



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

PLANNING COMMISSION MEETING
City Hall - Council Chambers
January 18, 2011 – 6:00 p.m.

A. CALL TO ORDER

B. SWEARING IN OF NEW MEMBERS TODD GILLES AND JOE RITZER

C. APPROVAL OF MINUTES

- September 20, 2010 regular meeting

D. PUBLIC HEARINGS

- Public hearing to consider an amendment to Conditional Use Permit 83-5C to specify permitted land uses for 101 5th Avenue South

E. OLD BUSINESS

F. NEW BUSINESS

G. GENERAL INFORMATION

- Calendar of application due dates and meetings for 2011

H. OPEN FORUM

I. ADJOURNMENT

**CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
SEPTEMBER 20, 2010
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice thereof, Chairperson Goldston called the regular Bayport Planning Commission meeting of September 20, 2010 to order at 6:00 p.m.

ROLL CALL

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

Commissioners Absent: Tom Mabie

City Staff Present: Assistant City Administrator/Planner Sara, City Council Liaison Judy Seeberger, and City Attorney Nick Vivian

APPROVAL OF MINUTES

It was moved by Commissioner Schneider and seconded by Commissioner Levy to approve the August 16, 2010 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS

Consider an amendment to Appendix C - Lower St. Croix Bluffland and Shoreland Management, Section 2 – Intent and Purpose of the Bayport City Code: Assistant City Administrator/Planner Taylor reviewed the background of the request to amend the city's Lower St. Croix Bluffland and Shoreland Management ordinance to reflect recent State of Minnesota legislation that allows certain pre-existing land uses in rural districts in the St. Croix Riverway District to continue and be recognized as approved uses, with a conditional use permit. Brian Zeller, the property owner of 836 Minnesota Street South, was instrumental in passage of the legislation, due to the unique circumstances associated with his property located in the St. Croix Riverway District. City staff has been working with Mr. Zeller since receiving notification from the Minnesota Department of Natural Resources (DNR) that the property was designated as a rural district and its current commercial land use was in violation of the Lower St. Croix River Act. Staff supports the approved legislation because it coincides with the city's position that Mr. Zeller's parcel is suited for limited commercial use and is consistent with the city's zoning and comprehensive land use plan. Upon approval of the amendment to the city's ordinance, staff will work with Mr. Zeller on submittal of an application for a conditional use permit to bring the property into compliance. This application is anticipated to be submitted within the next few months.

Notice of the Planning Commission's public hearing was published in the Stillwater Gazette on September 9, 2010. Comments were received from the DNR and the St. Croix Scenic Coalition, with both organizations in favor of the ordinance amendment. Discussion followed on the past use of the property and the unique circumstances surrounding the parcel.

Chairperson Goldston opened the public hearing and no public comment was heard.

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

It was moved by Commissioner Levy and seconded by Commissioner Schneider to recommend to the City Council to approve an amendment to Appendix C – Lower St. Croix Bluffland and Shoreland Management, Section 2 – Intent and Purpose, specifying which lands are designated as being in the rural district and certain land uses which are allowed as a conditional use in the rural district.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION

Planner Taylor updated the Planning Commission on the status of a variance for a house addition at 456 4th Street South. The homeowners have not started the project yet and are requesting that the conditions of approval for the variance be extended until September 1, 2011. City staff has determined no further action is needed by the Planning Commission to grant the approval. As such, the city has granted the extension as requested.

OPEN FORUM – None

ADJOURN

It was moved by Commissioner Hoyer and seconded by Commissioner Schneider to adjourn the meeting at 6:11 p.m. Motion carried.

MEMORANDUM

DATE: January 11, 2011

TO: Planning Commission (January 18th meeting)
Mitch Berg, City Administrator

FROM: Sara Taylor, Assistant City Administrator/City Planner

SUBJECT: Public hearing to consider a request to amend Conditional Use Permit 83-5C to specify permitted uses at 101 5th Avenue South, Bayport, Minnesota

A. *BACKGROUND*

In 1983, the city approved the development of a marina (known as Bayport Marina), residential condominiums (known as Waterford on the St. Croix), and a restaurant (known as Clyde's) as part of a "master plan" or "planned unit" development. At the time of development, all three parcels were owned by the same individual and zoned residential. As such, the city required that a conditional use permit (CUP) be issued as part of the development, to specify land uses and stipulate conditions under which these uses must operate. Since 1983, the parcels have been split and sold off to three separate owners, but the uses have remained consistent.

