



# **CITY OF BAYPORT**

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

---

## **PLANNING COMMISSION MEETING**

**City Hall - Council Chambers**

**May 17, 2010 – 6:00 p.m.**

**A. CALL TO ORDER**

**B. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON**

**C. APPROVAL OF MINUTES**

- **February 16, 2010 regular meeting**

**D. PUBLIC HEARINGS**

- **Public hearing to consider a request for an amendment to the B-1 Limited Business zoning district and a conditional use permit (CUP) to allow a limited transit vehicle storage facility at 204 2<sup>nd</sup> Street South.**

**E. OLD BUSINESS**

**F. NEW BUSINESS**

**G. GENERAL INFORMATION**

**H. OPEN FORUM**

**I. ADJOURNMENT**



**CITY OF BAYPORT**  
**294 NORTH THIRD STREET**  
**BAYPORT, MINNESOTA 55003**  
**PHONE 651-275-4404 FAX 651-275-4411**

---

Date: May 11, 2010  
To: Planning Commission  
From: Sara Taylor, Assistant City Administrator / Planner  
Subject: Election of Chairperson and Vice-Chairperson

***BACKGROUND***

The bylaws of the Planning Commission state that officers are to be elected at the first meeting of each year, upon term expiration. Due to a lack of attendance at the February meeting, this item was continued and will be on the agenda at the May meeting. The bylaws also state that no member shall serve as Chairperson or Vice-Chairperson for more than two consecutive terms.

Chairperson Tom Mabie's term expired December 31, 2009. As such, the Planning Commission will need to elect a new Chairperson. Please be advised that because Commissioner Mabie has served in the capacity of Chairperson for two consecutive terms, he is not eligible for re-election. Vice-Chairperson Dan Goldston's term also expired December 31, 2009. As such, the Planning Commission will need to elect a new Vice-Chairperson.

***RECOMMENDATION***

Staff recommends the Planning Commission adopt a motion electing a Chairperson and Vice-Chairperson for a term of two years, or until their term expires.

**CITY OF BAYPORT  
PLANNING COMMISSION MEETING MINUTES  
CITY COUNCIL CHAMBERS  
FEBRUARY 16, 2010  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice thereof, Vice Chairperson Goldston called the regular Bayport Planning Commission meeting of February 16, 2010 to order at 6:10 p.m.

**ROLL CALL**

Commissioners Present: Dan Goldston, Pam Hoye, and David Levy

Commissioners Absent: Tom Mabie and Jennifer Schneider

City Staff Present: City Administrator Mitch Berg and Assistant City Administrator/Planner Sara Taylor

**ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON**

Due to a lack of member attendance, it was moved by Commissioner Levy and seconded by Commissioner Hoye that this item be postponed until the next regular Planning Commission meeting. Motion carried.

**APPROVAL OF MINUTES**

It was moved by Commissioner Levy and seconded by Commissioner Goldston to approve the November 16, 2009 meeting minutes as presented. Motion carried.

**PUBLIC HEARINGS**

Public hearing to consider a variance to reconstruct a portion of the existing single-family house located at 456 4<sup>th</sup> Street South: Assistant City Administrator/Planner Taylor explained that the property owners, Mike and Judy Seeberger, are proposing to demolish and reconstruct a portion of the existing house, which is located above the tuck-under garage, due to disrepair. However, because this portion of the house does not meet the 10 foot setback currently required by city code, a variance is required. Therefore, the Seebergers are requesting a variance to allow this portion of the house to be reconstructed at the existing setback of 4 feet.

In addition to reconstructing the north portion of the house, the Seebergers are also proposing an addition to the front and rear of the house, to expand their living space. The front addition will be located on the northeast side of the house and comply with all setback requirements. The rear addition will consist of a mudroom and covered porch on the northwest side of the house which will also comply with all setback requirements.

Planner Taylor stated that staff feels that the variance request meets the criteria of an undue hardship, and therefore approval is recommended. Planner Taylor also stated that Commissioner Schneider also wanted to express her support for the variance, although she was unable to attend the meeting. Discussion followed on the reasons for reconstructing this portion of the house, which are due to a combination of faulty electrical wiring, inadequate insulation, and poor construction, not settling of the foundation, as stated in the staff report. The Planning Commission also discussed the timeline for the project and agreed with staff's recommendation to change the completion date for restoration of sod/landscaping and as-built drawings to September 1, 2010, to accommodate the anticipated construction timeline.

Vice Chairperson Goldston opened the public hearing. No comments were received from the public.

It was moved by Commissioner Levy and seconded by Commissioner Goldston to close the public hearing. Motion carried.

It was moved by Commissioner Goldston and seconded by Commissioner Hoye to recommend to the City Council to approve a variance to reconstruct a portion of the existing single-family house located at 456 4<sup>th</sup> Street South. The motion included the findings of fact as recommended by staff, noting the change to the completion date for restoration of sod/landscaping and as-built drawings to September 1, 2010, and that staff be given additional flexibility to extend this date within reason, if necessary. Motion carried.

**OLD BUSINESS** – None

**NEW BUSINESS** – None

**GENERAL INFORMATION**

It was moved by Commissioner Levy and seconded by Commissioner Hoye to accept the calendar of application due dates and meetings for 2010. Motion carried.

**OPEN FORUM** – None

**ADJOURN**

It was moved by Commissioner Levy and seconded by Commissioner Goldston to adjourn the meeting at 6:16 p.m. Motion carried.

---

# MEMORANDUM

---

**DATE:** May 12, 2010

**TO:** Planning Commission (May 17<sup>th</sup> meeting)  
Mitch Berg, City Administrator

**FROM:** Sara Taylor, Assistant City Administrator/Planner

**SUBJECT:** Public hearing to consider a request for an amendment to the B-1 Limited Business zoning district and a conditional use permit (CUP) to allow a limited transit vehicle storage facility at 204 2<sup>nd</sup> Street South

## *A. INTRODUCTION*

The property is located at 204 2<sup>nd</sup> Street South and is legally described as Lots 9-10, Block 75 Bayport, Washington County, Minnesota. The parcel contains an existing garage/office building that has been unoccupied for the past three years, but was previously used for a heavy truck repair business. The property is zoned B-1 Limited Business and is surrounded by a combination of residential, commercial, and industrial uses. The property is guided for commercial use in the city's comprehensive plan.

The applicant Matt Liveringhouse is currently leasing the property from owner Dave Schulte and operating a limited transit vehicle storage facility, which is not permitted under the existing city code. About a month ago, it was brought to the city's attention that this use was actively operating at the property in violation of city code, at which time the applicant and property owner were notified that the use is not permitted and for the city to permit such use, they would need to seek and obtain an amendment to the zoning code to allow the use and obtain a CUP.

Due to the fact that the applicant was unaware of the zoning restrictions, and has applied for the text amendment and CUP, the city felt it was reasonable to suspend code enforcement on this issue, pending the text amendment and CUP application being heard by the Planning Commission and City Council. The applicant understands that they are proceeding at their own risk and that their use could be shut down at any time with any capital investment on their part lost. If approved, the applicant has indicated his intent to purchase the property from the current owner and continue the use long-term at this location. As part of the CUP, the property will be subject to site plan review and conditions of approval.

Notice of the Planning Commission's public hearing was mailed to all property owners within 350' of the subject property and published in the Stillwater Gazette on April 29, 2010. The following informational items are attached:

- narrative by the applicant
- photos of the existing property
- required improvements and site plan

**B. BACKGROUND AND STAFF COMMENTS**

Although the property has a new owner, and a new use is proposed for the site, staff feels that because the property has previously been involved with multiple zoning applications and land use issues, it is important to provide some background, to assist in the consideration of this application and future use of the property. Below is a timeline of planning/zoning approvals to date:

1972	City granted a variance to operate a truck repair shop in a residential zoning district
1984	City granted a CUP to construct a new garage building with conditions City rezoned property from residential to B-4 Existing Business
1985	City granted a building permit to construct a 60' x 60' garage building
1997	City found rezoning in 1984 to be invalid, due to a lack of 4/5's vote by City Council
1998	City corrected rezoning issue; rezoned property from residential to B-4 Existing Business City granted a CUP to allow existing truck repair shop to continue, with conditions City granted a variance for excess impervious coverage for the building that was built in 1985 (impervious coverage was not enforced when building permit was granted) City granted a variance to allow proposed off-street parking to consist of class 5 instead of bituminous (due to excess existing impervious coverage on site)
2005	City rezoned property from B-4 Existing Business to B-1 Limited Business
2006	Truck repair shop use discontinued; property was sold to a new owner Dave Schulte
2010	Dave Schulte leasing property to Matt Liveringhouse for a limited transit vehicle storage facility use City notified Dave Schulte of unlawful use and that an amendment to city code and a CUP is required to continue use Dave Schulte and Matt Liveringhouse applied for a text amendment and CUP to allow continuation of use

Staff feels that it is important to note that while reviewing the property file, we found a number of complaints from residents over the years, as well as a number of letters related to ongoing code violations and non-compliance with the previous CUP. Issues of concern related primarily to heavy traffic, excessive outdoor storage, loud repair activity, and lack of property maintenance, which in staff's opinion, suggest that the truck repair shop was too intense of a use for the site, and led to the rezoning of the property to B-1 Limited Business. In order to do its due diligence to the adjacent property owners and honor the type of land use intended for the site, staff feels that the city needs to be cautious in considering future use, to prevent a reoccurrence of past violations and overuse of the property. With that said, staff feels it is also important for the city to be open to alternative uses not currently listed within this zoning district, in order to facilitate a viable business that could be compatible with adjoining uses.

Due to the location and size of the property, as well as the limited types of businesses that could make use of the existing garage building, the existing property owner has had difficulty attracting a tenant. For this reason, the property owner and applicant are requesting that the zoning code be amended to include the proposed limited transit vehicle storage facility as a conditional use in the

B-1 zoning district, which the current building is suited to accommodate. Considering the previous use and current zoning, staff feels the proposed use may be a good compromise and would create a “buffer” between the surrounding industrial/commercial and residential uses, provided conditions in the CUP are met.

The proposed use is similar to what is referred to as a “dial-a-ride” service in which individuals call a dispatch service to arrange for on-demand transportation. This property would serve as a storage facility for the vehicles, when not in operation, and include a small area for office use associated with the business. To ensure the use will be compatible with the surrounding neighborhood, all activity would be contained within the existing garage/office building, with the exception of the dispatch and return of the transit vehicles in the morning and evening, parking of employee vehicles in designated areas during business hours, an occasional stop by a transit vehicle for an employee break or shift change during business hours, and limited parking of transit vehicles in a designated fenced area during non-business hours. General operating hours would be 5:30 a.m. – 8:00 p.m., Monday through Saturday with no activity conducted with the general public or customers at the site.

As part of the immediate business plan, the applicant has agreed to refurbish/paint the exterior of the existing building, as well as attend to general property maintenance to comply with city code, including repair/replacement of the existing fence and retaining walls, removal of existing weeds/scrub vegetation, and delineating parking areas for employees and transit vehicles. The property owner/applicant have been informed that additional improvements may be required in the near future, such as abatement of the existing septic system, participating in a city utility extension and street improvement project to address stormwater runoff, and connecting the property to city sewer, which shall depend on the results of the required septic inspection, and/or if the City Council initiates a utility extension/street improvement project under Minnesota State Statute 429.

**C. SUGGESTED FINDINGS OF FACT AND CONDITIONS OF APPROVAL**

The B-1 Limited Business zoning district is intended to act as a low impact business buffer district, between residential and commercial uses, with limited public contact. To comply with city code, uses within this district shall be contained inside buildings, with no outdoor storage or activity unless specified by CUP, and shall have limited hours of operation to minimize impact to adjacent residential uses.

After reviewing the property, proposed text amendment, and the CUP application, staff feels that the proposed use of a limited transit vehicle storage facility would be compatible as a conditional use within the B-1 zoning district and the city’s comprehensive land use plan. However, to comply with regulations set forth by city code, and minimize the impact to the surrounding neighborhood, staff recommends approval of the following conditions:

- “Limited transit vehicle” shall refer to a small or mid-size bus or passenger van for use in transporting up to 25 passengers, not goods or services.
- “Storage facility” shall refer to an indoor parking garage designated to store limited transit vehicles when not in route and may contain a small office area for employee use during business hours.

- ❑ General business operating hours shall be 5:30 a.m. – 8:00 p.m., Monday through Saturday, with no activity conducted with the general public and no activity during non-business hours. Vehicle maintenance, repair, and gasoline storage are not permitted on site.
- ❑ The use shall allow dispatching of limited transit vehicles from the facility in the morning to operate on a route throughout the day, and return of the vehicles in the evening, to be stored in the facility overnight; the use does not permit the ongoing dispatch of vehicles on multiple occasions to and from the storage facility during business hours, nor is any pick-up or drop-off of passengers permitted at the property at any time.
- ❑ No outdoor storage or activity is permitted, with the exception of parking employee vehicles in designated areas on the property during business hours, the occasional parking of a limited transit vehicle in the designated fenced area during business hours, and the parking of limited transit vehicles in the designated fenced area during non-business hours, screened with a fence and gate; parking of employee and limited transit vehicles on-street or in the front of the building is not permitted at any time.
- ❑ No limited transit vehicle, parked or stored in the open shall have their engine running idle for any period greater than one hour within any given 24 hour period.
- ❑ An inspection of the septic system by Washington County will be required as part of the sale of the property, and it is the responsibility of the property owner and/or applicant to comply with orders issued as part of the inspection, as well as all city, county, state, and federal rules and regulations.
- ❑ Required improvements are delineated on the attached site plan and must be implemented by the designated completion date.
- ❑ A landscape plan shall be submitted by March 1, 2011 for review and approval by the city, which delineates existing impervious areas that will be replaced with sod or vegetative plantings, delineates planting areas around the perimeter of the building that will soften the façade, and delineates the location of rain garden(s) to treat stormwater runoff; rain garden(s) will need to be designed and approved in accordance with the Middle St. Croix Watershed Management Organization regulations.
- ❑ Signage identifying the business shall only be permitted on the front of the building, facing 2<sup>nd</sup> Avenue South, in accordance with city code.
- ❑ Limited transit vehicle traffic shall be routed on 2<sup>nd</sup> Avenue South to Maine Street to Central Avenue, to minimize impacts to adjacent residential areas.
- ❑ Financial surety in the amount of \$5,000 shall be submitted to the city upon approval of the CUP, to ensure completion of the required improvements, should the applicant fail to complete the improvements by the date designated.
- ❑ The CUP shall be formally reviewed one (1) year from the date of approval to determine if the conditions of the CUP have consistently been met, the property is in compliance with city code, and whether any conditions shall be modified to ensure the use is compatible with surrounding neighborhood. Failure to complete the required site improvements within the specified timeframe may result in the city revoking the CUP. The city will continue to monitor the property on a regular basis, to ensure ongoing compliance with the conditions of the CUP.

**D. RECOMMENDATION**

Staff recommends approval of an amendment to Appendix B – Zoning of the Bayport City Code to allow a limited transit vehicle storage facility as a conditional use in the B-1 Limited Business zoning district. Staff also recommends approval of a CUP to allow a limited transit vehicle storage facility at the property located at 204 2<sup>nd</sup> Street South. Suggested findings of fact and conditions of approval are stated in the staff report. The Planning Commission is asked to make a recommendation on the request for City Council consideration. The City Council will consider the request at its meeting on June 7, 2010.

Proposed Use:

Midwest Paratransit Services will be using the building for the purpose of storing vehicles.

Reason to Approve Request:

Midwest Paratransit Services is a reputable transit company in the Twin Cities. We have recently been awarded a dial-a-ride contract through the State of Minnesota that will provide transit service to communities of Washington County and SE Ramsey County. The length of this contract is for 5 years, however renewal is a very likely scenario once awarded the initial contract. Midwest Paratransit Services plans to have a long term presence in the City of Bayport. As a part of this plan we will provide numerous jobs to the City, as well as provide positions to the patrons of Bayport.

In regards to traffic flow, the vehicles will be departing early in the morning and return in the afternoon. There will be minimal (if any) additional traffic to and from the building with the exception of those times. Midwest Paratransit Services has already implemented a plan to relocate the existing reverse sounding alarms from the exterior of its buses to the internal cab to minimize the amount of noise the vehicles produce.

Furthermore, Midwest Paratransit Services considers this building a diamond in the rough. There are significant cosmetic improvements that are going to be completed through time. The fencing will be fixed first; the grounds to the back of the building will be graded level and maintained properly; the building will be painted; the garage doors will be serviced or maintained, to name a few projects.

*Now* hope is to work with the City of Bayport to improve this facility. We will be good stewards for the community in providing needed transit services.

Thank you for your consideration.

Matthew Liveringhouse

CEO

Midwest Paratransit Services, Inc.



**CURRENT CONDITIONS  
WEST SIDE OF THE PROPERTY**



**CURRENT CONDITIONS  
SOUTHWEST SIDE OF THE PROPERTY**



**CURRENT CONDITIONS  
SOUTHEAST SIDE OF THE PROPERTY**



**CURRENT CONDITIONS  
EAST SIDE OF THE PROPERTY**

Required improvements to comply with Limited Transit Storage Facility CUP  
204 2<sup>nd</sup> Avenue South

<b><u>Improvement</u></b>	<b><u>Completion Date</u></b>
- Store dumpster within a building or approved enclosure	Immediately upon CUP approval
- Comply with delineated parking areas and hours	Immediately upon CUP approval
- Remove all existing weeds and scrub vegetation	October 1, 2010
- Repair/replace the existing 8' solid fence to provide a cohesive appearance and effective screen from adjacent properties	October 1, 2010
- Install an 8' solid gate, consistent with the fence, to screen the outdoor transit parking area from adjacent properties	October 1, 2010
- Install two "no parking" signs on the front of the building to restrict parking in front of the garage doors and fire lane in front of the building	October 1, 2010
- Designate 11 regular, 9' x 18' parking stalls, with a concrete bumper	June 1, 2011
- Designate 1 handicap, 12' x 19' parking stall, with a concrete bumper	June 1, 2011
- Refurbish/paint the exterior siding and roof of all existing buildings in an earth vegetation tone, to provide a consistent, cohesive appearance	June 1, 2011
- Repair, replace, or remove the existing retaining walls	June 1, 2011
- Install landscaping/rain garden(s) consistent with plan approved by the city	October 1, 2011

*Please refer to the attached site plan for details and location of the improvements listed above. Details on installation of landscaping and rain gardens will be included on a separate plan to be submitted by March 1, 2011.*

CUP REQUIRED  
 SITE IMPROVEMENTS  
 204 2ND AVE. S.

**SECONDS**  
 GRAVEL

No.

EMPLOYEE  
 PARKING  
 STALLS  
 (1-12)

8' SOLID FENCE MUST BE CLOSED DURING  
 MONI-BUSINESS  
 HOURS

TRANSIT  
 PARKING STALL

PILE OPEN 19.3'

DUMPSTER  
 ENCLOSURE

BUDG.

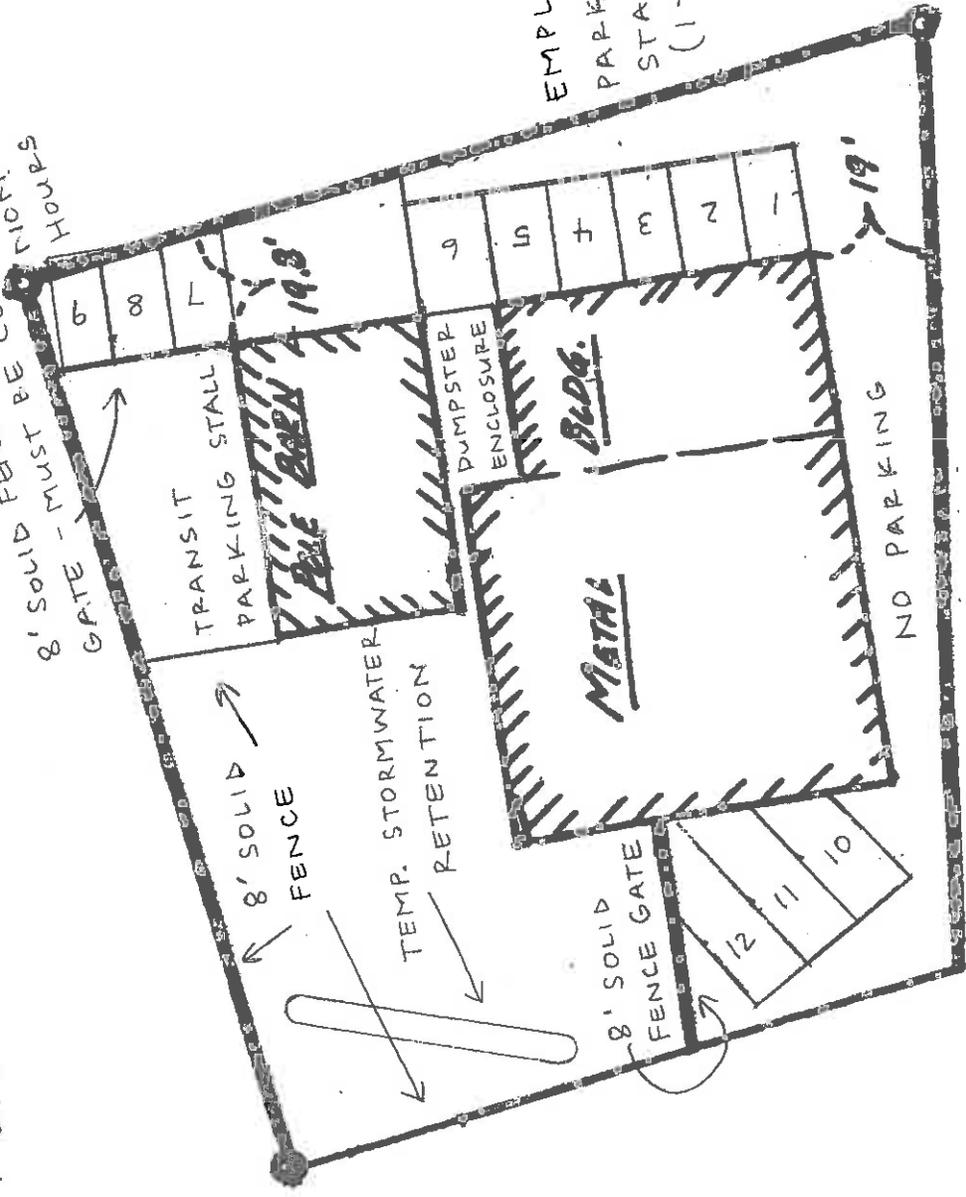
METAL

NO PARKING

8' SOLID  
 FENCE

TEMP. STORMWATER  
 RETENTION

8' SOLID  
 FENCE GATE



AVE. PART. SO.

