

MEDIATING COMMITTEE REPORT TO THE SCA BOARD
11/5/2016

We offer the following report to share our understanding of the matter, hoping to bring the months of mediation to fruition to precipitate a final resolution and save the community from incurring the cost and acrimony of a protracted legal battle:

BACKGROUND

In June of 2016 the mediating committee presented to the SCA board a Memorandum of Understanding (MOU) describing concessions or conditions that Legacy Theater had agreed to after almost a year of discussions. It was generally perceived that that document, a copy of which is attached, achieved the goals of the Stony Creek community and that the Theater had worked very hard to respond to the community's concerns and had been very accommodating of our needs. The SCA board voted to approve the MOU.

That document, while believed to be a solution to the needs of the community in general, did not cover some particular concerns felt by our co-plaintiffs (3 adjacent neighbors), and they continued discussions with the Theater with the assistance of a new, separate attorney. We stood back to allow time for those discussions which have now gone on for four months.

The co-plaintiffs attorney and the Theater's attorney have assured us that the results to date have been minor additional concessions by the Theater that accomplish some things that had been of concern to the co-plaintiffs without being different in spirit or general content from our MOU. We have assumed that if the co-plaintiffs and the Theater are both happy with these provisions, that the SCA will probably not find them objectionable.

At this point we have been told by the co-plaintiffs attorneys that the "only significant remaining issue" is a concern about parking, primarily parking for the co-plaintiffs during events at the theater building. We have consequently participated in an ongoing discussion about parking centered on the parking needs of the co-plaintiffs and the immediate neighborhood.

Although parking was said to be a significantly difficult issue from the beginning of the mediation process last year, there had been little quantified, explicit and complete information presented and no overall comprehensive discussion of the subject. As a result, throughout the mediation process since its inception there has been extensive discussion about many aspects of the issue of parking. In an attempt to remedy this and hoping to demonstrate a rational solution to parking issues we gave the attached Parking Plan to the SCA's Attorney, Tim Lee on October 28th, asking him to distribute it to all parties including the mediating judge.

It is our view that, assuming the Town of Branford concurs with the provisions of the Memorandum of Understanding and the Parking Plan, the only significant remaining point of disagreement is the manner of assuring parking for the co-plaintiffs during performances. Several options for achieving this have been proposed but none have been agreed to as yet. On 9/16, we proposed the attached solution.

On 10/31/16, we learned that the Theater had succeeded in obtaining the use of 20 parking spaces at the commuter lot on Leetes Island Road for a shuttle parking service, which although accepted we still consider available.

We also learned on 10/31 that Legacy Theater offered the co-plaintiffs the attached “Parking Plan Proposal” for parking for the co-plaintiffs that proposed four parking spaces for the co-plaintiffs on the theater property combined with several on-street handicapped parking spaces, an on-street drop off area for patrons and measures to limit traffic on Ridge and Rextile Roads.

The co-plaintiffs did not accept this proposal and countered by repeating their prior proposal of seven on street parking spaces reserved in perpetuity for themselves. We were told the Theater responded by terminating the conversation and instituting a return to the litigation process.

The Judge has set a December 19th due date for the Town of Branford to file an answer and a “return of record and hearing transcript”. The plaintiffs briefs will be due 30 days after that with Town briefs due in another 30 days.

During these last four months we have been paying on average about \$900 a month for ongoing attorney fees to continue this discussion. If we remain in the suit beyond the end of this year, we will be required to file a brief, an expense in legal fees of \$5,000 or more.

SUMMARY

1. We believe we cannot get a better deal than this mediation promises. We came from having no control to getting all the concessions and accommodations we were looking for at this property, in perpetuity.
2. If we proceed with the suit, we risk losing everything we have gained.
3. If we win the suit, we lose everything we have gained and throw the community’s fate into the hands of the P&Z process which will never get us a deal even remotely equal to what we have accomplished.
4. In Legacy Theater, we have a property owner that has demonstrated a willingness to respond to our needs and a desire to become a good neighbor in our community. What could we get if they gave it up?

OPTIONS

We recommend the Board consider and decide whether to:

1. Support the co-plaintiffs proposal for reserved on-street parking for their use.
2. Commit to funding an ongoing lawsuit, starting with an expenditure of around \$5000 to file an initial brief by January 19th, or withdraw from the lawsuit some time before the end of this year when we would have begin spending money to pursue the lawsuit.
3. Advocate for a drop off zone in front of the theater and for on-street handicapped parking spaces.
4. Authorizing the mediating committee to continue to work for a settlement by continuing informal discussions with all parties to look for other options to solve the parking concerns of the co-plaintiffs. We could:
 - Support all or part of the Legacy Parking Plan Proposal if it is still on the table.
 - Reconsider or consider variations of the ideas that have been offered before.
 - Consider new ideas.

Respectfully submitted,
SCA Board mediating committee,
Sam Kirby, Chair
Jake Greenvall

Greg Ames