

PLANNING AND ZONING COMMISSION
July 10, 2023

The City of Jackson Planning and Zoning Commission met in regular session in the Council Chambers of the Jackson City Hall at 5:15 p.m. on Monday, July 10, 2023 with the following Commission members present: Chairperson Nathan Peterson, Dennis Hample, Dave Lappe, Brad Tusa, Chuck Dunker and Joe Pell. Also attending was City Administrator Matt Skaret, City Clerk/Zoning Administrator Dave Maschoff, Bill Henning and Community and Business Development Specialist Dave Schmidt of Community and Economic Development Associates (CEDA). Joining the meeting via Zoom were Jeff Anneke and Grant Duchac of the DBS Development Group. (Planning Commission member Tim Beck was absent.) (A quorum of the Planning Commission was present.)

CALL THE MEETING TO ORDER

Chairman Nathan Peterson called the regular meeting of the Planning and Zoning Commission to order at 5:15 p.m.

REVIEW AND APPROVAL OF PRELIMINARY PLAT OF THE FALLBROOK HOUSING SUBDIVISION

Zoning Administrator Maschoff explained the Preliminary Plat of the Fallbrook Housing Subdivision is the housing project that's been talked about for quite some time. He said the Preliminary Plat is before the Planning Commission for their consideration.

Maschoff said the proposed housing project would be located on property east of the current Eagle Ridge and Wedgewood apartments. He noted the Preliminary Plat map of the area that was distributed to Planning Commission members outlining the proposed housing project.

Maschoff said Jeff Anneke and Grant Duchac of the DBS Development Group were joining the Planning Commission meeting via Zoom if the Planning Commission members had any questions.

City Administrator Matt Skaret noted the “Fallbrook” name of the subdivision is not the final name. He said it is certainly subject to change. Skaret said it needed to be called something and one of the EDA members at their last meeting suggested “Fallbrook” as a name. He said he doesn’t know if that will be the final name but, for now, that’s the name that is being used. Skaret said the name of the proposed subdivision is subject to change.

Grant Duchac said DBS has been working with the City in developing the proposed Fallbrook housing subdivision. He explained that the original concept plan for the project has now been developed into the Preliminary Plat phase. Duchac said engineering has been completed to determine that plans for the housing project will work. He outlined the lots that will be used for townhomes and two apartment buildings. Duchac noted the area has been rezoned to a Multiple Family Residence District (R-3). He said some of the front yard, side yard and rear yard setbacks are being adjusted and relaxed slightly to fit in the density, be more efficient and provide for appropriate lot sizes for development.

Duchac said they are proposing a P.U.D. overlay, a Planned Unit Development. He said with the correct R-3 zoning for the area, they want to adjust some of their setbacks slightly to fit the density to be more efficient with the development. Duchac said they are also requesting minor adjustments to the lot depths which will complement sight and the product that’s being proposed within this development.

Skaret added this housing project is proposed to be done in phases. He said the first initial phase that’s being looked at is where the current Prospect Lane comes off of Highway 71. Skaret said basically Phase One entails most of Fallbrook Lane. He said plans propose up to three apartment buildings on the northeast corner of Fallbrook Lane. Skaret said the Homedale Drive extension would be Phase One. He pointed out the area that loops down to the south and the areas shown on the map as Maple Court, Elm Court and Ash Court are all proposed to be Phase Two. Skaret said Phase Two would be developed at some point in the future. Looking at the Preliminary Plat map, Skaret said basically Lots One through Nine and lots 10 and 11 would be developed as Phase One of the Fallbrook Subdivision. Skaret said the housing subdivision is proposed to be a combination of apartments and then townhomes on all the lots in Phase One except Lot 9.

Duchac said that was correct. He said he believed Lots One and Two would be one story townhomes and the remaining lots would be two-story townhomes. Duchac said there would be some diversity in the townhome products as well in Phase One.

Skaret said right now things are moving forward full throttle and construction is expected to start this fall for Phase One if everything goes according to plan.

Duchac pointed out the Preliminary Plat is a document that's a Master Plan. He said it's not definitive and not exactly the way it has to be built but it's the roadmap of how this property is going to be developed. Duchac said it can happen that there may be some changes to the lots in Phase Two for a slightly different product. He said that can happen. Duchac said the Preliminary Plat of the Fallbrook Subdivision is what they anticipate happening and it may be what happens, but it's not locked in stone.

