

AGENDA

Greenwood City Council Meeting

Wednesday, January 6, 2016
20225 Cottagewood Road, Deephaven, MN 55331



The public is invited to speak when items come up on the agenda (comments are limited to 3 minutes). The public may speak regarding other items during Matters from the Floor (see below). Agenda times are approximate.

- 7:00pm 1. CALL TO ORDER | ROLL CALL | APPROVE REGULAR MEETING AGENDA
- 7:00pm 2. CONSENT AGENDA
Council members may remove consent agenda items for discussion. Removed items will be put under Other Business.
- A. Approve: 12-02-15 City Council Worksession Minutes
 - B. Approve: 12-02-15 City Council Meeting Minutes
 - C. Approve: 12-02-15 City Council Closed Session Minutes
 - D. Approve: November Cash Summary Report
 - E. Approve: November Certificates of Deposit Report
 - F. Approve: December Verifieds, Check Register, Electronic Fund Transfers
 - G. Approve: January Payroll Register
 - H. Approve: 2nd Reading Ord 250, Amending City Code Sections 300.07 & 600.7 Regarding Building Permits and Simple Subdivisions
- 7:05pm 3. MATTERS FROM THE FLOOR
This is an opportunity for the public to address the council regarding matters not on the agenda. The council will not engage in discussion or take action on items presented at this time. However, the council may ask for clarification and may include items on a future agenda. Comments are limited to 3 minutes.
- 7:10pm 4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS
- A. Greenwood Night at the Old Log Theatre, 7:30pm, Friday 01-22-16
- 7:10pm 5. PUBLIC HEARINGS
- A. None
- 7:10pm 6. PLANNING & ZONING ITEMS
- A. Consider: Res 14-15 Findings for Hardcover Variance Request and Res 15-15 Findings for Grading Conditional Use Permit Request, Mary McQuinn, 5025 Covington Street
 - B. Consider: Dining Patio Conditional Use Permit Request, Excelsior Entertainment (Old Log Theatre), 5185 Meadville Street
 - C. 2nd Reading: Ord 245, Regarding Accessory Structures and Uses and Res 03-16, Summary of Ord 245 for Publication
 - D. 1st Reading: Ord 249 Security Deposits & Agreements
 - E. 1st Reading: Ord 251 Amending Chapter 11 Regarding City Forester, Hazard Trees, Variance Standards for Impervious Surface Regulations and Mailing Lists
 - F. Discuss: Variance Practical Difficulty Standards
- 8:45pm 7. UNFINISHED BUSINESS
- A. None
- 8:45pm 8. NEW BUSINESS
- A. Discuss: Drafts of Drainage & Utility Easement Agreements
 - B. Consider: Res 04-16 Approving Sale of the Southshore Center to Shorewood
 - C. Consider: Res 01-16 Setting City Dates for 2016
 - D. Consider: Res 02-16 2016 City Appointments & Assignments
- 9:15pm 9. OTHER BUSINESS
- A. None
- 9:15pm 10. COUNCIL REPORTS
- A. Cook: Planning Commission, Parks, Sewer Study, St. Alban's Bay Bridge
 - B. Fletcher: Lake Minnetonka Communications Commission, Fire
 - C. Kind: Police, Administration, Mayors' Meetings, Website
 - D. Quam: Roads & Sewers, Minnetonka Community Education
 - E. Roy: Lake Minnetonka Conservation District, St. Alban's Bay Lake Improvement District
- 9:40pm 11. ADJOURNMENT
- 9:45pm **CLOSED SESSION** for attorney-client privilege to discuss Shorewood's partition action lawsuit regarding the Southshore Center.



Agenda Item: Consent Agenda

Summary: The consent agenda typically includes the most recent council minutes, cash summary report, verified report, electronic fund transfers, and check registers. The consent agenda also may include the 2nd reading of ordinances that were approved unanimously by the council at the 1st reading. Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business on the agenda.

Council Action: Required. Possible motion ...

1. I move the council approves the consent agenda items as presented.



MINUTES

Greenwood City Council Worksession

Wednesday, December 2, 2015

20225 Cottagewood Road, Deephaven, MN 55331

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the meeting to order at 6:15pm.

Members Present: Mayor Kind; Councilmembers Bill Cook, Tom Fletcher, Bob Quam, and Rob Roy

Others Present: City Attorney Mark Kelly, City Zoning Administrator Dale Cooney

Motion by Kind to approve the agenda. Second by Fletcher. Motion passed 5-0.

2. DISCUSS UPDATE OF ORDINANCE 245 REGARDING ACCESSORY STRUCTURES

The council discussed the 11-16-15 draft of the ordinance which included revisions based on the 11-10-15 discussion and the city attorney's recommendations. Based on the discussion, the following changes will be made to the ordinance for the 2nd reading:

- A. Revise definition of Fire Pit.
- B. Add definition of Driveway Monument.
- C. Add Driveway Monuments to Secondary Accessory Structure table.
- D. Delete Swimming Beaches from list of Primary Accessory Uses.
- E. Fix numbering of sections.
- F. Change "Not Allowed" to "180 feet" for Theater with Attached Restaurant Primary Accessory Structures.
- G. Pergolas Arbors, and Trellises changes: change height to 12 feet maximum, add "footprint" to maximum square foot sentence, delete sentences about maximum linear feet, state that trellises are allowed on a code-compliant fence.
- H. Change Eaves and Gutters paragraph to language provided by Fletcher.
- I. Change "shall" to "may" in Standards for Driveways and Parking Pads paragraph.

3. ADJOURNMENT

Motion by Roy to adjourn the worksession at 6:56pm. Second by Fletcher. Motion passed 5-0.

MINUTES

Greenwood City Council Meeting

Wednesday, December 2, 2015

20225 Cottagewood Road, Deephaven, MN 55331



1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind called the meeting to order at 7pm.

Members Present: Mayor Kind; Councilmembers Bill Cook, Tom Fletcher, Bob Quam, Rob Roy

Others Present: City Zoning Administrator Dale Cooney, City Attorney Mark Kelly

Motion by Kind to approve the agenda. Second by Cook. Motion passed 5-0.

2. CONSENT AGENDA

- A. Approve: 11-04-15 City Council Worksession Minutes
- B. Approve: 11-04-15 City Council Meeting Minutes
- C. Approve: 11-04-15 City Council Closed Session Minutes
- D. Approve: October Cash Summary Report
- E. Approve: October Certificates of Deposit Report
- F. Approve: November Verifields, Check Register, Electronic Fund Transfers
- G. Approve: December Payroll Register
- H. Approve: 2nd Reading, Ord 248, Amendment to Allow Waiving of 2nd Readings
- I. Approve: 2016 License Applications
- J. Approve: 2015 Recycling Report Showing October Household Participation

Motion by Kind to approve the consent agenda. Second by Quam. Motion passed 5-0.

3. MATTERS FROM THE FLOOR

No one spoke during matters from the floor.

4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS

- A. City Attorney: Simple Subdivisions Overview

No council action was taken.

5. PUBLIC HEARINGS

- A. Public Hearing: Request for Simple Subdivision, Nathan Raich, 21200 Mtka Blvd
Consider: Res 23-15, Findings for Simple Subdivision Request, Nathan Raich, 21200 Mtka Blvd

Motion by Quam to open the public hearing. Second by Cook. Motion passed 5-0.

Gerald Mike Brown, 4920 Lodge Lane: Spoke against the subdivision and presented a petition with 53 signatures stating, "We the undersigned, are in strong opposition to the proposed subdivision of 21200 Minnetonka Boulevard due to the impact on the unique topography of the area, the adverse impact on adjoining property owners, the short notice that was provided, and that the proposal does not provide satisfactory ingress and egress. Also serious concern regarding grading and erosion control, erosion and runoff. And that no grading proposal or tree plan has been submitted." A copy of the petition is on file at the city.

John Rauth, 4910 Woods Court: Spoke against the subdivision. Questioned whether the applicant had the authority to bring an application to the city. Noted that city ordinance 1140.80 subd 7 states that no simple subdivision shall be approved by the city council except on condition that all significant trees and all trees to be cut down in excess of what is allowed for new construction shall be replaced in accordance with the tree replacement schedule. Asked that the city council require a right-of-way encroachment agreement before considering the subdivision.

Gary VanCleeve, attorney representing adjacent property owners: Spoke against the subdivision. Stated that 1928 documents show the Crestwood Lane right-of-way is owned by the adjacent property owners who hold the underlying fee title, that the land is held in trust by the city specifically for the use as a public street, that any other use would be a "taking." He stated that the property owners will be requesting a vacation of the Crestwood Lane right-of-way.

Mary Jean McGregor, 21170 Minnetonka Blvd: Stated that contrary to staff's presentation, she never has been approached by the developer regarding potential purchase of her property.

Jim Johnson, attorney representing the applicant: Spoke in favor of the subdivision. Stated that Nathan Raich is authorized to bring the application to the city and can get corrected documentation if needed. Asked for proof of the abutting property owners granting the easement for the right-of-way in 1928.

Motion by Roy to close the public hearing. Second by Cook. Motion passed 5-0.

Motion by Fletcher that the city council denies the simple subdivision request of Nathan Raich to subdivide 21200 Minnetonka Boulevard into two separate parcels as identified on the submitted surveys, because Parcel B does not abut upon a public street or upon an existing easement or a private street that provides satisfactory ingress and egress. Second by Cook. Motion passed 5-0.

6. UNFINISHED BUSINESS

- A. Consider: Res 14-15, Findings for Hardcover Variance Request and Res 15-15, Findings for Grading Conditional Use Permit Request, Mary McQuinn, 5025 Covington Street

Al McQuinn, 5025 Covington Street: Husband of the property owner. Spoke in favor of the requests. Stated that the front yard is steep and a sidewalk in that location would be very dangerous for anyone of any age. Stated that he has experience with private / public partnerships in Edina where the results were excellent. Stated that he would personally make sure the proposed park drainage mitigation plans were done right.

Mary Jetland, 4940 Meadville Street: Daughter of the property owner. Spoke in favor of the requests. Stated that as a Greenwood taxpayer she would hope that the city would be open to private / public partnerships.

Motion by Fletcher that the city council (1) accepts the planning commissions recommendation and adopts resolutions 14-15 and 15-15, findings for denial of the variance and grading conditional use permit applications for Mary McQuinn, 5025 Covington Street as written, (2) directs the city attorney research and bring options to the city council regarding temporary license agreements. Second by Cook. Motion failed 2-3 with Kind, Quam, and Roy opposing.

Motion by Roy that the city council (1) approves the variance and grading conditional use permit requests as presented by Mary McQuinn, 5025 Covington Street, (2) directs staff to draft findings for approval based on the following: a U-shaped driveway is a reasonable use for a residential property, the steep front yard is a pedestrian safety hazard unique to the property, (3) directs the findings for approval be placed on the 01-06-15 city council agenda for approval. Second by Quam. Motion passed 3-2 with Councilmembers Fletcher and Cook opposing.

- B. 2nd Reading: Ord 245, Regarding Accessory Structures and Uses and Res 18-15, Summary of Ord 245 for Publication

Motion by Fletcher to continue the 2nd reading of ordinance 245 to the January 6, 2016 city council meeting. Second by Cook. Motion passed 5-0.

- C. 2nd Reading: Ord 247, Amending Municipal Watercraft Ordinance and Res 22-15 Summary of Ord 247 for Publication

Motion by Fletcher that the city council approves the 2nd reading of ordinance 247 amending the municipal watercraft ordinance. Second by Roy. Motion passed 5-0.

7. NEW BUSINESS

- A. Consider: Res 26-15, Findings for Variance Request, Joel Davis and Heather Garibaldi-Davis, 21795 Mtka Blvd

Motion by Cook that the city council accepts the planning commissions recommendation and adopts resolution 26-15 findings for approval of the variance request from Joel Davis and Heather Garibaldi-Davis, 21795 Mtka Blvd, as written. Second by Quam. Motion passed 4-1 with Fletcher opposing.

- B. Consider: Res 24-15, Final 2016 Tax Levy and Res 25-15 Final 2016 Budget

Motion by Roy that the council adopts resolution 24-15 approving the 2016 tax levy in the amount of \$642,490 to be collected in 2016 and directs the city clerk to send the information to Hennepin County. Second by Quam. Motion passed 5-0.

Motion by Fletcher that the council adopts resolution 25-15 approving the 2016 general fund budget in the amount of \$782,015. Second by Cook. Motion passed 5-0.

- C. Consider: 2015 Budget Line Item Adjustments, Fund Transfers, and Year-End Contributions

Motion by Fletcher that the council approves the following line item adjustments to the 2015 budget EXPENSES:

General Fund Code Number	Line Item Title	Original 2015 Budget Amount	12-02-15 Amount	CHANGE
101-42400-308	Zoning Administration	3,500	10,000	6,500
101-42400-310	Building Inspections	28,290	60,790	32,500
TOTAL				39,000

AND the following line item adjustments to the 2015 budget REVENUES:

General Fund Code Number	Line Item Title	Original 2015 Budget Amount	12-02-15 Amount	CHANGE
101-34103	Zoning / Subdivisions / Variances	5,000	8,000	3,000
101-34304	Load Limit Fees	4,000	11,000	7,000
101-32210	Building Permits	36,000	65,000	29,000
TOTAL				39,000

Second by Kind. Motion passed 5-0.

Motion by Fletcher that the council approves the following 2015 fund transfers:

- a. \$3,470 from 605-49300-721 Marina Fund Transfer to 101-39200 General Fund for Administrative Expense Reimbursement
- b. \$12,500 from 605-49300-720 Marina Fund Transfer to 101-39201 General Fund
- c. \$10,090 from 602-43200-720 Sewer Fund Transfer to 101-39202 General Fund for Administrative Expense Reimbursement
- d. \$2,302 from 502-43200-720 Stormwater Fund Transfer to 101-39203 General Fund for Administrative Expense Reimbursement
- e. \$30,000 from 101-49000-500 General Fund Bridge Transfer to 403-39200 Bridge Fund
- f. \$10,000 from 101-43200-500 General Fund Major Road Improvement to 404-36230 Road Improvement Fund

Second by Kind. Motion passed 5-0.

- D. 1st Reading: Ord 250, Amending City Code Sections 300.07 & 600.7 Regarding Building Permits and Simple Subdivisions

Motion by Fletcher that the city council approves the 1st reading of ordinance 250 as written. Second by Cook. Motion passed 5-0.

- E. Discuss: Ord 251 Amending Chapter 11 Regarding City Forester, Hazard Trees, Variance Standards for Impervious Surface Regulations and Application Procedure for Mailing Lists

Motion by Fletcher that the city council directs the planning commission to hold a public hearing, review, and make a recommendation regarding ordinance 251 as written. Second by Cook. Motion passed 5-0.

8. OTHER BUSINESS

- A. Ash Trees

Motion by Fletcher that the city council authorizes the following the following next steps regarding Emerald Ash Borer:

- (a) City Forester Manuel Jordan will conduct a quick inventory of ash trees in Shuman Woods Park.

- (b) Manuel will mark ash trees for removal if they are "weak specimens" located close to a public street / trail / play area or have the potential to interfere with utility lines. Otherwise, ash trees on public property will become habitat for wildlife.
- (c) An article about EAB will be included in the next city newsletter and will direct property owners to consult with a certified arborist to determine options for privately-owned trees.

Second by Cook. Motion passed 5-0.

B. St. Alban's Bay Lake Improvement District

Motion by Kind that the city council accepts the St. Alban's Bay Lake Improvement District (SABLID) Board's recommendation and approves Mike Bogen and Bill Slattery as the fiduciary agents for the SABLID subject to securing a \$75,000 bond for each of them. Second by Roy. Motion passed 5-0.

9. COUNCIL REPORTS

- A. Cook: Planning Commission, Parks, Sewer Study, St. Alban's Bay Bridge
- B. Fletcher: Lake Minnetonka Communications Commission, Fire
- C. Kind: Police, Administration, Mayors' Meetings, Website
- D. Quam: Roads & Sewers, Minnetonka Community Education
- E. Roy: Lake Minnetonka Conservation District, St. Alban's Bay Lake Improvement District

No council action was taken.

10. ADJOURNMENT

Motion by Fletcher to adjourn the meeting at 9:42pm. Second by Cook. Motion passed 5-0.

This document is intended to meet statutory requirements for city council meeting minutes. A video recording was made of the meeting, which provides a verbatim account of what transpired. The video recording is available for viewing on LMCC TV channel 8 for 1 month, at www.lmcc-tv.org for 1 year, and on DVD at the city office (permanent archive).



MINUTES

Greenwood City Council Closed Session

Wednesday, December 2, 2015

20225 Cottagewood Road, Deephaven, MN 55331

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

Mayor Kind convened the closed session at 9:50pm with the following statement:

I now convene a closed session of the Greenwood city council pursuant to Minn. Stat. 13D.05 Subd. 3(b) for attorney-client privilege to discuss Shorewood's partition action lawsuit regarding the Southshore Center.

Members Present: Mayor Kind; Councilmembers Bill Cook, Tom Fletcher, Bob Quam, Rob Roy

Others Present: City Attorney Mark Kelly

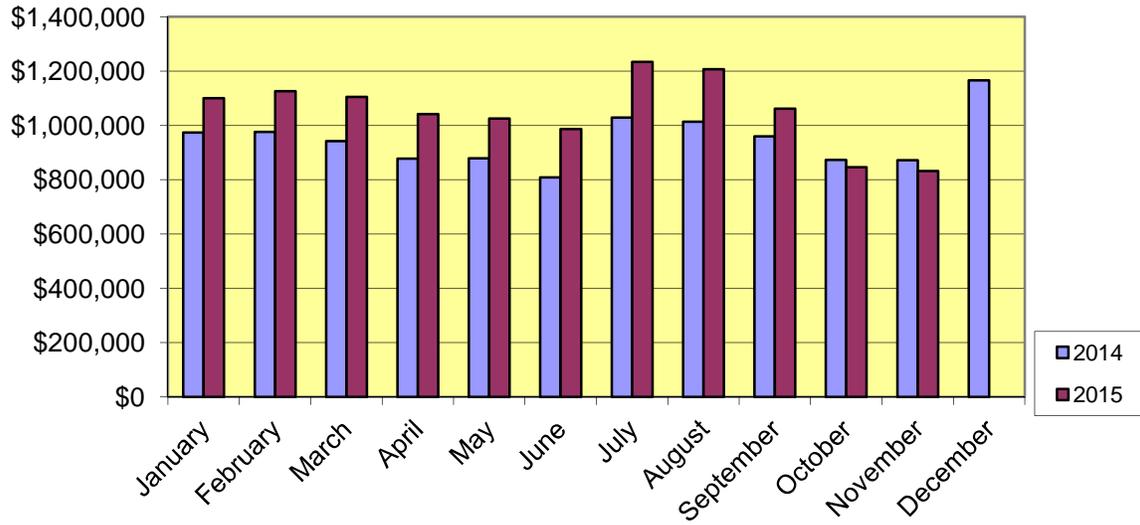
2. CLOSED SESSION

The city council went into closed session. Per state law, the session was not audio recorded and will not be made public.

3. ADJOURNMENT

Motion by Roy that the city council ends the closed session at 9pm. Second by Cook. Motion passed 5-0.

City of Greenwood Monthly Cash Summary



Month	2014	2015	Variance with Prior Month	Variance with Prior Year
January	\$973,698	\$1,100,038	-\$65,893	\$126,340
February	\$976,134	\$1,125,995	\$25,957	\$149,861
March	\$942,468	\$1,105,199	-\$20,796	\$162,731
April	\$878,040	\$1,041,296	-\$63,903	\$163,256
May	\$879,272	\$1,025,022	-\$16,274	\$145,750
June	\$808,884	\$986,189	-\$38,833	\$177,305
July	\$1,029,060	\$1,234,400	\$248,211	\$205,340
August	\$1,013,814	\$1,207,294	-\$27,106	\$193,480
September	\$960,083	\$1,061,011	-\$146,283	\$100,928
October	\$872,707	\$845,408	-\$215,603	-\$27,299
November	\$871,871	\$831,317	-\$14,091	-\$40,554
December	\$1,165,931	\$0	-\$831,317	-\$1,165,931

Bridgewater Bank Money Market	\$174,427
Bridgewater Bank Checking	\$19,747
Beacon Bank CD	\$407,259
Beacon Bank Money Market	\$224,546
Beacon Bank Checking	\$5,338
	<u>\$831,317</u>

ALLOCATION BY FUND

General Fund	\$212,217
Special Project Fund	\$0
General Fund Designated for Parks	\$22,685
Bridge Capital Project Fund	\$147,173
Road Improvement Fund	\$50,000
Stormwater Fund	(\$1,567)
Sewer Enterprise Fund	\$349,489
Marina Enterprise Fund	\$51,320
	<u>\$831,317</u>

GREENWOOD CERTIFICATES OF DEPOSIT

Report Date: 11/30/2015

Acct #	Bank	Date	Term	Maturity	Rate	Amount
101-10410	Beacon Bank	11/06/14	13 month	12/06/15	0.70%	\$ 61,443.92
101-10407	Beacon Bank	01/04/15	13 month	02/04/16	0.70%	\$ 61,883.00
101-10408	Beacon Bank	04/05/15	13 month	05/05/16	0.70%	\$ 61,450.84
101-10411	Beacon Bank	06/22/15	13 month	07/22/16	0.60%	\$ 80,420.62
101-10409	Beacon Bank	08/05/15	13 month	09/05/16	0.60%	\$ 61,452.53
101-10412	Beacon Bank	10/22/15	13 month	11/22/16	0.60%	\$ 80,608.33
					TOTAL	\$ 407,259.24

CITY COUNCIL POLICY: 09-03-14 Motion by Roy to authorize the administrative committee to open CDs with a maximum initial maturity of 25 months with a combined maximum total CD balance of \$500,000 at Beacon Bank or Bridgewater Bank. Second by Cook. Motion passed 5-0.

Check Issue Date(s): 12/01/2015 - 12/31/2015

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
12/15	12/08/2015	12177		Information Only Check	101-20100	.00 V
12/15	12/08/2015	12178	9	CITY OF DEEPHAVEN	101-20100	6,540.56
12/15	12/08/2015	12179	594	CITY OF EXCELSIOR	602-20100	3,717.05
12/15	12/08/2015	12180	822	ECM PUBLISHERS INC	101-20100	89.36
12/15	12/08/2015	12181	68	GOPHER STATE ONE CALL	602-20100	69.70
12/15	12/08/2015	12182	75	HENNEPIN COUNTY TREASURER	101-20100	72.63
12/15	12/08/2015	12183	784	HERITAGE SHADE TREE CONSULT	101-20100	262.50
12/15	12/08/2015	12184	861	HOFF, BARRY & KOZAR, P.A.	101-20100	426.70
12/15	12/08/2015	12185	3	KELLY LAW OFFICES	101-20100	4,306.25
12/15	12/08/2015	12186	99	LAKE MTKA CONSERVATION DISTRIC	101-20100	1,640.00
12/15	12/08/2015	12187	26	LEAGUE OF MN CITIES	101-20100	833.00
12/15	12/08/2015	12188	255	LMC INSURANCE TRUST	101-20100	4,941.00
12/15	12/08/2015	12189	105	METRO COUNCIL ENVIRO SERVICES	602-20100	3,203.41
12/15	12/08/2015	12190	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	15,586.42
12/15	12/08/2015	12191	862	SUBURBAN ELECTRIC	101-20100	32.00
12/15	12/08/2015	12192	745	Vintage Waste Systems	101-20100	1,628.25
12/15	12/08/2015	12193	145	XCEL ENERGY	602-20100	205.29
12/15	12/28/2015	12194	51	BOLTON & MENK, INC.	101-20100	2,478.00
12/15	12/28/2015	12195	822	ECM PUBLISHERS INC	101-20100	156.39
12/15	12/28/2015	12196	581	EMERY'S TREE SERVICE, INC.	101-20100	3,250.00
12/15	12/28/2015	12197	145	XCEL ENERGY	101-20100	374.95
Totals:						<u>49,813.46</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
BOLTON & MENK, INC.					
51	BOLTON & MENK, INC.	0185055	2014 MS4 ADMN	11/30/2015	108.00
		0185056	2015 DEVELOPMENT REVIEW	11/30/2015	204.00
		0185057	2015 MISC ENGINEERING	11/30/2015	2,166.00
Total BOLTON & MENK, INC.					<u>2,478.00</u>
CITY OF DEEPAVEN					
9	CITY OF DEEPAVEN	NOV 2015	Clerk Services	12/01/2015	2,747.20
			ZONING		948.29
			INT'L PROP MNGMT CODE BOOK		54.70
			RENT & EQUIPMENT		487.45
			Postage		65.49
			COPIES		310.60
			SEWER		358.48
			SNOW PLOWING/SANDING/SALT		179.24
			WEED/TREE/MOWING		358.48
			PARK MAINTENANCE		179.24
			STORM SEWERS		851.39
Total CITY OF DEEPAVEN					<u>6,540.56</u>
CITY OF EXCELSIOR					
594	CITY OF EXCELSIOR	00201413	4th qtr joint sanitary sewer use	11/18/2015	3,717.05
Total CITY OF EXCELSIOR					<u>3,717.05</u>
ECM PUBLISHERS INC					
822	ECM PUBLISHERS INC	273052	LEGAL NOTICE	11/05/2015	44.68
		278393	LEGAL NOTICE	11/19/2015	44.68
		282936	LEGAL NOTICE	12/03/2015	55.85
		282937	LEGAL NOTICE	12/03/2015	50.27
		282938	LEGAL NOTICE	12/03/2015	50.27
Total ECM PUBLISHERS INC					<u>245.75</u>
EMERY'S TREE SERVICE, INC.					
581	EMERY'S TREE SERVICE, INC.	20401	TREE MAINTENANCE	12/04/2015	3,250.00
Total EMERY'S TREE SERVICE, INC.					<u>3,250.00</u>
GOPHER STATE ONE CALL					
68	GOPHER STATE ONE CALL	149554	Gopher State calls	11/30/2015	69.70
Total GOPHER STATE ONE CALL					<u>69.70</u>
HENNEPIN COUNTY TREASURER					
75	HENNEPIN COUNTY TREASURE	113015	TRUTH IN TAX NOTICES	11/30/2015	72.63
Total HENNEPIN COUNTY TREASURER					<u>72.63</u>
HERITAGE SHADE TREE CONSULT					
784	HERITAGE SHADE TREE CONSL	5512	URBAN FORESTRY CONSULTING	11/24/2015	262.50
Total HERITAGE SHADE TREE CONSULT					<u>262.50</u>
HOFF, BARRY & KOZAR, P.A.					
861	HOFF, BARRY & KOZAR, P.A.	12628	SO SHORE COMM CNTR	11/30/2015	426.70

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total HOFF, BARRY & KOZAR, P.A.				426.70
KELLY LAW OFFICES					
3	KELLY LAW OFFICES	6387	GENERAL LEGAL	12/01/2015	4,306.25
	Total KELLY LAW OFFICES				4,306.25
LAKE MTKA CONSERVATION DISTRIC					
99	LAKE MTKA CONSERVATION DI	4TH QTR 2015	4th Qtr. LMCD Levy	09/29/2015	1,640.00
	Total LAKE MTKA CONSERVATION DISTRIC				1,640.00
LEAGUE OF MN CITIES					
26	LEAGUE OF MN CITIES	220946	Membership Dues 2015-2016	12/01/2015	833.00
	Total LEAGUE OF MN CITIES				833.00
LMC INSURANCE TRUST					
255	LMC INSURANCE TRUST	51465	Municipality Insurance	11/17/2015	4,941.00
	Total LMC INSURANCE TRUST				4,941.00
METRO COUNCIL ENVIRO SERVICES					
105	METRO COUNCIL ENVIRO SERV	0001050144	Monthly wastewater Charge	12/02/2015	3,203.41
	Total METRO COUNCIL ENVIRO SERVICES				3,203.41
SO LAKE MINNETONKA POLICE DEPT					
38	SO LAKE MINNETONKA POLICE	DEC 2015	OPERATING BUDGET	12/01/2015	15,586.42
	Total SO LAKE MINNETONKA POLICE DEPT				15,586.42
SUBURBAN ELECTRIC					
862	SUBURBAN ELECTRIC	120215	ELECTRICAL PERMIT REFUND	12/02/2015	32.00
	Total SUBURBAN ELECTRIC				32.00
Vintage Waste Systems					
745	Vintage Waste Systems	112015	City Recycling Contract	11/20/2015	1,628.25
	Total Vintage Waste Systems				1,628.25
XCEL ENERGY					
145	XCEL ENERGY	112515	SIREN	11/25/2015	3.54
			4925 MEADVILLE STREET *		8.50
			LIFT STATION #1		40.39
			LIFT STATION #2		31.48
			LIFT STATION #3		29.27
			LIFT STATION #4		28.21
			LIFT STATION #6		63.90
		113015	Street Lights *	11/30/2015	366.51
			Sleepy Hollow Road *		8.44
	Total XCEL ENERGY				580.24

Total Paid:	49,813.46
Total Unpaid:	<u>-</u>
Grand Total:	<u><u>49,813.46</u></u>

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
01/01/16	PC	01/04/16	1041601	COOK, WILLIAM B.	37		001-10100	184.70
01/01/16	PC	01/04/16	1041602	Fletcher, Thomas M	33		001-10100	84.70
01/01/16	PC	01/04/16	1041603	Kind, Debra J.	34		001-10100	277.05
01/01/16	PC	01/04/16	1041604	Quam, Robert	32		001-10100	184.70
01/01/16	PC	01/04/16	1041605	ROY, ROBERT J.	38		001-10100	184.70
Grand Totals:								<u>915.85</u>

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE CODE SECTIONS 300.07 AND 600.7 REGARDING BUILDING PERMITS AND SIMPLE SUBDIVISIONS

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 300 Building Codes is amended to add the following section:

“Section 300.07. Building Permit Required.

No person, shall undertake a construction project that requires a permit by the Minnesota State Building Code without a valid building permit issued by the city. No permit may be issued unless the zoning administrator has determined that the proposed construction project complies with the zoning code and / or the applicant has obtained the necessary variance and / or conditional use permit as may be required.”

SECTION 2.

Greenwood ordinance code section 600.07 Simple Subdivision is amended to read as follows:

“Section 600.07. Simple Subdivision.

Portions of a lot may be severed for the purpose of accretion onto neighboring parcels, provided the severed portion does not make the balance of the remaining lot a nonconforming lot; and provided:

1. The size of the newly-created lots conform to the minimum requirements of the zoning ordinance;
2. Each lot abuts upon a public street open for travel or upon an existing easement or a private street access that is determined by the city council as providing satisfactory ingress and egress;
3. The subdivision will not lend itself to future subdivision for the creation of additional properties within the applicable zone;
4. If a smaller piece has been severed for accretion onto a neighboring parcel, the severed portion shall not cause the hardcover to exceed the maximum allowed on the property to which it is accreted;
5. The remainder lot (after a smaller piece is accreted onto a neighboring parcel) shall be zoning code and shoreland management district code compliant in matters of location of accessory structures, hard cover maximums, and sideyard setbacks relative to both principal and accessory structures; and
6. The city may impose such additional conditions as it deems necessary and appropriate for public safety, health, and welfare, including requiring the applicant to enter into an encroachment agreement, easement agreement, or developer’s agreement with the city, in form meeting the approval of the city attorney.

A dimensional map of such subdivision must be filed with the city clerk before the division is submitted to the council for approval. A fee set by the city council and recorded in chapter 5 of this code book, together with actual costs of publication of notice, provided that any other fees required under the section 600 et seq shall be paid by the applicant as set by the city code, as well as payment for all sewer hookup charges which might be due. The subdivider shall conform with all other applicable requirements of section 600 et seq including public right-of-way and easement dedication that may be required.

As further limitation to the authorized simple subdivision, no such division shall be approved if there is any provision or authorization as a result of the division to allow and permit by easement access to Lake Minnetonka from off-shore lake lots; should there be a desire to provide such access, the subdivider shall be required to plat the property pursuant to the terms of section 600.10 et seq and apart from the provisions of this section governing simple subdivision.”

SECTION 3.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this ___ day of _____, 2016.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk

First reading: December 2, 2015

Second reading: _____, 2016

Publication: _____, 2016



Agenda Number: **6A**

Agenda Date: **01-06-16**

Prepared by Deb Kind

Agenda Item: Res 14-15, Findings for Hardcover Variance Request and Res 15-15, Findings for Grading Conditional Use Permit Request, Mary McQuinn, 5025 Covington Street

Summary: At the 12-02-15 city council meeting, the city council approved the following motion:

Motion by Roy that the city council (1) approves the variance and grading conditional use permit requests as presented by Mary McQuinn, 5025 Covington Street, (2) directs staff to draft findings for approval based on the following: a U-shaped driveway is a reasonable use for a residential property, the steep front yard is a pedestrian safety hazard unique to the property, (3) directs the findings for approval be placed on the 01-06-15 city council agenda for approval. Second by Quam. Motion passed 3-2 with Councilmembers Fletcher and Cook opposing.

The findings for approval are enclosed in the 01-06-16 council packet.

Key Dates:

Application complete:	August 21, 2015
Notice of Public Hearing published:	September 3, 2015
Planning Commission Public Hearing:	September 16, 2015
City Council Consideration:	October 7, 2015
60 Day Deadline:	October 20, 2015
City Council Consideration:	December 2, 2015
120 Day Deadline:	December 18, 2015
City Council Adopts Findings:	January 06, 2016

Council Action: The city council must adopt the findings for the variance and CUPs that were approved on 12-02-15. Suggested motions ...

1. I move the city council adopts resolution 14-15, findings approving the Hardcover Variance Request and resolution 15-15, findings approving the Grading Conditional Use Permit Request, for Mary McQuinn, 5025 Covington Street.
2. I move the city council adopts resolution 14-15, findings approving the Hardcover Variance Request and resolution 15-15, findings approving the Grading Conditional Use Permit Request, for Mary McQuinn, 5025 Covington Street with the following revisions: _____.

Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).

