

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, FEBRUARY 18, 2009
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, David Paeper, Todd Palmberg and Mark Spiers

Absent: None

Others Present: Council Liaison Tom Fletcher, City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

2. APPROVE AGENDA

Commissioner Beal asked that a discussion be included on the agenda regarding the highlighting of the Massing Ordinance on the website. The Commission agreed to the amendment. Commissioner Beal moved to accept the amended agenda for tonight's meeting. Commissioner Lucking seconded the motion. Motion carried 5-0.

3. MINUTES OF November 19, 2008.

Commissioner Beal moved to approve the minutes of November 19, 2008. Commissioner Spiers seconded the motion. Motion carried 5-0.

4. LIAISON REPORT

Council Liaison Fletcher said the Council recently discussed a number of items which may interest the Commission. He said the Council discussed the need for a liaison from the Commission, agreeing that one would not be necessary unless the Commission wanted to send one. It was also decided that the Commission Liaison would sit at the table as to be able to participate more readily in conversation.

Liaison Fletcher said the Commission may be asked to review lighting regulations within the city, that there were conversations about the use of the Meadville fire lane, that the Council voted to spend five hundred dollars to inventory milfoil in St. Alban's Bay, discussed property taxes and the Wirth property.

Fletcher noted that a number of recently adopted ordinances had not been published, but now have been. One such ordinance was the Sign ordinance, which delays the regulation of the abandoned billboards along Highway 7.

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Fletcher said there were a number of issues that he wanted to discuss with the Commission to see if they wanted to address them in the future. He said the Commission may want to suggest changes in the city code as they relate to side yard setbacks, structure height, impervious surface area in the commercial area and revamping of the required parking for office uses. The Commission agreed to future discussions on structure height, impervious surface and parking requirements. The issue of side yard setbacks has been discussed numerous times over the past ten years or so and they did not feel they had anything substantive to add.

Chairman Lucking asked about the Meadville fire lane, noting that there has been a chain across the opening on and off over the last couple of years. Councilmember Fletcher said the Council will be looking at a more permanent solution to limit access by larger vehicles during the winter.

5. PUBLIC HEARINGS

ORDINANCE AMENDMENT – Discuss request from Lakeshore Market for an amendment to Section 1130 to permit the on-site preparation and sale of hot food.

There was no one present representing the request.

Chairman Lucking opened the public hearing.

Chairman Lucking said his concern with the proposal is that it would open up the whole area to similar uses, which may not be what the city wanted for that area based on the fact the use was not mentioned in the ordinance.

Commissioner Beal said his concerns revolved around the issues of lack of on-site parking and smells emanating from the property. He feels that creates victims of the surrounding residential properties. He's also concerned if the ordinance is amended, the use would be allowed on the surrounding properties. Chairman Lucking agreed and reiterated that the city didn't include the proposed use in the ordinance, so it may not have been viewed as a favorable use.

Commissioner Beal asked about zoning regulations and how they relate to the sale of food at convenience stores. City Attorney Kelly said that most cities have a special designation for such uses, but the City of Greenwood does not. He said the County regulates varying levels of food sales through their licensing process. He said if the city were to change its ordinance, it should only allow the lowest licensing threshold.

Commissioner Palmberg clarified that hot food sales currently are not allowed. Mr. Kelly said they were not, but the city could amend its ordinance to create a

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convenience store designation in the most common sense. He said most of the current uses are grandfathered under the ordinance.

Commissioner Paeper asked about the use of the property as a bait shop and whether that is allowed. Mr. Kelly said not necessarily, but with such uses within the ordinance, it's hard to pick one item that is being sold to oppose. Chairman Lucking noted if the structure was somehow internally split, with the sale of bait being a separate entity, there would be a clear violation of the ordinance.

Commissioner Beal reiterated his concerns about parking and smells, noting they would be intensified if the restaurant use becomes popular.

Commissioner Palmberg expressed concern about the recent placement of rock over the only green area on the property and questioned what could be done to replace the grass. Mr. Kelly said the difficulty is in proving there's been a change in that area. Palmberg said he had recent photos of the area prior to the placement of the rock.

Motion by Commissioner Lucking to recommend the Council not amend the ordinance to permit by Conditional Use the on-site preparation and sale of hot food. The proposal is not in the public's best interest due to increase traffic and parking issues in conjunction with the proposed use and the concern there may be undesirable odors that would negatively impact the surrounding residential neighborhood. Commissioner Spiers seconded the motion. The motion carried 5-0.

(Mohamid Kwara, owner of the Lakeshore Market, arrived at the meeting at 7:30 p.m., after the action was taken by the Commission. Mr. Kwara was informed of the Commission's action and told he was permitted to present his request at the March 3rd City Council meeting.)

6. OTHER BUSINESS

OPEN MEETING LAW - Discuss compliance with the open meeting law as it pertains to social gatherings of City Council and Planning Commission members in numbers which may constitute a quorum.

Chairman Lucking said it was brought to his attention that there was some concern about a potential violation of the open meeting law. He said he discussed this issue with Mayor Kind and was told that gathering after a meeting was not a violation of the law, provided it is stated at the end of a meeting that such a gathering would occur.