Skaret noted with the Fallbrook Subdivision also being a P.U.D. (Planned Unit Development), that does add a separate process. He said the Planning and Zoning Commission can recommend to the City Council approval of the Preliminary Plat and the P.U.D. portion will require a public hearing at the August meeting of the City Council.

Peterson said if there was no further discussion, he would entertain a motion to approve the Fallbrook Subdivision Preliminary Plat.

PELL/HAMPLE moved and it was unanimously carried to recommend to the City Council to approve the Preliminary Plat for the Fallbrook Housing Subdivision project.

Skaret said the next stop for the Preliminary Plat will be at the City Council meeting on Tuesday, July 15th.

Skaret and Planning Commission members thanked Duchac and Anneke.

Duchac and Anneke thanked Planning Commission members for their time.

PUBLIC HEARING ON THE INTERIM USE PERMIT APPLICATION OF BILL HENNING ON BEHALF OF BCJB ENTERPRISES LLC. THIS APPLICATION, IF APPROVED, WOULD ALLOW BCJB ENTERPRISES TO ADD MORE CONEX STORAGE CONTAINERS AT THEIR STORAGE FACILITY LOCATED AT 77136 U.S. HIGHWAY 71 ON THE SOUTH SIDE OF JACKSON, MINNESOTA IN AN AREA ZONED GENERAL INDUSTRIAL. ACCORDING TO CITY CODE 153.150, IT IS UNLAWFUL FOR THE OWNER OF ANY PREMISE TO PLACE, LOCATE, OR MAINTAIN, OR ALLOW TO BE PLACED, LOCATED OR MAINTAINED, ON THE PREMISE ANY CONEX BOX EXCEPT WHEN PERMITTED PURSUANT TO AN INTERIM USE PERMIT ISSUED BY THE CITY AND ACCORDING TO CITY CODE 153.037(E)(4)

Maschoff noted Bill Henning was present at the Planning and Zoning Commission meeting. He said the notice of the public hearing on Henning's Interim Use Permit application was published in the Jackson County Pilot and also posted at City Hall and at the Library. Maschoff said all the adjacent property owners were also notified about the July 10th public hearing.

Maschoff said the adjacent property owner who would be affected the most by Henning's proposal would be Mike Gruhlke. He said Henning had already spoke with Gruhlke and it appeared Gruhlke had no issues with Henning's plans. Maschoff said he hasn't received any phone calls or comments from anybody regarding Henning's Interim Use application.

Maschoff noted when Ed Willett first started storage services with Conex boxes at that location, Willett also obtained an Interim Use Permit. He said there was a limit placed on the number of Conex boxes allowed as storage units at that time. Maschoff said Henning's Interim Use Application would be an expansion of the units that are already on the property. He said Henning is now the owner of that property.

Peterson asked Henning how many more Conex boxes he was planning to add.

Henning said he would probably add another 20 boxes. He explained the new Conex boxes would all be located east of the Conex storage units that are already there.

Dunker asked Henning if the additional boxes would be on the backside of the boxes that are already there.

Henning said that was correct. He said fill had been brought in east of the current boxes. Henning said he also had purchased the adjacent storage property from Jo Fertig.

Henning said if people have a choice for storage, they choose using a Conex box because they have a wood floor, they're sealed and the doors don't freeze down. He said the Conex boxes are ideal for storage. Henning said Conex boxes are currently available to move onto the site. He said the addition of more Conex boxes is over a long-term period. Henning said a couple boxes will be brought in at a time.

Hample noted most of the additional Conex boxes won't be seen because they'll be hidden behind the current Conex boxes that are there.

HAMPLE/LAPPE moved and it was unanimously carried to recommend to the City Council to approve the Interim Use Permit application of Bill Henning on behalf of BCJB Enterprises to allow BCJB Enterprises to add more Conex storage containers at their storage facility located at 77136 U.S. Highway 71 on the south side of Jackson, Minnesota.

Henning thanked the Planning Commission members.

Peterson thanked Henning for attending the meeting.

DISCUSSION OF WHICH ZONING DISTRICTS IN JACKSON PRODUCTS CONTAINING THC WILL BE ALLOWED TO BE SOLD

Skaret explained back in 2022, the Minnesota Legislature legalized the THC gummies and edibles and the THC infused beer. He said no one really knew it was going to be legalized until it was already approved by the Legislature. Skaret said it was included in a 1,000-page legislative bill.