RESOLUTION NO 14-15

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA
ACTING AS THE BOARD OF APPEALS & ADJUSTMENTS

APPROVING

IN RE: The application of Dale Gustafson, representing Mary McQuinn of 5025 Covington Street, for a variance to Greenwood ordinance code section 1176.04(3)(3)(a) to exceed the maximum allowable impervious surface area by 5.1% in order to construct a second driveway.

WHEREAS, Mary McQuinn is the owner of property commonly known as 5025 Covington Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-24-0032); and

WHEREAS, application was made for variance to section 1176.04(3)(3)(a) to permit construction of a second driveway that would exceed the maximum allowable impervious surface area by 5.1%; and

WHEREAS, notice of a public hearing was published, notice given to neighboring property owners, and a public hearing was held before the planning commission to consider the application; and

WHEREAS, public comment was taken at the public hearing before the planning commission on September 16, 2015; and

WHEREAS, the city council of the city of Greenwood has received the staff report, the recommendation of the planning commission, and considered the application, the comments of the applicant and the comments of the public.

NOW, THEREFORE, the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments does hereby make the following:

FINDINGS OF FACT

1. That the real property located at 5025 Covington Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-24-0032) is a single-family lot of record located within the R1A district.
2. The applicant proposes to construct a second driveway that exceeds the maximum allowable impervious surface area.
3. Greenwood ordinance code section 1176.04(3)(3)(a) states, "Impervious surface coverage in all residential districts as expressed as a percentage of the lot area, shall not exceed 30%"
4. The applicant proposes to have a total impervious surface area of 35.1% and seeks a variance to exceed the maximum allowable impervious surface area by 5.1%.
5. Greenwood ordinance section 1155.10, subd 4, 5 & 6 states:

"Subd. 4. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- (c) and the variance, if granted, will not alter the essential character of the locality

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

- (a) Is the variance in harmony with the purposes and intent of the ordinance?
- (b) Is the variance consistent with the comprehensive plan?
- (c) Does the proposal put property to use in a reasonable manner?
- (d) Are there unique circumstances to the property not created by the landowner?
- (e) Will the variance, if granted, alter the essential character of the locality?

Subd. 6. Practical Difficulties Considerations. When determining reasonable manner or essential character, the board will consider, but will not be limited to, the following:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.”

6. The applicant asserts that the proposed variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6.
7. The planning commission discussed the variance request and on a 5-0 vote recommended the council deny the application of application of Dale Gustafson, representing Mary McQuinn of 5025 Covington Street, for variances to Greenwood ordinance code section 1176.04(3)(3)(a) to exceed the maximum allowable impervious surface area by 5.1% in order to construct a second driveway, as presented. The proposal does not meet the practical difficulties standards outlined in section 1155.10(4) in that the plight of the landowner-applicant is not due to circumstances unique to the property and is created by the landowner because previously approved plans currently allow for adequate driveway access for the property while also remaining under the allowable impervious surface area.
8. Based on the foregoing, the city council determined that the variance request complies with the practical difficulties standards in Greenwood ordinance section 1155.10, subd 4, 5, & 6 because:
 - (a) The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance because the purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the impervious surface standards in order to complete second driveway to help mitigate the steep front yard and related pedestrian hazards of the property.
 - (b) The variance will be consistent with the comprehensive plan’s guiding use for the subject property in the applicable zoning because of the character of the proposed use is consistent with the applicable zoning.
 - (c) Though the property owner's proposed *manner of use* of the property is not permitted by the zoning ordinance without a variance, the proposed *manner of use* is reasonable because it maintains the single family nature of the property at a scope and scale consistent with the zoning standards.
 - (d) The plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property has a steep front yard that makes safe pedestrian access difficult.
 - (e) The variance will not alter the essential character of the locality, because the proposed expansion would remain consistent with the scope and scale of the surrounding properties.
 - (f) The variance will not:
 - i. Impair an adequate supply of light and air to adjacent property;
 - ii. Unreasonably increase the congestion in the public street;
 - iii. Increase the danger of fire or endanger the public safety; or
 - iv. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.
9. And the city council has determined that the following conditions should be imposed on the variance grant:
 - (a) The project must be completed according to the specifications and design requirements in the submitted plans.
 - (b) The submitted Greenwood Park stormwater improvement plans to increase the holding capacity of the pond by 4,723 cubic feet must be completed as submitted, with oversight of the City Engineer and with all associated expenses paid by the homeowner
 - (c) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the city council acting as the Board of Appeals & Adjustments makes the following conclusions of law:

The applicant has made an adequate demonstration of facts meeting the standards of section 1155.10 necessary for the grant of a variance and therefore a variance to section 1176.04(3)(3)(a) to exceed the maximum allowable impervious surface area by 5.1% shall be granted.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments:

That the application of Dale Gustafson, representing Mary McQuinn of 5025 Covington Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-24-0032) for a variance to section 1176.04(3)(3)(a) to exceed the exceed the maximum allowable impervious surface area by 5.1% is **APPROVED** with the following conditions:

- (a) The project must be completed according to the specifications and design requirements in the submitted plans.
- (b) The submitted Greenwood Park stormwater improvement plans to increase the holding capacity of the pond by 4,723 cubic feet must be completed as submitted, with oversight of the City Engineer and with all associated expenses paid by the homeowner
- (c) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

PASSED this 2nd day of December, 2015 by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments for the city of Greenwood, Minnesota.

3 AYES 2 NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk

RESOLUTION NO 15-15

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA
ACTING AS THE BOARD OF APPEALS & ADJUSTMENTS**

APPROVING

In Re: Application of Dale Gustafson, representing Mary McQuinn of 5025 Covington Street, for a conditional use permit under Greenwood ordinance code section 1140.19(2) and 1150.20 to permit grading or site / lot topography alterations involving more than 200 square feet of surface area, and involving more than 20 cubic yards of material.

WHEREAS, Mary McQuinn is the owner of property commonly known as 5025 Covington Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-24-0032) in conformance with Greenwood ordinance code sections 1140.19(2) and 1150.20 has made application for a conditional use permit (CUP); and

WHEREAS, the applicant proposes to regrade the property in order to accommodate a second driveway; and

WHEREAS, notice of a public hearing was published, notice given to neighboring property owners, and a public hearing was held before the planning commission to consider the application; and

WHEREAS, public comment was taken at the public hearing before the planning commission on September 16, 2015; and

WHEREAS, the city council of the city of Greenwood has received the staff report, the recommendation of the planning commission, and considered the application, the comments of the applicant, and the comments of the public.

NOW, THEREFORE, the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments does hereby make the following:

FINDINGS OF FACT

1. That the real property located at 5025 Covington Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-24-0032) is a single-family lot of record located within the R1A district.
2. Pursuant to Greenwood ordinance code 1140.19(2), the property owner proposes to regrade the property in order to accommodate a second driveway which would require grading or altering site / lot topography involving more than 200 square feet of surface area, and involving more than 20 cubic yards of material, which requires the property owner to apply for a CUP.
3. Pursuant to Greenwood ordinance code section 1150.20, subd. 3, Conditional Use Permits (general regulations), the city council may impose such conditions and safeguards upon the property benefitted by a CUP as may be necessary to maintain compatibility with other properties in the neighborhood.
4. Greenwood ordinance section 1150.20, subd 1 states:

“Subd. 1. The planning commission shall make findings and recommendations to the city council. The council may then authorize a conditional use by resolution provided the evidence presented is such as to establish:

 - (a) That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.
 - (b) That the use is one of the conditional uses permitted for the district in which it is to be located.
 - (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.
 - (d) The use will be harmonious with the objectives of the comp plan.
 - (e) The use will not be hazardous or disturbing to existing or future neighboring uses.

- (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
 - (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
 - (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
 - (k) The use will not depreciate surrounding property values.”
6. The applicant asserts that the proposed CUP request complies with CUP standards in Greenwood ordinance section 1150.20, subd 1.
7. The planning commission discussed the CUP request and on a 5-0 vote recommended denial because the proposed CUP request does not comply with the CUP standards in Greenwood ordinance section 1150.20, subd 1, because:
- (a) Absent the associated variance, the interest in the public health, safety, comfort, convenience and general welfare of the neighborhood are not being met because the proposed changes will unnecessarily alter the topography of the property.
8. Based on the foregoing, the city council determined that the proposed CUP request complies with the CUP standards in Greenwood ordinance section 1150.20, subd 1, because:
- (a) That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.
 - (b) That the use is one of the conditional uses permitted for the district in which it is to be located.
 - (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.
 - (d) The use will be harmonious with the objectives of the comp plan.
 - (e) The use will not be hazardous or disturbing to existing or future neighboring uses.
 - (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
 - (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
 - (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
 - (k) The use will not depreciate surrounding property values.
9. The city council determined that the following reasonable and necessary conditions relating to the present request are made a condition of approval:
- (a) The project must be completed according to the specifications and design requirements in the submitted plans.
 - (b) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the city council acting as the Board of Appeals & Adjustments makes the following conclusions of law:

1. The applicant has made an adequate demonstration of facts meeting the standards of sections 1140.19(2) and 1150.20 necessary for the granting of a CUP.
2. The CUP requested is reasonable and should be granted on the following conditions:
 - (c) The project must be completed according to the specifications and design requirements in the submitted plans.
 - (d) A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the city of Greenwood before any permits may issue or the project commence.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments that the city of Greenwood does hereby **approve** a Conditional Use Permit to the applicant for the subject property to regrade the property in order to accommodate a second driveway which would require grading or altering site / lot topography involving more than 200 square feet of surface area, and involving more than 20 cubic yards of material.

PASSED this 2nd day of December, 2015 by the city council of the city of Greenwood, Minnesota acting as the Board of Appeals & Adjustments for the city of Greenwood, Minnesota.

3 AYES 2 NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk



Agenda Number: **6B**

Agenda Date: **01-06-16**

Prepared by Dale Cooney

Agenda Item: Dining Patio Conditional Use Permit, Excelsior Entertainment (Old Log Theatre), 5185 Meadville Street

Summary: Copies of the application materials are attached for the City Council's reference. Notice of the public hearing was published in the Sun Sailor newspaper on December 3, 2015. The Planning Commission held the public hearing at their December 16, 2015 meeting. The Planning Commission considered public comment, applicant's comments, application materials, staff report, and city code conditional use permit criteria (section 1150.20) when making their recommendation to the city council. The City Council **must** address city code sections 1123.40 and 1150.20 pertaining to conditional use permits (see the potential motions below).

Excelsior Entertainment, LLC is proposing to add outdoor dining space to their existing restaurant operation at the Old Log Theater. The 670 square foot dining patio would increase the restaurant capacity by 32 dining seats. The proposal also accounts for the 4 parking stalls to meet the City of Greenwood's parking requirements. The proposal requires a conditional use permit under City Code Section 1123.30. The staff report that follows addresses only the proposed expansion of the business, since the remainder of the business currently operates as a lawful use under Section 1123.25 of the City Zoning Ordinance.

Section 1123.30, Subd. 1 of the Zoning Ordinance states: "Subject to the rights granted property owners under Minnesota statute 462.357 Subd. 1e (a), which provides, in part, that 'any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion,' any one or more the following events related to the 'Theater with Attached Restaurant' property commonly known as the Old Log Theater, 5185 Meadville Street, Greenwood, Minnesota, (Hennepin County PID numbers 26-117-23-31-0028, 26-117-23-31-0036, and 26-117-23-34-0001) shall require a conditional use permit be first obtained:

- (A) Request for a building permit or zoning approval for physical expansion of any existing building or the addition of impervious surface to said property beyond what existed as of the adoption of this control.
- (B) Any change to the manner of use of said property as authorized in section 1123.25, subd. 2."

Proposed Outdoor Dining Patio: The addition of a dining patio would expand the capacity of the restaurant by 32 dining seats. The proposed patio is an at-grade paver patio. No structural expansion is proposed. Outdoor dining activity would occur daily during warm weather and will not extend beyond the current hours of operation of 8 am to 11 pm, or until midnight for special events. In conversations with the applicant's representative, Sue Theimer, the role of the patio is to keep the restaurant competitive during the warmer months of the year when diners prefer restaurants with an outdoor dining option. The expectation is that the patio will stabilize the restaurant business by not losing customers to nearby outdoor dining establishments.

The City Council may evaluate if a more restrictive set of house would be required for the outdoor dining area. Section 820.55, Subd 4(b) of the City Ordinances states "*Hours for Outdoor Service*. The council may designate the hours of service different from those stated herein elsewhere for any accessory location serving food or liquor outside of the principal structure on any licensed premise."

The submitted plan shows eight lounge chairs beyond the patio area. Staff would recommend that no food or drink service take place in this area, but would not restrict diners who have purchased a drink elsewhere from using the lounge chairs (similar to the procedure that historically has taken place for lounge seating outside the front entrance).

The closest residential lot line to the patio would be approximately 320 feet away. Possible impacts from the outdoor dining patio might include noise, odor, light, and associated traffic. Section 1140.55 of the Zoning Code outlines the city requirements for noise, odors, vibrations, smoke, and fumes. In addition to any conditions placed upon the conditional use permit, the property will need to adhere to the requirements of Section 1140.55.

Noise: The potential for increased noise could impact the surrounding residential properties. Unlike a bar or a pub, the upscale dining at the Old Log Theater is unlikely to attract a crowd that would generate significant level of noise. Staff believes that the standards addressed in Section 1140.55, Subd. 1 are an adequate regulatory enforcement mechanism for possible noise impacts. The existing Conditional Use Permit for the property does not allow outdoor events to employ

amplified music, and the applicant does not propose to have amplified music on the dining patio. As mentioned above, the City Council may restrict the outdoor service hours if they feel there is a need to mitigate any potential noise impacts.

Odor: Possible impacts from odor include cooking, and smoke from the proposed fireplace. Staff recommends that no cooking be allowed take place outdoors. To eliminate the possible impacts of fireplace smoke, staff recommends that the proposed fireplace burn only natural gas.

Light: Ambient glare from additional lighting is another potential impact on the surrounding residential neighborhood. The patio plan submitted to the city calls for “dual cantilever umbrella lights.” No specifics are given as to the proposed fixtures. Staff recommends that patio lighting fixtures be downcast (preferably full cutoff fixtures) in an effort to reduce additional glare.

Traffic: Traffic impacts from the patio expansion are expected to be minimal. The frequency of delivery trucks is not expected to increase as a result of the patio expansion. Those events that lead to traffic impacts at the business are caused by theater-related special performances, and not by the restaurant. Also, theater attendance peaks during the colder months of the year, while the patio would be busiest during the warmer months.

Impervious Surface Impacts: As proposed, the hardcover remains below the maximum 30% impervious surface coverage limitation. The patio expansion is the only proposed expansion of hardcover at this time, bringing total hardcover to 25.4%. Parking requirements will be met via overflow parking areas and no expanded impervious surfaces for parking are proposed at this time. The submitted survey includes hardcover calculations for proposed parking areas if they were to be paved in the future.

Parking Requirements: The applicant has demonstrated that there is available space to accommodate the 4 required additional parking spaces to meet zoning code requirements. The parking will be located within existing overflow areas.

Section 1140.45, Subd. 11 of the Zoning Ordinance states that theater parking shall include 1 parking space for each 4 seats plus 1 space for each 2 employees, and that restaurant parking shall include 1 parking space for each 75 square feet of gross customer floor area.

According to the applicant, the theater has 560 theater seats and 6 full time equivalent employees, while the restaurant, including the expansion, has a total of 4,354 square feet of gross customer floor area. Required parking would equal 143 parking spaces for the theater portion of the business, plus 58 parking spaces for the restaurant portion of the business for a total of 201 required parking spaces. Current on-site parking can accommodate 197 parking spaces and the submitted site plan demonstrates how the property will accommodate the four additional spaces.

Staff Recommendation: Based upon the requirements listed in **Section 1150.20** of the Zoning Code staff recommends **approval** based upon the following findings of fact. The approval recommendation addresses only the proposed expansion of the property, and not the entirety of the existing, ongoing uses for the property:

- (a) The proposed use complies with the regulations specified in the ordinance for the district in which the proposed use is to be located.
- (b) The use is one of the conditional uses permitted for the district in which it is to be located.
- (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city. The potential impacts of the expansion are expected to be minimal, and conditions placed on the permit will attempt to mitigate those potential impacts as much as is practicable.
- (d) The use will be harmonious with the objectives of the comp plan. The Land Use Element/Goal and Policies section of the City's Comprehensive Plan states as one of its three goals is to “*manage commercial areas to be free of encroachments or undue impacts on adjacent residential areas.*” As proposed, the outdoor dining patio would not encroach or have undue impacts on adjacent residential areas.
- (e) The use will not be hazardous or disturbing to existing or future neighboring uses. The current use of the property has been in place since the 1940's, and the proposal expands one of the primary uses of that property. While the use is an intensification of the existing restaurant use, it is not of a magnitude or nature that would be more hazardous or disturbing to the neighborhood than the ongoing approved uses for the property.
- (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. While the dining activities of the building will be expanded to the outdoor patio area, the dining activity is of a quiet, fine dining nature and is not the type of activity that would generate a notable

increase in noise levels. Further, there will not be amplified music in the patio dining area. Cooking will not be conducted outside, limiting any additional odors. The fireplace will be required to be gas, eliminating impacts from smoke. Glare will be limited by requiring downcast light fixtures. Traffic would not be impacted.

- (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares. City code requires the addition of four additional parking spaces which have been addressed as part of this proposal.
- (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
- (k) The use will not depreciate surrounding property values. The values those properties located near or adjacent to a theater with an attached restaurant will not be impacted by this minor expansion of an existing commercial operation.

Recommended Conditions: In addition to the conditions related to public health, safety, and welfare that the council may impose on conditional uses under section 1150, the council may impose conditions related to the use of the buildings and structures and operation of any the business operated upon the property including, but not limited to those listed in Section 1123.40 of the Zoning Code.

Staff recommends the following conditions:

- A. Amplified music shall not be permitted in the patio area.
- B. Parking shall be expanded to meet the requirements of Section 1140.45 of the Zoning Code.
- C. Cooking shall not take place on the patio area.
- D. Light fixtures for the patio area shall be downcast fixtures, with a preference for full cutoff fixtures.
- E. The proposed fireplace shall burn only natural gas.
- F. The proposed lounge chair seating beyond the patio area shall not have access to food and drink service.
- G. Authorization of the Conditional Use Permit will expire after one year if the proposed patio expansion is not completed according to the submitted plans.

Planning Commission Action: The Planning Commission discussion was focused primarily around the existing traffic and safety impacts on Covington Street. The Planning Commission also wanted to call to the attention of the City Council Section 1140.70 of the City Code since the standards meant to be addressed in that section most closely mirror the current situation between the Old Log Theater and the surrounding neighborhood. Chairman Lucking quoted the text from Section 1140.70, Subd. 2: *“Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public street, traffic hazards, and excessive traffic through residential areas, particularly truck traffic.”*

Commissioner Reeder made a motion to recommend that the City Council deny the application on the grounds that the property does not currently have enough required parking to expand the business, and that the proposed additional required parking accessing the business via Covington Street would impact the health, safety, and welfare of the neighborhood. Commissioner Bechtell seconded the motion. Motion carried 5-0.

Key Dates:

Application complete:	November 19, 2015
Notice of Public Hearing published:	December 3, 2015
Planning Commission Public Hearing:	December 16, 2015
City Council Consideration:	January 6, 2016
60 Day Deadline:	January 18, 2016
120 Day Deadline (if necessary):	March 18, 2016

City Council Action: Action required by January 18, 2016. Suggested motions:

1. I move the city council (1) exercises the city's right to take up to 60 additional days as provided by MN statute 15.99 to process the application of Excelsior Entertainment, LLC, extending the deadline to March 18, 2016 to give staff time to draft findings for **denial**; (2) directs staff to send written notification of the extension to the applicant as soon as possible; (3) directs staff to draft findings for denial for consideration at the February 3, 2016 city council meeting; and (4) directs the findings to include the following:

- A. _____
- B. _____
- C. _____

2. I move the city council (1) approves the application of the Old Log Theatre for the issuance of a conditional use permit to expand the restaurant to include 670 square foot outdoor dining patio; (2) directs staff to draft findings for **approval**

for consideration at the February 3, 2016 city council meeting; (3) directs the findings to include the staff's recommendations regarding the requirements listed in section 1150.20 of the zoning code; (4) directs the findings to include staff's recommended conditions as follows:

- A. Amplified music shall not be permitted in the patio area.
- B. Parking shall be expanded to meet the requirements of Section 1140.45 of the Zoning Code.
- C. Cooking shall not take place on the patio area.
- D. Light fixtures for the patio area shall be downcast fixtures, with a preference for full cutoff fixtures.
- E. The proposed fireplace shall burn only natural gas.
- F. The proposed lounge chair seating beyond the patio area shall not have access to food and drink service.
- G. Authorization of the Conditional Use Permit will expire after one year if the proposed patio expansion is not completed according to the submitted plans.

(5) Directs the findings to include the following additional conditions:

- H. _____
- I. _____
- J. _____

3. **Motion for Additional Time:** I move the city council (1) exercises the city's right to take up to 60 additional days as provided by MN statute 15.99 to process the application of Excelsior Entertainment, LLC, extending the deadline to March 18, 2016 for the following reason(s): _____; and (2) directs staff to send written notification to the applicant as soon as possible.

Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).

Conditional Use Permit Application



Person completing form: Property Owner Builder / Architect
 If you prefer to complete this form electronically, it is available at www.greenwoodmn.com.

Date application submitted	11-12-2015
Date application complete (office use only)	
Property address	5185 Meadville Street, Greenwood, MN 55331
Property identification number (PID)	26-117-23-31-0028
Property owner's current mailing address	5185 Meadville Street, Greenwood, MN 55331
Names of all property owners	Excelsior Entertainment, LLC; Greg Frankenfield, CEO
Cell phone and email of property owner(s)	(612)747-1891 gregf@magenic.com
Name of builder / architect (if any)	Jason Stiefel
Company name of builder / architect	Shea Design
Cell phone and email of builder / architect	(612)594-4219/ jasons@sheadesign.com
Company address	10 South Eighth Street, Minneapolis, MN 55402
Present use of property	Restaurant and Live Performance Theatre
Property acreage	11.5
Existing variances or conditional use permits	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – please attach a copy
Request is for	<input type="checkbox"/> New Construction <input type="checkbox"/> Addition <input type="checkbox"/> Remodel <input type="checkbox"/> Replace <input checked="" type="checkbox"/> Other: Outdoor Patio
The CUP is being requested to (e.g. install a swimming pool)	Add outdoor patio

Making your case for the grant of a conditional use permit: The planning commission shall make findings and recommendations to the city council. The council may then authorize a conditional use by resolution provided the evidence presented complies with the city conditional use permits ordinance section 1150 (view at city hall or at www.greenwoodmn.com). The council may impose such conditions and safeguards upon the premises benefited by a conditional use permit as may be necessary to maintain compatibility with other properties in the neighborhood. Examples of conditions include, but are not limited to: controlling size and location of use, regulating ingress and egress, controlling traffic flow, regulating off-street parking and loading areas, location of utilities, berming, fencing, screening, landscaping, restricting hours of operation, controlling noise, controlling lighting, controlling odors, and compatibility of appearance. Violation of such conditions and safeguards, when made part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance and punishable under section 1180 et seq.

Please answer each of the below questions:

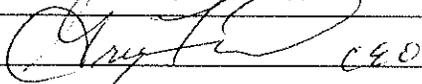
Will the proposed use comply with the regulations specified in the ordinance for the district in which the proposed use is to be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: Outdoor patio will not alter current business use
Is the proposed use one of the conditional uses permitted for the district in which it is to be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: Outdoor patio covered under request for conditional use
Will the proposed use be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: Outdoor patio will not alter current business use
Will the proposed use be harmonious with the objectives of the comp plan?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: Outdoor patio will be harmonious with objectives
Will the proposed use be hazardous or disturbing to existing or future neighboring uses?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: Outdoor patio is an enhancement to property and will not impact existing or future neighboring uses

Will the proposed use be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: Outdoor patio wil not impact the need for public facilities
Will the proposed use create excessive additional requirements at public cost for public facilities and services or be detrimental to the economic welfare of the community?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: No cost to the public
Will the proposed use involve activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: Limited season and hours will be observed for patio use. No external music will be allowed.
Will the proposed use have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Please explain: No change will result from availability of an outdoor patio
Will the proposed use result in the destruction, loss or damage of a natural, scenic or historic feature of major importance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: This is a property enhancement for restaurant patrons use.
Will the proposed use unreasonably depreciate surrounding property values?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Please explain: Outdoor patio will not cause depreciation of surrounding properties

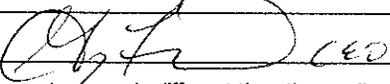
The applicant(s) contacted the following regulatory bodies and will seek approvals if required:

(1) Lake Minnetonka Conservation District 952.745.0789 (2) Minnehaha Creek Watershed District 952.471.0590

Applicant's acknowledgement and signature(s): The undersigned hereby submits this application for the described action by the city and is responsible for complying with all city requirements with regard to this request. This application should be processed in my name, and I am the party whom the city should contact about this application. The applicant certifies that the information supplied is true and correct to the best of their knowledge. The undersigned also acknowledges that before this request can be considered and / or approved, all required information and fees must be paid to the city, and if additional fees are required to cover costs incurred by the city, the city has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees. An incomplete application will delay processing and may necessitate rescheduling the review timeframe. The application timeline commences once an application is considered complete when all required information and fees are submitted to the city. The applicant recognizes that they are solely responsible for submitting a complete application and that upon failure to do so, recognizes city staff has no alternative but to reject the application until it is complete or to recommend denial regardless of its potential merit. A determination of completeness of the application shall be made within 10 business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant with in 10 business days of application. I am the authorized person to make this application and the fee owner has also signed this application.

Signature:  CEO	Date: 11-11-2015
--	------------------

Property owner's acknowledgement and signature: The undersigned is the fee title owner of the page 1 described property. I acknowledge and agree to this application and further authorize reasonable entry onto the property by city staff, consultants, agents, planning commission members, and city council members for purposes of investigation and verification of this request.

Signature:  CEO	Date: 11-11-2015
--	------------------

Note: If the property owner is different than the applicant, signatures from the both the applicant and the property owner are required.

Variance Fee (nonrefundable)	\$400
Shoreland Management Review Fee (nonrefundable)	\$200
Total Amount Due (make check payable to the City of Greenwood)	\$600

For Office Use Only	Fee Paid: <input type="checkbox"/> Cash <input type="checkbox"/> Check #:	Amount \$
----------------------------	---	-----------



10 South Eighth Street
Minneapolis MN 55402

t 612_339_2257
f 612_349_2930
sheadesign.com

Project title
**OLD LOG THEATER /
CAST & CRU RESTAURANT
GREENWOOD, MN**

seal

I HEREBY CERTIFY THAT THIS
PLAN, SPECIFICATION, OR REPORT
WAS PREPARED BY ME OR UNDER
MY DIRECT SUPERVISION AND THAT
I AM A DULY LICENSED ARCHITECT
OR ENGINEER UNDER THE LAWS OF THE STATE
OF MINNESOTA.

DAVID A. SHEA III
PRINTED NAME

SIGNATURE

DATE ISSUED

REG. NO. 12982

PROJECT NO.

6909.02

DRAWN

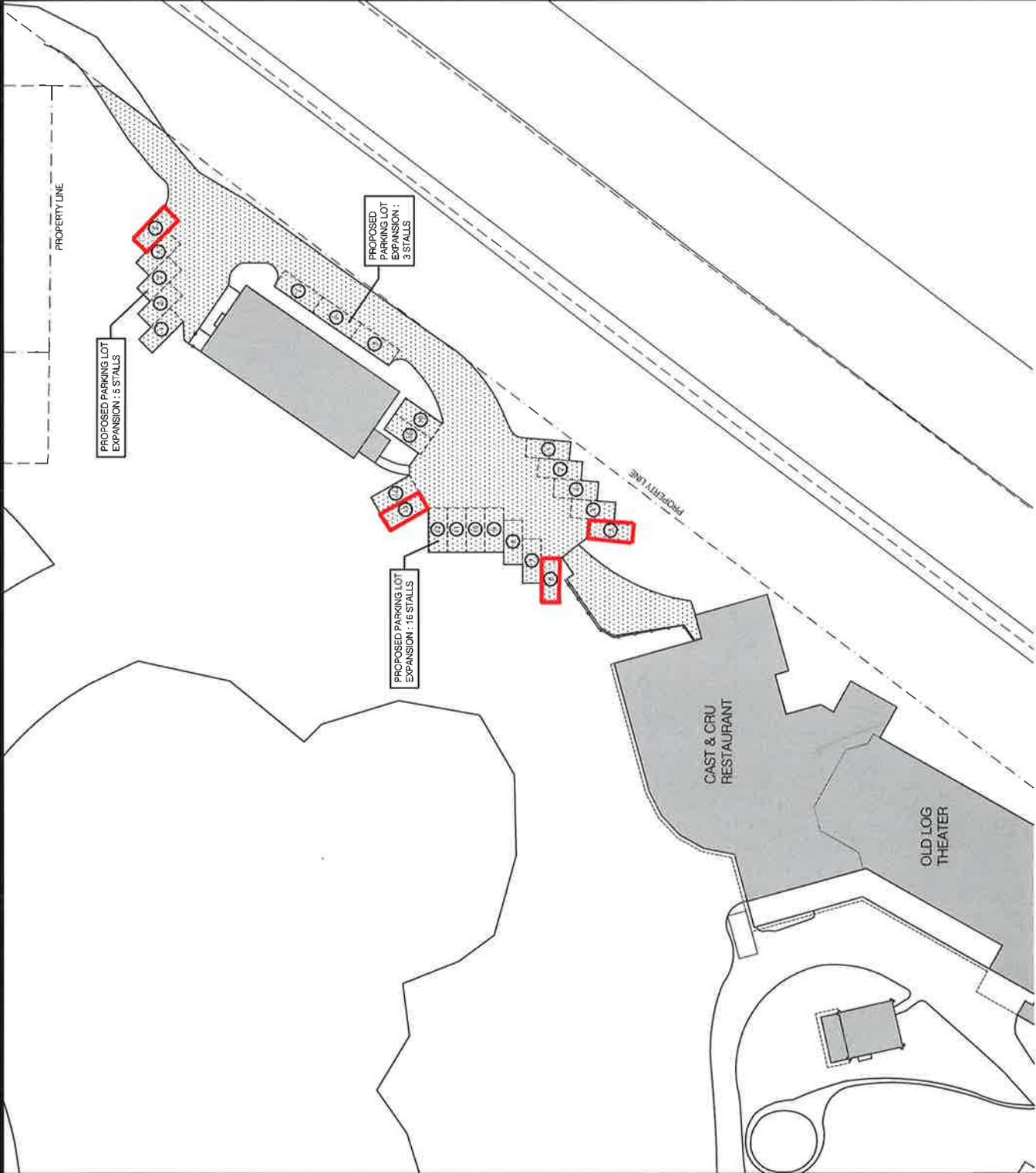
CHECKED

SHEET TITLE

SITE PLAN

A010

©2015 SHEA, INC.



1 SITE PLAN
1/8" = 1'-0"

R:\6900-6999\6909.02 OLD LOG THEATER NEW PATIO\CAD\CD\6909.00_A010_Parking Expansion.dwg
jasons - 11/18/2015 12:51:03 PM

PARKING	
<u>PARKING COUNT:</u>	201 TOTAL ONSITE
HARDSCAPE RATIO	
TOTAL PROPERTY AREA :	481,282 SQ.FT.
TOTAL HARDSCAPE AREA :	115,118 SQ.FT.
<u>HARDSCAPE RATIO :</u>	23.9%

PROPOSED
PATIO : 670 SF

CAST & CRU
RESTAURANT

REHEARSAL
BUILDING

PROPERTY LINE

PROPERTY LINE

LAKE MINNETONKA LRT REGIONAL TRAIL

MINNETONKA BLVD.

1 SITE PLAN
A010 1/32"=1'-0"



10 South Eighth Street
Minneapolis MN 55402

t 612_339_2257
f 612_349_2930
sheadesign.com

project title
**OLD LOG THEATER /
CAST & CRU RESTAURANT
GREENWOOD, MN 55331**

client
**GREG & MARISSA
FRANKENFIELD**

seal

I HEREBY CERTIFY THAT THIS
PLAN, SPECIFICATION, OR REPORT
WAS PREPARED BY ME OR UNDER
MY DIRECT SUPERVISION AND THAT
I AM A DULY LICENSED ARCHITECT
UNDER THE LAWS OF THE STATE
OF MINNESOTA.

DAVID A. SHEA III
PRINTED NAME

SIGNATURE

DATE ISSUED 11.11.15

REG. NO. 12982

project no.	date
6909.02	11.11.15
drawn	checked
JS	DS

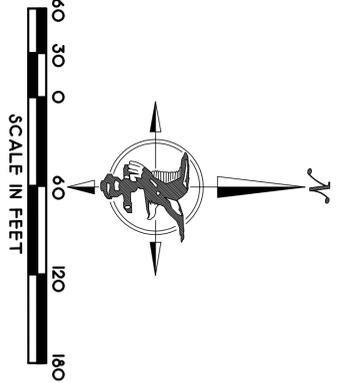
sheet title
SITE PLAN

A010

©2014 SHEA, INC.

