

**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 Kristi Conrad, David Paeper and Douglas Reeder

Absent: Commissioner John Beal

Others Present: Council Liaison Bill Cook, City Attorney Kelly and Zoning Administrator Gus Karpas.

**2. APPROVE AGENDA**

No action was taken on the agenda.

**3. MINUTES – July 17, 2013**

Commissioner Paeper moved to approve the minutes of July 17, 2013 as presented. Commissioner Reeder seconded the motion. Motion carried 3-0-1. Commissioner Conrad abstained.

**4. PUBLIC HEARING**

**Ordinance 222** – An Ordinance of the City of Greenwood, Minnesota Amending Greenwood Zoning Code Chapter 11 to add Section 1123, R-1C Single-Family Residential & Neighborhood Entertainment District, add Related Definitions to Chapter 12, and Amend Section 1150.20 Regarding Conditional Uses

Chairman Lucking presented the ordinance. He gave a brief history of what led to the proposed ordinance. He said the proposed ordinance benefits the city in that potential changes to the property would not impact the entire R-1A district.

Commissioner Conrad said the Council is asking the Commission to create an ordinance with nearly the same language as the R-1A district, though the Planning Commission has always sought to expand the language and add some documentation of what currently exists and begin regulations from that point.

Chairman Lucking said his idea has always been to define what the current use of the Old Log Theater is and reasonable regulate that use, not restrict that use. He said the theater's current ordinance status is restrictive since it's a non-conforming use.

Chairman Lucking opened the public hearing.

Mark Setterholm, 5250 Meadville Street, said the use of the theater has already been defined by Don Stolz. It's a theater with live performances. Any other use or outside event was secondary to that use.

Julie Ekelund, 5135 Meadville Street, said her main concern with the proposed ordinance was the creation of an "Entertainment District" and what that could entail. She

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discussed a recent situation where loud music was coming from the Old Log Theater at a later hour than usual. She learned the city was considering a new ordinance to rezone and regulate the property.

Ms. Ekelund said the ordinance introduces the concept of an Entertainment District into the neighborhood which, she believes, is the first step to making the neighborhood a destination more so than the Old Log has already made it. She said the ordinance would allow for a full scale restaurant with a bar, which is already available in close proximity with Maynard's and Bayside. She doesn't believe this added activity at the Old Log enhances the quality of life or the value of the property in the neighborhood.

The addition of a more intensified service use in the neighborhood requires more deliveries, creates more trash and creates greater volumes of traffic and noise. Ms. Ekelund is also concerned about the possibility of people wandering through the neighborhood or finding intoxicated people in their yards.

She questioned the need to create an Entertainment District and asked how it would benefit the residents in the neighborhood.

Bob Newman, 5230 Meadville Street, said he was puzzled why there would be an amendment to the ordinance when one was not requested. He said it is typically the job of a property/business owner to adjust to the ordinance requirements. He doesn't want to see an ordinance that is more liberal than what currently exists. He said altering the use to something similar to Maynard's would impact property values and could impact the cost of police service, which affects all residents.

Greg Frankenfield, owner of the Old Log Theater, said he supported the proposed ordinance amendment. He has no applications before the city and no intentions at this time to submit any requests. He said the theater was removed as a conditional use while he was in the process of purchasing it, creating a situation where he can't legally do anything with it. He would like it to be re-established as some type of use in the ordinance. He discussed the loud music Ms. Ekelund described commenting it was from a wedding that was scheduled prior to him purchasing the property and that two more remain that he will honor that were booked by Mr. Stolz. He said they will do their best to police the property and make sure there is a minimal impact on the adjacent properties.

Keith Stuessi, 5000 Meadville Street, asked what other type of uses Mr. Frankenfield envisioned for the theater. Mr. Frankenfield said he has considered holding corporate events that would be held during the day. Mr. Stuessi asked about the restaurant and if there would be take out service. Mr. Frankenfield said there would not be any take out. He explained the restaurant opened in 1981 and his intent is to expand it to include a fine dining component within the existing restaurant. He said it would have a maximum capacity of fifty customers and would not be directly linked to the theater, though you could order a meal and then go to a show afterward. Mr. Stuessi asked about parking. Mr. Frankenfield said there were no events that would intentionally exceed the parking capacity and in the cases where there would be overflow, they could have valet parking and put cars elsewhere on the grassy areas of the property. He explained recent on-street parking during events were due to some parking lot improvements which were temporarily impacting the number of parking spaces.

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Ms. Ekelund said she loves the Old Log and she has no concerns about the current use or those being discussed by Mr. Frankenfield, but the city has to consider the use in terms of what future owners could do. Chairman Lucking said the purpose of the ordinance is to create a degree of protection for the citizens in limiting potential development in the R-1A.

Zoning Coordinator Karpas said the proposed ordinance does not weaken the current language, in fact, it's the same language. What the ordinance does is give the city protection from someone else, as far-fetched as it sounds, acquiring enough land within the R-1A district and applying for a CUP to operate a theater. At the same time, it also creates a district, which in the event the theater no longer exists, permits the city to consider other low density housing types that may be appropriate for that property but not the rest of the R-1A. He said the definition of theater has also been amended to address the fact the existing definition was too broad and could include any number of uses the city may not want.