Skaret said the City of Jackson, like many other cities, passed a moratorium on products containing THC last year on August 16th. He said that moratorium runs for a year. Skaret said the moratorium allowed time for cities to see how everything was going to play out. He said it allowed lawyers and policy experts from the League of Minnesota Cities to review the legislation pertaining to products containing THC. Skaret said the thought was by the time the moratorium ran out, cities would have a better handle on what would be appropriate for regulations.

In 2023, Skaret said the Minnesota Legislature went further than the THC gummies and THC infused beverages and created a regulatory framework over the entire Cannabis or THC industry within Minnesota.

Skaret said what does that mean? He said basically what the Legislature did was pass a bill so the consumption of marijuana will be legal effective August 1st for marijuana up to a certain potency. But he said retail sales won't be allowed until the Office of Cannabis Management is established which is a State Agency. Skaret said it's estimated the Office of Cannabis Management won't be up and running until January of 2025.

Skaret said before a business can begin sales of marijuana, they have to get a license through the Office of Cannabis Management and then also obtain a local retail registration which would be through the City.

Skaret said between now and January of 2025, the THC gummies and THC infused items will be licensed through the Minnesota Department of Health. Skaret said after the Office of Cannabis Management is established 2025, they will take over the oversight of the gummies, smoke shops and everything else.

Skaret said the City is kind of heading into an awkward phase for the next couple of years on where do things sit with the THC gummies. He said one option is the City can do nothing and the City's moratorium would expire August 16th of this year. Skaret said then it would be kind of a free for all with no regulations until probably sometime in 2025. Or, Skaret said the City can adopt a THC Ordinance which would be in effect for a couple of years until the State gets the Office of Cannabis Management up and running. He said if it's decided that the City wants some local control over the next couple of years, it's not really governed by zoning districts but it's really more of a licensing and permit issue.

Skaret said some cities, like Fairmont and Willmar and a lot of others, have passed THC Product Ordinances that kind of regulate where THC products can be sold. He said for example, Fairmont's THC Ordinance says THC products can't be sold within 1,000 feet of a park, school or daycare center. Skaret said the State allows cities to have a prohibition up to 500 feet from parks, schools or daycare centers.

Skaret said the Cities of Fairmont and Willmar also require that THC Products be sold out of a fixed business and not out of a tent, trailer, kiosk, food truck or a van. He said it has to be a brick and motor business.

Skaret explained what he distributed to the Planning Commission members was basically a copy of the City of Fairmont's ordinance which he thinks is the one that makes the most sense of the ordinances he's reviewed. He said those selling THC Products would be required to obtain a license from the City.

Maschoff noted for now, the licensing would be through the City similar to the licensing for liquor licenses. However, he said after a year or two, the State would be doing the licensing for the sale of THC products and not the City.

Peterson noted the City's ordinance pertaining to the sale of THC products would basically be for two years.

Skaret said or the City could choose to have no ordinance at all.

Peterson said if there's no ordinance, then it will be a free-for-all.

Hample said he thinks the City needs something in place.

Peterson agreed.

Maschoff noted the municipal Liquor Store could also sell cannabis products.

Skaret said the Liquor Store could sell cannabis products and if the City really wanted to, they could have their own municipal cannabis store.

Peterson suggested including in the ordinance that THC products could not be sold within 300 feet of any school, park, library, public sports fields, sports arenas and all government owned properties.

Skaret said he would have no objections to that. He said the Planning Commission could vote and make a recommendation to the City Council to pass an ordinance pertaining to the sale of THC products similar to the City of Fairmont's ordinance but having a distance of 300 feet from any school, park, library, public sports fields, sports arenas and all government owned properties instead of the distance of 1,000 feet as stated in Fairmont's ordinance.

Peterson asked for a motion to recommend to the City Council an ordinance similar to the City of Fairmont's ordinance regarding the sale of THC products with a distance of 300 feet instead of 1,000 feet.

LAPPE/TUSA moved and it was unanimously carried to recommend to the City Council approving an ordinance similar to the City of Fairmont's ordinance pertaining to the sale of THC products with the provision that THC products cannot be sold within 300 feet of any school, park, library, public sports fields, sports arenas and all government owned properties.

DISCUSSION ABOUT HOME OCCUPATIONS AND POSSIBLE CHANGES FOR THE CITY'S CURRENT ORDINANCE

Maschoff said there's been a lot of good discussion about home occupations during the past several weeks.

Maschoff said thanks to City Administrator Skaret's research of the City of Springfield's ordinance regarding home occupations, the City may have something they can work with and still have a tool in the toolbox.

Maschoff said the discussion about home occupations came about when Blaise Jacobsen had a Facebook page promoting brick-oven pizzas he was preparing at this home and selling. Maschoff said someone emailed City Hall and asked if Jacobsen needed a permit. He said the question then arose of whether making pizzas, bread, wedding cakes or whatever at home is simply a "hobby" and not a "home occupation" considering when the person actually has a fulltime occupation that they actually make their living with such as working as a teacher, store clerk or work in an office. Maschoff said the question came up whether the requirement to have an Interim Use Permit should be eliminated for what may be considered as just a hobby or labor of love and not as a main source of income.

Peterson noted that Jacobsen had a State Cottage License for baking pizzas.

Pell asked what does the State's Cottage License include. He asked if the Cottage License pertains to the serving of food or serving of a certain kind of food. Pell asked if it includes the toppings he's putting on the pizzas.

Maschoff said he did not know.

Economic Coordinator Dave Schmidt explained there are two licenses that food operations can obtain from the State. He said it depends on what type of food that's being served. Schmidt said the licenses are obtained either through the State Department of Agriculture which would be a Cottage License or through the State Department of Health. He said what Jacobsen is doing with his brick-oven pizza falls under the purview of the State Department of Agriculture.

Schmidt said the State Department of Agriculture actually visits Jacobsen's premises and looks at what he's doing and makes sure how he's operating is safe and that he's following the rules. He said that's how Jacobsen obtains his Cottage License. Schmidt said the Cottage License has to be renewed every year if he wants to continue to take orders and bake pizza. He said the Cottage Licenses are specifically designed for home businesses like Jacobsen's. Schmidt said businesses with Cottage Licenses are licensed through the State Department of Agriculture who has a record of everyone who has a Cottage License.

Maschoff noted there's an annual renewal fee of \$50 for Cottage Licenses.

Maschoff said there was a lot of discussion about what is a home occupation or a hobby. He thanked Skaret for researching the City of Springfield's ordinance regarding home occupations. Maschoff said he thinks Springfield's ordinance may be something the City of Jackson may be looking for regarding home occupations.

Maschoff explained the City of Jackson can't take their current ordinance regarding home occupations and just throw it out the window. He said the scenario may come someday where somebody is operating a home occupation that's upsetting the neighbors and the City will have nothing they can do about it.

Maschoff said a home occupation ordinance for Jackson fashioned after Springfield's ordinance leaves a tool in the City's toolbox. He said Springfield's ordinance regarding home occupations does not require a fee. Maschoff said the City is not out looking for who's making cakes or whatever, but if a question comes up about a home occupation, the person operating the home occupation can come into City Hall and get a permit from City staff without going in front of the Planning Commission.

Maschoff said if problems develop regarding a home occupation, Springfield's ordinance says it *may* be referred to the Planning Commission and some stipulations could be set. He noted Springfield's ordinance has some built-in conditions regarding the size of signage and other provisions regarding a home occupation. Maschoff noted there would be no fee and it's not like the City is out looking for who's making cakes or other things but, if an issue regarding a home occupation comes up, the City would have the means to deal with it.

Maschoff said the issue of Jacobsen's brick oven baked pizza generated a lot of good discussion and resulted in something the City of Jackson can work with.

Skaret said the City of Jackson's current ordinance regarding home occupations does not specify what's a business and what's a hobby. He said the current ordinance is pretty flat out across the board that if you have a business out of your home, then you have to get an Interim Use Permit and go through the Planning Commission and City Council. Skaret said the City is not out to shut anybody down and not knocking on doors to find the cake bakers, bread bakers, lefse makers and whatever else.

Maschoff said he wasn't out to shut down Jacobsen's pizza making, but that's what the City's current Land Use Chart currently outlines.

Maschoff noted a copy of Springfield's ordinance was emailed to the Planning Commission members prior to the meeting to see what they thought of it. He said he thinks it's pretty reasonable.

Skaret said a new ordinance regarding home occupations could be written up and brought back to the Planning Commission before being recommended to the City Council.

ADJOURNMENT

With no further business, Peterson asked for a motion to adjourn.

HAMPLE/LAPPE moved and it was unanimously carried to adjourn the Planning and Zoning Commission meeting at 6:05 p.m.

David A. Maschoff, Zoning Administrator