- LEGEND**
- Property Monument
 - Concrete Curb
 - Fence
 - Overhead Electric
 - Underground Electric
 - Underground Telephone
 - Water
 - Gas
 - Storm Sewer
 - Electric Meter
 - Electric Blomhole
 - Electric Monhole
 - Power Pole
 - Hydrant
 - Unknown Manhole
 - Guy Wire Anchor
 - Gate Valve
 - Catchbasin
 - Air Conditioning Unit
 - Light Pole
 - Gas Meter
 - Telephone Monhole
 - Telephone Box
 - Street Manhole
 - Storm Manhole
 - Storm Manhole

SURVEY PERFORMED BY:
HARRY S. JOHNSON CO. INC.
LAND SURVEYORS & CONSULTANTS
 8063 Lyndale Avenue South
 Bloomington, MN 55420
 (952) 884-5341 Fax
 Email: tom@hjsurveyors.com
 Web: www.hjsurveyors.com



HARD COVER CALCULATIONS:

PARCEL 2 & 3 AREA	417,247 SQ. FT.	25.3%
EXISTING HARD COVER	105,402 SQ. FT.	1.2%
PROPOSED ADDED HARD COVER	5,329 SQ. FT.	1.2%
TOTAL HARD COVER INCLUDING PROPOSED	110,731 SQ. FT.	26.5%

Note: Hard cover includes buildings, paved parking, patio covers

- GENERAL NOTES:**
- The bearing system used is assumed.
 - The location of the underground utilities shown herein, if any, are approximate only, PURSUANT TO MSA 2180 CONTRACT COPIER STATE ONE CALL AT (612) 454-0022 PRIOR TO ANY EXCAVATION.
 - Subject property is identified as being in "Zone X, Area of Minimal Flooding" on Flood Insurance Rate Map, Community-Frontal No. 270430318E, effective date September 2, 2004.
 - Site area parcel 2 = 417,247 square feet = 9.5787 acres.
 - There are a total of 170 striped parking stalls on said property, of which there are 4 designated as handicap.
 - All field measurements matched recorded dimensions within the precision requirements of ALTA/ACSM specifications.
 - This survey was made on the ground and in accordance with the Minimum Standard Detail Requirements for Land Title Surveys as adopted by ALTA and ACSM.
 - In preparing this survey, I have relied upon the supporting documents and the Commitment for Title Insurance by Commercial Partners Title, LLC, dated July 11, 2011, and bearing file number 34404. This includes but is not limited to locating and identifying recorded descriptions (e.g. property and easement descriptions).
 - There is no observable evidence of encumbrances in the field or of record.
 - All utilities serving the subject property enter and exit the subject property through public rights of way or through easements specifically dedicated to each utility's use.
 - The "Property" as described is intensely contiguous and contains no gaps or gaps.
 - There are no visible party walls. There are no party walls designated by the client or by recorded Party Wall Agreements on subject property pursuant to Table A Item 10G.
 - There is no visible above ground evidence of earth moving work, building construction or building additions within recent months.
 - There is no observable evidence of recent street or sidewalk construction or repairs.
 - There is no visible above ground evidence of the site being used as a solid waste dump, sump or sanitary landfill.
 - There are no visible markings denoting wetlands as delineated by appropriate authorities.

LEGAL DESCRIPTION

Parcel 2, Lot 56, inclusive and Lot 109 except that part thereof lying Northwesterly of the extension of the dividing line between Lots 56 and 57, Meadville Park; thence Northwesterly along the extension of the dividing line between Lots 56 and 57, Meadville Park, a distance of 125 feet; thence deflecting to the left 52 degrees, 23 minutes, 150 feet, thence deflecting to the right 45 degrees, 215 minutes more or less to a point on the Northernly line of said Lot 109 and there terminating, all in Meadville Park. That part of vacated Covington Street, dedicated to the public in the plat of Meadville Park, which is the present extension of the North line of Lot 103, said addition, and which is the present extension of the North line of Lot 103, said addition, and Hennepin County, Minnesota Torrens Certificate No. 1002169

Together with that portion of the adjacent one-half street, vacated by Amended Resolution No. 986, adopted October 4, 1994, filed November 15, 1994, as Document No. 2567174, that occurred thereto by reason of the vacation thereof.

Parcel 3:
 Lot 150, Auditor's Subdivision No. 141, Hennepin County, Minnesota Abstract Property

Note: This legal description has been taken from Commercial Partners Title, LLC as agent for Old Republic National Title Insurance Company Commitment Number 34404 dated July 11, 2011.

NOTES CORRESPONDING TO EASEMENTS:

- Minerals and mineral rights reserved by the State of Minnesota as shown by recital on the Certificate of Title. (Parcel 2) NOTHING TO SHOW GRAPHICALLY
- Hennepin County Regional Railroad Authority Property, Map No. 1, filed September 14, 2009, as Document No. 4658555. (Parcel 2) SHOW ON SURVEY AS EASTERNLY RIGHT OF WAY
- A certified copy of Amended Resolution 986, vacating the portion of public street that occurred to Parcel 2, and a certified copy of Amended Resolution 2567174, should be memorialized upon the Certificate of Title for Parcel 1 and 2. NON-SURVEY MATTER
- An examiner's directive will be necessary to add the portions of vacated street to the legal descriptions on the Certificate of Title. Neither Commercial Partners Title, LLC nor Old Republic National Title Insurance Company will be responsible for securing the examiner's directive. (Parcels 1 and 2)

STATEMENT OF POTENTIAL ENCROACHMENTS:

- The 21 parking stalls along the Southeastern area of property extend over onto the Hennepin County Regional Railroad Right of Way as shown on survey.

LOT CERTIFICATE SURVEY
 WITH PROPOSED IMPROVEMENTS
 for:
OLD LOG THEATRE
SITE: 5185 MEADVILLE STREET
GREENWOOD, MINNESOTA

CERTIFICATION:
 I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Date: **NOVEMBER 30, 2015**
 Thomas E. Hodoff
 Minn. Reg. No. 23677

Sheet No. **1 OF 1**
 Book **624**
 Page **43**
 File No. **1-9156MP**
 Date of Survey **2015493**

HARRY S. JOHNSON CO., INC.
LAND SURVEYORS & CONSULTANTS
 BLOOMINGTON, MINNESOTA
 PHONE: 952-884-5341 FAX: 952-884-5344

From: Barbara Dunlay barbara@siegfrieddunlay.com 
Subject: Old Log Theater Outdoor Patio Request
Date: December 15, 2015 at 10:03 PM
To: Debra Kind dkind100@gmail.com

BD

Hi Deb,

I am asking you to share this letter with your fellow Greenwood Council Members and Planning Committee Members regarding the proposed patio and outdoor seating request at the Old Log Theater.

I strongly support the expansion proposal, and hope (for the benefit of Greenwood) you will support it as well.

Having this iconic venue – Old Log Theater – in our beautiful community is a gift to all of us and I am fully in support of making it even better. For nearly 20 years I have lived within walking distance of this treasure and have personally enjoyed all the improvements to date. I have regularly dined at Cast and Cru throughout the Summer and the only thing missing is the opportunity to sit outside and enjoy our short but lovely Summer. We are so fortunate that Don Stoltz did not sell it to a developer who could have forever changed the landscape of Greenwood. Let's support this type of growth in Greenwood and let people who are willing to invest in our future continue to do so.

I received a letter from people in the neighborhood opposing the patio and I think it's short sighted and misinformed. The typical customers at Cast and Cru are not the rowdy, noisemaking crowd found at Maynard's and it's selfish for a small contingent of lakeshore residents to be so exclusive – trying to protect their small street from extra traffic. Having lived in Greenwood for two decades and easily navigated the few minutes of traffic congestion following a theater show closing has never been an issue. And to presume traffic from a few extra seats in a restaurant, along with extra parking and food deliveries will disrupt our bucolic community and reduce property values is ridiculous.

I would hope that the leaders of Greenwood would continue to look at opportunities to bring more tax revenue into our community and support the continued enhancements made by the new owners of the Old Log Theater. We can't let a small group of people with elitist attitudes prevent our small community from benefitting from making a great venue even better.

Thanks for considering this proposal.

Barbara Dunlay
O 952.474.8546
M 612.581.5777
barbara@siegfrieddunlay.com
siegfrieddunlay.com



December 6, 2015

We, the neighbors surrounding the Old Log Theater, request the Planning Commission recommend to the City Council to reject the Old Log Theater's Conditional Use Permit application for expanding the restaurant and adding additional parking and firepit/seating areas.

We believe that our request protects the interests of the neighborhood residents, honors the intent of Greenwood's Comprehensive Plan, and recognizes the rights and best interests of all property owners in terms of Greenwood's zoning ordinances.

	<u>NAME</u>	<u>ADDRESS</u>	<u># Years Lived In Greenwood</u>
1.	Sue Malaban	21630 Fairview Street	24 years
2.	David Mink	21636 Fairview St.	24 years
3.	Joe Peterson	21295 Fairview St	30 years
4.	Jim Kelly	5060 COWINGTON ST	19 YEARS
5.	Sam Kelly	5060 COWINGTON ST.	19 YEARS
6.	Jane Kelly	5095 COWINGTON ST.	57 years
7.	Michelle	21600 Fairview St.	44 years
8.	Marion Anderson	21580 Prairie Ct.	22 years
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			

December 6, 2015

We, the neighbors surrounding the Old Log Theater, request the Planning Commission recommend to the City Council to reject the Old Log Theater's Conditional Use Permit application for expanding the restaurant and adding additional parking and firepit/seating areas.

We believe that our request protects the interests of the neighborhood residents, honors the intent of Greenwood's Comprehensive Plan, and recognizes the rights and best interests of all property owners in terms of Greenwood's zoning ordinances.

NAME

ADDRESS

Years Lived In Greenwood

1. Peter Logtus	owner of 5165 Mendville Street	12 years - owned house
2. TOM WARRIS	21710 FAIRVIEW ST	50 years +
3. Barbara Warner	21710 FAIRVIEW ST.	58+ years
4. TOM STELLZ	5090 COUNTRYSIDE ST	63 years
5. Pat Stolz	5090 Covington St.	45 years
6. Bob Newman	5230 Mendville St.	17 years
7. Mary Jo Norma	" "	" "
8. Steven Peterson	21895 Fairview ST	30 years
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

December 6, 2015

We, the neighbors surrounding the Old Log Theater, request the Planning Commission recommend to the City Council to reject the Old Log Theater's Conditional Use Permit application for expanding the restaurant and adding additional parking and firepit/seating areas.

We believe that our request protects the interests of the neighborhood residents, honors the intent of Greenwood's Comprehensive Plan, and recognizes the rights and best interests of all property owners in terms of Greenwood's zoning ordinances.

<u>NAME</u>	<u>ADDRESS</u>	<u># Years Lived In Greenwood</u>
1. Michelle Erickson	5100 Covington Street	13
2. Jennifer Gallagher	21775 Fairview St.	4 1/2
3. Matt Gallagher	21775 Fairview St	4
4. Brian Toby Erickson	5100 Covington Street	13
5. Kertla Strossi *	5000 Meadville St	38
* I would reject both requests until the parking behind the Old and Traffic on Covington is resolved.		
6. Jen Gray	5120 Meadville	32
7. Mary K Carbonneau	5165 Meadville St	11
8. Jim M Carl	5165 Meadville St	11
9. Rick Ryan	5180 Meadville St	50
10. Rebecca Hernandez	5190 Meadville St	2
11. Dan J Hawkins	5190 Meadville St	2
14.		
15.		
16.		

December 6, 2015

We, the neighbors surrounding the Old Log Theater, request the Planning Commission recommend to the City Council to reject the Old Log Theater's Conditional Use Permit application for expanding the restaurant and adding additional parking and firepit/seating areas.

We believe that our request protects the interests of the neighborhood residents, honors the intent of Greenwood's Comprehensive Plan, and recognizes the rights and best interests of all property owners in terms of Greenwood's zoning ordinances.

<u>NAME</u>	<u>ADDRESS</u>	<u># Years Lived In Greenwood</u>
1. Tom Ekelund	5135 Macville St	21
2. John [unclear]	5170 Meadville St	50
3. Kelly [unclear]	5070 Meadville St	38
4. [unclear]	"	40
5. [unclear]	5080 Meadville St	47
6. [unclear]	5080 Meadville St	51.5
7. [unclear]	5085 [unclear]	36
8. [unclear]	5140 Meadville St	47
9. [unclear]	5140 Meadville St	47
10. [unclear]	5250 Meadville St	37
11. [unclear]	5250 Meadville St	34
12. [unclear]	5070 Covington St	31
13. Julie Ekelund	5135 Meadville St	21
14. David Marsh	Fairview Street Dupl	10
15. Sue Marsh	Fairview Street	10
16. Ted Hanner	Meadville Street - 4960	31

December 9, 2015

Dear Members of the Greenwood Planning Commission,

The neighborhood surrounding the Old Log Theater met as a group on Sunday, December 6 to discuss the CUP request of Excelsior Entertainment LLC to expand their restaurant and parking at the Old Log Theater. Specifically:

- 28 attended our meeting
- An additional 15 residents were unable to attend our meeting, but echo our concerns and shared their comments via phone and email with us.
- These residents represent a collective total of 1240 years of living in Greenwood – 8 of which have lived in Greenwood for over 50 years each.
- The overwhelming opinion of these residents is to stop the business “creep” of the Old Log Theater and to respect the wishes of the neighbors that are most directly impacted by the operation of a business in a residential community.

There were several conclusions reached at our meeting:

1. We continue to support the idea of the Old Log Theater as a Greenwood entity and source of village pride.
2. We are unhappy with the way the Excelsior Entertainment LLC is ignoring the operational commitments they made to the neighborhood in November 2013 regarding deliveries and parking.
3. We don't want the restaurant to expand.
4. We don't want parking to expand.
5. The requested CUP threatens the culture of the neighborhood that those of us who have lived here for a collective 1240 years want to preserve and protect.

Additionally, we believe the City should be enforcing the spirit of the original CUP allowing Excelsior Entertainment LLC to operate a “theater with attached restaurant”. Two items of major concern that the City has failed to enact and enforce are:

- Employee parking to be primarily contained to the front parking lot off of Meadville Street.
- Restaurant and theater deliveries to be direct through the front parking lot off of Meadville Street.

Attached you'll find the following:

- A petition signed by 43 neighbors of the Old Log Theater requesting the CUP request be denied;
- A summary of our concerns regarding the requested CUP;
- Details of our concerns regarding the requested CUP.

It is clear from the attached documents, that the City should honor its duty to the residents of the neighborhood around the Old Log Theater to deny Excelsior Entertainment's CUP request. We request that the City do so.

Sincerely,

Neighbors of the Old Log Theater

Old Log Theater Conditional Use Permit Determination Overview

Conditional Use Permit Determination Section 11.50.20	Neighborhood Position
Subd. 1a – That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.	No comment
Subd. 1b – That the use is one of the conditional uses permitted for the district in which it is to be located.	We disagree. The request would be expanding its current CUP.
Subd. 1c – The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.	Restaurant expansion will be detrimental AND endanger the public health, safety, comfort, convenience and general welfare of the neighborhood or city.
Subd. 1d – The use will be harmonious with the objectives of the comprehensive plan.	Restaurant and parking lot expansion DO NOT align with Greenwood's Comprehensive Plan.
Subd. 1e – The use will not be hazardous or disturbing to existing or future neighboring uses.	An expanded restaurant and expanded parking needs will indeed disturb our neighborhood with additional traffic, noise, fumes and odors.
Subd. 1f – The use will be served adequately by essential public facilities and services including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.	Restaurant expansion and additional parking cannot be adequately served by current streets – specifically Covington Street.
Subd. 1g – The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.	The City has already incurred additional requirements of signage and wear and tear on the roads as a result of the high level of traffic through the neighborhood.
Subd. 1h – The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.	The current CUP has already created conditions that are detrimental to persons, property and welfare because of excessive traffic, noise and odors. Expanded use will increase the problem exponentially.
Subd. 1i – The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.	The Old Log has already created a traffic problem throughout the neighborhood – especially on Covington Street.
Subd. 1j – The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.	IF the Old Log plans to pave the proposed expanded parking lot, we have a high level of concern about the run off effect on the wetlands.
Subd. 1k – The use will not depreciate surrounding property values.	We strongly believe and have professional opinions that the property values of surrounding properties will be negatively impacted.

Neighborhood Concerns Regarding the Old Log Theater

Conditional Use Permit Request

Following is the detail of our neighborhood concerns regarding the CUP request by Excelsior Entertainment LLC to expand their restaurant and parking. We have followed the Greenwood Zoning Code Section 1150. Conditional Use Permits to outline our concerns:

Section 11.50.20 Determination

Subd. 1

- (a) That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.**
 - a. No neighborhood comment.
- (b) That the use is one of the conditional uses permitted for the district in which it is to be located.**
 - a. No neighborhood comment.
- (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.**
 - a. The requested restaurant expansion and associated parking will be detrimental AND endanger the public health, safety, comfort, convenience and general welfare of the neighborhood:
 - i. Current traffic down Meadville, Fairview and especially Covington Street already endangers the public health and safety of our neighborhood. Expanding the restaurant and parking will make this unsafe situation even worse by adding more car traffic and more delivery traffic through the neighborhood.
 - 1. Employees speed through the neighborhood multiple times a day to park in the back of the theater (down Covington Street). Many of us (and especially our children) are put at risk because of this high level of traffic through our neighborhood. Even though the Old Log owners assured the neighbors in November of 2013 that they would continue the policy of the former owners of having employees park in the front lot off of Meadville (except in cases of a sold out crowd for the theater), employees are parking down Covington Street behind the Old Log.
 - 2. Delivery vehicles have created excessive traffic and wear and tear on our streets by making the majority of their deliveries down Covington Street and to the back of the Old Log. We have many, many deliveries a day going through the neighborhood, even though the Old Log owners assured us in November of 2013 that they would continue the policy of the former owners of taking deliveries (with a very small exception) through the front lot off of Meadville.

- ii. Expanding the restaurant to allow for outdoor dining will be detrimental to the comfort of neighboring homes. Sound travels easily throughout our village. Noise from patio dining will disrupt the tranquil environment that many of us value by disrupting the peace and quiet of our neighborhood. The expanded restaurant also increases the amount of traffic through our neighborhood – for employees, restaurant patrons, deliveries, garbage removal etc.
- iii. Expanding the parking to allow for more cars through our neighborhood expands the risk to public health and safety of our neighborhood residents.
- iv. While not mentioned in the CUP request, the proposed plan also shows a fire pit and additional seating for 8. The noise and fumes from this addition also disrupt the comfort of the properties surrounding the Old Log.

(d) The use will be harmonious with the objectives of the comp plan.

- a. The use WILL NOT be harmonious with the objectives of the comp plan. Specifically the comp plan states:
 - i. ***We believe the development and redevelopment needs to show respect for and consideration of neighbors and neighborhoods.***
 - 1. The CUP request for an expanded restaurant and parking DOES NOT show respect for and consideration of the neighbors and neighborhoods. XX neighbors on the streets surrounding the Old Log – Meadville, Fairview and Covington Streets, have all signed the attached petition stating their objections to both the restaurant expansion and associated parking lot expansion.
 - ii. ***We believe in a balance between private property owners' rights and the preferences of the neighboring properties.***
 - 1. The preference of the neighboring properties is to deny the CUP request as demonstrated by the attached petition.
 - iii. ***Greenwood's focus has been on providing for the needs of its residents. Comprised virtually entirely of residential neighborhoods with few commercial properties, the City expects that it will continue to focus its attention on providing a quality residential environment.***
 - 1. Currently, because of excessive traffic and deliveries, the quality of our residential environment has already been compromised by the actions of the Old Log. Expanding the restaurant and parking will amplify an already unsafe, obnoxious situation.
 - iv. ***Goals within the Comprehensive Plan include:***
 - 1. ***Maintain the character of the neighborhoods.*** The character has already been changed due to unsafe traffic and deliveries. This proposed CUP will only make the problem larger.
 - 2. ***Manage commercial areas to be free of encroachments or undue impacts on adjacent residential areas.*** The noise from the proposed outdoor dining will encroach on the comfort and peace of adjacent residential properties. The expanded parking lot will further encroach

on adjacent residential properties with additional traffic through the neighborhood to gain access to the parking lot.

3. *Permit commercial developments which are beneficial to Greenwood's residential community.* The added traffic, deliveries and noise do not benefit Greenwood's residential community surrounding the Old Log.

- (e) The use will not be hazardous or disturbing to existing or future neighboring uses.**
 - a. The use is potentially hazardous due to an increase in traffic increase through the neighborhood.
 - b. The use will be disturbing due to an increase in noise and lighting with an outdoor patio.
- (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.**
 - a. The streets (especially Covington Street, a substandard 13' wide street) are not adequate to support the traffic and deliveries that already use the street. The traffic and deliveries have created an unsafe and extremely unpleasant situation for the residents of Covington Street. Residents of Meadville and Fairview Streets are also negatively impacted.
- (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.**
 - a. Additional wear and tear on the streets will be a burden on all tax payers within Greenwood. The large delivery trucks coming through the neighborhood multiple times a day to make deliveries down Covington Street accelerate the need to repair/replace roads.
- (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operations that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.**
 - a. An expanded restaurant and parking lot will disturb and create excessive traffic, noise and odors that are detrimental to residents surrounding the Old Log. We want our peace and quiet that we've enjoyed for many, many years.
 - b. It appears that another business is also using the current "back" parking lot at the Old Log for parking of their landscape vehicles resulting in increased early morning noise, traffic and unpleasant and unsanitary odors of garbage dumped on the ground and named compost. Neighbors have evidence of maggots and noxious odors as a result of this "compost".
- (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.**
 - a. The use will create additional unsafe traffic through neighborhood streets.
- (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.**

- a. We question the effect of any runoff from a paved parking lot next to the wetlands which we consider a natural and scenic feature of major importance to our neighborhood.

(k) The use will not depreciate surrounding property values.

- a. We have the professional opinion of several local realtors that specialize in the Lake Minnetonka area. They all agree that surrounding property values will be negatively impacted by the expansion of the restaurant and parking lot. There are many choices for home buyers in our area. People are aware of the noise, traffic and activity that are created by restaurants/entertainment venues (we have Bayview and Maynards very near us as a great example of how noise travels from outdoor venues). Expanding the restaurant of the Old Log to allow more use than already allowed will have a negative effect on all of our property values.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

My main comment is: We are a neighborhood. The planning Commission must always remember Meadville street is not a wide street & needs to be controlled.

Please deny the outside seating & change in parking.

SPECIFIC ISSUES or CONCERNS:

Noise: I live across from Magnets & Bergside. + no the noise must be controlled -

Traffic: Traffic is getting heavy with trucks & employee cars -

Rear parking: More traffic + water run off into the pond + Lake Meadville -

Thank you:

Name:

John P Gray

Address:

5170 Meadville St.

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

It is a basic premise that I, along, with many neighbors, have enjoyed the presence of the OLT in our neighborhood for many years! Our desire is to continue to co-exist without impacting the neighborhood in a negative way. Along with my neighbors, we look to the City and the Planning Commission to support the Comprehensive Plan of 2010 relative to this issue. The City goal to "maintain the character of residential neighborhoods" will be unsuccessful with the approval of this CUP request. The City goal to "manage commercial areas to be free of encroachments or undue impacts on adjacent areas" will be unsuccessful with the approval of this CUP request as will the City goal to "permit commercial developments beneficial to Greenwood's residential community"!

The OLT and the neighbors have had a fine relationship for more than 40 years. Over many years, we have seen and supported changes...while maintaining the character of the neighborhood. I ask you, on the Planning Commission, to deny this CUP request.

SPECIFIC ISSUES or CONCERNS:

In the recent years I have observed the evolution of the OLT becoming two businesses...a theater and a full service separate restaurant which has hours separate from the theater productions. I have seen the liquor license go from a restricted license serving during the theater presentations...to serving separate from the theater.

I observe disrespect of the neighborhood as staff speeding down Meadville St frequently. I observe "working vehicles" (FWD types) using the public street without licenses. I hear neighbors speak of safety issues on Covington Street and I hear neighbors speak of careless OLT drivers running them off the road. I hear neighbors speak about "compost" piles filled with organic matter (foods, etc.) in which maggots thrive and certainly, I would think unsanitary bacteria thrive and maybe even attract rodents.

Issues of safety & issues of sanitation and issues of environmental impact need to be considered before there is a serious accident or negative impact! The City of Greenwood has the responsibility to protect the residents from such issues and provide for the safety of the neighborhood. Please deny this CUP proposal!

Name:

Address:

Janine M Gray
5170 Meadville Street

JMG

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

Julie Ekelund
5135 Meadville Street
Greenwood, MN 55331

December 9, 2015

Dear Planning Commission Members,

My husband, children and I have lived in Greenwood for over 21 years at 5135 Meadville Street. Our back yard is adjacent to the Old Log Theater property.

Because of our location and distance to the Old Log property, we are especially vulnerable to any noise, activity, smells, lights, etc that are produced by the Old Log Theater. Over the last couple of years as the Old Log has expanded their use, we have been privy to the personal exchanges of wedding vows, outdoor concerts, and the screaming and laughter of the children playing on the Old Log property. We can already hear the musicians practicing, the sets being built, the garbage and recycling being removed. We don't want more noise.

Three of our four bedrooms have windows that overlook the Old Log property. Our backyard pool and patio is in close proximity to the property. Any increase in noise can be easily heard from our home and yard. We love and appreciate our solitude and don't want it to change. Whether we're napping, reading a book or enjoying the company of friends, we don't want to hear additional noise from a business.

An outdoor patio adjacent to the restaurant would be devastating to our peaceful home life. Not only that, but we've been told by several area realtors that it will negatively impact the value of our home.

While noise is my biggest concern, the amount of traffic going past our home on a daily basis is not what one would expect or desire in a residential community. Employees, deliveries and Old Log patrons driving through our neighborhood have increased exponentially since Excelsior Entertainment LLC has taken over operating the Old Log. I would request that the City also consider enforcing the agreement we had with the Old Log to utilize the front parking lot off of Meadville Street for deliveries and employee parking.

I respectfully request that the Planning Commission recommend that the City Council reject the CUP request for expanding the restaurant and parking lot at the Old Log Theater.

Thank you,

Julie Ekelund

I have lived on Covington St. for 42 years. My husband has lived in this neighborhood since the age of 5.

Never before have we heard or seen, on a daily basis, the number of cars and trucks that zoom up and down our road just thirteen feet from our front door. This is our situation both day and into the night.

Never before have we had a need for a speed limit signs until these last three years. The new signs are a nice gesture, (finally, after three years) but pretty much useless, as Covington St. is never monitored nor are speed limits enforced in any way.

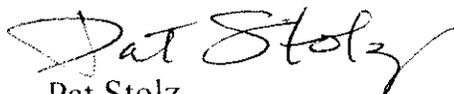
Never before has there been parking for an additional business (Windland Fields) in which the city has permitted their pickups, trailer's and equipment to be stored and parked on OLT property, with morning "activities" starting each weekday at 7:30 a.m. This is just 90 feet ^{from} of our house and just fifteen feet from the Erickson's house.

Never before has there been 24 spaces for a business "parking lot" at the end of our road.

And now there is talk of more traffic, more outdoor lights, more food smells, a smokey fire pit, conversation, laughing, drinking, all day, and into the night, 7 days a week? This is right next door! No...the ruckus we hear from Maynard's is quite enough already.

Never before have the residents on Covington Street been so discounted. The traffic level and the excessive speed on this -one lane, thirteen foot wide road- is more than an annoyance...it is dangerous! And if my tone seems strong, it is only because we are VERY frustrated. Hey...Covington Street Lives Matter!

Sincerely,


Pat Stolz

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST: I HAVE QUESTIONS:

WHY 24 PARKING SPACES BEHIND THEATRE? (DO YOU MEAN IN ADDITION, WHO WILL OCCUPY THESE SPACES? STAFF? CUSTOMERS?)
DESIGNATED PARKING FOR THE ACTORS FOR EVERY PERFORMANCE?
WHY ARE WE TAKING UP, AGAIN, THE CUP FOR A PATIO/BAR RESTAURANT/WHEN THIS HAS ALREADY BEEN DENIED?
WHAT ARE THE HOURS? IS THIS 7 DAYS A WEEK?
HOW LOUD WILL THE MUSIC BE? WHAT ABOUT VOICE VOLUME? LIGHTS? TALKING? LAUGHING? SMOKE FROM OUTDOOR FIRES? WHAT ABOUT INCREASED TRAFFIC THROUGH THE NEIGHBORHOOD, ESPECIALLY DOWN COVINGTON ST., WHICH IS ALREADY OUT OF CONTROL?

WILL THE EMPLOYEES AND VENDORS TO THE OLD LOG EVER SLOW DOWN WHEN GOING DOWN COVINGTON?!!
SPECIFIC ISSUES or CONCERNS: ^{APPROVAL OF THIS PROPOSAL} WILL ONLY ADD TO THE DANGER AND ANNOYANCE ON COVINGTON ST, THAT A ROAD 13' WIDE AND 13 FEET FROM RESIDENTS' FRONT DOORS, A ROAD WITH ~~REST~~ OBSCURED VIEWS AND HIDDEN DRIVEWAYS.

CONCERNS ABOUT THE OUTDOOR BAR/RESTAURANT:
DO WE WANT A "MINI MAYNARDS" HERE IN GREENWOOD? HERE IS WHAT THE LIQUOR LICENSE ENTAILED WHEN DON STOLZ RAN THE OUT.: BAR OPENED FOR DINNER BEFORE THE SHOW, CLOSED

Name: TOM & PAT STOLZ
Address: 5090 COVINGTON ST. GREENWOOD

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

UNTIL INTERMISSION, CLOSED AFTER THE 15 MIN
INTERMISSION FOR THE REST OF THE NIGHT,
I DO NOT REMEMBER A SINGLE CASE WHERE A
CUSTOMER WAS "OVER-SERVED." PEOPLE CAME
TO SEE A PLAY. NOW, WE HAVE A RESTAURANT/
BAR WHERE CUSTOMERS COME TO EAT & DRINK
AND HAVE NO INTEREST IN THE "THEATRE PART."
WHY WOULD THE VILLAGE WANT TO APPROVE A
CUP THAT WOULD ADD TO THIS "BUSINESS MODEL?"
WE ALREADY HAVE ~~THINGS~~ ISSUES WITH OLD LOG.
WHY ADD TO IT? THE VILLAGE NEEDS TO
ENFORCE THE CURRENT CUP, NOT APPROVE ANOTHER!

BY THE WAY, IT IS SIMPLY NOT TRUE WHEN IT
IS SAID THAT THE OLD LOG ALWAYS TOOK ITS
DELIVERIES DOWN COVINGTON ST. ~~NEVER DID~~ BIX,
UPS, SPEEDY DELIVERY, FED EX, AMERIPRIE, ETC., ALL
DELIVERED TO THE FRONT ENTRANCE. THE ACTORS
~~NEVER~~ NEVER PARKED BEHIND THE THEATRE, EVEN ON
THE RARE OCCASION ^{WHEN} THERE WAS A REHEARSAL
IN THE BACK BUILDING. WAIT~~ER~~ STAFF DID
NOT PARK BEHIND THE THEATRE, ONLY THE
CHEF WAS ALLOWED TO PARK THERE. ALL
DELIVERIES (EXCEPT THE TRUCK DELIVERING SALT FOR
THE WATER TREATMENT) WERE TO THE FRONT DOOR.
THIS POLICY SPARED OUR NEIGHBORS A LOT
OF TRAFFIC GOING THROUGH MEADVILLE.
THE CURRENT SITUATION IS NOT ONLY
ANNOYING BUT DANGEROUS AND NEEDS TO
BE ADDRESSED, HERE'S MY FINAL QUESTION!
DOES ANYONE GO THE SPEED LIMIT IN MEADVILLE?
I KNOW THEY DON'T DOWN COVINGTON ST.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

The Old Log Theater and East End Inn Restaurant (OET) are main stay commercial establishments that my wife and I, along with many neighbors and friends within and without the city of Greenwood enjoy, frequent and support on a regular basis. We desire its greatest possible success within the scope of the city's existing zoning documents. The OET's current plan for expansion is extremely problematic for the residents surrounding that enterprise. We remain concerned with the recent building attempts at "commercial creep." The Conditional Use Permit the city's ordinances and the Comprehensive Plan are the documents which control action on this property. I count nineteen inconsistencies between the ramifications of approval

SPECIFIC ISSUES or CONCERNS:

of this application and the city's zoning documents, being one of which should be sufficient for denial. We, the residents, have met with the OET ownership to discuss our concerns in the past. We have come to understandings and heard their assurances of a desire to be good neighbors. However, reality tells a completely different story. The OET has displayed complete disregard and contempt for the residents' concerns, our understandings, and the conduct controls stated in the city's zoning documents. The conflicts

Name: are not minor; they're not getting better. They're getting worse. The planned expansion is rampant with further exacerbations of these issues. The OET has

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

not earned nor does it deserve our support on this issue. We look forward to considering support of OET improvements which respect the neighborhood and the city's guidelines.

Respectfully submitted by Bob Newman, 5230 Wabasha St

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

For Planning Commission
16 Dec 2015

From: Maureen & Bob Burns:

our concerns are:

1. Possibility of cooking or grilling outside. He are not in favor.
 2. Umbrella lites - What time will they be turned off?
 3. Burning a fire pit after hours
 4. Generally noise that carries across water at night is a concern.
- The parking place appear to be off Courtyard Rd for increasing traffic thru the neighborhood.

SPECIFIC ISSUES or CONCERNS:

Name: Maureen & Bob Burns
Address: 5080 Meadville St, Greenwood
02 Dec,

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

~~Manner~~ - no - not in favor of further expansion of the facility - I think the city has done enough to try to help the owners ~~has~~ have a viable business - theatre - not a bar / restaurant -

SPECIFIC ISSUES or CONCERNS:

If approved - any outdoor seating as far from any residential structure as possible - but don't agree with it in theory - bars not past 10:00 pm -

Name:

Ted Harry

Address:

4400 Madwell St.

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

To: Dale Cooney & the Greenwood Planning Commission Members

We are Mark & Sandy Setterholm, residents of Greenwood, MN at 5250 Meadville St., located near the corner of Minnetonka Blvd and Meadville St. We have lived on Meadville St. for 37 years and happily coexisted with The Old Log Theatre and the Stolz family until they sold the business and property to Greg & Marissa Frankenfield in 2013.

Our comments are directed to you and to the Greenwood Planning Commission regarding the proposed restaurant expansion at the Old Log Theatre. (This proposal should actually be entitled "Cast & Cru expansion" since it really doesn't have anything to do with the O.L.T.)

General Comments:

Greenwood is a bedroom community. The Old Log Theatre property is located in and directly adjoins neighborhood property and does not exist in a commercial business zoned area. It operates in a Conditional Use Zone described in the Greenwood city bylaws. When the Stolz family owned it, The Old Log Theatre operated as a live theatre that offered patrons a dinner option before the show. The dinner was offered primarily in order to sell tickets to the show, not as a standalone restaurant destination like it now.