What seemed like a straightforward proposal in 1983, has since turned out to be a constant source of conflict and litigation for both the city and the three property owners over the past few years. Because the CUP that was granted in 1983 was very vague in the way of specific land uses and conditions under which these uses can operate, the city has had a very difficult time deciphering the intensity that was intended for the development and enforcing and/or mitigating uses and conditions that may have a negative effect on surrounding properties. In addition, the property owners have had several disputes related to hours of operation, noise, docking privileges, signage, parking, and cross easements, all of which have come about in the past few years.

After being vacant for several years, the restaurant was purchased by Group 41, Ltd. in 2008 and an application was made to the city to resume the restaurant use and secure various liquor licenses for the establishment. During the review process for this application, the city discovered that the 1983 CUP was never officially recorded, in essence making it null and void. As such, the city issued a new CUP and new liquor licenses, with restricted hours of operation, to minimize negative impacts to adjacent properties.

In July of 2008, Group 41 filed a lawsuit challenging the city's action to require a new CUP with restricted hours of operation, alleging the CUP granted in 1983 shall govern the property. In 2009, a judgment was made that the 2008 CUP was invalid and the 1983 CUP governs, despite the fact that it was never recorded.

A settlement agreement between the City and Group 41 was reached, following mediation. As part of that settlement, the city agreed to consider an amendment to the 1983 CUP, to indicate the specific uses allowed. This proposed CUP amendment, as set forth by the settlement agreement and approved by the City Council in early 2010, is now before the Planning Commission for

approval, as part of the city's formal review process. Once approved, the amended CUP will be recorded.

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 December 23, 2010.

The following informational items are attached:

- Narrative by the applicant
- Conditional Use Permit 83-5C
- Settlement agreement

B. STAFF COMMENTS

Because the settlement agreement was approved by the City Council, the Planning Commission has little discretion in this matter. However, city code requires that the Planning Commission hold a public hearing on all CUP applications or amendments thereto, and provide a recommendation to the City Council. As such, this hearing is required to comply with the city's formal review process.

The purpose of the amendment is to clarify the specific uses that are allowed by the 1983 CUP, not to amend the CUP to conform to current zoning districts or standards. For this reason, the amended text may be somewhat arbitrary, because it references zoning districts that no longer exist in the city. Regardless, excerpts of the original text and amended text are as follows:

Original text

All uses permitted in the R-4 Single Family Urban, LS-1 (Lakeshore) Overlay, and as further permitted and regulated by the St. Croix River Bluff and Shoreland Protection Zone District. As of the effective date of this Conditional Use Permit, however, only those specific uses noted on the approved site development plans attached hereto and made part of this Conditional Use Permit shall be developed, constructed, occupied and operated on the premises above described. All uses shall be further subject to all special conditions as hereinafter outlined.

Proposed amended text

All uses permitted in the R-4 Single Family Urban, LS-1 (Lakeshore) Overlay, and is further permitted and regulated by the St. Croix River Bluff and Shoreland Protection Zone District. As of the effective date of this Conditional Use Permit, however, only the following specific uses shall be allowed pursuant to this Conditional Use Permit: marina, restaurant with on/off sale liquor, residential townhomes, boat sales, and related items, boat repair services, sale of gas and oil for use in boats, rental of boat slips. All uses shall be further subject to all special conditions as hereinafter outlined. All uses are subject to all city ordinances, including, but not limited to, all ordinances pertaining to building codes, occupancy codes and licensing codes.

As the CUP relates to Group 41, their intent of the amendment is to clarify that a restaurant with on and off sale liquor is an approved use at the property. Since the city has always taken the position that the restaurant is one of the original uses intended for the property, the amendment is not actually changing anything from what the city actually intended back in 1983 or to present day. Therefore, the city is in agreement with the proposed text. In addition, if the city wishes to consider restricting hours of operation, the city may choose to implement such restrictions as a condition of an on/off sale liquor license.

At some point in the future, the city would like to work with Group 41, Bayport Marina Associates, and Waterford on the St. Croix Condominiums to create a separate CUP for each property, which stipulates conditions under which the three uses may operate. This will hopefully eliminate conflict and potential future litigation for both the city and the property owners. As for now, staff feels that this amendment is a step in the right direction.

It should also be noted that Group 41 and the Bayport Marina Association are in the process of resolving a dispute involving an advertising sign for the development, which is located on public right-of-way. This matter is discussed in the settlement agreement; however, it will be dealt with as separate issue, at a later date. It is anticipated that a resolution regarding this matter will be brought forward to the city for consideration in the near future.

