

**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 require 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. Commissioner Conrad said that no solution should be immediately taken off the table.

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

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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 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 could be solved, but not within the constraints of this Conditional Use Permit request. Conrad said the comprehensive

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plan says that development and redevelopment should show respect for 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 they are 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.

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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 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.

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Chairman Lucking introduced the agenda item and opened the public hearing. Hearing no public comments, Chairman Lucking closed the public hearing.

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