The Frankenfield's goal is to expand the Cast & Cru Restaurant to outside dining and liquor service and to extend their facility offerings to appear more like an EVENT CENTER than dinner theatre.

Here are some of our **Specific Issues and Concerns:**

Safety: We are suffering from increased traffic on our neighborhood streets (Meadville, Fairview, Covington & Sleepy Hollow) from the TWO businesses that are now operating at The Old Log Theatre property (not just one as when the Stolz's owned it). There are 13 children that play in the Fairview St. & Covington St. area. Covington St. is so narrow that you cannot have two cars pass each other at the same time. This situation is an accident just waiting to happen. We continue to live unresolved in the neighborhood due to increased traffic, poor traffic management and excessive speed by employees. We do not need to add to this existing problem.

Detrimental Conditions: Expanding the restaurant outside will be detrimental to Greenwood residents because of increased noise, smoke from the proposed fire pits, fumes and odors, along with the glare from the extra outdoor lighting into the late hours.

Property Values: Value of adjoining and nearby residential real estate will depreciate because of the proposed outdoor dining and activities. As a realtor, I have consulted with other realtors familiar with the area and they all agree that this will happen.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

December 8, 2015

Subject: Old Log request for expanding their restaurant outside and for additional parking

Dear Planning Commission.

Though I was all for additional signs and the other changes the OL originally proposed, I have observed what has transpired in the past two years which has made me change my mind.

I am opposed to the Old Log expanding their restaurant to the outside and adding additional parking in the back lot for three reasons:

Background: Two years ago the neighbors clearly expressed concern for any additional traffic on Covington Street and delivery vehicles using Covington Street as the primary delivery route.

As a result of 3 representatives from the neighborhood meeting with Greg and Marissa in November of 2013, I clearly heard the CUP was to include a clause stating that the OL agreed that delivery vehicles will make deliveries from the Meadville Street side through the parking lot rather than using the route over Meadville, Fairview and down the one-lane Covington Street to the back of the theater.

First, I want to know why this clause was not included in the CUP formalized at that time.

Second, as a daily dog walker and biker over the three streets mentioned above, over the past 2 years I have noticed significantly increased traffic, and more cars parking behind the theater. This is in direct violation of the agreement and goes against the clearly expressed primary concern of the residents in the neighborhood.

Third, the volume, speed and noise of this commercial traffic through our neighborhood has simply become unacceptable.

As a biker I have been run off the road by OL cars coming down Fairview and not stopping at the Meadville intersection. My dog and I constantly have to pull completely off the road as OL cars come whizzing by at all hours of the day and evening. This volume and type of commercial traffic is simply not acceptable for our type of neighborhood and narrowness of our streets.

Keith Stuessi 
5000 Meadville Street
Excelsior, MN 55331
612-386-5597

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

SPECIFIC ISSUES or CONCERNS:

We are extremely concerned about the OLT's request for a conditional use permit. We are adamantly opposed to granting them an outdoor dining patio of any size. This is a quiet, residential neighborhood that exists comfortably with the OLT in its present form. An outdoor dining patio with its noise and smells does not fit with or add to our neighborhood. We hear noise now from the occasional outdoor activity at the OLT. "Occasional" is the operative word. An outdoor patio would be ~~an~~ daily, constant noise and odor that we are not willing to add to our neighborhood. Please do not grant this request.

Name: Richard and Judith SPIEGEL
Address: 5090 MEADVILLE ST.

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

From: thack002 University of Minnesota [<mailto:thack002@umn.edu>]
Sent: Saturday, December 05, 2015 1:59 PM
To: Dana Young
Subject: Old Log Proposal Comment.

Dana,

Below is a comment and letter to the Sun-Sailor which I submitted at a previous time when we had concerns about the Old Log Theatre's plans. I would like to re-submit my comment below regarding the Old Log Theatre's current proposal on the Planning Commission agenda for December 16, 2015. My strong feelings and concerns have not changed.

Marissa and Greg Frankenfield, new owners of the Old Log Theatre (Excelsior-Shorewood Sun Sailor, July 3) "enjoy a life nestled in a quiet neighborhood" on Christmas Lake. The residents of Greenwood in the neighborhood that includes the Old Log Theatre also enjoy and value a life nestled in a quiet neighborhood. We like the quiet, the night skies without bright lights, the sounds of wildlife, loon calls in the night, the frog chorus from the marsh, geese honking overhead. It is our great hope that success for the Frankenfields will not come at the high cost of the pleasure of living in Greenwood.

Thank you. If you have any questions please call.

Marilyn Thacker
35 year resident
21915 Fairview Street
Greenwood, MN 55331
612-532-4567

Attention: Dale Cooney

RESIDENT COMMENT FORM – *This form will become part of the public record and therefore may be viewed by anyone.*

GENERAL COMMENTS ON REQUEST:

→ The new Old Log/Cast & Cru SHOULD NOT BE PERMITTED to expand as it appears they have sketched out in the renderings by Shea (proposed parking and patio plans)

SPECIFIC ISSUES or CONCERNS:

- NOISE from EVENTS and outdoor dining/drinking, especially after 10 PM
- IDLING BUSES' EXHAUST and NOISE (always a possibility if they're not monitored or limited by ordinance.)
- ANY expansion of outdoor dining and events that run later than 10 PM, however, will change the character of a significant portion of *residential* Greenwood.
- Please assume your responsibility to the citizens and homeowners of Greenwood and DO NOT ALLOW any expansion of the new Old Log/Cast & Cru that will negatively impact Meadville, Covington and Fairview residents.
- Increased traffic routing through Greenwood

Name: Patti Rose Loftus, owner of 5165 Meadville St.
My husband and I owned and lived at 5190 Meadville St. for 12 years (2000 to 2012.) We found life near the old Old Log Theater to be amenable. Issues were minor and resolved by talking to Stolz's (mostly idling busses.)

Address:
7526 Norling Ave. SW
Cokato, MN 55321
952 426-5020
ploftus@blakeschool.org

Return completed form to the attention of Dale Cooney fax 952 474-1274

Due by Dec. 9th

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

Regarding the proposal by Exotic Entertainment LLC expansion;
GENERAL COMMENTS ON REQUEST:

The request infringes upon the rights of residents in a legally defined residential city neighborhood. The burden of proof for this should not be on the residents. But it is. Here we are: continually detouring our right to be protected by the city council. Thirty households live along the route affected by the cars/trucks that use the back entrance. Twelve are in direct line with the proposed outdoor seating. Eighteen along the Road have children or grandchildren. This business has alternate delivery access. Yet you are already allowing the business to direct up to 15 deliveries a day. And now with proposed parking in back - 48 extra trips down the roads. I am so disappointed in the city council's inability to GOVERN on behalf of the Residents it represents.

SPECIFIC ISSUES or CONCERNS:

These (unsubstantiated) business requests if granted - will result in direct offence to the neighbors' rights as spelled out in CUP / City legislation SECTION 11.50.20, Subdivision 1 C, D, E, F, H, J, K. I ask that the city council members consider in particular C - the proposal endangers residents safety + general welfare.

My specific complaint regarding this proposal is that, with the added complaint that the Council has not related to our concerns in past, & has chosen to not govern in behalf of the Residents.

This is tiring.

Name:

Michelle Jackson

Address:

5100 Compton Street Deephaven MN 55331

December 9, 2015

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

Dale Cooney

From: Debra Kind <dkind100@gmail.com>
Sent: Wednesday, December 09, 2015 2:00 PM
To: Matt Gallagher
Cc: Dale Cooney
Subject: Re: Comments on Conditional Use Permit Expansion - The Old Log Theater

Follow Up Flag: Follow up
Flag Status: Flagged

Matt —

Thank you for sending your comments regarding the Old Log CUP request.

Deb

DEBRA J. KIND
Mayor, City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331
www.greenwoodmn.com
Main: 952.474.6633
Direct:
612.718.6753

On Dec 9, 2015, at 12:41 PM, Matt Gallagher <virtualgallagher@hotmail.com> wrote:

Dale (and City Council Members),

Please submit my comments below in response to the expansion of the Conditional Use Permit for The Old Log Theater. To further illuminate those on the planning commission and the City Council please also submit the attached document which better illustrates this portion of our city, neighboring homes and the Covington St. in particular.

General Comments:

I am protesting both proposed expansions to The Old Log Theater's conditional use permit. (Outdoor Dinning Patio & 24 parking spaces accessible from Covington St.).

I believe these expansions are not in the best interests of the residents of the neighborhood, and that the commercial interests of the The Old Log Theater should be overridden by the desire to improve the city for the sake of residents. The Old Log Theater exists within a residential community and the concerns of the planning commission and city council should represent the majority of property owners and should further seek to protect the nature and aesthetic value of the community.

The proposed expansions do not benefit the neighborhood at large but more importantly, they further detract from the residents by posing safety, noise and general quality of life degradation.

Specific Issues or Concerns:

My property borders Covington St, and we have already see a degradation of safety and quality of life as a result of The Old Log Theater's expanded use of the rear entry to the property along Covington St.

The proposed parking spaces stand to increase traffic significantly. 24 proposed parking spaces could drive a significant increase in vehicle traffic along small, narrow and tightly bordered residential road. Covington St is bordered by 6 homes, which have very narrow setback (under 8' in 3 instances) and is trafficked by 8 residential vehicles (meaning the 6 homes have a total of 8 cars). Adding parking for 24 vehicles could easily drive a 3x increase of traffic on this street (assuming the spots are only accessed one a day). The city has no ability to manage the usage of these spaces once in place, and The Old Log Theater could opt to use them for any purpose, or frequency, including valet service, which would drive even more traffic and more safety concerns.

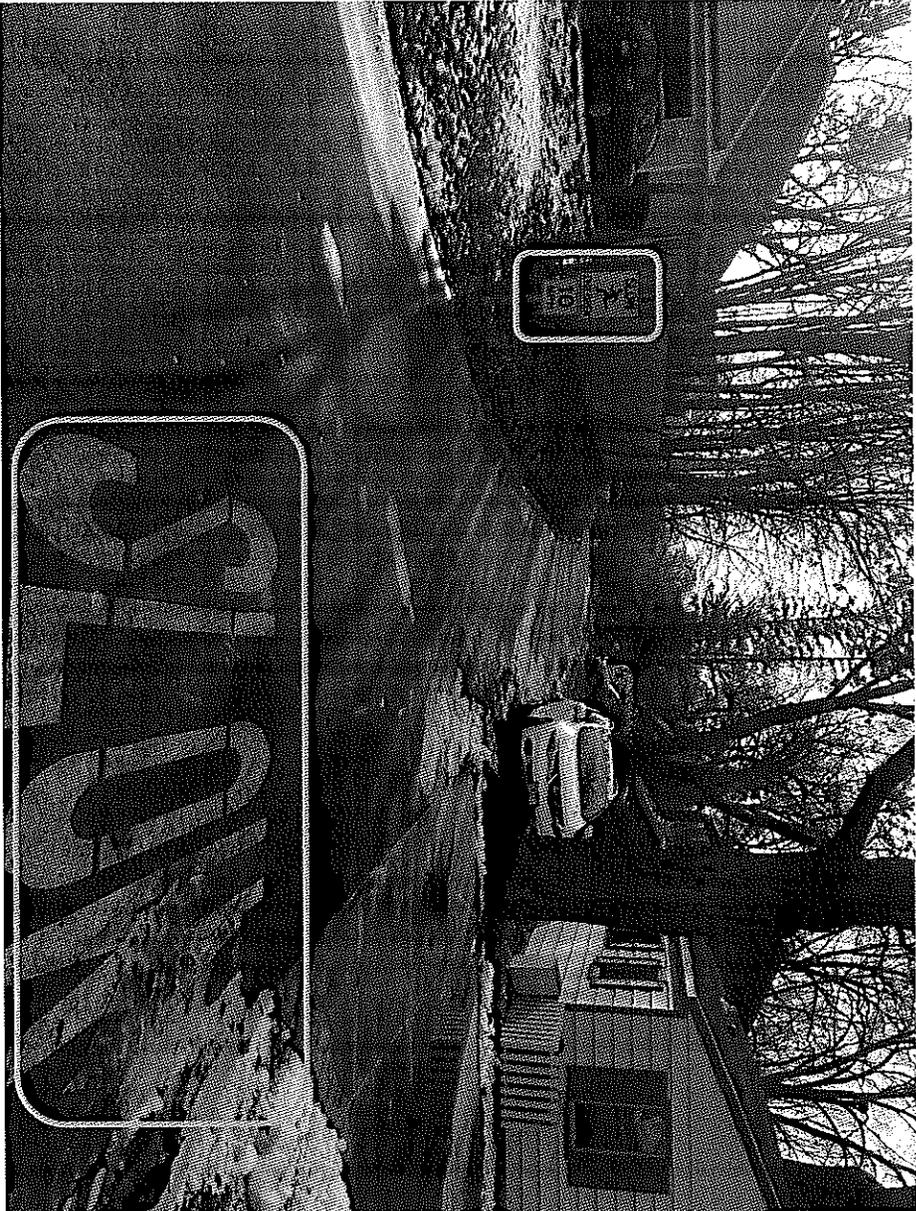
In the past 2 years, the neighborhood has had to contend with increased use of the Covinvgton St access, as the Theater has directed employee and vendor traffic along Covington. The city's decision to post safety signage along Covington is a poor response to fixing the root cause of the issue, which is increased usage of Covington by a commercial property.

The expansion of the property to include an Outdoor Dinning Patio is also of significant concern due to the increase parking required (as noted above), but primarily due to noise, visual nuisance and privacy concerns to those residents that border the Old Log Property.

I am not opposed to The Old Log Theater continuing to operate, but due to it's location within the residential community, the sanctity of our homes, home value, safety, privacy and quality of life need to be considered over the commercial concerns of The Old Log Theater.

Regards,

Matt Gallagher
21775 Fairview St
Greenwood, MN 55331
<Covington Road Impacts from Old Log Expansion.pdf>



Covington / Fairview Intersection –

This signage was put in place in 2015.

Slow traffic signs were not needed or requested before the Old Log drove commercial traffic down Covington. Non-resident & commercial traffic has degraded the safety and tranquility of our neighborhood.

Neighboring Homes Affected by Old Log Expansion & Traffic Increase

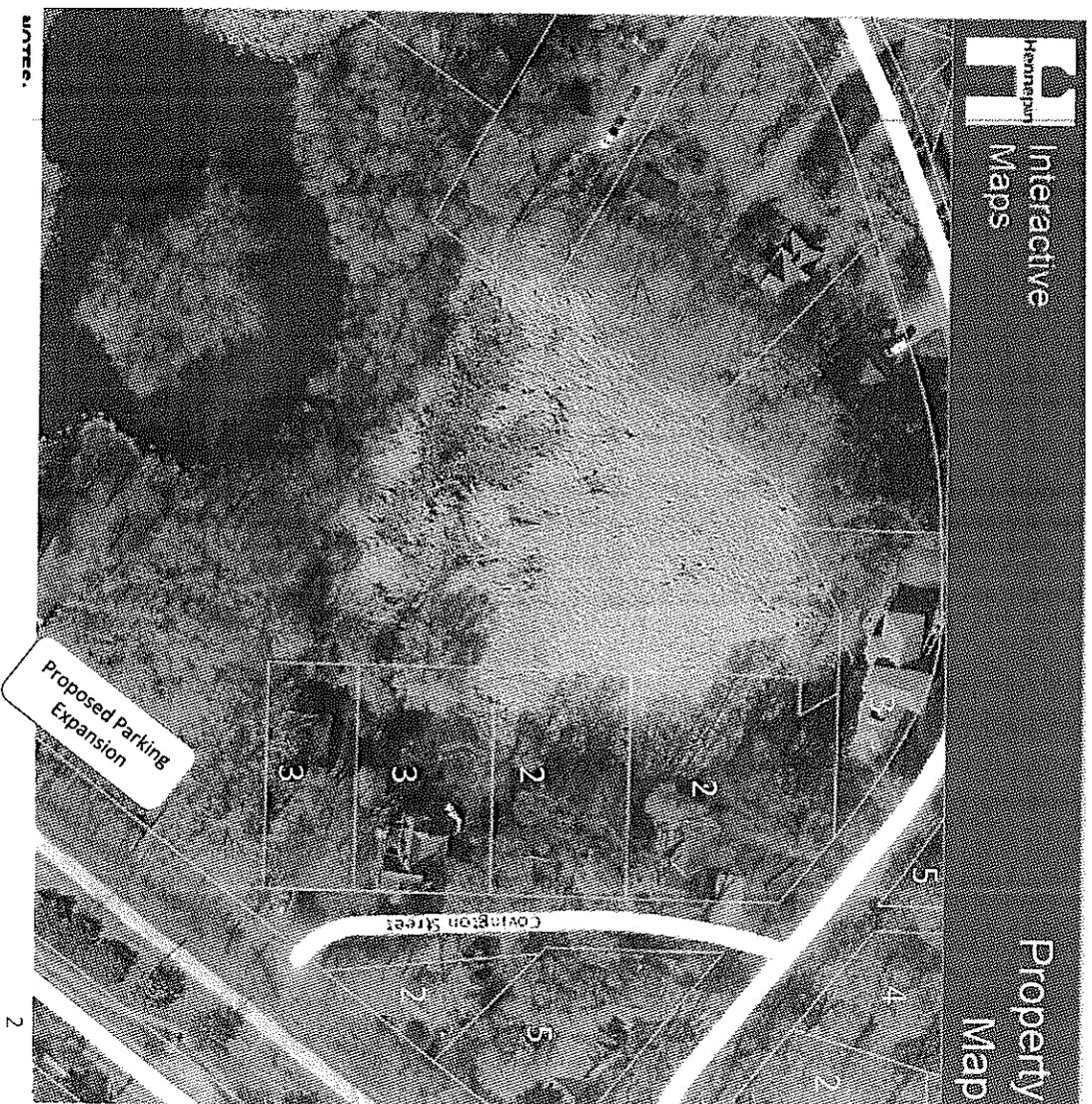
of Residents / Home shown in Yellow.

The residents bordering Covington oppose the Old Log's current expanded usage of Covington for worker and commercial deliveries (Daily deliveries by BIX and commercial uniform trucks).

Proposed Parking will drive significant additional traffic.

24 spaces to be accessed via Covington is 3x the number of vehicles currently accessing the road for residential use.

Traffic along Covington for Old Log usage has already degraded quality of neighboring homes due to commercial vehicle and non-resident traffic speeding through the neighborhood.



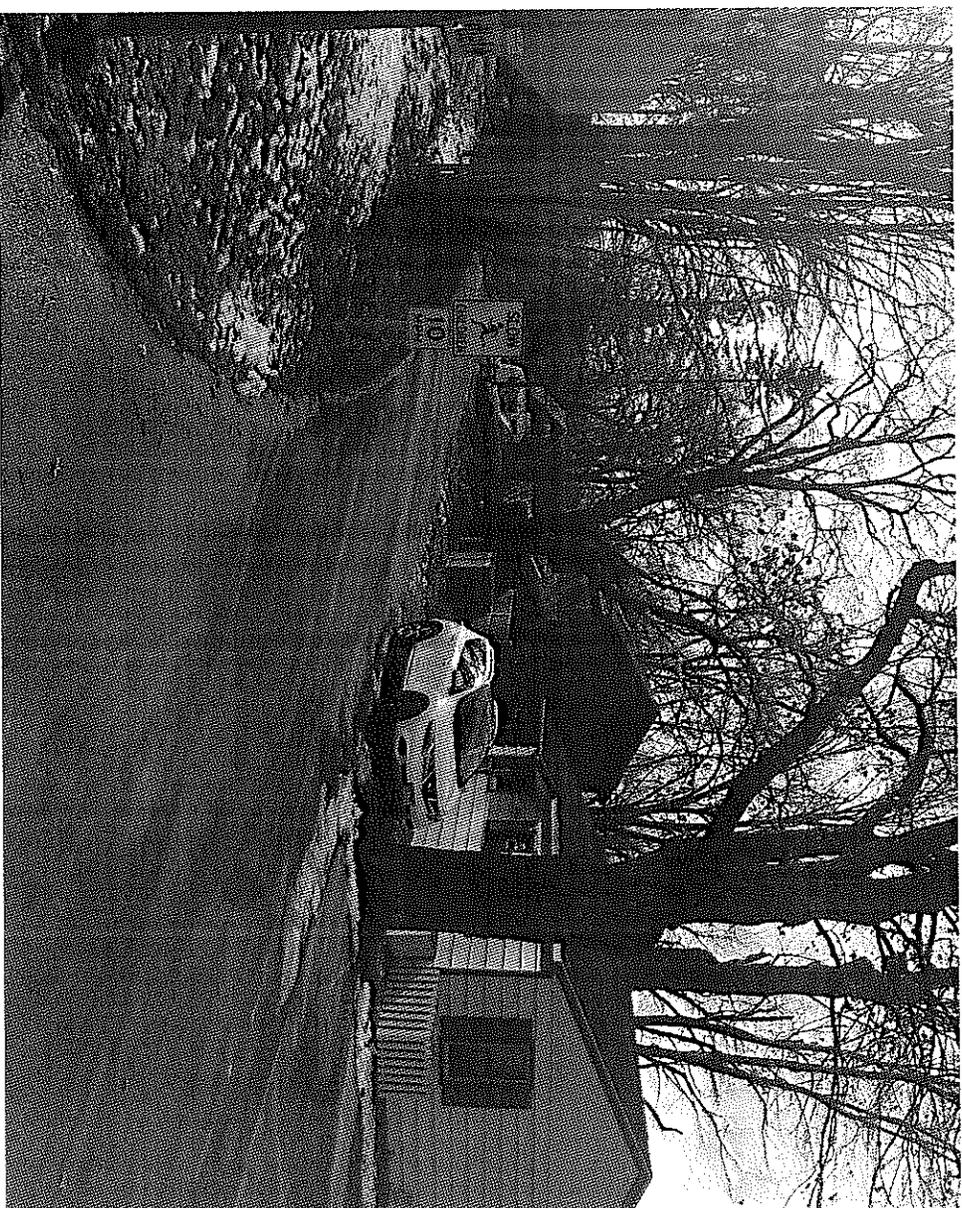
Covington / Fairview Intersection – Looking down Covington toward Old Log property

Notes:

New “Slow” signage required as result of
increased traffic in last 18 months.

Narrow street <12’

Setback of existing homes is very close to
road. Long time residents will be significantly
affected by increased traffic.



Covington / Fairview Intersection – Looking down Covington toward Old Log property

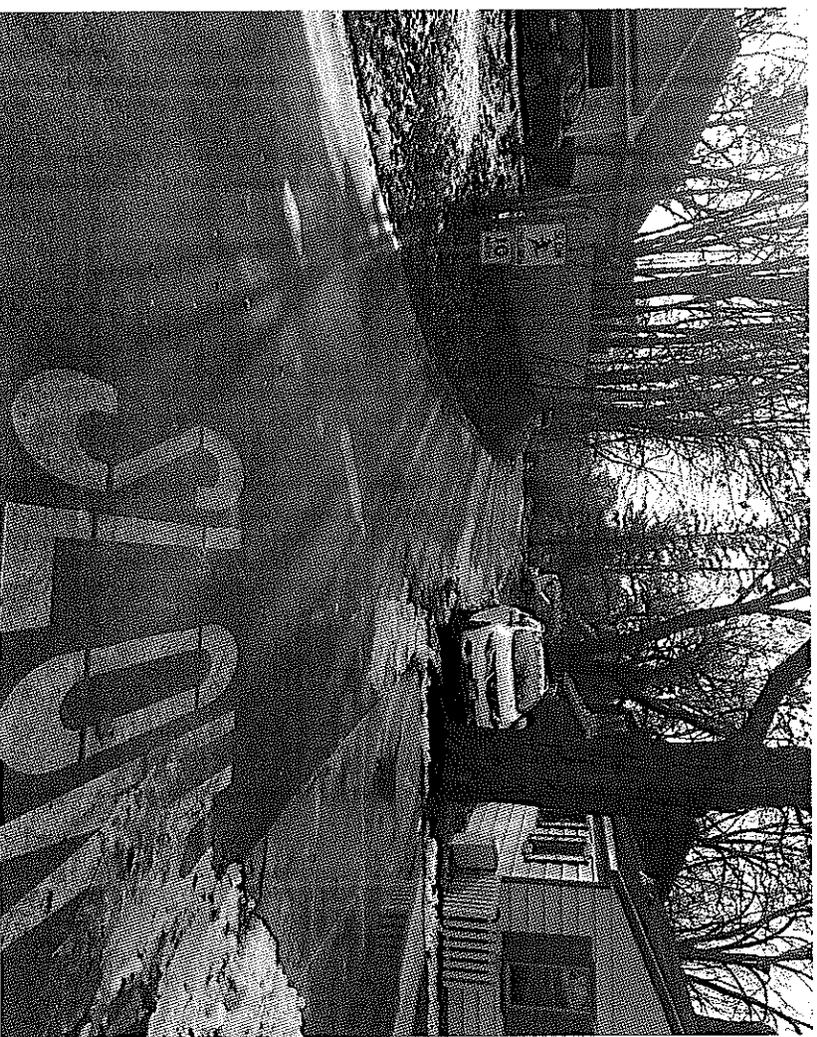
2nd view

Notes:

Additional “SLOW” Street painting signage required as result of increased traffic in last 18 months.

12 children live adjacent to this intersection. Non-resident traffic to and from Old Log along Covington has degraded safety and quality of life for residents.

We seek reduction of current usage of Covington for commercial purposes, and absolute stoppage of any expanded use.



On Dec 19, 2015, at 4:20 PM, Brixius Frank <fbrixius@mac.com> wrote:

Hi Deb,

For what it's worth I think the improvements that the new owners have made to the premises are a plus to the community. Suzie and I and our neighbors enjoy going there now. We loved Don Stolz, but he just didn't have the financial resources to do what needed to be done.

As I said before, there is a certain dynamic tension that exists where differently zoned properties abut each other. The community must do what's best to accommodate the legitimate rights of the abutting parties.

That decision, of course, is yours and the Council's to make. I just wanted you to know that Suzie and I, and our neighbors (Ostranders, Burdicks, Johnsons et al) support the efforts of the new owners to make the Old Log something we can all be proud of and enjoy.

Merry Christmas to you and all the Council members.

Frank



A FAX from

E.R.E.A.T.E., Inc.

1911 Pleasant Ave. S.

Mpls., MN. 55403

Fax (612)874-9820

Phone (612)874-9811

To: Dale Cooney

Fax number:

952/4741274

Date: 12/10/15

Regarding: Public Hearing 12/16/15

Comments:

2 pgs.

CONFIDENTIALITY NOTICE:

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If you have received this fax in error, please call us at (612)874-9811 to arrange return.

RESIDENT COMMENT FORM

GENERAL COMMENTS ON REQUEST:

I am writing in regards to the new CUP put forth by the Old Log Theater. I have been a strong supporter of the success of the theater. I have attended every play, dined at Cast and Cru, brought groups of women to the plays and encouraged others to try the venue. I previously had confidence that the traffic issues would work themselves out between the owners and the neighborhood.

This did not occur and Covington Street continues to remain a serious safety issue. I had the understanding that the theater staff using the back area would only occur when there was no parking available in the front lot. This did not happen. Covington Street is being used and overused during all theater hours and delivery hours whether the front parking is full or not. I have personally stopped numerous speeding cars and asked them to slow down. Same cars multiple times.

I have lived on Covington Street for 31 years and I am grateful that I am not raising children at this time and am very concerned for my neighborhood children and the parents who are constantly worrying about their safety. No one in Greenwood should have to live like this.

I now see that with the expansion of the dining space, there is a need for more parking spaces which will only increase the ongoing safety issues on Covington Street.

I have never been in opposition of an outdoor eating area but now that it includes even more unsafe traffic on Covington Street, I now find myself having to be in opposition of the extended dining area.

I never thought that I would be in this situation and am disappointed in the lack of concern for this safety issue from both the City Council and theater owners.

I cannot express loudly enough that this situation is a serious disaster waiting and I hope that everyone can be proactive and not reactive to a devastating event.

SPECIFIC ISSUES or CONCERNS:

List of safety concerns:

- Speeding cars going both up and down Covington Street
- Children and adults having to jump out of the way of speeding traffic
- Speeding occurs after dark
- Cars and trucks unable to pass each other on the narrow Covington Street
- Delivery trucks trying to navigate the narrow street causing other traffic to be held up
- Repeated delivery trucks, daily, causing traffic delay and constant beeping noises.
- Children unable to visit neighborhood houses without parents walking them for fear of their safety.

NAME: Lynn Allar

ADDRESS: 5070 Covington Street

Dale Cooney

From: Julie Ekelund <julie.ekelund@fragrancemarketinggroup.com>
Sent: Thursday, December 10, 2015 10:28 AM
To: dalec@mediacombb.net
Subject: Greenwood Planning Commission
Attachments: Recap_from_Joint_Meeting_(commented).docx

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Dale,

Attached is the document that was presented to the City Council in 2013 – it is a recap of a meeting that we had with the Frankenfield's (Jan Gray, Bob Newman and myself). The City Council asked us to have a meeting to see if we could resolve some of the neighborhood issues. We recapped each issue after the meeting. The neighborhood comments are in black and white type. Greg Frankenfield's comments are highlighted in yellow. I didn't know if you had included this in the Planning Commission's packet. If not, can you please do so? The items of particular interest are:

- Parking – bottom of the front page – Frankenfield's agreed that employees would be parking in the front lot the majority of the time.
- Deliveries – top of the second page – Frankenfield's agreed that deliveries would be made through the front parking lot off of Meadville Street.

These issues are of great concern to the neighborhood, and may have been referred to by several of the residents. The Frankenfield's did not abide by their agreement with us, and the City Council failed to include these two items in the original CUP and have been unable or unwilling to address it since.

Thanks,
Julie

Julie Ekelund

Co-Founder

952-466-7417 office

612-964-4049 cell

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RESIDENT STATEMENT OF UNDERSTANDING

Activity	Old Log Position	How City will manage	Issues
Events	<p>Events are primarily daytime corporate/civic events. Evening events/weddings/private parties are expected to be less than 1/month. Event hours to range from 7 AM – midnight.</p> <p><i>[ggf] We indicated in our conversation that we expected that weddings were likely to be about once per month. Other events and private parties are likely to occur with far more frequency. It is our goal to have them as often as there is demand from our customers.</i></p>	<p><i>How will the city address this in the Ordinance?</i></p>	<p>Old Log would like the flexibility to occasionally extend event hours past midnight.</p> <p>Neighborhood is concerned about # of evening events and associated noise – especially after 10 PM.</p> <p>Historically there have not been many non-theater evening events.</p>
Noise	<p>No outdoor concerts. Any outdoor amplification will not cross property line. Old Log windows/doors will remain closed to contain music/noise indoors.</p> <p><i>[ggf] We did not plan on any amplified outdoor concerts but we reserve the right to hold them subject to existing ordinances and permitted uses. We do reserve the right to have an orchestra or jazz band play as they have at the Old Log for many years. We can't make sound stop at a property line. We did agree to abide by all existing noise ordinances and address any issues in a timely fashion.</i></p>	<p><i>Does City need to formalize the outdoor amplification? Nuisance Ordinance Section 900 covering noise violations. Chapter 11 Zoning Code Section 1140:55</i></p>	<p>No issue</p>
Alcohol	<p>Alcohol service is not allowed outdoors by the Old Log. Alcohol is served during restaurant hours and theater shows. For events, the Old Log allows indoor alcohol service until 11:30 PM. Patrons are allowed to leave the Old Log building with alcohol.</p>	<p><i>Liquor license. Does liquor license set the conditions for "no alcohol service outdoors"? How is outdoor consumption addressed?</i></p>	<p><i>Neighborhood would like alcohol service AND consumption contained indoors.</i></p>
Restaurant	<p>Primarily to support theater patrons. Also available to support private events. Hours 7 AM – 10 PM.</p> <p><i>[ggf] We disagree. It has always been available to the public without attending a theater event. We intend to continue to enhance and promote its use in that fashion and reserve the right to serve food after 10pm.</i></p>	<p><i>Will the City place operating hours on the Restaurant? Nuisance Ordinance and Chapter 11 Zoning Code Section 1140</i></p>	<p>Neighborhood does not want an outdoor patio with food/alcohol service.</p>
Parking	<p>Employees will park in the Meadville Street Old Log parking lot. Expect to have enough parking for theater/restaurant patrons.</p> <p><i>[ggf] We can't always do this. We currently have been running out of parking in our lot. In order to accommodate our patrons and keep them off the streets, we are asking our employees to park in the back on Friday and Saturday nights. We are also investigating a Valet service to increase available parking. We have asked our employees to go slowly through the neighborhood and observe all posted limits.</i></p>	<p><i>City needs to address street parking. Nuisance Ordinance and Chapter 11 Zoning Code Section 1140.45 Subd 11</i></p>	<p>Neighborhood would like street parking confined to one side of street only to allow emergency vehicles access to neighborhood.</p>

RESIDENT STATEMENT OF UNDERSTANDING

Deliveries	Old Log agreed that delivery vehicles will make deliveries from the Meadville Street Old Log parking lot instead of using Covington Street.	Zoning Code Chapter 11 Section 1140.45 Subd 12.	No issue
Odors	Restaurant odors will be managed with new equipment. [ggf] We said we would investigate.	Zoning Code Section 1140 states odors are not to extend past property lines.	No issue
Lighting	Old Log will investigate lighting alternatives and ordinance restrictions and become compliant. [ggf] We said we would investigate. The current lighting was in place when we purchased the business and has not been changed.	Zoning Code Chapter 11 Section 1140.60 Subd 3	Neighborhood urges City to guide Old Log on becoming compliant with lighting ordinance.
Signage		Zoning Code Chapter 11 Sect 1140.40.	No issue

Bus Idling	Old Log agreed to instruct bus drivers to not idle buses. They will be allowed to start buses 10 minutes before end of theater performance.	<i>Does the City need to formalize this directive?</i> Nuisance Ordinance 900:60 Noise Violations.	No issue
Parking Lot Safety		<i>City should discuss signage as a safety measure for exiting traffic.</i>	Consider signage at exit of Old Log indicating oncoming traffic does not stop

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

My comments on The Old Log Theaters request to put extra parking spaces and outside serving areas is, that under the current entrances and exits. I would vote no. The Old Log Theater has 2 exits that experience 95% of their traffic flow. The first is on Old Log Way. Theater goers are notorious for dangerous departures from this exit, they never stop. It's like playing chicken with every car leaving their parking lot. Frankly that's their best exit, it's close to Minnetonka Blvd and gets traffic out of the neighborhood the most efficiently. 2nd, Covington Street has experienced a great change since the new ownership. Covington was a safe place for children and I can't say that any more. Employee's and suppliers enter and exit at speeds that are excessive. I purchased my home on Covington Street because it was quite and safe. I can no longer say that! Increasing parking spots and traffic is not what our neighborhood needs. The new owners purchased the Old Log Theater and they seem bent on changing into a WalMart. The Greenwood City Councils charter is to serve and better the community as a whole and allowing the Old Log to increase its parking capacity in the rear of their building is a infringement on the whole Greenwood community.