Commissioner Spiers asked if there was a specific incident that prompted this concern. Lucking said he just received an email from the Mayor and that no reference was made to a specific incident.

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TREE PRESERVATION ORDINANCE – Discuss potential amendment of the existing Tree Preservation Ordinance.

Chairman Lucking said the draft ordinance before the Commission reflected the previous discussions held by the Commission. He said there still a number of issues that need to be addressed, such as the definition of Heritage Tree.

Commissioner Spiers said it would be easiest to define it based on diameter. Chairman Lucking noted that he diameter would have to exceed the maximum diameter of a defined Significant Tree.

The Commission discussed appropriate dimensions, agreeing that the ordinance should be amended so the measurement of trees within the city be based on the circumference and not diameter since the measurement of diameter is more difficult. The Commission agreed that, much like Significant Trees, there would be different measurements based on the species of a tree.

The Commission discussed the removal of the height provision for the measurement of coniferous trees and agreed to base regulations on the circumference. The initial thought when the ordinance was originally drafted was it would be difficult measuring the diameter of a coniferous tree, but the switch to circumference removed the need to take height into account.

Commission Paeper suggested that a benchmark be established using a process in which a number of examples are reviewed to set an appropriate circumference.

Commissioner Spiers suggested setting a range in which a measurement could be taken, noting that in the case of some softwoods, there could be multiple trunks converging into one. Chairman Lucking asked about the importance of establishing four feet as the measuring point. City Attorney Kelly said a consistent standard for measurement had to be established.

Commissioner Beal said it is important to set an appropriate number for Heritage Trees, because the lower the number, the more trees that fall under the Heritage Tree definition, the greater argument from the public against the designation. He said the designation should reflect only those trees that are truly Heritage Trees, meaning their removal would not only impact the individual property in which they are located, it would impact the community as a whole.

Chairman Lucking said his concern has always been informing the public about the ordinance before trees have already been removed.

Commissioner Paeper suggested preliminary measurements of thirty inches for hardwoods and forty-two inches for deciduous softwoods. Chairman Lucking

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suggested twenty inches for conifer trees. The Commission agreed to these as a starting point.

The Commission discussed defining Licensed Tree Trimmers and what defined a certified arborist. Commission Beal read the City of Minnetonka's definition of certified arborist which states they must be certified by the International Society of Arboriculture. The Commission agreed to use this definition in the ordinance. They also agreed that a Licensed Tree Trimmer did not have to be a certified arborist.

Commissioners Paeper suggested the references to diameter in the replacement schedule include the phrase "or larger" and suggested that a site plan included with a request for the removal of a Heritage Tree show the location of other trees and structures in the vicinity.

Commissioner Spiers questioned the need for a variance in order to trim a Heritage Tree. City Attorney Kelly said it was to protect the tree from deliberate over trimming with the intent to kill it. Spiers felt that requiring a variance was too restrictive. Chairman Lucking suggested the phrase "including Heritage Trees" in the Tree Trimming provision contained in Subdivision 3B and removing the variance requirement in 4B. The Commission agreed.

Commissioner Beal asked about the fee for Conditional Use Permits and whether they would be reduced on requests for tree removal. City Attorney Kelly said a provision in the ordinance would allow staff approval for nominal jobs.

Commissioner Spiers would like to add Heritage Trees to the replacement schedule. City Attorney Kelly said that would be difficult because one may not be able to reasonable space enough smaller diameter trees to equal the diameter of the Heritage Tree.

The Commission will further discuss this item at their March meeting.

ZONING HANDOUT – Discuss Zoning handout created by Councilmember Fletcher and make recommendation to the City Council whether the handout should be included in material distributed to residents and their representative for information purposes.

Councilmember Fletcher said he and staff were working on some handouts that would be presented to the Commission at their next meeting.

WEBSITE – Discuss the format of the City's website as it pertains to the City Code.

Commissioner Beal said he was curious as to why the website singled out the Massing Ordinance from the rest of the City Code. He said further investigation

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showed that the Massing Ordinance was also within the City Code document and it was always his understanding that the City Attorney advised against presenting the same ordinance twice for fear that they may differ, either now or in the future.

Chairman Lucking said he suggested that the Massing Ordinance be highlighted on the website to draw resident's attention to the fact a new ordinance had been adopted. He said one of the problems the city has had is disseminating information to the public and he felt highlighting important ordinances on the website would help. He said it wouldn't be logical to highlight each section of the ordinance, rather certain sections that the city finds important.

City Attorney Kelly suggested a format where there is a link that would, once selected, bring you to that portion of the city code. This would eliminate duplicated documents. The Planning Commissioners agreed that would be a better format.

Chairman Lucking felt there are a number of other ordinances that could be highlighted, such as the tree ordinance and sign ordinance.

Council Liaison Fletcher noted that Mayor Kind has done a lot of work make the website more user friendly and informative.

7. PLANNING COMMISSION LIAISON

There will be no representative from the Planning Commission at the March 3rd City Council meeting.

8. ADJOURN

Motion by Commissioner Paeper to adjourn the meeting. Commissioner Beal seconded the motion. The meeting was adjourned at 8:45 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator