front yard which is in violation of City Code which prohibits anything besides grass in the drainage easements. The property has unusually large easements and the back yard has a drainage area for the entire subdivision, to channel large rain events overflow across the entire landscape. The residents had cited concerns of hill stability, interest in using the easement areas of the yard and environmental concerns such as water, fertilizer, pollinator habitat.

The residential landscape ordinance has four areas: landscape escrow, yard area requirements, residential requirements, and native plantings. The newest part is the native plantings section, this includes requirements on what constitutes native plantings, prohibits them from front yards, required setbacks for abutting properties, and enforcement of violations of the ordinance.

Bergquist asks if there is a list of acceptable native plantings. Fuerst replies that the Minnesota DNR has a list available.

In reviewing neighboring cities' codes on landscaping in easements, staff presented on if this is allowed, and if silent, it is generally prohibited. Additional considerations involve alternative landscaping vs. native plantings, code enforcement, application of a new policy such as which if any requirements should change and who should the changes apply to. Next steps involve A) doing nothing, B) modify requirements for residential properties, or C) modify landscaping requirements for all land users. Bohlman asks what is meant by all. Fuerst replies commercial, industrial, and residential zoning districts. For options B and C there would be clear standards for the maintenance of landscaping, possibly allowing ornamental landscaping in yard areas, a definition of ornamental landscaping, rewording the easements section to not expressively

prohibit alternative groundcovers while still allowing the City to remove plantings if access to the area is needed. Staff ask Planning Commission to provide recommendations on code amendments, if any, to recommend to City Council. Bergquist asks how this relates to older homes, or just newer developments. Fuerst replies that this Code section applies to all residential properties. Bergquist responds that the City doesn't pay for the maintenance of trees. Fuerst replies that residents are responsible for maintaining the boulevard. Bohlman replies that it didn't used to be that way, the City used to trim the trees, and asks when that was changed. Fuerst replies that staff can look into the history of boulevard tree maintenance. Bergquist replies that he spends money to maintain the boulevard and should have the right to cut the tree down. Whipps responds that you can cut it down but you have to replace it. Bergquist asks why he should have to pay for it if it's not his. Whipps responds that it's no different than the sidewalk. Sand asks how much grass is required in the front yard. Fuerst replies that for landscape escrow, the interpretation is that 51% of the yard must be grass, which is a majority. Separately, the easements must be grass. Will asks how much mulch is in the front yard of 607 Blue Heron Cir. Fuerst replies the entire front yard has mulch up to the curb with plantings interspersed. Whipps notes that only one tree is required in the front yard. Bergquist asks why should there be a tree in the right-of-way. Will adds that a tree is required in the boulevard, and over time the roots can damage the sidewalk, which the resident then needs to repair. Sand notes that in his subdivision, one side of the street has a sidewalk and boulevard trees and the other side does not have a sidewalk, and the trees provide benefit such as shade. Will explains that the builder pulls a building permit, signs the escrow, and then sells the property to the residents who are responsible for the tree. Fuerst clarifies that the landscape escrow arrangement depends on the builder, although typically the buyer pays the permit fees. Will responds that Lennar takes out the permit, and gets the money back but the resident has to do the work. Whipps replies that Lennar does the work. Will asks why they didn't in this case. Whipps responds that the residents installed mulch before it was finished. Will adds that if Lennar failed to install the grass, then they should be called. Fuerst replies that Lennar was called, and this stemmed from their request for the escrow to be released.

Chair Sand reads the public comment received via email from the Chanens, citing concerns of erosion on their property, larger issues of easements within the entire subdivision, necessitating a code amendment.

Chair Sand opens the public hearing at 7:06pm.

Naomi and Jerry Chanen, of 607 Blue Heron Circle, note that they practically have no yard, including their neighbors. They were shocked with the easements and were unaware of the restrictions. After moving in in February, sod wasn't installed until September and they were tired of waiting. The backyard slope is dangerous to mow. In the future, the plantings will grow and cover the mulch, it's good to not water constantly. This is a bigger problem than just one lot. The builder did not disclose the easements and the Chanens made no secret of installing the landscaping. There was a Star Tribune article about how another cities are changing things. This isn't just a problem with their property, but others too and ask to change the ordinance to allow for this.

Chair Sand closes the public hearing at 7:17pm.

Fuerst adds that there is a 12 foot easement in the front and side yard. Sand asks if the neighbors have commented on the mulch. The Chanens reply the neighbors like it, and clarifies that they have no front yard and this is not native plantings. Whipps says that it makes sense to use native plantings in the side and back yard, but the front yard is accessible and easy to mow. If the Code is changed, then people could have mulch for the entire front yard, which impacts more than just this property, and others will not be responsible about maintenance. Lieske notes that Jordan appears to be more restrictive than other cities, and thinks that should change. Sand asks the Chanens what Lennar told them about their grass. The Chanens respond that they could decide

where they wanted sod and weren't told yes or no about their landscaping. Lennar told them the yard is 52% sod, but the easement requirement wasn't met and that \$2,500 isn't much to the builder. Will responds that the fee should be higher to incentivize more. Whipps notes that Lennar is out the money because the residents chose to do something else. Will explains that Lennar should be installing landscaping the way it's required and then after the escrow is released, residents can do what they want. Whipps notes that this is a disagreement between two private parties, and is sympathetic to the lack of disclosure, but Lennar should have installed grass right away. Bohlman replies we can change the rule. Sand responds that this rule will impact others. The Chanens add that they have a document filed with the County to allow for their dry stream and propose a similar agreement for this, agreeing that if maintenance is needed within the easement that is their lots, as opposed to a city wide code change. Sand responds that everyone has easements and that this is the rule and the Commission needs to uphold the rules unless it's discussed to change.

Bergquist notes that this is a case of buyer beware, and this is an issue with the realtor and builder more than the City. Bergquist expresses concern over planting a tree in the boulevard. Agreeing with Lieske, Bergquist notes that Jordan is becoming a city of no and this should be addressed more than just concerning the financial cost. Heimkes clarifies that while the neighboring cities have different shades, the language is not so different and that while this yard looks nice, others will abuse a code change. Whipps notes that it makes sense to require grass in easements, as other materials could clog the catch basin which then costs the City. The Chanens respond that trees are in easements and that other properties have hostas, rocks, and boulders. If things don't change, there will be a water crisis in the country. Lieske agree that the code could be fine-tuned to provide a little more flexibility. Heimkes asks if this could be done tonight. Fuerst replies that the Planning Commission could recommend an alternative, which would be drafted into an ordinance and presented to City Council with a first and second reading. Fuerst has some draft language that would require maintenance, involve best practices and standards to avoid nuisance. Sand asks if there is a percentage for grass. Fuerst replies that it isn't required but could be incorporated. Sand suggests tabling to see the draft language in the future.

Motion by Sand, second Whipps, to table this discussion. Vote: all ayes. Motion carried 7-0.

Fuerst asks the Commission for specific recommendations. Will adds that this should be only residential properties, and should involve easements and boulevard areas, involving ornamental landscaping, such as a fountain. Fuerst clarifies that this is specific only to plantings, and not structures nor retaining walls. The retaining wall referenced near Blue Heron Circle was installed by the developer. Will adds that if you plant in the easement, it's your risk of getting damaged if work is needed to be done. The Chanens thank the Planning Commission and Mr. Fuerst and add they are open to working with the City to modify their landscaping. Will praises Fuerst's handling of this, as the residents were treated positively and said the City was helpful.

5.0 OLD BUSINESS

6.0 PLANNERS REPORT

A. General Updates – ULI Institute Virtual Work Session – Navigating Your Competitive Future 6/14 @ 6:30pm

Fuerst notes that building prices are quite high and that the Bridle Creek 11th Addition should be coming soon with a preliminary plat and amended PUD.

B. Next Meeting- June 8, 2021

7.0 CITY COUNCIL MEMBER UPDATE

Heimkes notes progress is being made on the parking lots. Bohlman asks who paid for them. Heimkes replies that the City owns the one behind the Pickled Pig and that the construction on the roundabout is coming along well. Whipps notes that the county detour is quite long, and that Council held a work session on strategic planning, and that the flood control project was discussed. Will asks if the strategic planning would involve looking at the land uses in the Comp Plan, as a lot has changed since then. Heimkes replies that the discussion was broader and did not delve into that specific detail. Whipps notes that the Council voted down a traffic study for the area near the Jordan Supper Club. Bohlman asks about the Renaissance Festival. Whipps replies that is up in the air of when or if it will move.

8.0 COMMISSION MEMBER UPDATE

Will notes that the Chanens received great customer service from Fuerst, a change from prior complaints about the service at City Hall. Will thinks boulevard trees are not right.

Whipps mentions that it only cost him \$300 to replace the sidewalk panels and remove a tree by the City and there's the option to pay back over a period of time. Will replies the City should maintain the trees, even if it involved a small monthly fee. Sand asks why we don't have a code enforcement officer, as opposed to complaint-based code enforcement. Lieske asks about Kwik Trip. Fuerst replies that the City has reached out to Kwik Trip and offered up suitable properties. Bergquist replies that he heard someone at the City spoke to Kwik Trip and it was a negative experience.

9.0 ADJOURNMENT

Motion by Whipps, second Will, to adjourn at 8:14pm. Vote all ayes. Motion carried 7-0.