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

The terms of the settlement agreement agreed upon by the city attorney and approved by the City Council clarify the specific uses that are allowed by the 1983 CUP, including a restaurant with on and off sale liquor. The city has always taken the position that the restaurant is one of the original uses intended for the property. Therefore, the amendment is not actually changing anything from what the city actually intended back in 1983 or to present day.

D. *RECOMMENDATION*

Staff recommends approval of Application 2011-01 to amend Conditional Use Permit 83-5C for permitted uses at 101 5th Avenue South, per the terms and language specified in the settlement agreement approved by the city and Group 41. Suggested findings of fact and conditions of approval are as stated in section “C” of the staff report.

Staff also recommends the Planning Commission extend the review period for the application an additional 60 days, per Minnesota Statute 15.99. The purpose of the extension is to meet the city’s meeting schedule and allow adequate time for the City Council to act properly on the matter.

The Planning Commission is asked to make a recommendation on the request for City Council consideration. The City Council will consider the request on February 7, 2011.



Larkin Hoffman Daly & Lindgren Ltd.

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7900 Xerxes Avenue South
Minneapolis, Minnesota 55431-1194

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November 18, 2010

Sara Taylor
Assistant City Administrator/Planner
City of Bayport
294 North Third Street
Bayport, MN 55003

Re: CUP Amendment for Permit No. 83-5C, Approved August 10, 1983, for a Restaurant Use
Located at 101 – 5th Avenue South; Our File #32,643-00

Dear Ms. Taylor:

We represent Group 41, Ltd. (“Group 41”) in connection with the restaurant use at 101 – 5th Avenue South (the “Site”) in the city of Bayport, Minnesota (the “City”). A conditional use permit (“CUP”) was approved by the City on August 10, 1983, which included a restaurant use on the Site. (See attached Permit No. 83-5C at Exhibit A). The City, Bayport Marina Association, Inc. and Group 41 have entered into a Settlement Agreement (“Agreement”) related to the Site and its ongoing use of the Site as a restaurant. (See Attached at Exhibit B). As a part of the Agreement, Group 41 submits this proposed CUP amendment to Permit No. 83-5C.

Proposed Amendment

The proposed amendment is limited to a change to the first paragraph of Exhibit A, under Permitted Land Uses as follows:

Delete the existing first paragraph in its entirety and insert the following new language:

All uses permitted in the R-4 Single Family Urban, LS-1 (Lakeshore) Overlay, and is further permitted and regulated by the St. Croix River Bluff and Shoreland Protection Zone District. As of the effective date of this Conditional Use Permit, however, only the following specific uses shall be allowed to this Conditional Use Permit: marina, restaurant with on/off sale liquor, residential townhomes, boat sales and related items, boat repair services, sale of gas and oil for use in boats, rental of boat slips. All uses shall be further subject to all special conditions as hereinafter outlined. All uses are subject to all City ordinances, including, but not limited to, all ordinances pertaining to building codes, occupancy codes and licensing codes.

No other changes to the underlying approved CUP are proposed per the Agreement.

Criteria for Approval

The underlying existing CUP runs with the land and remains in effect as long as the conditions agreed upon are observed. The proposed CUP amendment does not materially change any aspect of the ongoing use of the Site as a restaurant.

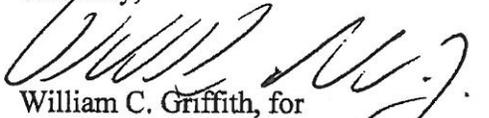
The process for obtaining a CUP is set forth in the City's ordinance and may be granted upon finding that:

1. Certain conditions as detailed in the Zoning Ordinance exist. **This application does not impact the current zoning or proposed use of the Site. The restaurant use was approved by the City in 1983.**
2. The use or development conforms to the comprehensive land use plan of the community. **The restaurant use on the Site as part of the overall development of the approved underlying CUP conforms to the comprehensive land use plan of the City.**
3. The proposed use is compatible with the existing neighborhood. **The restaurant building was originally approved and constructed in the early 1980's as part of the PUD that included the Bayport Marina and Waterford on the St. Croix Condominium Association ("Bayport Marina"). The proposed amendment clarifies the allowed uses within the PUD, including the restaurant use on the Site. The use has been compatible with the surrounding area since the early 1980s and remains compatible today.**
4. The proposed use meets conditions or standards adopted by the community not incorporated in this ordinance. **The restaurant use will continue to be subject to the conditions established in Permit No. 83-5C and adopted by the City.**

Code, Appendix B, §505.