A possible solution: Make all traffic use the shortest access to Minnetonka Blvd. That would be possible if Hennipen County granted the Old Log an easement to build a road between the walking trail and the east side of their building. This would reduce the current opposition greatly!!!!!!!!!!!!!!!!!!!!!!!!!!!!

SPECIFIC ISSUES or CONCERNS:

I have personally experienced almost being run over by Old Log employee's 3 times, in one morning, witnessed by my neighbor. I have had many other situations that included close calls with my grandchildren. I have personally alerted the Old Log and warned employee's to slow down with little to no effect. I have also call South Lake Police making them aware of the situation. Employee's & Suppliers entering Covington Street from Fairview, enter at excessive speeds. With lilac bushes emparing their view of Covington street as they enter. They are forced to slam on their breaks for children playing in the street. It's not if, it's when a child will be hit by a vehicle. Increasing parking spots in the rear of the Old Log and increasing the number of speeding vehicles through our neighborhood is not a good decision, especially when other options are possible.

I believe in and support the Old Log Theaters right to improve and make their business viable but they are in a residential area and have neighbors to consider. I'm sure they wouldn't appreciate it, if this was happening to them, in their neighborhood!

Name: Jon & Sue Ratliff
Address: 5060 Covington Street Greenwood, MN 55331 612-968-4471

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

THIS PROPOSAL BASICALLY CHANGES A THEATER w/
A RESTAURANT TO A RESTAURANT/BAR WITH A
THEATER. IT WILL GREATLY INCREASE NOISE AND
TRAFFIC AND WILL DESTROY PROPERTY VALUES.

THIS IS A RESIDENTIAL NEIGHBORHOOD. WHAT IS
GREENWOOD DOING CONSIDERING AN OUTSIDE BAR
IN THIS NEIGHBORHOOD !! ??

IF APPROVED, WILL PROPERTY VALUES GO DOWN 50%?
PROPERTY VALUES + VALUES DID NOT DOUBLE FOR NOTHING.
THIS WILL DRIVE DOWN VALUE

SPECIFIC ISSUES or CONCERNS:

- 1) OUTSIDE DINING
- 2) OUTSIDE FIRE PIT + LOUNGES
- 3) ADDITIONAL PARKING ON BACKSIDE OF THEATER.

THE PUBLIC NOTICE IS SILENT w/ REGARDS TO
THE OUTDOOR FIRE PIT + LOUNGE. I AM VERY
CONCERNED ABOUT THIS. THE PUBLIC IS NOT
BEING INFORMED PROPERLY.

Name: CNMS O'LEARY
Address: 5030 MEADOWS

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road,
Deephaven MN 55331 or fax to (952) 474-1274.

Dale Cooney

From: Michelle Erickson <micherickson@gmail.com>
Sent: Saturday, December 12, 2015 7:55 AM
To: Dale Cooney; Kristi Conrad; quamco@aol.com ; tfletcher@aexcom.com
Subject: Re: Greenwood Resident Comments regarding the new CUP

Hi Dale and city representatives-

Another item for your consideration :

The OLT staff have a moveable sign they put at their front delivery entrance (inside the property) that says something like "performance in progress please send deliveries around back entrance". I've noticed the sign is up everyday since Wednesday at times when there was clearly no performance in progress and four cars at most in front parking lot.

The sign is visible from the street and the walking path.

Forgetful or intentional- either way it is not true; and more importantly, lends itself to the compromise of neighbors' welfare and safety and comfort.

Thank you for considering the residents,

Michelle Erickson
5100 Covington Street

Sent from my iPhone

On Dec 9, 2015, at 3:49 PM, Dale Cooney <dalec@mediacombb.net> wrote:

Michelle,

Thank you. Your comment will be included with the packet materials.

Sincerely,

Dale

Dale Cooney
Zoning Coordinator
Deephaven • Greenwood • Woodland
20225 Cottagewood Road
Deephaven, MN 55331
Direct: 952.358.9938
Main: 952.474.4755
Fax: 952.474.1274

Dale Cooney

From: Fiona Sayer <fionasayer@gmail.com>
Sent: Monday, December 14, 2015 1:10 PM
To: Dale Cooney
Subject: Fwd: Cast and Cru's Patio Request

Follow Up Flag: Follow up
Flag Status: Flagged

----- Forwarded message -----

From: **Teresa Pfister** <teresa@mktgbydesign.com>
Date: Mon, Dec 14, 2015 at 12:06 PM
Subject: Cast and Cru's Patio Request
To: fionasayer@gmail.com

Ms. Sayer:

I am writing in support of the Old Log Theater's Cast and Cru restaurant request for a patio. Their request complies with city restrictions, but evidently has sparked some discontent from neighbors. We are very, very lucky Greg and Marissa Frankenfield bought the Old Log. They have been good neighbors, spending untold amounts of money improving the theater and giving us the delightful Cast and Cru restaurant for a local hang-out. They host Excelsior-Lake Minnetonka Historical Society events. They host elections. They support us, and they pay taxes. The patio should be approved.

1. It will not become a Maynard's-like hot spot for the young and noisy. The young and noisy want the lake scene and to see and be seen. Cast and Cru's patio is where neighbors like me will gather on summer evenings - until the mosquitos come out.
2. Noise reduction plantings? It will be done. We have their word on this, and so far, haven't they done everything we've asked?
3. Extra traffic on Meadville? Based on what data? Worst case scenario: the patio draws hundreds (!) and that extra traffic extends for tens of feet, (off Minnetonka Blvd.), not blocks. It won't be buses. Again, the patio will attract neighbors like me who will walk down the path, or ride bikes, or drive.

I remind you Don Stoltz could have sold this 10-acre property for far more money to a developer and who knows what would have been built. We are lucky to have this treasure in our community. I, for one, look forward to a lovely meal on the Cast and Cru's patio next summer.

Teresa Pfister
21580 Fairview Street
Greenwood, MN 55331
ph: [952-474-7126](tel:952-474-7126)
teresa@mktgbydesign.com

RESIDENT COMMENT FORM - This form will become part of the public record and therefore may be viewed by anyone.

GENERAL COMMENTS ON REQUEST:

We wanted to add our names to those sharing concern of the 810 log expansion. This proposed project has multiple issues that will be a detriment to our village.

—

SPECIFIC ISSUES or CONCERNS:

- ① expansion of parking - we already experience "fast" vehicles that are a safety concern. The volume also is excessive - the proposed increase parking lot is a bad idea. We are not a business zoned area but predominately residential.
- ② expansion of restaurant - basically same as above - we don't want a Manly's II.
- ③ Potential traffic on Covington is potentially dangerous - this is already a problem.

Name: David & Susan Wadler
Address: 21630 Fairview St.

Please return completed form to the attention of Dale Cooney @ 20225 Cottagewood Road, Deephaven MN 55331 or fax to (952) 474-1274.



560 Market Street - Suite 12 - PO Box 580 - Chamhassen, MN 55317
Phone 952.474.5243 - Fax 952.474.5244 - burdickproperties.com

December 15, 2015

City of Greenwood
Mayor Kind
Greenwood City Council Members
Greenwood Planning Committee Members
20225 Cottagewood Road
Excelsior, MN 55331

SENT VIA EMAIL ONLY

Re: *Old Log Theater outdoor restaurant seating*

Dear Honorable Mayor Kind, Council Members, and Planning Committee Members,

I am writing to all of you regarding the proposed outdoor seating for the restaurant at the Old Log Theater. I am in support of this outdoor seating area and I hope that all of you will consider supporting this proposal too. This is an excellent proposal.

First, we are all very fortunate to have such wonderful new owner/operators of the Old Log Theater. The new owners have invested an enormous amount of time, energy, and money to improve the Old Log Theater. I think that the improvements are excellent and we as Greenwood residents are fortunate.

The owners' proposal to add an outdoor seating area is a great idea. They currently operate an excellent restaurant and outdoor seating will be a great asset for everyone. I am sure that their proposed new outside patio area will be very attractive given the improvements thus far to the Old Log Theater.

The neighborhood argument that the outside seating area will "create additional traffic and noise, and the very real possibility that it will reduce our property values" does not make any sense. In fact, I would argue that the outdoor seating areas may increase property valuations. The immediate neighbors experience much more noise and traffic from the lake, Maynard's restaurant, Bayview restaurant, and Excelsior Boulevard. I am quite sure that any dinner conversations on the proposed outside patio will never be heard due to the other surrounding traffic and noise. I might add that the lake noise and lake restaurant noise is typically seven days per week. I suspect that this is far more than anticipated at this new outside patio dining area.

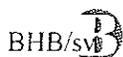
In closing, I hope that all of you will support and approve the proposed new outside patio area at the Old Log Theater.

Thank you for your time and consideration. !

Most cordially yours,

A handwritten signature in black ink, appearing to read 'Burdick', is written over the typed name. The signature is fluid and cursive.

BRIAN H. BURDICK



OWNERS, DEVELOPERS, AND PROPERTY MANAGERS OF FINE COMMERCIAL PROPERTIES.

To the City of Greenwood...DEC 6 2015

Last year the old log wanted monument signs by Meadville Street.

The planning commission approved and sent to city council for approval.

There was to be a vote to confirm the signage, but I was allowed to speak. I was very disturbed with the direction the old log was moving towards. This is no longer the old log as we knew it. My concerns were the expansion for it was causing sever hardship/safety issues. I informed the council of many incidents relating to the increased traffic and wanted to be on record that serious accidents will occur if this expansion was not curbed.

The council listened, Bob Quam weighed in and the council then considered that perhaps they should think about some ideas to relieve concern on Meadville and Covington.

Of course everyone knows the results. The old log asked if they withdraw the request for signage would all the traffic ideas by the council go away. The council said yes...and the old log withdrew their request.

But of course the traffic issues never really did go away. Yes the council did some things by putting a yellow line down Meadville. They tried a medium, and even the road was jack hammered ready to go...and then a strange thing happened. No medium, just a yellow line. I might add I stood out for a couple hrs with a neighbor watching to see if the yellow line was of use. It wasn't 90 % cut across over yellow line.

Then a terrible event almost happened. A neighbor on Meadville...almost lost her two daughters to a speeding car. It was to close and it shouldn't be happening. I am told the mother was very upset and she reported it to the city.

Of course what about the residents on Covington rd...if one could call this a rd. actually it is more likes an alley.

So here we go again...old log wants expansion, new parking and to expand its growing restaurant/event center.

I AM VERY DISTURBED BY A CITY THAT IGNORES RESIDENTS..IF THAT IS THE CASE.

I TOOK A WALK DOWN COVINGTON THE OTHER DAY.

>FIRST THIS IS NOT A LEGAL RD...IT IS ROUGHLY 12'or10' WIDE DEPENDING ON THE TORN PAVEMENT BY THE USE OF TRUCKS.AND NOW I COME TO THE SAFETY ISSUE.IF YOU WALK DOWN THE RD THERE IS NO SHOULDER,NO SHOULDER.IF A TRUCK OR CAR SLIDS OR MAKES A MISTAKE...WHERE DOES THAT CAR GO. EITHER RUNS OVER A PERSON WORKING IN HIS YARD OR THROUGH THE HOUSE.

AN AMAZING VIEW...IF YOU CONTINUE TO WALK DOWN COVINGTON YOU WILL SEE AN AMAZING THING. THERE IS NO SHOULDER AND JUST A FT FROM THE RD A SEVER DROP OFF OCCURS. 40 FT LONG AND DROPS DOWN 3 FT. THERE IS A HOUSE CLOSE TO THE RD. IF A TRUCK OR CAR SLIDES OF THAT NARROW RD IT WILL ROLL INTO THAT HOUSE[AND COULD KILL OR CAUSE AN EXPLOSION].

I DON'T WRITE THIS LETTER AS A HOBBY...I HAVE SEEN THIS

HAPPEN BEFORE WHEN I WORKED FOR NSP [NOW CALLED EXCEL ENERGY]

THERE HAS TO BE SOMETHING DONE AND THE IDEA TO PUT EXPANSION...AND PARKING LOT DOWN BY COVINGTON IS A SAFETY ISSUE I WILL NOT IGNORE.

I HOPE THE CITY WILL WALK DOWN COVINGTON AND REALIZE THE SAFETY ISSUE. AND ALSO MEADVILLE FOR THIS EXPANSION IS OUT OF CONTROL...IT HAS MOVED FROM THEATRE TO A SEPARATOR RESTAURANT/EVENT CENTER.

IF THE CITY IGNORES MY PLEA I WILL GO TO WHATEVER DEPARTMENT IN THE STATE TO PLEAD MY CASE.

THANK YOU FOR YOUR TIME, T.WHITE

952-922-4897

reddypower2@hotmail.com



Agenda Number: **6C**

Agenda Date: **01-06-16**

Prepared by Deb Kind

Agenda Item: 2nd Reading: Ord 245, Accessory Structures and Uses and Res 03-16, Summary of Ord 245 for Publication

Summary: The 1st reading of the ordinance was approved with revisions at the 10-07-15 city council meeting. At the 11-04-15 meeting, the city council continued the 2nd reading of the ordinance in order to allow time to schedule a worksession to discuss the city attorney's recommendations. The city council held a worksession on 11-10-15 to discuss the city attorney's recommendations. The city council discussed the revised ordinance and additional revisions at a worksession held on 12-02-15. At the regular meeting on 12-02-15, the city council approved a motion to continue the 2nd reading to allow time for the ordinance to be revised. The updated 12-05-15 draft of the ordinance is attached. Also attached is resolution 03-16, a summary of ordinance 245 for publication.

Timeline:

- ~~09-09-15~~ Deadline for the draft of the ordinance for inclusion in the planning commission packet.
- ~~09-16-15~~ Planning commission holds public hearing and makes a recommendation to the city council.
- ~~10-07-15~~ City council considers 1st reading of the ordinance (may make revisions).
- ~~11-04-15~~ City council continued 2nd reading of the ordinance.
- ~~11-10-15~~ City council held a worksession to discuss city attorney's recommendations.
- 01-06-16 City council considers 2nd reading of the ordinance (may make revisions).
- 01-07-16 The ordinance is submitted to the Sun-Sailor for publication.
- 01-14-16 The ordinance is published in the Sun-Sailor (goes into effect on this date).

Council Action: No action required. Suggested motions ...

1. I move the city council approves the 2nd reading of ordinance 245 regarding accessory structures and uses dated 12-05-15 (with the following revisions: _____).
2. I move the city council approves resolution 03-16, a summary of ordinance 245 for publication.
3. Do nothing or other motion?

Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. Ordinances go into effect once they are published in the city's official newspaper. The planning commission must review and make a recommendation to the city council regarding any changes to the zoning code chapter 11. A public hearing, typically held by the planning commission, also is required for changes to chapter 11.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE CODE CHAPTER 11 REGARDING
SETBACKS AND GENERAL REGULATIONS FOR ACCESSORY STRUCTURES AND USES**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1102.00 Definitions is hereby amended to add the following new and amended definitions:

“Air Conditioner means a device that lowers the air temperature by compressor, refrigeration cycle, evaporation, or free cooling.”

“Arbor means an open a structure of vertical posts or lattice that supports cross-beams or an archway, often serving as a gate or entrance, and typically covered with trained climbing or trailing plants.”

“Awning means a sheet of canvas or other material attached to a principal or accessory structure that is used to keep the sun or rain off a window, doorway, deck, or patio.”

“Building Line means a line parallel to a lot line at the applicable zone building setback, or the foundation line of the principal building on the lot, whichever is greater.”

“Deck means an unenclosed roofless horizontal surface constructed of any material (including class 5 gravel) greater than 2 square feet in area or greater than 10 square feet in a 50 square foot area of a lot. (THIS DEFINITION APPEARS UNDER “PATIO, SLAB” AND “DECK”)”

“Driveway means a horizontal surface constructed of any material greater than 10 square feet in area within any 100 square foot area of a lot that is used for driving or parking vehicles thereon. (THIS DEFINITION APPEARS UNDER “DRIVEWAY” AND “PARKING PAD”)”

“Driveway Monument Post means a an upright shaft or structure of stone, brick, or other material, relatively slender in proportion to its height used as a monument to define the entrance to a driveway. Frequently has a light or finial on top.”

“Fire Pit means a ~~hole dug into the ground or a freestanding metal vessel~~ location in which a contained outdoor fire is made.”

“Generator means a machine or engine that can produce electrical energy.”

“Monument Sign means any freestanding sign mounted on the ground or mounted on a base that is attached to the ground. (SIGNS 1140) ”

“Outdoor Fireplace means a brick, stone, or metal-lined structure with a chimney where fuel is burned and is located outdoors. Outdoor fireplaces may be built-in (secured to a foundation or slab), or a freestanding item of movable personal property.”

“Outdoor Kitchen means a counter with a grill, range, or other heating source located outdoors. Outdoor kitchens may be built-in (secured to a foundation or slab), or a freestanding item of movable personal property.”

“Parking Pad means a horizontal surface constructed of any material greater than 10 square feet in area within any 100 square foot area of a lot that is used for driving or parking vehicles thereon. (THIS DEFINITION APPEARS UNDER “DRIVEWAY” AND “PARKING PAD”)”

“Patio, Slab means an unenclosed roofless horizontal surface constructed of any material greater than 2 square feet in area or greater than 10 square feet in a 50 square foot area of a lot. (THIS DEFINITION APPEARS UNDER “PATIO, SLAB” AND “DECK”)”

“Pergola means an open a structure of vertical posts or lattice that supports cross-beams, typically covered with trained climbing or trailing plants.”

“Play Structure means a frame for children to play on, typically including one or more swings and a slide. (THIS DEFINITION APPEARS UNDER “SWING SET” AND “PLAY STRUCTURE”) ”

“Sidewalk, Path, Walkway, Trail (hereinafter “sidewalk”) means a horizontal surface constructed of any building or surfacing material greater than 2 square feet in area or greater than 10 square feet in a 50 square foot area of a lot used for pedestrian traffic including walking, biking, etc.”

“Sport Court means a horizontal surface area made of any material on which tennis or other sports are played. (THIS DEFINITION APPEARS UNDER “SPORT COURT” AND “TENNIS COURT”)”

Structure means anything constructed or erected, the use of which requires a location on the ground or attachment to something having a location on the ground. The word “structure” includes the word “building” as defined in this section.”

Structure (Floodplain) When used in the context of the floodplain ordinance section 1174, structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers / vehicles not meeting the exemption criteria specified in section 1174 and other similar items.”

Structure (Primary Accessory) means an uninhabited subordinate building or other subordinate structure that has a footprint that is greater than 36 square feet, is located on the same lot as a principal structure, and the use is clearly subordinate to the use of the principal structure. Examples of accessory structures / uses include, but are not limited to, detached garages, sheds, and storage buildings.”

Structure (Principal) means the structure or building which represents the primary building or use of a given lot as permitted under the zoning code.”

Structure (Secondary Accessory) means an uninhabited subordinate structure, equipment, or personal property that is located on the same lot as a principal structure whose use or enjoyment is supplementary to the use of a principal structure or a primary accessory structure. Examples of secondary accessory structures / uses include, but are not limited to, patios, decks, slabs, driveways, parking pads, sidewalks, air conditioners, generators, fire pits, outdoor fireplaces, outdoor kitchens, swimming pools, hot tubs, spas, tennis courts, sport courts, play structures, swing sets, monument signs (commercial properties), pergolas, arbors, trellises. (SEE THE ALPHABETICAL LISTINGS IN THIS SECTION 1102 FOR DEFINITIONS OF EACH OF THESE ITEMS)”

Structure (Water-Oriented Accessory) Pursuant to Minnesota state rule 6120.2500, water-oriented accessory structure means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures include, but are not limited to, boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.”

Swimming Pool, Hot Tub, Spa means a structure made of any material that is filled with water and used for swimming, soaking, or bathing. Such may be built into the ground or freestanding.”

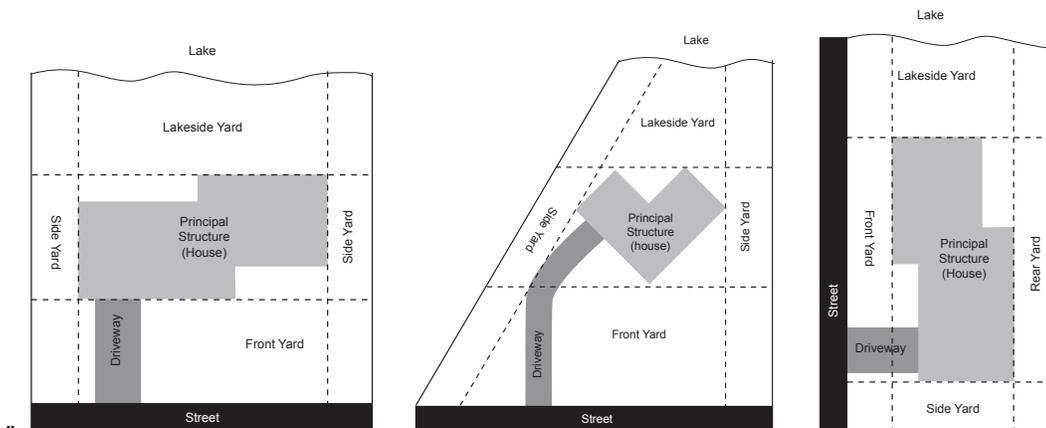
Swing Set means a frame for children to play on, typically including one or more swings and a slide. (THIS DEFINITION APPEARS UNDER “SWING SET” AND “PLAY STRUCTURE”) ”

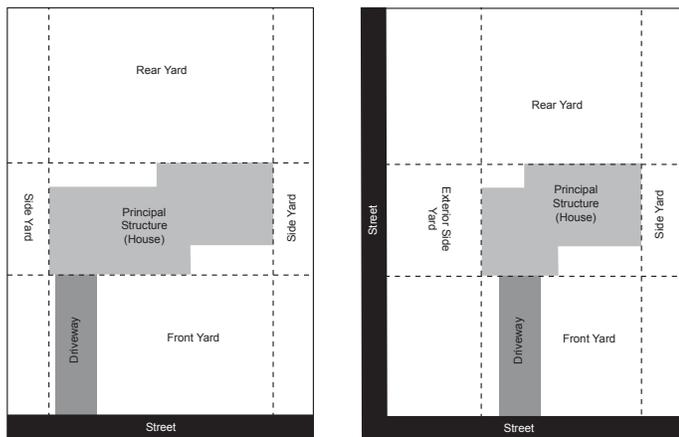
Tennis Court means a horizontal surface area made of any material on which tennis or other sports are played. (THIS DEFINITION APPEARS UNDER “SPORT COURT” AND “TENNIS COURT”) ”

Trellis means a vertical structure made from an open framework or lattice of intersecting pieces of any material typically covered with trained climbing or trailing plants.”

Yard means unobstructed space, subject only to lawfully permitted accessory structures and uses (both primary and secondary) on the same lot with a building, lying between the foundation wall of the principal structure and the lot lines.

The following illustrations show examples of yard locations:





“Yard (Front) means the space extending across the full width of the lot and lying between the edge of the public right-of-way open and actually used for travel and the nearest building line of the principal structure. The front property line, not the street pavement, shall be used for measuring the front yard setback. For principal structure or primary accessory structures, the foundation wall shall be used for measuring the setback. For secondary accessory structures, the closest edge of the structure shall be used for measuring the setback.”

“Yard (Exterior Side) means the space extending across the full width of the lot and lying between the edge of a second public right-of-way open and used for travel and the nearest building line of the principal structure. The property line, not the street pavement, shall be used for measuring the setback. For principal structure or primary accessory structures, the foundation wall shall be used for measuring the setback. For secondary accessory structures, the closest edge of the structure shall be used for measuring the setback. Properties with an exterior side yard(s) are referred to in this code as “corner lots.”

“Yard (Lake or Lakeside) means the space extending the full width of the lot and lying between the ordinary high water level of the lake and the nearest building line of the principal structure. In no event shall the lakeside yard be interpreted to coincide with definition of front yard contained herein. For principal structure or primary accessory structures, the foundation wall shall be used for measuring the setback. For secondary accessory structures, the closest edge of the structure shall be used for measuring the setback.”

“Yard (Rear) means the space between the rear property line and the nearest building line of the principal structure, for the full width of the lot. The rear yard typically is located opposite that of the front yard. For lots that front on 2 or more streets, the zoning administrator shall determine the location of the rear yard. For principal structure or primary accessory structures, the foundation wall shall be used for measuring the setback. For secondary accessory structures, the closest edge of the structure shall be used for measuring the setback.”

“Yard (Side) means the space between the side property line of the lot and the nearest building line of the principal structure extending the full length of the property. For principal structure or primary accessory structures, the foundation wall shall be used for measuring the setback. For secondary accessory structures, the closest edge of the structure shall be used for measuring the setback.”

SECTION 2.

Greenwood ordinance code section 1120.05 R-1A Permitted Uses is amended to read as follows:

“Section 1120.05. R-1A Permitted Uses.

No building shall be used or shall hereafter be erected, altered or converted in any manner, except as provided in section 1120 et seq. Permitted uses shall be:

Subd. 1. Principal Uses.

- (a) Single-family detached dwellings (excluding the leasing or renting of rooms).
- (b) Open area, parks and playgrounds owned and operated by a public agency, or by a home association for a subdivision or neighborhood.
- (c) Residential subdivisions, including streets, lighting, sanitary sewer service, and water service.
- (d) Uses mandated in state statutes as permitted uses.

Subd. 2. Primary Accessory Uses.

- (a) Private detached garages.

- (b) Tool house, sheds, and similar storage areas for domestic supplies.
- (c) Commonly accepted municipal playground equipment, and park shelter buildings.
- ~~(d) Swimming beaches.~~
- (d) Boat docks.
- (e) Home occupations as regulated by section 480.
- (f) Signs as regulated in section 1140 et seq.

Subd. 3. Secondary Accessory Uses.

- (a) Off-street parking, driveways, parking pads.
- (b) Play structures, swing sets.
- (c) Patios, decks, slabs, sidewalks.
- (d) Air conditioners, generators.
- (e) Fire pits, outdoor fireplaces, outdoor kitchens for the use and convenience of the resident and their guests.
- (f) Freestanding swimming pools, hot tubs, spas for the use and convenience of the resident and their guests.
- (g) Pergolas, arbors, trellises.

Subd. 4. Conditional Uses.

- (a) Public utilities including such items as electrical distribution station or any such similar structure located above ground.
- (b) Permanent in-ground swimming pools and spas for the use and convenience of the resident and their guests.
- (c) Tennis courts, sport courts.
- (d) Signs as regulated in section 1140 et seq.
- (e) Churches, chapels, synagogues, temples, and similar religious buildings.”
- (f) Uses mandated in state statutes as conditional uses.”

SECTION 3.

Greenwood ordinance code section 1122.05 R-1B Permitted Uses is amended to read as follows:

“Section 1122.05. R-1B Permitted Uses.

No building shall be used or shall hereafter be erected, altered or converted in any manner, except as provided in section 1122 et seq. Permitted uses shall be:

Subd. 1. Principal Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 2. Primary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 3. Secondary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 4. Conditional Uses.

- (a) Uses as permitted in the R-1A district.”

SECTION 4.

Greenwood ordinance code section 1123.05 R-1C Permitted Uses is amended to read as follows:

“Section 1123.05. R-1C Permitted Uses.

No building shall be used or shall hereafter be erected, altered or converted in any manner, except as provided in section 1123 et seq. Permitted uses shall be:

Subd. 1. Principal Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 2. Primary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 3. Secondary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 4. Conditional Uses.

- (a) Uses as permitted in the R-1A district.
- (b) Theater with Attached Restaurant.”

SECTION 5.

Greenwood ordinance code section 1125.05 R-2 Permitted Uses is amended to read as follows:

“Section 1125.05. R-2 Permitted Uses.

No building shall be used or shall hereafter be erected, altered or converted in any manner, except as provided in section 1125 et seq. Permitted uses shall be:

Subd. 1. Principal Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 2. Primary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 3. Secondary Accessory Uses.

- (a) Uses as permitted in the R-1A district.

Subd. 4. Conditional Uses.

- (a) Uses as permitted in the R-1A district.”

SECTION 6.

Greenwood ordinance code section 1120.15 R-1A Setbacks is amended to read as follows:

"Section 1120.15. R-1A Setbacks.

Subject to the provisions of section 1176 et seq., the following front, side, rear, and lake yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard	Side Yard	Exterior Side Yard (Corner Lot)	Rear Yard	Lake Yard
Single-Family Principal Structure	30 feet	15 feet	30 feet	35 feet	50 feet
Municipal Park Equipment & Buildings	50 feet	50 feet	50 feet	50 feet	Not Allowed
Public & Private Utilities	50 feet	100 feet	50 feet	100 feet	100 feet
Accessory Structures	See section 1140.10 for Accessory Structures and Uses (primary and secondary) Setbacks and General Regulations				

SECTION 7.

Greenwood ordinance code section 1122.15 R-1B Setbacks is amended to read as follows:

“Section 1122.15. R-1B Setbacks.

Subject to the provisions of section 1176 et seq., the following front, side, rear, and lake yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard	Side Yard	Exterior Side Yard (Corner Lot)	Rear Yard	Lake Yard
Single-Family Principal Structure	35	15	35	60	50
Municipal Park Equipment & Buildings	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Public & Private Utilities	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Accessory Structures	See section 1140.10 for Accessory Structures and Uses (primary and secondary) Setbacks and General Regulations				

SECTION 8.

Greenwood ordinance code section 1123.15 R-1C Setbacks is amended to read as follows:

“Section 1123.15. R-1C Setbacks.

Subject to the provisions of section 1176 et seq., the following front, side, rear, and lake yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard	Side Yard	Exterior Side Yard (Corner Lot)	Rear Yard
Single-Family Principal Structure	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Municipal Park Equipment & Buildings	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Public & Private Utilities	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Accessory Structures	See section 1140.10 for Accessory Structures and Uses (primary and secondary) Setbacks and General Regulations			

Land Use	Front Yard (Southerly Yard - Parking Lot)	Side Yard (Easterly Yard - Trail)	Exterior Side Yard (Westerly Yard)	Rear Yard (Northerly Yard - Pond)
Theater with Attached Restaurant	180 feet	15 feet	50 feet	Per Watershed Rules
Theater with Attached Restaurant <u>Primary</u> Accessory Structures	Not-Allowed 180 feet	10 feet	35 feet	Per Watershed Rules
Theater with Attached Restaurant <u>Secondary</u> Accessory Structures	See section 1140.10 subd. 2C for Setbacks and General Regulations for Secondary Accessory Structures and Uses			

SECTION 9.

Greenwood ordinance code section 1125.15 and R-2 Setbacks is amended to read as follows:

“Section 1125.15. R-2 Setbacks.

Subject to the provisions of section 1176 et seq., the following front, side, rear, and lake yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard	Side Yard	Exterior Side Yard (Corner Lot)	Rear Yard	Lake Yard
Single-Family Principal Structure	30 feet	10 feet	30 feet	35 feet	50 feet
Municipal Park Equipment	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Public & Private Utilities	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A	Same as R-1A
Accessory Structures	See section 1140.10 for Accessory Structures and Uses (primary and secondary) Setbacks and General Regulations				

SECTION 10.

Greenwood ordinance code section 1120.20 and R-1A Building Minimum Requirements is amended to read as follows:

“Section 1120.20. R-1A Building Minimum Requirements.

Subd. 1. Principal structures in the district shall:

- (a) not exceed 28 feet in building height and 42 feet in structure height,
- (b) be of a minimum width of 25 feet,
- (c) have a minimum floor space of 800 square feet,
- (d) be supported by foundation walls and frost footings of 42 inches in depth or current state building code, requirements whichever is greater,
- (e) meet all current standards of city building codes and appendices,
- (f) be served with a private garage and hard-surfaced (see section 1140.46) driveway to the public street.

Subd. 2. Primary accessory structures in the district shall:

- (a) be limited to 1 private garage, and 1 tool house shed or similar storage building per principal structure,

- (b) not exceed 15 feet in building height,
- (c) have a maximum combined floor space of all primary accessory structures on the lot of 1,000 square feet and in no event shall the accessory structures of private garage, tool house shed, and similar storage buildings combined exceed 60% of the total at-grade, main floor square footage of the principal structure,
- (d) meet all current standards of city building codes and appendices.”

SECTION 11.

Greenwood ordinance code section 1122.20 and R-1B Building Minimum Requirements is amended to read as follows:

“Section 1122.20. R-1B Permitted Uses.

Subd. 1. Principal structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

Subd. 2. Primary accessory structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

SECTION 12.

Greenwood ordinance code section 1123.20 and R-1C Building Minimum Requirements is amended to read as follows:

“Section 1123.20. R-1C Permitted Uses.

Subd. 1. Principal structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

Subd. 2. Primary accessory structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

SECTION 13.

Greenwood ordinance code section 1125.20 and R-2 Building Minimum Requirements is amended to read as follows:

“Section 1125.20. R-2 Permitted Uses.

Subd. 1. Principal structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

Subd. 2. Primary accessory structures in the district shall:

- (a) Minimum requirements as listed in the R-1A district.

SECTION 14.

Greenwood ordinance code section 1140.10 is amended to read as follows:

“Section 1140.10. Setbacks and General Regulations for Accessory Structures and Uses (Primary and Secondary).

Subd. 1. Purpose. To preserve (1) the public safety and welfare, (2) the enjoyment of property, (3) property values, and (4) to prevent adverse impacts arising from overcrowding or competing uses associated with the placement of accessory structures and uses, the city has determined that the below setbacks and regulations are necessary to protect the public welfare of the city.

Subd. 2. Setback Standards for Accessory Structures and Uses (Primary and Secondary).

- A. *Unobstructed Green Space Perimeter Requirement.* All lots shall establish and maintain a 2-foot wide green space perimeter of open yard space along all lot lines (boundary lines) free of all accessory structures and uses (primary and secondary), subject only to (a) the right angle traversing of same by driveway, parking pad, or sidewalk, (b) code compliant authorized fences, and (c) code compliant authorized lakeside improvements.
- B. *Primary Accessory Structures and Uses Setback Minimums - Residential Zones.* Subject to the Unobstructed Green Space Perimeter Requirement (subd. 2A above), the minimum yard setback for all primary accessory structures / uses in residential zones R-1A, R-1B, R-1C, and R-2, inclusive, (as same are defined in this code including sections 1120, 1122, 1123, and 1125), are as follows:

	Front Yard Setback	Side Yard Setback	Exterior Side Yard Setback (Corner Lot)	Rear Yard Setback	Lakeside Yard Setback
Primary Accessory Structures - Residential Zones (see sections 1120.20, 1122.20, 1123.20, 1125.20 for more regulations)	100 feet	10 feet	30 feet	10 feet	50 feet

C. *Secondary Accessory Structures and Uses Setback Minimums.* Subject to the Unobstructed Green Space Perimeter Requirement (subd. 2A above), for each of the specific secondary accessory structures / uses identified in the table below, the minimum yard setbacks stated therein shall control and supersede the setback minimums for primary accessory structures stated in subd. 2B above. See section 1102 for definitions.

	Front Yard Setback	Side Yard Setback	Exterior Side Yard Setback (Corner Lot)	Rear Yard Setback	Lakeside Yard Setback
Driveways, Parking Pads (see section 1140.46)	0 feet	5 feet	0 feet	10 feet	50 feet
Driveway Monument Posts (see subd. 8 below)	2 feet	5 feet	2 feet	Not allowed	Not allowed
Fire Pits (built-in or freestanding)	50 feet	5 feet	30 feet	10 feet	10 feet
Monument Signs (for commercially-regulated properties only, see section 1140.40 subd 8(d) for more regulations)	2 feet	10 feet	2 feet	Not allowed	Not allowed
Outdoor Fireplaces, Outdoor Kitchens (built-in or freestanding)	50 feet	5 feet	30 feet	10 feet	35 feet
Patio, Deck, Slabs – less than 30 inches in height at all points, excluding railing, pergola, etc.	50 feet	5 feet	30 feet	10 feet	35 feet
Patio, Deck, Slabs – 30+ inches in height at any point, excluding railing, pergola, etc.	50 feet	10 feet	30 feet	10 feet	50 feet
Pergolas, Arbors, Trellises (see subd 4 below)	20 feet	5 feet	30 feet	10 feet	35 feet
Sidewalks (see subd. 5 below)	0 feet	5 feet	0 feet	10 feet	0 feet
Sport Courts, Tennis Courts (see subd. 6 below)	50 feet	10 feet	30 feet	10 feet	50 feet
Swimming Pools, Hot Tubs – freestanding	50 feet	5 10 feet	30 feet	10 feet	35 feet
Swimming Pools, Spas – in-ground (see subd. 7 below)	50 feet	10 feet	30 feet	10 feet	50 feet
Miscellaneous Secondary Accessory Structures Not Listed Above – 2 square feet footprint or greater (see subd. 9 below)	Setbacks determined as part of conditional use permit process				

Subd. 3. Proximity and Attachment of Primary Accessory Structures to Principal Structures. If a primary accessory structure is attached or physically connected to the main principal structure by any means, utility connections excepted, it shall be deemed a part of the main principal structure and shall comply in all respects with the requirements of the zoning ordinance applicable to the principal structure. No primary accessory structure shall be closer than 5 feet to the principal structure. No primary accessory structure may be attached to and / or made a part of the principal structure, if so doing would cause the principal structure to become noncompliant with the setbacks applicable to the principal structure.

Subd. 4. Pergolas, Arbors, and Trellises. Must meet the setback requirements in subd. 2C above. The maximum height for a pergola or arbor is ~~10~~ **12** feet. The maximum total combined square feet **footprint** per property for pergolas or arbors located in a garden, in a grassy area, or over a sidewalk is 100 square feet. The maximum total combined square foot per property for pergolas located over decks or patios that are compliant with the setbacks in subd. 2C above is 400 square feet. ~~The maximum total combined linear feet per property for trellises located in a garden or grassy area is 50 feet. Trellises up to 2 additional feet in height may be added as a decorative element to a code compliant fence so long as the combined length of the trellises do not exceed 10% of the total length of the property line. In no case shall a Trellis exceed 8 feet in height unless it is attached to the principal structure or primary accessory structure.~~

Subd. 5. Sidewalks. Must meet the setback requirements in subd. 2C above. Sidewalks may exceed 4 feet in only one direction. If adjacent to lakeshore, sidewalks must be perpendicular (not parallel) to the shoreline.

Subd. 6. Sport Courts and Tennis Courts. Must meet the setback requirements in subd. 2C above. A conditional use permit is required for all sport courts and tennis courts subject to reasonable conditions for the protection of public safety, health, and welfare.

Subd. 7. In-Ground Swimming Pools and In-Ground Spas. Must meet the setback requirements in subd. 2C above. All equipment related to operation or maintenance of an in-ground pool or in-ground spa must comply with the setbacks. A conditional use permit is required for all in-ground pools and in-ground spas subject to reasonable conditions for the protection of public safety, health, and welfare.

Subd. 8. Driveway Monument Posts. Must meet the setback requirements in subd. 2C above. A maximum of 2 posts are allowed per driveway entrance (1 post on each side of the driveway). The maximum dimensions for each driveway monument post is 3 feet wide, 3 feet deep, 7 feet tall including a light or finial.

Subd. 9. Miscellaneous Secondary Accessory Structures. A conditional use permit is required for secondary accessory structures that have a 2 square feet footprint or greater and are not listed on the table in subd. 2C above. Miscellaneous secondary accessory structures are subject to reasonable conditions for the protection of public safety, health, and welfare.”

SECTION 15.

Greenwood ordinance code section 1140.11 “Swimming Pool Standards” repealed in its entirety.

SECTION 16.

Greenwood ordinance code section 1140.20 is amended to read as follows:

“Section 1140.20. Yard Regulations.

The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance. Measurements shall be taken from the nearest point of the structure (foundation wall of a building) to the lot line in question, subject to the following qualifications:

Subd. 1. Determination of Yard Locations. For lots that front on 2 or more public right-of-ways (corner lots), the zoning administrator shall determine the location of the front yard, exterior side yard, and rear yard.

Subd. 2. Limit on Front Yard and Exterior Side Yards. No lot shall be required to provide more than 1 front yard or more than 1 exterior side yard setback.

Subd. 3. Buildable Width of Lots. The front yard setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than 30 feet.

Subd. 4. Yards for Open Land Uses. Where a lot is to be occupied for permitted use without buildings or structures thereon, the side yards and front yards required herein for the zone within which such lot is located, shall be provided and maintained between such use and the respective lot lines; provided that side and rear yards shall not be required on lots without buildings or structures, used for garden purposes or public playgrounds.

Subd. 5. Regulations of Obstructions in Required Yards.

- A. *Obstructions in Front or Exterior Side Yards*. The required front yard or exterior side yard (corner lots) shall not contain any wall, fence, structure, tree, shrub, or other growth that may cause danger to traffic on a public street by obscuring the view.
- B. *Air Conditioners and Generators*. Must be located within 5 feet of the wall of a principal structure or accessory structure. May encroach into a required yard setback as long as there is a minimum of a 5-foot setback from the property line. Generators over 20kw require a conditional use permit subject to reasonable conditions for the protection of public safety, health, and welfare.
- C. *Awnings*. Must extend no more than 4 feet from the wall of a principal structure or accessory structure. May encroach into a required yard setback as long as there is a minimum of a 5-foot setback from the property line.
- D. *Eaves and Gutters*. ~~Must extend no more than 30 inches from the wall of a principal structure or accessory structure. May encroach into a required yard setback as long as there is a minimum of a 5-7.5 foot setback from the property line.~~ Eaves and gutters encroaching into a required yard setback may extend no more than 30 inches from the wall of a principal structure or accessory structure. Eaves and gutters may encroach into a required yard setback as long as there is a minimum of a 7.5-foot setback from the property line. Gutter downspouts may encroach up to 5 feet into a yard setback.
- E. *Fire Escapes*. Open or lattice enclosed fire escapes or fireproof outside stairways may project into a required yard setback up to 2 feet as long as there is a minimum of a 5-8-foot setback from the property line.”

SECTION 17.

Greenwood ordinance code section 1140.46 “Driveways” is amended to read as follows:

“Section 1140.46. Driveways and Parking Pads.

Subd. 1. Purpose. The city finds that sand, gravel, and dirt from driveways and parking pads are a source of uncontrolled eroded sediment and outwash upon the streets and roads of the community. Furthermore, that such uncontrolled material is a hazard to pedestrians, vehicles, and the public welfare in general by creating an uncertain and varied surface on the traveled portion of the community streets and roads; that the material is carried by surface waters and deposited upon

lowlands, wetlands and lakes of the community, thereby adding unnecessary sediment and deleterious material to the community water sources. Wherefore the lowlands, wetlands, and lakes of the city and the safety of travelers upon the community streets and roads must be protected in the interest of the public health, safety and welfare. Therefore, the city has determined that the standards set forth below are necessary to protect the health, safety, and welfare of the city.

Subd. 2. Standards for Driveways and Parking Pads. Each residential lot shall be limited to one 24-foot curb cut for a driveway. If curb cuts are a minimum of 48 feet apart, an additional 24-foot curb cut for a driveway or parking pad **shall may** be allowed with a conditional use permit subject to reasonable conditions for the protection of public safety, health, and welfare.

Subd. 3. Surface Materials for Driveways and Parking Pads. All driveways and parking pads that abut public streets shall be constructed with bituminous blacktop, cement, brick pavers, or similar material in such a manner as to eliminate areas of open sand, gravel, or dirt.”

~~Subd. 4. Proscriptions.~~

- ~~A. Inspections. All driveways shall be subject to inspection by the city building inspector. The city building inspector shall issue a warning to any property owner who fails to comply with the provisions of this ordinance. The warning shall notify the owner of the provisions of this ordinance and direct that the property owner bring their property into compliance or face a fine. Upon the issuance of a warning to the property owner, all driveways on their property shall be brought into compliance within 30 days or a day certain set by the city building inspector not to be less than 30 days from the date of the warning. A violation of this section is a misdemeanor.~~
- ~~B. Fines shall be waived upon presentation to the city clerk of a contract or other suitable evidence of intent to comply on a day certain. Such extension shall not exceed 30 days beyond the termination of the warning period.~~
- ~~C. Variances. Upon the recommendation of the city building inspector the city council may grant a variance where compliance would cause an undue hardship or it is determined that a driveway may be partially paved and achieve the purposes of this ordinance. Variances shall be subject to periodic review and revocation where an abuse of the granted variance is found or financial circumstances of the owner change.~~

SECTION 18.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this ___ day of _____, 2015.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk

First reading: October 7, 2015
Second reading: _____, 2016
Publication: _____, 2016

RESOLUTION 03-16

**A RESOLUTION APPROVING PUBLICATION
OF ORDINANCE NUMBER 245 BY TITLE AND SUMMARY**

WHEREAS, on January 6, 2016, the city council of the city of Greenwood adopted "Ordinance 245 amending Greenwood ordinance code chapter 11 Regarding Setbacks and General Regulations for Accessory Structures and Uses"

WHEREAS, the city council has prepared a summary of ordinance 245 as follows:

1. The purpose of this ordinance is to add new definitions, clarify old definitions, establish setbacks, and establish general regulations regarding primary and secondary accessory structures / uses to preserve (1) the public safety and welfare, (2) the enjoyment of property, (3) property values, and (4) to prevent adverse impacts arising from overcrowding or competing uses associated with the placement of accessory structures and uses.
2. The ordinance includes a new Unobstructed Green Space Perimeter Requirement that states: "All lots shall establish and maintain a 2-foot wide green space perimeter of open yard space along all lot lines (boundary lines) free of all accessory structures and uses (primary and secondary), subject only to (a) the right angle traversing of same by driveway, parking pad, or sidewalk, (b) code compliant authorized fences, and (c) code compliant authorized lakeside improvements."
3. The ordinance includes a new table that lists setback standards for the following: Primary Accessory Structures - Residential Zones; Driveways, Parking Pads; Driveway Monument Posts, Fire Pits; Monument Signs; Outdoor Fireplaces, Outdoor Kitchens; Pato, Deck, Slabs; Pergolas, Arbors, Trellises; Sidewalks; Sport Courts, Tennis Courts; Swimming Pools, Hot Tubs, Spas; and Miscellaneous Secondary Accessory Structures.
4. The ordinance includes general regulations for Pergolas, Arbors, and Trellises; Sidewalks; Sport Courts and Tennis Courts; In-Ground Swimming Pools and In-Ground Spas; Driveway Monument Posts; Miscellaneous Secondary Accessory Structures; and Driveways and Parking Pads.
5. The ordinance includes regulations of obstructions in required yards for Air Conditioners and Generators; Awnings; Eaves and Gutters; Fire Escapes.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD:

1. The city council finds that the above title and summary of ordinance 245 clearly informs the public of intent and effect of the ordinance.
2. The city clerk is directed to publish ordinance 245 by title and summary, pursuant to Minnesota statutes, section 412.191, subdivision 4.
3. A full copy of the ordinance is available at the Greenwood city office, 20225 Cottagewood Road, Deephaven, MN 55331.

ADOPTED by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2016.

___ AYES ___ NAYS

CITY OF GREENWOOD

Debra J. Kind, Mayor

Attest: Dana Young, City Clerk

First reading: October 7, 2015

Second reading: _____, 2016

Publication: _____, 2016



Agenda Number: 6D

Agenda Date: 01-06-16

Prepared by Dale Cooney

Agenda Item: Ordinance 249, Amending Greenwood Ordinance Sections 510, 1140.60, 1150.20, and 1155 Regarding Security Deposits / Agreements for Landscaping and for Conditions of Approved Variances and Conditional Use Permits

Summary: In October, the city council approved the 2nd reading of the updated fee schedule which increased the Landscaping Security Deposit amount to 2% of the building permit value and also added language to allow the property owner to sign a Landscaping Security Agreement as an alternative to a Deposit. The city attorney advises that body of the city code also needs to be revised.

Planning Commission Action: On 12-16-15, the Planning Commission held a public hearing and made the following recommendation to the city council:

Commissioner Bechtell motioned that the Planning Commission recommend adopting Ordinance No. 249: An Ordinance of the City Of Greenwood, Minnesota Amending Greenwood Ordinance Greenwood Code Chapter 1100 Regarding Security Deposits / Agreements for Landscaping and for Conditions of Approved Variances and Conditional Use Permits, as written. Motion seconded by Commissioner Conrad. Motion carried 5-0.

Timeline:

- 11-04-15 City council discusses the ordinance (may make revisions).
- 12-16-15 Planning commission reviews and makes a recommendation regarding the ordinance.
- 01-06-16 City council considers 1st reading of the ordinance (may make revisions, may waive 2nd reading).
- 01-07-16 The ordinance is submitted to the Sun-Sailor for publication.
- 01-14-16 The ordinance is published in the Sun-Sailor (goes into effect on this date).
- 02-03-16 If 2nd reading is not waived, the city council considers 2nd reading.
- 02-04-16 The ordinance is submitted to the Sun-Sailor for publication.
- 02-11-16 The ordinance is published in the Sun-Sailor (goes into effect on this date).

Council Action: None required. Suggested motions ...

1. I move the city council approves the 1st reading of ordinance 249 regarding security deposits and agreements (with the following changes: _____).
2. I move the city council waives the 2nd reading of ordinance 249 and directs the city clerk to submit the ordinance to the Sun-Sailor for publication on 01-14-16.
3. Do nothing or other motion?

Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. Ordinances go into effect once they are published in the city's official newspaper. The planning commission must review and make a recommendation to the city council regarding any changes to the zoning code chapter 11. A public hearing, typically held by the planning commission, also is required for changes to chapter 11.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE SECTIONS 510, 1140.60, 1150.20, AND 1155 REGARDING SECURITY
DEPOSITS / AGREEMENTS FOR LANDSCAPING AND FOR CONDITIONS OF APPROVED VARIANCES AND
CONDITIONAL USE PERMITS**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1140.60, subd. 2 is amended to read as follows:

"Subd. 2. Landscaping.

- A) *Landscaping Required.* Within all zoning districts, exposed ground areas surrounding a principal or accessory use, including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscaping material deemed adequate by the zoning administrator to secure the top soils and prevent accelerated or undue runoff. The property owner shall maintain all landscaped areas to be compatible with the neighborhood. No landscaped area in the C-1 and C-2 districts shall be used for the parking of vehicles or the storage or display of materials, supplies, or merchandise.
- B) *Landscaping Security Deposit.* No "occupancy permit" (new construction) or "final inspection" (remodeling) shall be issued unless landscaping required hereunder is completed or the property owner first submits to the city clerk a Landscaping Security Deposit by cashier's check or certified check in the amount of set forth in chapter 5 payable to the city as security for the completion of the required landscaping within 12 months from the date of the occupancy permit / final inspection to be then issued. The deposit is refundable if the required landscaping is completed within 12 months.
- C) *Landscaping Security Agreement.* As an alternative to a Landscaping Security Deposit as provided in paragraph B above, the property owner may enter into a Landscaping Security Agreement in form as provided by the city. By entering into Security Agreement the property owner agrees that if the landscaping is not completed within 12 months of the issuance of the occupancy permit (new construction) or final inspection (remodeling projects), whichever is applicable, then all applicable fees and fines may be certified to the county to be collected with property taxes. No fees or fines will be certified to the county if the required landscaping is completed within 12 months.
- D) *Non-Performance.* In the event a property owner fails to complete the required landscaping within 12 months of the date of the Landscaping Security Deposit or Landscaping Security Agreement, a portion of said deposit / security amount shall be deemed forfeited to the city as a fine in the amount set forth in chapter 5 and shall be duly imposed and due and payable to the city for lack of timely performance. For each month thereafter (or part thereof) during which the required landscaping remains uncompleted in a manner satisfactory to the city zoning administrator, the city may impose a like fine and forfeit same to the city. The property owner shall, within 10 days of written demand directed to the property owner's last known address of record, pay said amount to the city. In the event the property owner fails to timely pay, the fine amount shall be certified to the county for assessment and collection with the property taxes due on the subject property. In that event, the city may add thereto an administrative processing fee as provided in chapter 5. The annual public hearing held prior to certification of unpaid assessments and service fees shall be the due process hearing at which the property owner may object to the fine / forfeiture / assessment hereunder in whole or part.
- E) *Prosecution, Civil Enforcement, and Injunctive Relief for Non-Performance.* Non-performance of the required landscaping is hereby deemed a violation of the zoning code and is subject to prosecution. No term or condition of a Security Deposit or Security Agreement shall bar the city from prosecuting individuals for non-performance of the terms and conditions of the required landscaping. The city may take such enforcement action as it deems necessary and appropriate to prosecute violations of same and also may seek civil injunctive relief, including an order for specific performance, for failure to complete the required landscaping as the city may deem necessary. The fact that a property owner has entered into a Security Deposit or Security Agreement shall not be a defense to, nor bar or prevent municipal prosecution or civil court action against same in the event of a property owner's non-performance of required landscaping."

SECTION 2.

Greenwood ordinance code section 1150.20 in the Conditional Use Permits section of the code is amended to add the following subdivisions:

"Subd. 4. *Completion of Conditions Required.* Timely completion and performance of conditions, including but not limited to landscaping and lighting plans, required and / or imposed as a condition of the grant of a conditional use permit are necessary to (1) preserve and protect the public health, safety, and welfare of the city, and (2) for the protection of the

neighboring property owners and the public in general from the adverse affects, physical and / or visual impacts of conditionally authorized improvements if required / imposed conditions are allowed to be left unfinished or incomplete.

Subd. 5. *Security Deposit.* The city is not obligated to issue an occupancy permit (new construction) or final inspection (remodeling) for a property prior to satisfactory completion of all conditions which may have been imposed upon an approved conditional use permit. Prior to the issuance of an occupancy permit / final inspection, the property owner shall complete all required conditions or submit a Security Deposit in the form of cashier's check or certified check in the amount set forth in chapter 5 payable to the city as security to assure timely performance and full implementation of any and all conditions of an approved conditional use permit within 12 months from the date the occupancy permit / final inspection to be then issued. The deposit is refundable if the required conditions are completed within 12 months.

Subd. 6. *Security Agreement.* As an alternative to a Security Deposit as provided in subdivision 5 above, the property owner may enter into a Security Agreement in form as provided by the city. By entering into Security Agreement the property owner agrees that if the conditions are not completed within 12 months of the issuance of the occupancy permit (new construction) or final inspection (remodeling projects), whichever is applicable, then all applicable fees and fines may be certified to the county to be collected with property taxes. No fees or fines will be certified to the county if the required conditions are completed within 12 months.

Subd. 7. *Non-Performance.* In the event a property owner fails to complete the required conditions within 12 months of the date of the Security Deposit or Security Agreement, a portion of said deposit / security amount shall be deemed forfeited to the city as a fine in the amount set forth in chapter 5 and shall be duly imposed and due and payable to the city for lack of timely performance. For each month thereafter (or part thereof) during which the required conditions remain uncompleted in a manner satisfactory to the city zoning administrator, the city may impose a like fine and forfeit same to the city. The property owner shall, within 10 days of written demand directed to the property owner's last known address of record, pay said amount to the city. In the event the property owner fails to timely pay, the fine amount shall be certified to the county for assessment and collection with the property taxes due on the subject property. In that event, the city may add thereto an administrative processing fee as provided in chapter 5. The annual public hearing held prior to certification of unpaid assessments and service fees shall be the due process hearing at which the property owner may object to the fine / forfeiture / assessment hereunder in whole or part.

Subd. 8. *Prosecution, Civil Enforcement, and Injunctive Relief for Non-Performance.* Non-performance of the terms and conditions of a conditional use permit are hereby deemed violations of the zoning code and are subject to prosecution. No term or condition of a Security Deposit or Security Agreement shall bar the city from prosecuting individuals for non-performance of the terms and conditions of a conditional use permit. The city may take such enforcement action as it deems necessary and appropriate to prosecute violations of same and also may seek civil injunctive relief, including an order for specific performance, for failure to comply with or perform the terms and conditions of a conditional use permit as the city may deem necessary. The fact that a property owner has entered into a Security Deposit or Security Agreement shall not be a defense to, nor bar or prevent municipal prosecution or civil court action against same in the event of a property owner's non-performance of the underlying terms and conditions of a conditional use permit.”

SECTION 3.

Greenwood ordinance code section 1155 regarding Variances is amended to add the following section:

“1155.17. Completion of Conditions, Security Deposit, and Security Agreement.

Subd. 1. *Completion of Conditions Required.* Timely completion and performance of conditions, including but not limited to landscaping and lighting plans, required and / or imposed as a condition of the grant of a variance are necessary to (1) preserve and protect the public health, safety, and welfare of the city, and (2) for the protection of the neighboring property owners and the public in general from the adverse affects, physical and / or visual impacts of conditionally authorized improvements if required / imposed conditions are allowed to be left unfinished or incomplete.

Subd. 2. *Security Deposit.* The city is not obligated to issue an occupancy permit (new construction) or final inspection (remodeling) for a property prior to satisfactory completion of all conditions which may have been imposed upon an approved variance. Prior to the issuance of an occupancy permit / final inspection, the property owner shall complete all required conditions or submit a Security Deposit in the form of cashier's check or certified check in the amount set forth in chapter 5 payable to the city as security to assure timely performance and full implementation of any and all conditions of an approved variance within 12 months from the date the occupancy permit / final inspection to be then issued. The deposit is refundable if the required conditions are completed within 12 months.

Subd. 3. *Security Agreement.* As an alternative to a Security Deposit as provided in subdivision 2 above, the property owner may enter into a Security Agreement in form as provided by the city. By entering into Security Agreement the property owner agrees that if the conditions are not completed within 12 months of the issuance of the occupancy permit (new construction) or final inspection (remodeling projects), whichever is applicable, then all applicable fees and fines may be certified to the county to be collected with property taxes. No fees or fines will be certified to the county if the required conditions are completed within 12 months.

Subd. 4. *Non-Performance*. In the event a property owner fails to complete the required conditions within 12 months of the date of the Security Deposit or Security Agreement, a portion of said deposit / security amount shall be deemed forfeited to the city as a fine in the amount set forth in chapter 5 and shall be duly imposed and due and payable to the city for lack of timely performance. For each month thereafter (or part thereof) during which the required conditions remain uncompleted in a manner satisfactory to the city zoning administrator, the city may impose a like fine and forfeit same to the city. The property owner shall, within 10 days of written demand directed to the property owner's last known address of record, pay said amount to the city. In the event the property owner fails to timely pay, the fine amount shall be certified to the county for assessment and collection with the property taxes due on the subject property. In that event, the city may add thereto an administrative processing fee as provided in chapter 5. The annual public hearing held prior to certification of unpaid assessments and service fees shall be the due process hearing at which the property owner may object to the fine / forfeiture / assessment hereunder in whole or part.

Subd. 5. *Prosecution, Civil Enforcement, and Injunctive Relief for Non-Performance*. Non-performance of the terms and conditions of a variance grant are hereby deemed violations of the zoning code and are subject to prosecution. No term or condition of a Security Deposit or Security Agreement shall bar the city from prosecuting individuals for non-performance of the terms and conditions of a variance grant. The city may take such enforcement action as it deems necessary and appropriate to prosecute violations of same and also may seek civil injunctive relief, including an order for specific performance, for failure to comply with or perform the terms and conditions of a variance grant as the city may deem necessary. The fact that a property owner has entered into a Security Deposit or Security Agreement shall not be a defense to, nor bar or prevent municipal prosecution or civil court action against same in the event of a property owner's non-performance of the underlying terms and conditions of a variance grant.”

SECTION 4.

Greenwood ordinance code section 510 table is amended to revise the Landscaping Security Deposit section to read as follows:

“

Type of License, Permit, or Fee	Section	Fee	Conditions & Terms
Security Deposit / Security Agreement for Landscaping	1140.60	The greater of \$1500 or 2% of the building value submitted on the building permit application. The fine is \$1000 for each month (or part thereof) after 12 months the landscaping or conditions remain uncompleted.	See section 1140.60 for more information (including details about the security agreement option).
Security Deposit / Security Agreement for Performance of Conditions of a Variance or Conditional Use Permit Grant	1140.60 1150.20 1155.17	Security Deposits / Agreements must be approved by the city council. If approved, the city council shall set the fee amount.	See sections 1150.20 (conditional use permits) or 1155.17 (variances) for more information (including details about the security agreement option).

”

SECTION 5.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this ___ day of _____, 2016.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk

First reading: _____, 2016
Second reading: _____, 2016
Publication: _____, 2016



Agenda Number: **6E**

Agenda Date: **01-06-16**

Prepared by Dale Cooney

Agenda Item: 1st Reading of Ordinance 251 Amending Chapter 11 Regarding City Forester, Hazard Trees, Variance Standards for Impervious Surface Regulations and Application Procedure for Mailing Lists

Summary: This ordinance addresses items that need to be “cleaned up” in our code, based on a list of items compiled by former zoning administrator Gus Karpas and new zoning administrator Dale Cooney. The ordinance addresses the following:

1. Moves the establishment of City Forester and Certified Tree inspector out of the Diseased Trees section of the code because the city forester’s authority is broader than just for diseased trees.
2. Defines Hazard Tree: a definition that is used in the new Dead, Dying, and Hazard Tree section.
3. Adds a section regarding Dead, Dying, and Hazard Trees in the Tree Ordinance where people will look for it. In the past, the city zoning administrator and city forester have relied on the public nuisance section of the code which does not specify common sense exceptions for dead, dying, or hazard trees (e.g. should not require a conditional use permit for removal, should not count towards annual permitted harvest, should not be subject to enforcement of Harvesting Without a Permit).
4. Clarifies the impervious surface variance standards apply to *legal* and *illegal* nonconforming landscape-related impervious surfaces. Adds the new 30+ inch standard for decks and patios. Deletes retaining walls from the variance landscape-related impervious surface list, because the city historically has not required retaining walls to be included in impervious hardcover calculations. Note: Deephaven and Woodland also do not count retaining walls as hardcover.
5. Deletes the requirement for variance applicants to provide mailing lists to the city. Mailings still are required by another section of the ordinance, but staff takes care of securing the mailing list.

Planning Commission Action: On 12-16-15, the Planning Commission held a public hearing and made the following recommendation to the city council:

Motion by Commissioner Bechtell that the Planning Commission recommended adopting Ordinance No. 251: An Ordinance of the City of Greenwood, Minnesota Amending Greenwood Ordinance Greenwood Code Chapter 1100 Regarding City Forester, Hazard Trees, Variance Standards for Impervious Surface Regulations and Application Procedure for Mailing Lists, as amended to include driveways as structural-related impervious surfaces within ordinance code section 1176.07.05, Subd. 4. Motion Seconded by Commissioner Sayer. Motion Carried 5-0.

Timeline:

- ~~12-02-15 City council discusses ordinance.~~
- ~~12-03-15 Public Hearing notice published in Sun-Sailor.~~
- ~~12-16-15 Planning commission holds public hearing, reviews ordinance, and makes recommendation~~
- 01-06-16 City council considers 1st reading of the ordinance (may make revisions).
- 01-07-16 If 2nd reading is waived, ordinance is submitted to the Sun-Sailor for publication.
- 01-14-16 If 2nd reading is waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).
- 02-03-16 City council considers 2nd reading of the ordinance (may make revisions).
- 02-04-16 If 2nd reading is not waived, ordinance is submitted to the Sun-Sailor for publication.
- 02-11-16 If 2nd reading is not waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).

Council Action: No action required. Potential motions ...

1. I move the city council approves the 1st reading of ordinance 251 as written (with the following revisions: ____).
2. I move the city council waives the 2nd reading of ordinance 251 and directs the city clerk to submit to the Sun-Sailor for publication.
3. Do nothing or other motion?

Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. Ordinances go into effect once they are published in the city’s official newspaper. The planning commission must review and make a recommendation to the city council regarding any changes to the zoning code chapter 11. A public hearing, typically held by the planning commission, also is required for changes to chapter 11.

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE ZONING CODE CHAPTER 11 REGARDING CITY FORESTER, HAZARD TREES, VARIANCE STANDARDS FOR IMPERVIOUS SURFACE REGULATIONS, AND VARIANCE APPLICATION PROCEDURE FOR MAILING LISTS

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1140 is amended to move 1140.85 Diseased Trees subdivisions 10 and 11 to new section 1140.79 and amend to read as follows:

“Section 1140.79. City Forester and Certified Tree Inspector.

Subd. ~~40~~ 1. *Position of City Forester.* The position of city forester is hereby created. The city council shall designate from time to time the person who shall perform the duties of city forester.

Subd. ~~44~~ 2. *Certified Tree Inspector.* The city council or city clerk may designate one or more persons who are certified by the commissioner of agriculture of the state of Minnesota to serve as certified tree inspector(s) for the city.”

SECTION 2.

Greenwood ordinance code section 1102 is amended to add the following definition:

“*Hazard Tree* means a dead or dying tree, dead parts of a live tree, or an unstable live tree (due to structural defects or other factors) that is within striking distance of people or property (a target). Hazard trees have the potential to cause property damage, personal injury, or fatality in the event of a failure.”

SECTION 3.

Greenwood ordinance code section 1140 is amended to add the following section:

“Section 1140.86. Dead, Dying, and Hazard Trees.

Subd. 1. *Hazard Trees.* The city forester shall perform inspections to determine whether trees are “hazard trees” (see section 1102 for definition) that need to be trimmed or removed. If the hazard tree is located on private property, the property owner is not required to secure a conditional use permit for removal within the shore impact zone or bluff impact zone (section 1140.80 subd 3A), the tree removal does not count towards the property's annual permitted harvest (section 1140.80 subd 3B), and the property owner is not subject to enforcement of “Harvesting Without a Permit” (section 1140.80 subd. 12B).”

Subd. 2. *Dead or Dying Trees.* If the city forester confirms or the property owner claims in a notarized signed statement that a tree was dead or dying prior to removal from private property, the property owner is not required to secure a conditional use permit for removal within the shore impact zone or bluff impact zone (section 1140.80 subd 3A), the tree removal does not count towards the property's annual permitted harvest (section 1140.80 subd 3B), and the property owner is not subject to enforcement of “Harvesting Without a Permit” (section 1140.80 subd. 12B).”

SECTION 4.

Greenwood ordinance code section 1176.07.05 subd 4 Impervious Surface Policies and Conditions paragraph 2 is amended to read as follows:

“2. Variance applicants shall provide a certified survey showing separate calculations for the items listed below for structural-related impervious surfaces and landscape-related impervious surfaces.

- Structural-related impervious surfaces include buildings, driveways, decks and patios 30+ inches in height, staircases, etc.
- Landscape-related impervious surfaces include sidewalks, steps, plastic landscaping sheets, patios or decks less than 30 inches in height, etc.

Legal and illegal nonconforming landscape-related impervious surfaces cannot be exchanged for an increase in structural-related impervious surfaces to obtain a variance from impervious surface requirements.”

SECTION 5.