Kathlyn Heidel, 5085 Meadville Street, discussed the wetlands on the properties and how extensive the flooding was whenever there was a significant rainfall. She spoke of the uniqueness of Greenwood and the need to protect sensitive areas such as the Old Log property.

Mr. Newman said the neighborhood wants to maintain its friendly relationship with the Old Log. He doesn't have an issue with restaurant use and was even excited to see the overflow parking the other night. He does not want to see excess noise as a regular occurrence. He said changes can be made to the ordinance without loosening the existing standards and they should be written to protect the citizens.

Council Liaison Cook explained his thoughts noting it was his belief that the Council did not want to have a CUP for a theater in the R-1A district and wanted to draft an ordinance that would put in protection for the residential district and the theater. He said the interaction between the Old Log and the neighborhood is very unique and issues such as odor and noise are very important to discuss.

Hearing no further comments, the hearing was closed.

Chairman Lucking discussed a definition he proposed for "Theater Entertainment Center" which more closely represents how the Old Log has operated in the past. He said calling the Old Log a restaurant is a stretch in his mind. City Attorney Kelly suggested renaming the definition to "Dinner Theater."

Commissioner Conrad expressed concern that the Commission may not have a lot of time for revision of the ordinance since the Council is expecting something to be passed on to them.

City Attorney Kelly said a good starting point may be to define what we have today, in terms of a restaurant and once the use crosses that threshold, a conditional use permit would need to be issued.

The Commission discussed the creation of conditions and how they could be applied. City Attorney said conditions that are rationally related to the permit can be applied to a request. He said that's why there's a benefit to think about what the existing use is and

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what it may become. He said if your conditions are too general, you run the risk of adopting conditions that aren't related to the permit. Zoning Coordinator Karpas asked if the phrase "including, but not limited to" provided any protection. Mr. Kelly said it could, but it could also create a pathway to a challenge.

Ms. Ekelund commented about the development of the St. Alban Villas and Marina and how the contractor visited neighbors to discuss the plans. She said it was a comfortable feeling to know what is going on, even if you're not necessarily in favor of it. She said there is fear and people don't like change, especially when they don't know what is going on.

Council Liaison Cook said he has some ideas, but he will hold his changes until the ordinance gets to the Council level. He believes the Council is not looking for a set of detailed requirements, rather a framework to work with for the next CUP and a definition of when the next CUP is required. He thinks any conditions should maintain compatibility with the residential character of the neighborhood.

Commissioner Conrad asked if Mr. Frankenfield was comfortable with removing the definition of restaurant and replacing it with "Dinner Theater." Chairman Lucking noted if a definition is not created at this time, if Mr. Frankenfield wants to run a restaurant, he would need to be issued a CUP.

Mr. Frankenfield said he bought a theater with a restaurant attached to it. He said it's not a dinner theater which is commonly defined as eating while watching the show. He said defining it in that manner also creates an issue with his worker's union. He reiterated he doesn't have any applications before the city and based on his current status under the ordinance, he can't apply for anything. He said there will be changes, but they will all be within the ordinance requirements, regardless of what the changes are. He said he's not even sure he knows enough about what he's going to do to allow the city to craft conditions. He said the business as it was operating was failing and he knows he has to do something different.

City Attorney Kelly said the city is trying to provide some guidance by defining what exists and what expansions would be permitted and those that would require a CUP. Chairman Lucking said the intent is also to design something that is good for everyone so you can succeed as a business and the neighborhood cannot feel it's been negatively impacted. He said the city has learned more about Mr. Frankenfield's perspective tonight than any other time which has given the Commission some idea of how to draft some language to pass on to the Council.

The Commission discussed specific language changes removing the term "Theater Entertainment Center" and replacing it with "Theater with Attached Restaurant" and creating an amended definition for the term. The Commission altered the definition for "Restaurant" and made minor changes throughout the ordinance to reflect the changes in terminology made in the definitions.

The changes were read out loud to those residents in attendance.

Ms. Ekelund said food service has always been associated with shows and is still concerned that her property is next to something that could turn into a business like Maynard's. She believes even the amended language leaves the door open for

expansion of the use and can make the site a destination for something other than a theater.

Mr. Stuessi commented that people are trying to define and create an ordinance based on what has happened on the property in the past. He said there have been a large number of events on the property over the years with minimal impact. He would hate to create regulations that would unduly restrict the use of the property based on what we perceive could happen on the site.

Motion by Commissioner Paeper to recommend the City Council approve Ordinance 222, as amended, Amending Greenwood Zoning Code Chapter 11 to add Section 1123, R-1C Single-Family Residential District, add Related Definitions to Chapter 12, and Amend Section 1150.20 Regarding Conditional Uses. Reeder seconded the motion. Motion carried 4-0.

## **5. OLD BUSINESS**

None

## **6. LIAISON REPORT**

Council Liaison Cook had no report.

## **7. ADJOURN**

Motion by Commissioner Reeder to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 9:10 pm.

Respectively Submitted  
Gus Karpas - Zoning Administrator