Greenwood ordinance code section 1155.15 Variance Application Procedure subd 1(g) is amended to read as follows:

“(g) The application shall include verification that there are no delinquent property taxes, special assessments, interest or city utility fees due and owing upon the subject parcel.”

SECTION 6.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of Greenwood, Minnesota this ___ day of _____, 2016.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk

First reading: _____, 2016
Second reading: _____, 2016
Publication: _____, 2016



Agenda Number: 6F

Agenda Date: 01-06-16

Prepared by Tom Fletcher

Agenda Item: Discuss Variance Practical Difficulty Standards

Summary: What is a "Practical Difficulty"? Recently the City Council has had several variance requests, which involved substantial additions to preexisting building structures and entrances. In each case the request was based on the fact that the preexisting configuration of the structure and / or entrance was not suitable for the new owner's intended use and they were therefore requesting a significant variance. In every case below the property already had a substantial preexisting home:

- 21795 Minnetonka Boulevard – Addition of 702 sf garage to 1,825 sf footprint of existing 2 story home.
- 5025 Covington Street – Addition of front driveway for 3,820 sf footprint home with existing 1,390 sf driveway.
- St Albans Bay Island Property – Addition of substantial parking structure to entrance of home.

Based on the above, it is possible that an end-run around the intent of the Greenwood Zoning code is occurring with purchasers of existing homes. Deficiencies are cited with the lot when in fact it is adequately sized and configured to support a comfortable home as evidenced by the current structure on the lot.

While it is understandable that minor changes in existing homes should be given strong consideration from a variance standpoint, whether every property owner request for substantial expansion of homes to meet their specific needs qualifies as a "practical difficulty" would appear to merit a Council discussion.

For the council's reference, below are the Practical Difficulties Standard and Findings sections of the city code:

Subd. 4. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- (c) and the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

- (a) Is the variance in harmony with the purposes and intent of the ordinance?
- (b) Is the variance consistent with the comprehensive plan?
- (c) Does the proposal put property to use in a reasonable manner?
- (d) Are there unique circumstances to the property not created by the landowner?
- (e) Will the variance, if granted, alter the essential character of the locality?

Council Action: No action required.



Agenda Number: 8A

Agenda Date: 01-06-16

Prepared by Deb Kind

Agenda Item: Discuss Drafts of Drainage & Utilities Easement Agreements

Summary: The city council directed the city attorney to draft a generic drainage and utilities easement agreement with an eye towards implementing the agreement for the area between the Newman and Larson properties. The draft of the generic agreement, along with the agreements for the Newman and Larson properties are attached. The city attorney advises:

1. A legal description of the Larson property is needed (available through Excelsior Title).
2. Legal descriptions of the actual easement for both properties are also need. However, a draft of a proposed legal description for Newman easement has been inserted.
3. A legal description of the Larson property easement must await a copy of their deed of record.

Council Action: No action required. Potential motions ...

1. I move the city council approves the drafts of the Newman and Larson drainage and utilities easement agreements with the appropriate legal descriptions inserted and authorizes the mayor and city clerk to sign the documents on behalf of the city.
2. I move the city council (1) approves the drafts of the Newman and Larson drainage and utilities easement agreements with the appropriate legal descriptions inserted; (2) directs the following additional revisions:
 - A. _____
 - B. _____

(3) authorizes the mayor and city clerk to sign the documents on behalf of the city.

3. Do nothing or other motion?

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 20____, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (the “City”), and the Laura L. Larson Revocable Trust u/t/d (_____), Laura L. Larson, Trustee (hereinafter the “Grantee”). The City and the Grantee shall be referred to herein each as a “party” and collectively as the “Parties”.

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as Meadville Street in Auditor’s Subdivision No. _____, Hennepin County, Minnesota (the “City Property”).
2. The Grantee is the fee owner of property commonly known as 5220 Meadville Street, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the “Grantee’s

Property”).

3. The Grantee’s Property is subject to a natural flowage of water emanating from property lying to the north and east which flows over and across the Grantee’s property to the waters of Lake Minnetonka, (hereinafter “the Lake”). It is the common experience of the Parties that due to the lack of adequate slope, after significant rain events and during snow melt water accumulates in the City Property and does not efficiently drain to the Lake. The grade differential between the elevation of the City Property and the Grantee’s Property is nominal for the natural flowage to Lake Minnetonka to be effective. For efficient drainage, a valley gutter needs to be installed and thereafter maintained.

4. The City and the Grantee wish by this Agreement to establish a drainage and utility easement over and across the Grantee’s Easement Area, legally described in Exhibit B, including related temporary construction and maintenance easements; to memorialize the responsibilities of construction, maintenance, repair, access, and replacement as necessary, of the drainage and utility easement, and planned physical improvements thereto otherwise illustrated and described on Exhibit C; and define responsibility for costs incurred.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantee hereby acknowledges receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.

2. Grant of Easement from the Grantee to the City. The Grantee hereby grants to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantee's Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and reconstruction of drainage and utility improvements, including, but not limited to, a drainage swale or valley gutter necessary and adequate to drain, manage and direct storm water and snow melt from the City Property to the Lake across the Grantee's Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantee's Easement Area shall not unreasonably interfere with the other Party's use of the Grantee's Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantee's Easement

Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction, repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantee's Easement Area. The foregoing shall not prohibit the placement by the Grantee of movable personal property in the Grantee's Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantee's property, all of which property Grantee agrees to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City agrees to construct the planned drainage and utility improvements and related planned improvements within the Grantee's Easement Area as illustrated in Exhibit C and/or described in this Agreement.
5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantee's Easement Area.
6. Payment of Costs of Construction and Maintenance. The costs of construction and maintenance of the drainage and utility improvements, and related planned improvements, made within the Grantee's Easement Area shall be paid by the City.
7. Notice of Construction and Maintenance Activities. After construction of the drainage and utility improvements, and related planned

improvements, the City shall provide reasonable advance notice in writing to the Grantees, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantee's Easement Area that will temporarily impair use of the Grantee's Easement Area.

8. Future Temporary Construction Easement for Drainage, Utility and Other Improvements. The Grantee hereby agrees from time to time to grant to the City a temporary construction easement (the "Construction Easement") within the Grantee's Easement Area and extending an additional ten feet southeasterly and parallel thereto, to perform activities related to the repair, maintenance, alteration, replacement or reconstruction of the drainage and utility improvements, and related planned improvements, illustrated and described in Exhibit B effective upon ten (10) days written demand upon the Grantee by the City. As consideration for the Temporary Construction Easement, the City shall restore any land, landscaping, and vegetation disturbed to pre-construction condition within 90 days of completion of construction by City or its agents. Any such Temporary Construction Easement shall automatically terminate sixty (60) days after said written demand by City.

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including

public travel, and/or public utilities.

10. Notices. Notices or demands required or permitted given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

If to the Grantee: Laura L. Larson
5220 Meadville Street
Greenwood, MN 55331

If to the City: City of Greenwood
20225 Cottagewood Road
Greenwood, MN 55331
Attention: City Clerk

Or such other address as specified in writing by the Parties to one another.

11. Easement Runs With and Benefits Land. The easement granted in this Agreement shall be perpetual and shall run with the land and shall bind the Parties hereto and their successors and assigns as owners of the Properties.
12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one single instrument.
13. Entirety. This Agreement states in full the entirety of the Agreement of the parties and there are no other understandings, or other written or oral agreements.
14. Captions. The captions or paragraphs of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.

15. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTEE

The Laura L. Larson
Revocable Trust (u/t/d _____)

Laura L. Larson, Trustee

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Laura L. Larson, Trustee of the Laura L. Larson Revocable Trust (u/t/d _____), on behalf of the Laura L. Larson Revocable Trust (u/t/d _____).

(Seal)

Notary Public

CITY OF GREENWOOD, MINNESOTA

By _____
Debra J. Kind,
Mayor of City of Greenwood,
Minnesota

By _____
Dana Young, City Clerk of
City of Greenwood, Minnesota

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Debra J. Kind, the Mayor and Dana Young, the Clerk of the City of Greenwood, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body.

(Seal)

Notary Public

THIS INSTRUMENT DRAFTED BY:
Kelly Law Offices
7975 Stone Creek Drive, Suite 120
Chanhassen, Minnesota 55317

EXHIBIT A

Legal Description of Grantee's Property:

EXHIBIT B

Legal description of the “Grantee’s Easement Area”

EXHIBIT C

A Description and Depiction of the Planned Improvements and Uses within
Grantee's Easement Area

SEE ATTACHED EXHIBIT

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 20____, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (the “City”), and _____, and _____, husband and wife, (hereinafter the Grantees”). The City and the Grantees shall be referred to herein each as a “party” and collectively as the “Parties”.

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as _____, in _____, Hennepin County, Minnesota (the “City Property”).
(Name of Street)
(Name of Plat)
2. The Grantees are the fee owners of property commonly known as _____, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the “Grantee’s Property”).
(Name of Street)

3. The Grantee's Property is subject to a natural flowage of water emanating from property lying _____ which flows over and across
(Describe Flowage)
the Grantee's property to the waters of Lake Minnetonka, (hereinafter "the Lake"). The following is a description of the flowage/drainage problem:

4. The City and the Grantees wish by this Agreement to establish a drainage and utility easement over and across the Grantee's Easement Area, legally described in Exhibit B, including related temporary construction and maintenance easements; to memorialize the responsibilities of construction, maintenance, repair, access, and replacement as necessary, of the drainage and utility easement, and planned physical improvements thereto otherwise illustrated and described on Exhibit C; and define responsibility for costs incurred.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantees hereby acknowledge receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.

2. Grant of Easement from the Grantees to the City. The Grantees hereby grant to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantee's Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and reconstruction of drainage and utility improvements, including, but not limited to, a drainage swale or valley gutter necessary and adequate to drain, manage and direct storm water and snow melt from the City Property to _____ across the Grantees'

(Description of Problem)

Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantee's Easement Area shall not unreasonably interfere with the other Party's use of the Grantee's Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantee's Easement Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction,

repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantee's Easement Area. The foregoing shall not prohibit the placement by the Grantees of movable personal property in the Grantee's Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantee's property, all of which property Grantees agree to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City agrees to construct the planned drainage and utility improvements and related planned improvements within the Grantee's Easement Area as illustrated in Exhibit C and/or described in this Agreement.
5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantee's Easement Area.
6. Payment of Costs of Construction and Maintenance. The costs of construction and maintenance of the drainage and utility improvements, and related planned improvements, made within the Grantee's Easement Area shall be paid by the City.
7. Notice of Construction and Maintenance Activities. After construction of the drainage and utility improvements, and related planned improvements, the City shall provide reasonable advance notice in writing to the Grantees, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any

construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantee Easement Area that will temporarily impair use of the Grantee's Easement Area.

8. Temporary Construction for Drainage, Utility and Other Improvements.

The Grantee's hereby grant to the City a temporary construction easement (the "Construction Easement") within the Grantee's Easement Area and extending an additional _____ () feet _____ and parallel thereto, to perform activities related to the construction of the drainage and utility improvements, and related planned improvements, illustrated and described in Exhibit B effective upon the execution of this Agreement by The Grantees. As consideration for the Construction Easement, the City shall restore any land, landscaping, and vegetation to pre-construction condition within 90 days of completion of construction by City or its agents. The Construction Easement shall automatically terminate upon completion of the initial construction activities, or _____, whichever is earlier, provided that in the event maintenance, repair, alteration, replacement or reconstruction of said improvements becomes necessary, Grantees hereby grant a like construction easement for a term of Ninety (90) days from date of written demand by City.

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including public travel, and/or public utilities.

construction of the provisions herein contained.

15. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

[Balance of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTEES

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____ and _____, husband and wife.

(Seal)

Notary Public

CITY OF GREENWOOD, MINNESOTA

By _____
Debra J. Kind,
Mayor of City of Greenwood,
Minnesota

By _____
Dana Young, City Clerk of
City of Greenwood, Minnesota

STATE OF MINNESOTA)
 SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Debra J. Kind, the Mayor and Dana Young, the Clerk of the City of Greenwood, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body.

(Seal)

Notary Public

THIS INSTRUMENT DRAFTED BY:
Kelly Law Offices
7975 Stone Creek Drive, Suite 120
Chanhassen, Minnesota 55317

EXHIBIT A

Legal Description of Grantee's Property:

EXHIBIT B

Legal description of the “Grantee’s Easement Area”

EXHIBIT C

A Description and Depiction of the Planned Improvements and Uses within
Grantee's Easement Area

SEE ATTACHED EXHIBIT

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 20____, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (the “City”), and the Robert C. Newman Revocable Trust u/t/d (_____), Robert C. Newman and Mary Jo Newman, Trustees (hereinafter the “Grantees”). The City and the Grantees shall be referred to herein each as a “party” and collectively as the “Parties”.

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as Meadville Street in Auditor’s Subdivision No. _____, Hennepin County, Minnesota (the “City Property”).
2. The Grantees are the fee owners of property commonly known as 5230 Meadville Street, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the “Grantees’

Property”).

3. The Grantee’s Property is subject to a natural flowage of water emanating from property lying to the north and east which flows over and across the Grantee’s property to the waters of Lake Minnetonka, (hereinafter “the Lake”). It is the common experience of the Parties that due to the lack of adequate slope, after significant rain events and during snow melt water accumulates in the City Property and does not efficiently drain to the Lake. The grade differential between the elevation of the City Property and the Grantees’ Property is nominal for the natural flowage to Lake Minnetonka to be effective. For efficient drainage, a valley gutter needs to be installed and thereafter maintained.

4. The City and the Grantees wish by this Agreement to establish a drainage and utility easement over and across the Grantees’ Easement Area, legally described in Exhibit B, including related temporary construction and maintenance easements; to memorialize the responsibilities of construction, maintenance, repair, access, and replacement as necessary, of the drainage and utility easement, and planned physical improvements thereto otherwise illustrated and described on Exhibit C; and define responsibility for costs incurred.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantees hereby acknowledge receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.

2. Grant of Easement from the Grantees to the City. The Grantees hereby grant to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantees' Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and reconstruction of drainage and utility improvements, including, but not limited to, a drainage swale or valley gutter necessary and adequate to drain, manage and direct storm water and snow melt from the City Property to the Lake across the Grantees' Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantee's Easement Area shall not unreasonably interfere with the other Party's use of the Grantees' Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantees' Easement

Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction, repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantees' Easement Area. The foregoing shall not prohibit the placement by the Grantees of movable personal property in the Grantees' Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantees' property, all of which property Grantees agree to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City agrees to construct the planned drainage and utility improvements and related planned improvements within the Grantees' Easement Area as illustrated in Exhibit C and/or described in this Agreement.
5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantees' Easement Area.
6. Payment of Costs of Construction and Maintenance. The costs of construction and maintenance of the drainage and utility improvements, and related planned improvements, made within the Grantees' Easement Area shall be paid by the City.
7. Notice of Construction and Maintenance Activities. After construction of the drainage and utility improvements, and related planned

improvements, the City shall provide reasonable advance notice in writing to the Grantees, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantees' Easement Area that will temporarily impair use of the Grantees' Easement Area.

8. Future Temporary Construction Easement for Drainage, Utility and Other Improvements. The Grantee hereby agrees from time to time to grant to the City a temporary construction easement (the "Construction Easement") within the Grantee's Easement Area and extending an additional ten feet _____ and parallel thereto, to perform activities related to the repair, maintenance, alteration, replacement or reconstruction of the drainage and utility improvements, and related planned improvements, illustrated and described in Exhibit B effective upon ten (10) days written demand upon the Grantee by the City. As consideration for the Temporary Construction Easement, the City shall restore any land, landscaping, and vegetation disturbed to pre-construction condition within 90 days of completion of construction by City or its agents. Any such Temporary Construction Easement shall automatically terminate sixty (60) days after said written demand by City.

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including

public travel, and/or public utilities.

10. Notices. Notices or demands required or permitted given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

If to the Grantee: Robert C. Newman and Mary Jo Newman
5230 Meadville Street
Greenwood, MN 55331

If to the City: City of Greenwood
20225 Cottagewood Road
Greenwood, MN 55331
Attention: City Clerk

Or such other address as specified in writing by the Parties to one another.

11. Easement Runs With and Benefits Land. The easement granted in this Agreement shall be perpetual and shall run with the land and shall bind the Parties hereto and their successors and assigns as owners of the Properties.
12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one single instrument.
13. Entirety. This Agreement states in full the entirety of the Agreement of the parties and there are no other understandings, or other written or oral agreements.
14. Captions. The captions or paragraphs of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.

15. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

[Balance of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTEES

The Robert C. Newman
Revocable Trust (u/t/d _____)

Robert C. Newman, Trustee

Mary Jo Newman, Trustee

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Robert C. Newman and Mary Jo Newman, Trustees of the Robert C. Newman Revocable Trust (u/t/d _____), on behalf of the Robert C. Newman Revocable Trust (u/t/d _____).

(Seal)

Notary Public

CITY OF GREENWOOD, MINNESOTA

By _____
Debra J. Kind,
Mayor of City of Greenwood,
Minnesota

By _____
Dana Young, City Clerk of
City of Greenwood, Minnesota

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Debra J. Kind, the Mayor and Dana Young, the Clerk of the City of Greenwood, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body.

(Seal)

Notary Public

THIS INSTRUMENT DRAFTED BY:
Kelly Law Offices
7975 Stone Creek Drive, Suite 120
Chanhassen, Minnesota 55317

EXHIBIT A

Legal Description of Grantee's Property:

Lot 189, Auditor's Subdivision No. ____, Hennepin County, Minnesota.

EXHIBIT B

Legal description of the “Grantee’s Easement Area”

That portion of Lot 189, Auditor’s Subdivision No. ____, Hennepin County Minnesota lying northwesterly of a line commencing at a point on the northeasterly line thereof ten (10) feet southeasterly of the most northerly corner of said lot; thence southwesterly parallel to the northwesterly line of said lot to the waters of Lake Minnetonka and there terminating.

EXHIBIT C

A Description and Depiction of the Planned Improvements and Uses within
Grantee's Easement Area

SEE ATTACHED EXHIBIT



Agenda Number: **8B**

Agenda Date: **01-06-16**

Prepared by *Deb Kind*

Agenda Item: Consider Res 04-16 Approving Sale of the Southshore Center to Shorewood

Summary: George Hoff, the attorney representing Deephaven, Excelsior, Greenwood, and Tonka Bay in the partition action lawsuit initiated by Shorewood is recommending that the 4 cities adopt the attached resolution. If the council wishes to discuss further, a closed session will be convened for attorney-client privilege.

Council Action: Action recommended. Suggested motion ...

1. I move the city council adopts resolution 04-16 approving the sale of the Southshore Center to Shorewood.

13D.05 Subd. 3(a) is for closed meetings to evaluate the performance of an individual who is subject to the city council's authority. The city council shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the city council shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting. 13D.05 Subd. 1(d) The meeting must be electronically recorded. The recordings must be preserved for at least 3 years after the date of the meeting.

13D.05 Subd. 3(b) is for closed meetings for attorney-client privilege. 13D.05 Subd. 1(d) All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded.

13D.05 Subd. 3(c) is for closed meetings to (1) determine the asking price for real or personal property to be sold by the city, (2) review confidential or protected nonpublic appraisal data, (3) develop or consider offers or counteroffers for the purchase or sale of real or personal property. Before holding a closed meeting to under this paragraph, the city council must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded. The recording must be preserved for 8 years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the city council has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the city council at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or city council's internal procedures, and the purchase price or sale price is public data.



**City of Greenwood
Resolution 04-16**

A RESOLUTION APPROVING THE SALE OF THE SOUTHSHORE SENIOR / COMMUNITY CENTER TO THE CITY OF SHOREWOOD UNDER THE "SHOREWOOD OPTION"

WHEREAS, the City of Greenwood is a party to the Cooperative Agreement ("Agreement") for the Southshore Senior / Community Center ("Property"), dated March 4, 1996. The Cities of Deephaven, Excelsior, Shorewood, and Tonka Bay are also parties to the Agreement.

WHEREAS, the City of Shorewood initiated a lawsuit against the City of Greenwood and the other Cities that are parties to the Agreement, titled City of Shorewood, a municipal corporation, v. City of Deephaven, a municipal corporation, City of Excelsior, a municipal corporation, City of Greenwood, a municipal corporation, City of Tonka Bay, a municipal corporation, and all other persons unknown having or claiming an interest in the property in the complaint herein, Hennepin County District Court File No. 27-CV-15-15681 ("Lawsuit"). In the Lawsuit, the City of Shorewood asked for partition and conveyance of the Property to the City of Shorewood.

WHEREAS, the City of Greenwood filed an Answer to the Lawsuit and agreed that conveyance of the Property should be made to the City of Shorewood consistent with the Shorewood Option in paragraph 6(a) of the Agreement.

WHEREAS, the relief sought by the City of Shorewood in the Lawsuit is an action to terminate the Agreement and a request for sale of the Property to the City of Shorewood. By its Answer to the Lawsuit, the City of Greenwood consented to the relief sought by the City of Shorewood contingent upon the satisfaction of the terms of the Agreement, specifically those terms in paragraph 6(a) of the Agreement, which require the City of Shorewood to make repayment to the other Cities in the Agreement in the amount equal to their original capital contribution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD THAT:
Based on the foregoing, the Greenwood City Council hereby confirms that it has consented to the sale of the Property to the City of Shorewood under the Shorewood Option in paragraph 6(a) of the Agreement.

ADOPTED by the City Council of Greenwood, Minnesota this __ day of _____, 2016.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana Young, City Clerk



Agenda Number: 8C

Agenda Date: 01-06-16

Prepared by Deb Kind

Agenda Item: Resolution 01-16, Setting Dates for 2016

Summary: This is a routine resolution that the council approves in each year. No changes have been made to the resolution other than updating the dates to follow the same pattern as the past year.

Council Action: Required. Potential motions ...

1. I move the council approves resolution 01-16 to set key dates for 2016.
2. I move the council approves resolution 01-16 to set key dates for 2016, with the following revisions: _____.

Resolution 01-16
City of Greenwood Dates for 2016

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following dates for planning commission meetings, city council meetings, and variance / conditional use permit / subdivision applications:

Application Date	Publish Date Sun Sailor	Planning Commission Public Hearing	Council Meeting
3rd Wednesday	1st Thursday	7pm, 3rd Wednesday	7pm, 1st Wednesday
November 18, 2015	December 3, 2015	December 16, 2015	January 6, 2016
December 16, 2015	January 7, 2016	January 20, 2016	February 3, 2016
January 20, 2016	February 4, 2016	February 17, 2016	March 2, 2016
February 17, 2016	March 3, 2016	March 16, 2016	April 6, 2016
March 16, 2016	April 7, 2016	April 20, 2016	May 4, 2016
April 20, 2016	May 5, 2016	May 18, 2016	June 1, 2016
May 18, 2016	June 2, 2016	June 15, 2016	July 6, 2016
June 15, 2016	July 7, 2016	July 20, 2016	August 3, 2016
July 20, 2016	August 4, 2016	August 17, 2016	September 7, 2016
August 17, 2016	September 1, 2016	September 21, 2016	October 5, 2016
September 21, 2016	October 6, 2016	October 19, 2016	November 2, 2016
October 19, 2016	November 3, 2016	November 16, 2016	December 7, 2016
November 16, 2016	December 1, 2016	December 21, 2016	January 4, 2017

Planning commission and city council meetings are held in the Deephaven council chambers, 20225 Cottagewood Road, Deephaven, MN 55331. Meetings may be changed due to lack of quorums.

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following additional dates:

	Date	Time	Notes
Pre-Board Worksession with Assessors	April 6, 2016	6pm	Before April council meeting
Local Board of Appeal & Equalization Meeting	April 13, 2016	6pm	2nd Wednesday in April
Subsequent Local Board of Appeal & Equalization Meeting	April 28, 2016	6pm	4th Thursday in April
Spring Clean-Up Day	May 21, 2016	8am	3rd Saturday in May
City Council & Planning Commission Joint Worksession	May 18, 2016	8pm	3rd Wednesday in May, following PC meeting
Worksession: Budget & Fees	August 3, 2016	6pm	Before August council meeting
Worksession: Budget & Fees	September 7, 2016	6pm	Before September council meeting
Fall Sales Ratio Meeting with Assessors	October 27, 2016	4pm	4th Thursday in October
Budget Public Comment Opportunity	December 7, 2016	7pm	December council meeting

ADOPTED by the city council of the city of Greenwood, Minnesota, this 6th day of January, 2016.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk



Agenda Number: 8D

Agenda Date: 01-06-16

Prepared by Deb Kind

Agenda Item: Resolution 02-16 Appointments and Assignments for 2016

Summary: This is a routine resolution that the council approves in January each year.

For the council's reference, attached is research regarding potential legal newspapers. Even though the Sun-Sailor is more expensive than the Lakeshore Weekly, the Administrative Committee (Mayor Kind and Councilman Fletcher) recommend staying with the Sun-Sailor since it is delivered via mail to Greenwood properties. The Administrative Committee also recommends adding Finance & Commerce as the 1st Alternate Newspaper. No other changes are recommended.

Note: The Planning Commissioners listed on the resolution will be updated when new appointments are made in March.

Council Action: Required. Potential motions ...

1. I move the council approves resolution 02-16 designating appointments and assignments for 2016.
2. I move the council approves resolution 02-16 designating appointments and assignments for 2016, with the following revision(s): _____.
3. Other motion ???

Quotes on the cost of advertising legal notices

Compiled December 2015

Sun Sailor	-	\$11.50 per column inch for the 1st week \$ 6.25 per column inch of the 2nd week
Lakeshore Weekly News	-	\$9.50 per column inch each week
Finance & Commerce	-	\$1.41 per line for the 1st insertion \$0.77 per line for the 2nd insertion
Star Tribune	-	\$5.60 per line

Resolution 02-16
City of Greenwood Appointments & Assignments for 2016

Be it resolved that the city council of Greenwood, Minnesota approves the following appointments for 01-06-16 through 01-04-17.

OFFICE & DESIGNATIONS	2015 HOLDER	2016 HOLDER
Mayor Pro-Tem	Bob Quam	Bob Quam
Administrative Committee	Tom Fletcher, Deb Kind	Tom Fletcher, Deb Kind
Animal Enforcement Officer	South Lake Police Department	South Lake Police Department
Assessor	Hennepin County	Hennepin County
Attorney	Mark Kelly	Mark Kelly
Auditor	CliftonLarsonAllen	CliftonLarsonAllen
Bank Signatures	Kind, Quam, Courtney	Kind, Quam, Courtney
Building Official	Bob Manor	Bob Manor
Clerk	Dana Young	Dana Young
Depositories	Bridgewater Bank, Beacon Bank	Bridgewater Bank, Beacon Bank
Engineer	Bolton & Menk (Dave Martini)	Bolton & Menk (Dave Martini)
Fire Board Representative – 4th Wed (Jan, Mar, May, Jul, Sep, Nov)	Tom Fletcher, Bob Quam (alt.), Bill Cook (2nd alt.)	Tom Fletcher, Bob Quam (alt.), Bill Cook (2nd alt.)
Forester / Certified Tree Inspector	Manuel Jordan	Manuel Jordan
Lake Minnetonka Communications Commission (LMCC) Representative 2 reps (1 elected official), meets 2nd Thurs (Feb, Apr, May, Jul, Aug, Oct, Dec)	Tom Fletcher, Deb Kind, Rob Roy (alternate)	Tom Fletcher, Deb Kind, Rob Roy (alternate)
Lake Minnetonka Conservation District (LMCD) Rep – 2nd and 4th Wed	Rob Roy (1/31/17)	Rob Roy (1/31/17)
Marina Clerk	Dana Young	Dana Young
Minnetonka Community Education (MCE) Representative – 4th Mon	Bob Quam	Bob Quam
Newspapers	Sun-Sailor, Star Tribune (alternate)	Sun-Sailor, Finance & Commerce (alternate), Star Tribune (alternate)
Planning Commissioners – 3rd Wed	A-1 Douglas Reeder (8/11-3/16)	A-1 Douglas Reeder (8/11-3/16)
	A-2 Lake Bechtell (5/14-3/16)	A-2 Lake Bechtell (5/14-3/16)
	A-3 Dave Paeper (3/07-3/16)	A-3 Dave Paeper (3/07-3/16)
	B-1 Pat Lucking (2/01-3/17)	B-1 Pat Lucking (2/01-3/17)
	B-2 Kristi Conrad (10/11-3/17)	B-2 Kristi Conrad (10/11-3/17)
	Alt-1 Rick Sundberg (7/14-3/16)	Alt-1 Rick Sundberg (7/14-3/16)
	Alt-2 Fiona Sayer (8/14-3/17)	Alt-2 Fiona Sayer (8/14-3/17)
Planning Commission Liaison – 3rd Wed	Bill Cook	Bill Cook
Public Safety City Administrator Representative (police and fire)	Dana Young	Dana Young
Prosecutor	Greg Keller	Greg Keller
Responsible Authority (Govt. Data Practices Act)	Dana Young	Dana Young
Road and Sewer Liaison	Bob Quam	Bob Quam
South Lake Minnetonka Police Department (SLMPD) Coordinating Committee Representative (must be mayor, meets quarterly)	Deb Kind, Bob Quam (alternate)	Deb Kind, Bob Quam (alternate)
Treasurer	Mary Courtney	Mary Courtney
Utility Billing Clerk	Deborah Hicks	Deborah Hicks
Weed Inspector (must be mayor), Assistant Weed Inspector	Deb Kind, Assistant John Menzel	Deb Kind, Assistant John Menzel
Zoning Administrator	Dale Cooney	Dale Cooney

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF GREENWOOD, MINNESOTA that any and all commissioners, appointees, representatives, delegates, or other non-elected officials of the city shall hold their official status or membership on a basis subject to resolution, subject to reconsideration, and / or removal at the insistence of the city council. This resolution is enacted pursuant to the codes of the city.

ADOPTED by the city council of the city of Greenwood, Minnesota this ___ day of _____ 2016.

There were ___ AYES and ___ NAYS

By: _____ Attest: _____

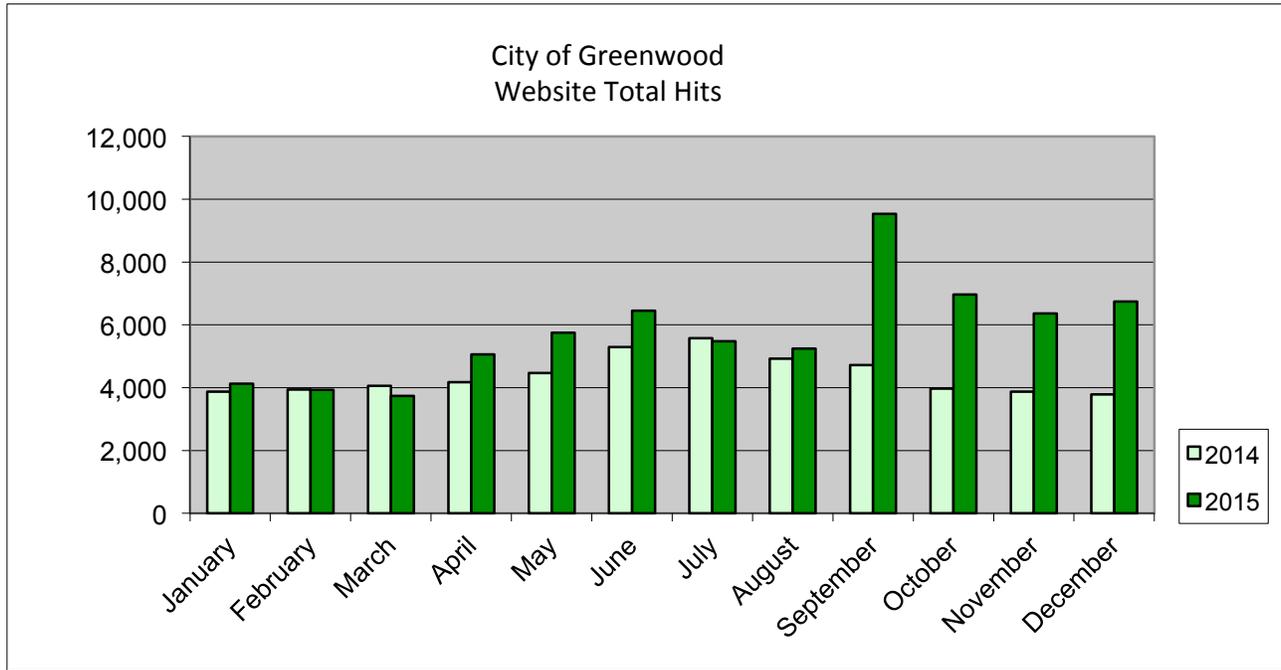


Agenda Number: **9A-E**

Agenda Item: Council Reports

Summary: This is an opportunity for each council member to present updates and get input regarding various council assignments and projects. Related documents may be attached to this cover memo.

Council Action: None required.



Month	2014	2015	Variance with Prior Month	Variance with Prior Year	Bulk Email List
January	3,876	4,123	337	247	166
February	3,943	3,928	-196	-16	166
March	4,057	3,732	-196	-325	166
April	4,170	5,058	1,326	888	165
May	4,468	5,753	695	1,285	165
June	5,291	6,448	695	1,157	158
July	5,579	5,481	-967	-98	160
August	4,922	5,249	-232	327	160
September	4,723	9,532	4,283	4,809	160
October	3,969	6,969	-2,563	3,000	160
November	3,878	6,362	-607	2,485	156
December	3,786	6,742	380	2,956	157
AVERAGE	4,388	5,781			

Gray indicates estimated numbers (average of month prior and month after)

POPULATION: 693
EMAIL ADDRESSES % OF POPULATION: 22.66%

Population source: www.metrocouncil.org, Data & Maps, Download Data, Population and Household Estimates
 Population figure updated: 04.23.15

Site Statistics

Use this reporting tool to see your site statistics for your public site for this month or the previous month. Statistics for the Administration (or "admin") side of your site are not included in this report. Additionally, visits you make to your own site while administering it are not included in these statistics. All data collected before the previous month has been purged from our system and is not available for use; therefore, we recommend printing this report each month for your records.

The first report - Page Views by Section - shows total page views for each section. The second report - Unique Visitors by Section - shows the total page views for each section without the return visitors (showing only views from unique IP addresses). For example, if you browse to a page today, and then browse to that same page tomorrow, your viewing of that page would only be counted once in the unique (second) report.

Each report lists sections in page view order (highest number of page views first) and only lists sections that have had traffic within the reporting period. It does not list those sections without traffic.

Begin Date	11/15/2015
End Date	12/15/2015
Report Name	Page Views (Default)
<input type="button" value="Get Report"/>	

Page Views by Section

Section	Page Views	Percent of Total
Default Home Page	3780	56.07%
Agendas, Etc.	441	6.54%
City Departments	203	3.01%
Planning Commission	201	2.98%
Mayor & City Council	191	2.83%
Code Book	136	2.02%
Forms & Permits	135	2%
Assessments & Taxes	124	1.84%
Welcome to Greenwood	100	1.48%
Budget & Finances	98	1.45%
Garbage & Recycling	93	1.38%
Photo Gallery	93	1.38%
Lake Minnetonka	86	1.28%
Comp Plan & Maps	80	1.19%
What's New?	68	1.01%
Spring Clean-Up Day	67	0.99%
RFPs & Bids	60	0.89%
Links	60	0.89%
Crime Alerts	59	0.88%
Meetings	58	0.86%
Public Safety	47	0.7%
Watercraft Spaces	47	0.7%
Meetings on TV	47	0.7%
Elections	45	0.67%
Old Log Events	43	0.64%

Quick Tips

The reports offered in your Site Statistics tool only track activity on the public side of your site.

In each report, a section named "Default" and a section named "Home" may appear.

A page view gets attributed to "Default" when a visitor to your site types your URL into his or her Web browser. In most cases, the "Default" section is your Home Page.

A page view gets attributed to "Home" each time a visitor clicks the "Home" button on your Web site.

In the Page View (Default) report, only sections with Web traffic are reported and they are listed in page view order.

In the Page View by Section report, sections are listed in the order they appear in the navigation menu and are reported regardless of their traffic level.

In the Referrers report, it is important to remember that your own site acts like a referrer. So, don't be surprised if you see your own Web address(es) listed -- this tracks the number of times people went from one part of your site to another.

Search Results	42	0.62%
Parks & Trails	41	0.61%
Email List	40	0.59%
Community Surveys	37	0.55%
St. Alban's Bay Lake Improvement District	36	0.53%
Swiffers NOT Flushable	36	0.53%
Trees	33	0.49%
Animal Services	31	0.46%
Well Water	28	0.42%
Southshore Center	26	0.39%
Smoke Testing	20	0.3%
---	7	0.1%
Unsubscribe	3	0.04%
TOTAL	6742	100%

Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	723	29.25%
Agendas, Etc.	169	6.84%
City Departments	123	4.98%
Mayor & City Council	94	3.8%
Planning Commission	91	3.68%
Code Book	73	2.95%
Welcome to Greenwood	72	2.91%
Forms & Permits	72	2.91%
Assessments & Taxes	66	2.67%
Comp Plan & Maps	57	2.31%
Photo Gallery	56	2.27%
Garbage & Recycling	52	2.1%
What's New?	52	2.1%
Lake Minnetonka	50	2.02%
Budget & Finances	49	1.98%
Crime Alerts	47	1.9%
Links	46	1.86%
Elections	40	1.62%
Meetings	39	1.58%
Email List	36	1.46%
Meetings on TV	36	1.46%
Spring Clean-Up Day	35	1.42%
Old Log Events	35	1.42%
Public Safety	33	1.33%
St. Alban's Bay Lake Improvement District	32	1.29%
Swiffers NOT Flushable	31	1.25%
Parks & Trails	30	1.21%
RFPs & Bids	30	1.21%
Community Surveys	30	1.21%
Animal Services	28	1.13%
Trees	27	1.09%
Watercraft Spaces	27	1.09%
Well Water	23	0.93%
Southshore Center	21	0.85%
Smoke Testing	20	0.81%
Search Results	19	0.77%
---	5	0.2%
Unsubscribe	3	0.12%
TOTAL	2472	100%



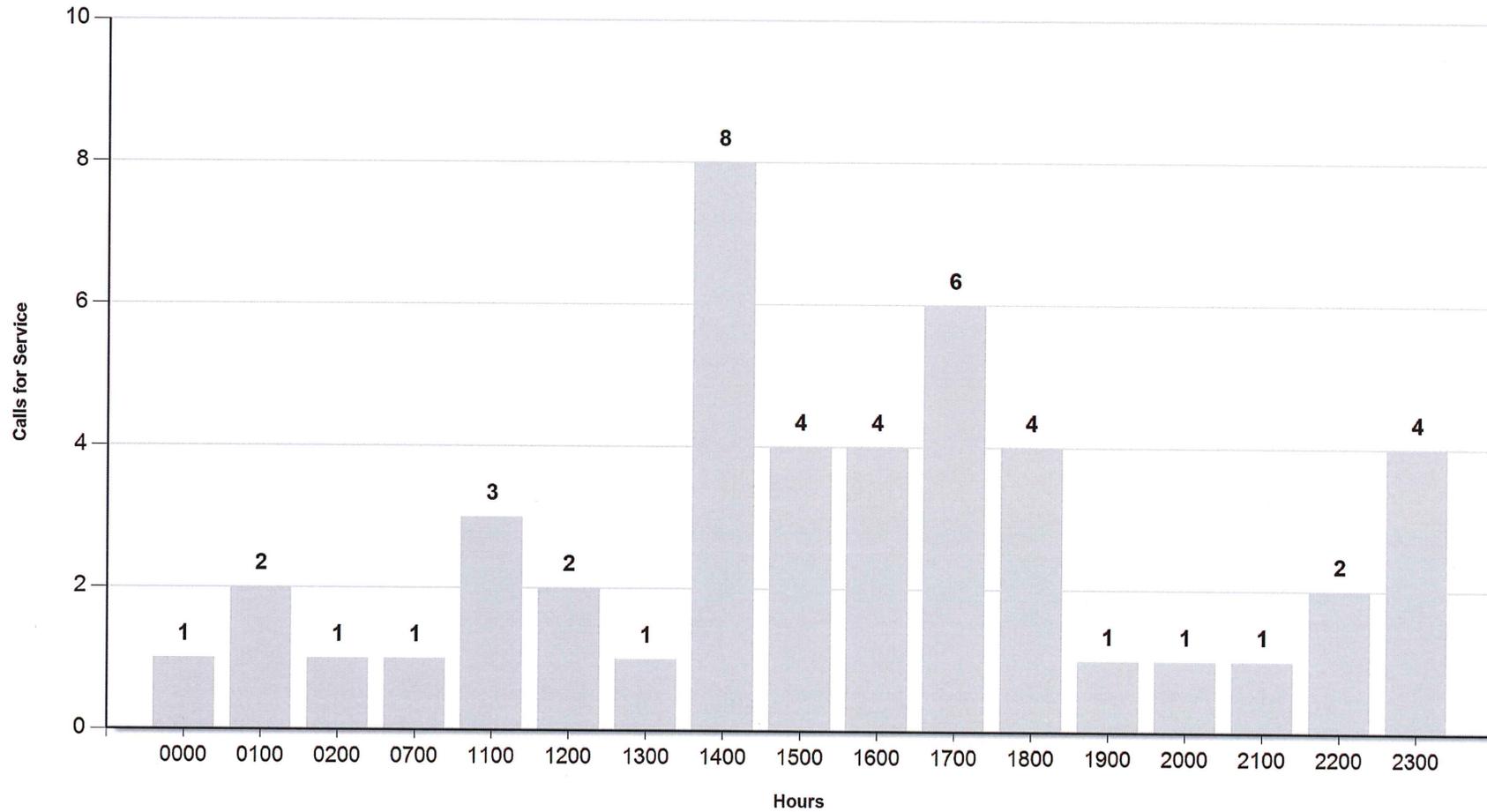
Calls for Service Hourly by City

11/1/2015 to 11/30/2015

Greenwood

Total Calls: 46

Total Calls in Cities: 46



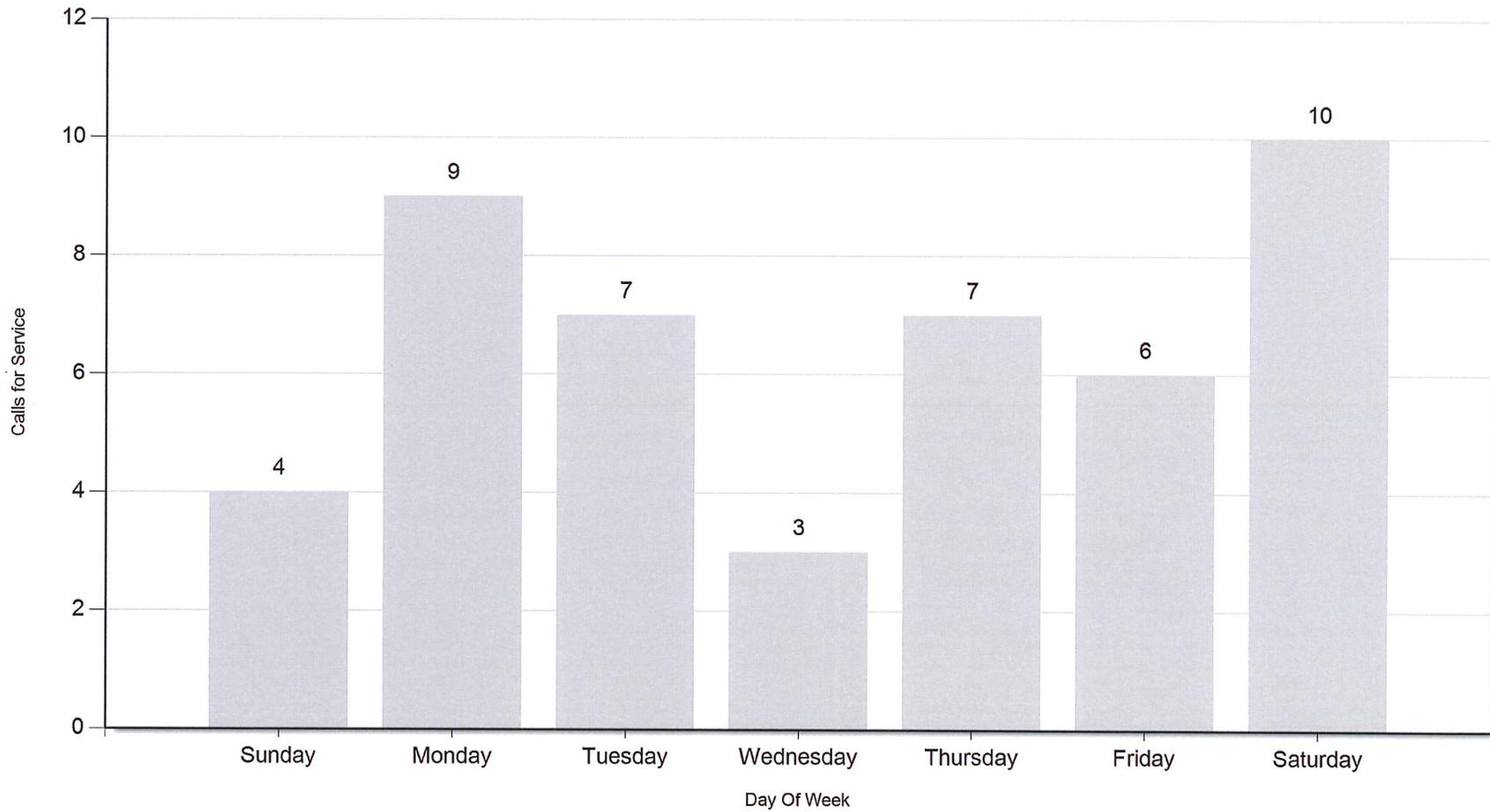


Calls for Service Day Of Week by City

Date Range: 11/1/2015 to 11/30/2015

Greenwood

Total Calls: 46
Total Calls in Cities: 46



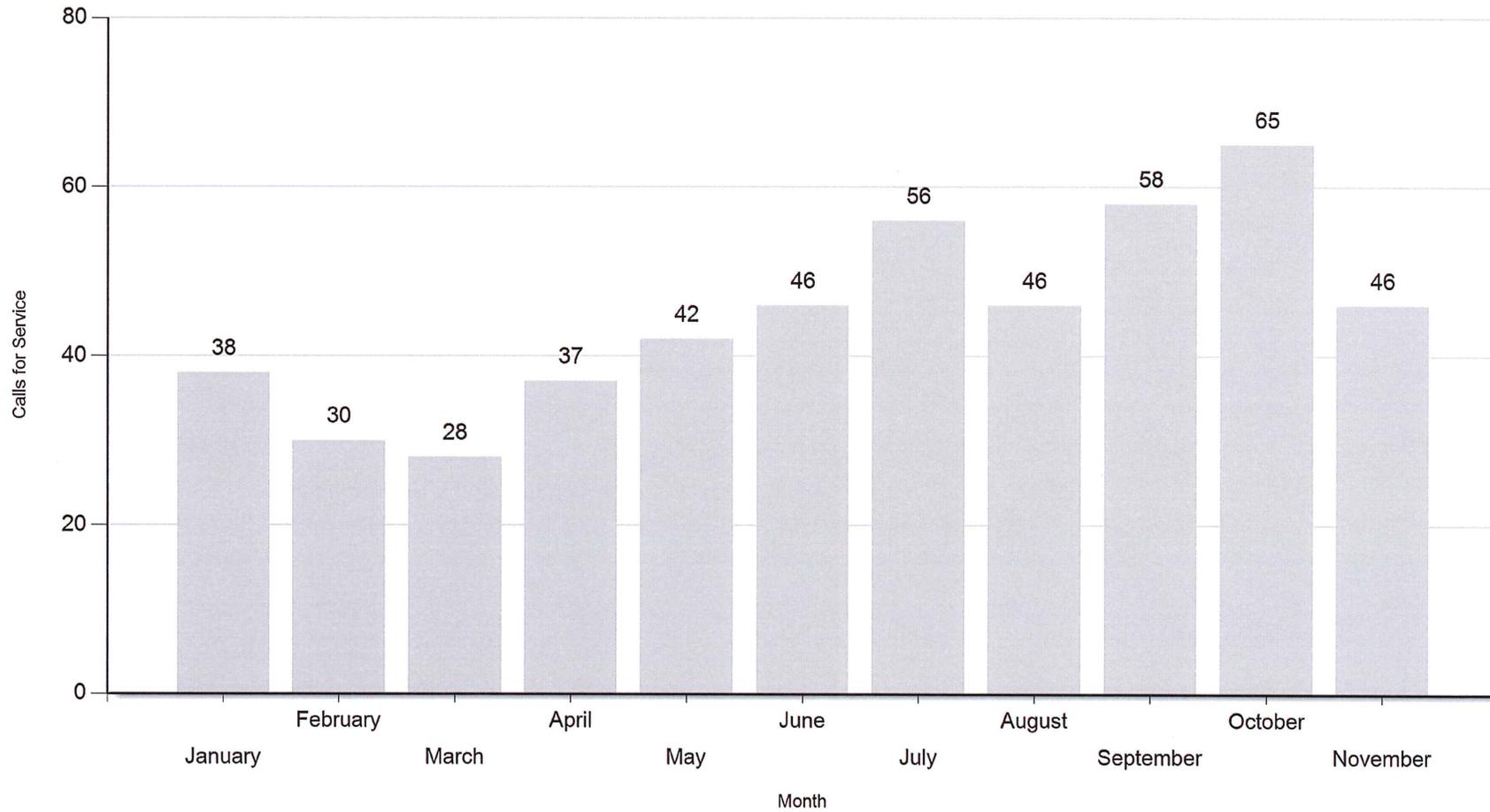


Calls for Service Monthly by City

Date Range: 1/1/2015 to 11/30/2015

Greenwood

Total Calls: 492
Total Calls in Cities: 492





Crimes by UCR Code

City: Greenwood

Date Range: 11/1/2015 to 11/30/2015

Code	11/1/2015 - 11/30/2015	YTD 2015	
Part 1 Violent Crimes			
1	Homicide	4	
2	Rape	0	
3	Robbery	0	
4	Aggravated Assault	0	
Total Part I Violent Crimes			4
Part I Property Crimes			
5	Burglary	2	
6	Larceny / Theft	6	
7	Automobile Theft	2	
8	Arson	1	
Total Part I Property Crimes			11
Part II Crimes			
9	Assault	2	
10	Forgery / Counterfeiting	1	
11	Fraud	3	
12	Embezzlement	0	
13	Possess Stolen Property	0	
14	Vandalism	1	
15	Weapons	1	
16	Prostitution	0	
17	Criminal Sexual Conduct	0	
18	Narcotics	9	
19	Gambling	0	
20	Family / Children	0	
21	DUI	9	
22	Liquor Violations	1	
24	Disorderly Conduct	1	
25	Vagrancy	0	
26	All Other Offenses	2	
Total Part II Crimes			30
Total Crimes			45



9000 Codes By City

Greenwood

Date Range: 11/1/2015 to 11/30/2015

Moc Code	Code Description	2015		Code Total
		Nov	Year Total	
5001	Spot Check	1	1	1
9440	PDMV	1	1	1
9730	OTHER MEDICAL	3	3	3
9800	INFO REC'D	1	1	1
9810	SUSPICION	4	4	4
9817	BURNING COMPL	1	1	1
9828	DRIVING/TRAFFIC COMPLAINT	1	1	1
9829	PARKING COMPL	2	2	2
9830	HOUSE/BUSINESS CHECKS	2	2	2
9838	HC SHERIFFS PERMIT TO CARRY	1	1	1
9860	ANIMAL COMPLAINT/CHECK	1	1	1
9878	MOTORIST ASSIST/STALL	1	1	1
9879	UTILITY PROBLEM	1	1	1
9880	PUBLIC ASSIST	1	1	1
9884	HOME ALARM	6	6	6



9000 Codes By City

Greenwood

Date Range: 11/1/2015 to 11/30/2015

Moc Code	Code Description	2015		
		Nov	Year Total	Code Total
9906	TRAFFIC CONTROL / DIRECT ENFORCEMENT	2	2	2
Grand Total			29	29

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, DECEMBER 16, 2015
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:04 p.m.

Members Present: Chairman Pat Lucking, Commissioners Lake Bechtell, Kristi Conrad, Douglas Reeder, and Fiona Sayer

Absent: Commissioners David Paeper and Rick Sundberg

Others Present: Council Liaison Bill Cook, City Attorney Mark Kelly, and Zoning Administrator Dale Cooney.

2. MINUTES – November 18, 2015

Commissioner Bechtell moved to approve the minutes of November 18, 2015 as presented. Commissioner Conrad seconded the motion. Motion carried 5-0.

3. PUBLIC HEARINGS

3a. Consider Conditional Use Permit Request, Excelsior Entertainment, LLC, dba as The Old Log Theater, 5185 Meadville Street:

Chairman Lucking introduced the agenda item. Lucking said that The Old Log Theater is proposing to add a 670 square foot patio to accommodate outdoor dining, and to add 4 additional parking spaces as required by city code. Lucking said that Section 1123.30, Subd. 1 of the Zoning Ordinance states that any one or more the following events requires that a conditional use permit be obtained:

- (A) Request for a building permit or zoning approval for physical expansion of any existing building or the addition of impervious surface to said property beyond what existed as of the adoption of this control.
- (B) Any change to the manner of use of said property as authorized in section 1123.25, subd. 2.

Chairman Lucking opened the public hearing.

John Ratliff of 5060 Covington Street said he wants to see the Old Log Theater be successful. He said since it is in a residential area, considerations are a little different. He said that the cars entering and leaving from Covington Street are often going at excessive speeds. Ratliff said that he has almost been hit by cars travelling on the road three times. He said that he is worried about traffic since his grandchildren sometimes play in the street.

Commissioner Conrad said that she had heard that Mr. Ratliff had a proposed solution, and asked what that solution was. Ratliff said that he would recommend the truck traffic cut through from front to back along the side of the building that faces the trail. He said that employees use that same path to enter through the front and drive to the back of the building, cutting off employee traffic from Covington.

Greg Frankenfield, owner of the Old Log Theater, said that the Old Log Theater Property abuts the railroad property, and that therefore he could not build a road between the building and the trail.

T. White of 5290 Meadville Street said that he was worried about the lack of a shoulder along Covington and the drop-off of about three feet to a neighboring house. He said that he was concerned that a truck or a car could fall off the shoulder and damage the house and injure the

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, DECEMBER 16, 2015
7:00 P.M.**

residents. He said that this was a huge safety issue that should not be ignored. He said that Meadville Street is suffering and cannot handle any more traffic.

Bob Newman of 5230 Meadville Street said that the primary responsibility of the City is to protect the safety of the residents. He said that he counted 19 conflicts with the guiding documents of the city. He said that he has never seen residents so unified on one issue. Newman said that there were a number of concerns about the proposal, but primarily related to safety and traffic. He said the Old Log Theater has not been a good neighbor, and that safety issues have gotten worse. He said that neighbors do not feel safe. Newman said that the thirteen foot wide Covington Street was no place for big trucks and speeding cars. He said the residents are fed up. He said the residents expect support from the city and real action to address the issues.

Teresa Pfister of 21580 Fairview Street said that she thought the issue was outdoor dining, but she was hearing about roads and safety. She said it is grossly unfair to blame all of that on the Old Log Theater. She said that there has been a tremendous amount of construction on the street that has nothing to do with the theater. She said that the Old Log Theater is a good neighbor, and that they also allow the venue to be used for public purposes. Ms. Pfister said that the outdoor dining would not attract young, noisy diners, but rather is would attract older, quieter diners.

Maureen Quam, and employee of the Old Log Theater, said that she uses Covington Street every day. She said that traffic along Covington is nothing new. She said that the theater is very conscientious about the traffic issues. Ms. Quam says that they send out memorandums to the employees about the road regulations. She said that the theater wants to know about speeding trucks and traffic. She said that the theater cannot take deliveries through the front door when performances are going on. Ms. Quam said that the trucks are not semi-trucks and are not bigger than a garbage truck. She said that the outdoor dining is just an attempt to keep up with the competition.

Keith Stuessi of 5000 Meadville Street said that he bikes ten hours a week and he walks his dog. He said that two years ago the people were concerned about the traffic, and said he didn't know why that didn't get included in the original agreement. He asked why those issues were not part of the original agreement since the communities concerns were very clear. He asked why additional paving was put in the back, since employee parking is adequate in the front.

Greg Frankenfield, owner of the Old Log Theater, said that he never agreed that there would not be deliveries to the rear of the theater. He said that they tried to limit the deliveries. He said that he had requested that the city look at any fire issues due to the narrowness of the street. He said that the fire district said that, while it would be preferable to have parking on one side of the street, there is adequate space for a fire vehicle. Frankenfield said that, since a fire truck would be able to navigate Covington Street, smaller (non-semi) trucks are also reasonable on the street.

Patty Loftus, owner of 5165 Meadville Street says that she was concerned about noise issues that might happen, particularly events.

Marissa Frankenfield, owner of the Old Log Theater, said that the theater is very aware of the noise ordinance and that they have no plans to serve past 10 p.m. She said that they plan to plant trees to help reduce noise.

Ted Hanna of 4960 Meadville Street said that his biggest concern was traffic, particularly from customers that you can't control. He said he had concerns about the disturbance of the fireplace area which would tend to draw people outside more.

Bob Newman of 5230 Meadville Street said that he has never had an issue with the patrons, but that the issue is people entering through the back of the theater. He said that the owners attempts to manage this have been ineffective. He said that he thought that there was an understanding that deliveries and parking would be in the front.

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Mark Setterholm of 5250 Meadville Street said that he has lived on Meadville Street for 37 years. He said that this is a bedroom community. He said that the nature of the business has changed and continues to grow. He says that he does not want a busy neighborhood. He said that he feels that he is on the defensive all of the time.

T. White of 5290 Meadville Street said that the owners and employees of the Old Log Theater do not live on Meadville Street. He said it is the residents who live in the neighborhood that feel the impacts of the business, not the owners or employees.

John Ekelund of 5135 Meadville Street said that he is concerned about the noise from the patio. He said that from his back yard he currently can hear people talking at the Old Log Theater. He said the outdoor dining will wreck the feel of the neighborhood.

Jan Gray of 5170 Meadville Street says that safety is paramount. She said that the 2010 Comprehensive Plan says that nothing must conflict with the residential character of the neighborhood. She says that this has been overlooked. She says that the majority of the resident comments on the proposal were negative. She said that in the past, the vast majority of deliveries came to the front of the building. She said that employees parked in the front. She asked if the Old Log Theater could restrict delivery times as many other restaurants do. Ms. Gray said that there are a number of conditions that the Conditional Use Permit request does not meet according to those requirements listed in Section 1150. She said that the neighborhood has lost confidence that the Old Log Theater will be a good neighbor. Ms. Gray said that the petition opposing the project has 45 signatures on it, and that they have received more signatures since that point, representing a neighborhood consensus on the project.

Joe Fronius of 5140 Meadville Street says that he doesn't want to live next to a Bayview or a Maynard's. He says the objections to the expansion are not exaggerated claims. He said that the impacts would be more noise and traffic, decreased property values, and damaged roads. He said that one of the long standing neighbors in the area is considering moving out of the neighborhood.

Richard Spiegel of 5090 Meadville Street said that the expansion will cause more traffic. He said that the garden in the neighborhood was rotting which shows that the owners of the theater do not care about the neighborhood. He said the last thing the city needs is a fire pit that would cause more air pollution.

Sandra Setterholm of 5250 Meadville Street said that she talked to a realtor who said that the property values in the neighborhood will go down because of the outdoor dining.

Chairman Lucking closed the public hearing at this point.

Lucking said that the patio was proposed in the original plans a couple of years ago, and stated this had always been a part of the plans for the new owners of the Old Log Theater.

Commissioner Conrad read a statement. She said that as the only Planning Commission representative from the impacted neighborhood she said that it was important to make sure the other commissioners understood the area. She showed a picture of the bus stop in the neighborhood where the trucks have damaged the sign when they make left turns. She said that she is saddened that this is still an issue. She praised the quality of life in the city, but she said city officials have to have the best interests in the community in mind. She said that the Old Log Theater has not made any attempts to talk with the neighbors about these issues, and that therefore the city must protect the community with the Conditional Use Permit. She said that issues like traffic and safety that could be fixed with a compromise. She said that these issues shouldn't need to be included in the Conditional Use Permit, but that is the only way residents feel that the city has to protect them. She said that she feels that these problems are solvable. Conrad said the comprehensive plan says that development and redevelopment should show respect for

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the neighborhoods. She said that she could not see supporting a new CUP that adds to the existing business until the current traffic and safety issues are addressed.

Commissioner Reeder asked what part of the existing legal use are they not currently addressing? Conrad said that the safety aspect of the use is not being addressed. Reeder said that there is no current prohibition on parking in the back or trucks using Covington Street.

Conrad said that the neighbors believed that some type of limitation should have been placed on the Old Log Theater when the use was brought into the zoning ordinance a couple of years ago. She said that it is a sad situation since she thinks this could have been resolved up front. Conrad says that she goes to plays several times a year, and that she is supportive of the theater. She said she believes that the city has allowed the theater to succeed, but that does not mean that the theater should get everything it wants. She said under the current situation there are problems, so she does not see how the city can allow the use to expand without taking action on those problems. She said that she believes the problem is solvable.

Lucking said that Section 1140.70. C-1 and C-2 Requirements for Vehicular and Pedestrian Circulation are informative and that based on that section of code Covington would not even qualify as a one-way street. He read from the ordinance: "Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public street, traffic hazards, and excessive traffic through residential areas, particularly truck traffic."

Lucking said that while this was not part of the current Old Log Theater requirements, it is part of the city code and could serve the city in an attempt to minimize some of the traffic issues.

Commissioner Reeder asked if the city could put conditions on no parking in the back. Lucking said that the city could put those types of conditions on the Conditional Use Permit.

Reeder said that he is not hearing much of an argument against the outdoor seating as much as he is hearing an argument against what is there now. He said that would be comfortable moving forward with the expansion if conditions were put into the Conditional Use Permit that greatly reduced traffic for trucks and cars.

Conrad says that City Code requires more parking. Reeder said that they shouldn't expand if they have to have more parking off of Covington Street.

Chairman Lucking asked if these issues should be taken separately. Commissioner Bechtell said that they need to be taken together since the parking is a requirement of the expansion.

Commissioner Bechtell said that this pains him to see everyone so upset. He said that he and his wife enjoy the current incarnation of the Old Log Theater, and that is upsets him that it has come to this.

Lucking asked Bechtell his opinion on the expansion. Bechtell said that he did not feel that there was any way to approve the Conditional Use Permit.

Commissioner Sayer said that there are a number of issues that need to get sorted out before the city should consider approving the Conditional Use Permit. She says that it is too dangerous and it would be irresponsible to approve the Conditional Use Permit.

Lucking said that Resolution 31-13 only allows the Old Log Theater to serve box lunches on the grounds. He said that could be interpreted to only allow box lunches outdoors.

Councilmember Cook said that he would be in favor of the application with a lot of conditions placed upon it. Those conditions would include no additional parking on Covington Street. He

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said that the traffic on Covington needs to be reduced. He said that he would want to see visual and noise barriers for the neighbors for an outdoor patio. Cook said that there is more work to be done, neighborhood safety is an overriding issue, and he would need to see a lot of conditions about how to address some of those issues.

Chairman Lucking said that some of the most difficult things to address are the speeding issues.

Commissioner Reeder said that he would be interested in the applicant giving the city an extension, table the application, and working to solve the existing problems.

Conrad asked City Attorney Mark Kelly if the extension was the only way to handle this. Kelly said that the business is a permitted legal use and has certain rights. Kelly said that he was not aware of any part of the business that was operating contrary to their permitted legal use.

Conrad asked how the city regulates the situation. Kelly said that if both the Old Log Theater and the city are motivated to find a solution, then they will work toward a solution. Kelly said that he is hearing that Covington Street is an issue, but that no solutions are currently being proposed. He said that there are a number of creative things that can be done. He said, however, that he does not believe that the city can impose additional conditions on the Old Log Theater's currently existing business out of impulse. He said there needs to be a business violation or find a compromise as part of this Conditional Use Permit application.

Chairman Lucking asked if the city could ask for an additional 60 days. Kelly said that the city could ask for more time, or that the applicant could grant more time to review the issue to the city. Kelly said that, otherwise, the City Council will review this at their January meeting.

Commissioner Reeder said that he would like to see the applicant make some kind of proposed solution to the issues.

Chairman Lucking said that he was skeptical that a resolution would happen in 60 days. He said that it should go to a vote, or that the applicant could withdraw the application, but that 60 days to handle an issue that has evolved over time is not realistic.

Commissioner Reeder said that he would like hear what the applicant would say about coming up with possible solutions.

Greg Frankenfield said that he is not certain what the Planning Commission is asking and said he prefers not to comment.

Commissioner Reeder made a motion to recommend that the City Council deny the application on the grounds that the property does not currently have enough parking to expand the business, and that additional parking via Covington Street would impact the health, safety, and welfare of the neighborhood. Commissioner Bechtell seconded the motion. Motion carried 5-0.

Commissioner Bechtell asked that the City Council examine the situation along Covington Street. Commissioner Conrad made a motion to have the City Council examine the City Code section 1140.70 as it relates to the Old Log Theater and the traffic and safety issues along Covington Street. (Note: This motion was not seconded or formally voted on.)

3b. Public Hearing for Ordinance 249, Amending Greenwood Ordinance Sections 510, 1140.60, 1150.20, and 1155 Regarding Security Deposits / Agreements for Landscaping and for Conditions of Approved Variances and Conditional Use Permits.

Chairman Lucking introduced the agenda item and opened the public hearing. Hearing no public comments, Chairman Lucking closed the public hearing.

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Commissioner Conrad asked what the motivation for the ordinance was. Commissioner Bechtell said that the Saint Alban's Bay Road property was one of the motivations. Chairman Lucking said that the island property was a property that also motivated this ordinance.

Commissioner Conrad asked how the 2 percent fee was chosen. Councilmember Cook said that the City Council talked about a various percentages and a reasonable fee.

Chairman Lucking entertained a motion to recommend adoption of Ordinance 249 as written. Motion to recommend adoption by Commissioner Bechtell, seconded by Commissioner Conrad. Motion carried 5-0.

3c. Public Hearing for Ordinance 251 Amending Chapter 11 Regarding City Forester, Hazard Trees, Variance Standards for Impervious Surface Regulations and Application Procedure for Mailing Lists

Chairman Lucking introduced the agenda item and opened the public hearing. Hearing no public comments, Chairman Lucking closed the public hearing.

Councilmember Cook said that he had a note from the city council meeting to add driveways to the structural-related impervious surfaces in section 1176.07.05, Subd. 4.

Chairman Lucking entertained a motion to recommend adoption of Ordinance 251 as amended. Motion to recommend adoption by Commissioner Bechtell, seconded by Commissioner Sayer. Motion carried 5-0.

4. LIAISON REPORT

Council Liaison Cook said that the City Council considered a simple subdivision request at 21200 Minnetonka Boulevard that proposed to use the city right-of-way to access the back lot. Cook said that the City Council denied the application. Cook said that the city ordinance is currently in the process of being amended so that similar lot splits would be required to go through the standard subdivision process.

Cook said that the City Council passed the request for a side setback variance at 21795 Minnetonka Boulevard.

Councilmember Cook said that the City Council approved the impervious surface variance on 5025 Covington Street on a 3 to 2 vote. Cook said that the applicant offered to expand the pond in the adjacent park so that it would be able to hold more stormwater.

Cook said that he is working on an ordinance that would require stormwater mitigation for any expansion of hardcover. He said that a draft ordinance would be presented at the next Planning Commission meeting.

5. ADJOURN

Motion by Commissioner Reeder to adjourn the meeting. Commissioner Bechtell seconded the motion. Motion carried 5-0. The meeting was adjourned at 9:20 pm.

Respectively Submitted,
Dale Cooney - Zoning Administrator