The proposed CUP Amendment meets the terms of the City's Ordinance. As a part of the Agreement, Group 41 requests the City approve the proposed amendment.

Sincerely,


William C. Griffith, for
Larkin Hoffman Daly & Lindgren Ltd.

Direct Dial: 952-896-3290
Direct Fax: 952-842-1729
Email: wgriffith@larkinhoffman.com

Enclosures

cc: Group 41

CONDITIONAL USE PERMIT

City of Bayport, Minnesota

Permit No. 83-5 C
Date: 8/10, 1983
(Date approved by action
of City Council)

Land Owner: (If different from Applicant)

Name: Bayport Marina Associates
Address: 7101 York Avenue South, Edina, Minnesota 55435
Phone No: 835-7707

Name: Moelter Construction Company
Address: 2938 Quant Avenue North, Stillwater, Minnesota 55082
Phone No: 439-6052

Applicant: (Name, address, phone number)

Same as above

Property Address: Around 600 block of South Minnesota Street,
Bayport, Minnesota 55003

Legal Description: See attached Exhibit "A".

Permitted Land Uses:

All uses permitted in the R-4 Single Family Urban, LS-1 (Lake-shore) Overlay, and as further permitted and regulated by the St. Croix River Bluff and Shoreland Protection Zone District. As of the effective date of this Conditional Use Permit, however, only those specific uses noted on the approved site development plans attached hereto and made part of this Conditional Use Permit shall be developed, constructed, occupied and operated on the premises above described. All uses shall be further subject to all special conditions as hereinafter outlined.

In the granting of this Conditional Use Permit, the City Council has approved certain Variances from the strict application of the various applicable Codes and Ordinances of the City. The granting of said Variances shall in no way be construed to create a non-conforming use, lot, or development so long as the use, development, and maintenance of the site are in strict conformity to the Conditions of THIS PERMIT.

PLANNING COMMISSION REPORT

To City Council:

A public hearing having been held with respect to the foregoing request on July 26, 1983, at which the following listed persons appeared:

NAME

ADDRESS

See attached

and all information offered by said persons having been heard and considered, it is the recommendation of your commission that the within request be:

(Please write in one of the following: "Approved", "Approved subject to the following conditions", "Denied for the following reasons:", and number each condition or reason for denial; in the case of each condition or reason for denial refer to any applicable provision of the Zoning Ordinance by section number.)

Secretary - Planning Commission

* * * * *

CLERKS NOTATION

Date. Planning Commission Report Filed 8-10-83
Date and Time Report Placed
on City Council Agenda 8-10-83
Date Copy of Report Mailed to
Applicant pending 8-15-83 to ATTY-Lawson

* * * * *

EXTRACT OF MINUTES OF CITY COUNCIL
MEETING OF 8-10, 1983

(Extract resolution and other matters regarding subject application from minutes and insert here or attach; mail same to applicant.)

See attached

EXHIBIT "A"

Lots 1 through 23 and the South Four (4) feet of Lot 24, Block 105, Block 106, Block 107, and Lots 1 through 22, Block 108, except railroad right-of-way, Bayport (formerly South Stillwater) as platted; Government Lot 6, Section 11, Township 29, Range 20 lying West of the centerline of the creek known as Perro's Creek, Government Lot 3 lying East of railroad right-of-way, and that part of Government Lot 4 lying East of a line commencing on the North line of said Government Lot 4 and 164.2 feet East of the railroad right-of-way and said line running thence South in Section 14, Township 29, Range 20.

Conditions:

1. The Conditions of this Permit are applied to the described land and shall be recorded with Washington County against the Title of the land and shall not be affected or altered by any subsequent sale, lease, rental, or any other change in ownership of tenant status except as may be modified herein.
2. Where there are particular difficulties or unnecessary hardships resulting from the application of the strict letter of the Conditions of this Permit, an Appeal may be made and a Variance may be granted as provided for in the Zoning Regulations of the City.
3. Any requests for major deviation from the approved development and occupancy plans shall require a public hearing and consideration by the City Council following review by the Planning Commission; the City Council shall determine if any requested plan change is "major".
4. Any and all plan or occupancy changes shall not be approved by the City without at least 30 days prior notice to the State Department of Natural Resources.
5. This Conditional Use Permit shall be subject to annual review by the City Council.
6. All conditions outlined and listed in this Permit shall be enforced by the Zoning Administrator, Building Inspector and/or such other persons as designated by the City Council. In order to assure compliance with certain conditions such as the use of transient docks/slips, the City Council may require certain records to be made available by the Marina owners/management.
7. Building or other required Permits shall not be issued until such time that all City fees are paid in full with respect to the processing and administration of this Conditional Use Permit. The City Council may require also that any or all reasonable engineering and inspection costs be paid by the Marina owners both during construction and the on-going process of assuring compliance with conditions of this Permit. The City shall provide the land-owners with an annual estimate of the fees to be charged.
8. The subject site shall not be occupied nor utilized for the permitted uses until the City has issued a Certificate of Occupancy and a Certificate of Compliance. These Certificates shall include at least the following:

Occupancy: This Certificate shall note and outline, in detail, land uses and operations to be permitted at the site along with conditions imposed thereon. Uses and operations not listed as permitted shall be considered as prohibited.

Compliance: This Certificate shall include certifications by the Building Inspector, City Engineer, and others as may be designated by the City Council that all conditions imposed have been complied with.
9. Grading, building, construction, or other required permits shall not be issued nor shall any work at the site be commenced until detailed plans and specifications for that particular stage of development (including landscaping) have been approved by action of the City Council.

10. The City reserves the right to regulate and control vehicular, water craft, and pedestrian traffic/circulation on and near the site.
11. No signs of any type shall be permitted unless noted as specific elements on the approved site/development plans.
12. The City reserves the right to control and regulate noise, lights, or any other environmental nuisance factors that are or may become present.
13. Detailed plans for drainage, utilities, roads, anti-pollution devices/controls, and similar improvements shall be as required and approved by the City Engineer.
14. Storage and removal of trash and other waste materials shall be only as approved in a specific manner by the City.
15. Exterior storage (not within an approved building or other structure) of any type shall be only as noted on specific approved plans.
16. The City reserves the right to take immediate, specific, corrective action in the event that the permitted uses and occupancy of the site creates environmental problems detrimental to the general public health, safety, morals, or general welfare.
17. Landscaping per approved, detailed plans shall be installed in accordance with a time schedule approved by the City Council and may be staged in accordance with other construction elements. All construction, however, shall be in accordance with an approved stage development plan noting approved starting and completion dates. In particular, construction and occupancy of the residential condominium dwellings shall be in accordance with a schedule as approved by the City Council.
18. All structures, parking areas, buildings, sign, landscaping, waste storage areas, and other property features and improvements shall be well-maintained, properly repaired, and reasonably clean and orderly at all times.
19. All approved landscaping shall be well maintained at all times; any trees, shrubs, or planting materials of any type lost due to winterkill, drought, vandalism, or other cause shall be replaced per instructions and requirements of the City. (Replacements to be of original implacement size).
20. As approved by the City Council, the City shall enforce and administer any and all requirements as may be imposed by the State Department of Natural Resources or other governmental body or agency.
21. The City reserves the right to enter upon the premises at any time for inspection purposes in the Marina area to assure compliance with conditions of this Permit. In the residential areas, inspection shall occur during reasonable daylight hours and with due notice.
22. The City reserves the right to enter upon the premises and replace landscaping, do structural maintenance, or otherwise act to protect the general public health, safety, morals or general welfare if the City Council determines (following due notice and public hearing) that deteriorated or deteriorating conditions are present requiring corrective action. If said corrective actions are taken, all costs associated with said actions may be assessed against the property owners.

23. Business operations (boat sales and related items, repair services, sale of gas and oil, rental of boat slips, restaurant, and the like) shall be only as specifically authorized by the City Council.
- 23A. Floodproofing of the road access up to 692 feet (NGVD, 1929) shall be by temporary bridging capable of being placed and removed by a travelift to be on the premises at all time or by hauling and removing adequate load ^R ~~being~~ gravel with a contract to be in effect for said work to be done. Any modifications of this provision which are not less restrictive or less comprehensive than this provision and that one required by the Minnesota Department of Natural Resources as a condition of its approval shall become a part of this provisions. <
- 23B. Floodproofing of the structures that require floodproofing shall be according to existing laws and regulations. Any modifications of this provision which are less restrictive or less comprehensive than this provision and that one required by the Minnesota Department of Natural Resources as a condition of its approval shall become a part of this provision.
24. Upon due finding of fact, the City Council may take immediate corrective actions as may be required to ^U ~~present~~ any environmental pollution (water, air, noise, lights, dust, and other) contrary to the intent and purpose of regulations designed to protect the St. Croix River. <
25. All maps, plans, exhibits, and other documents attached to this Permit which are properly approved and filed shall be considered as a part of this Permit and shall have the same force and effect as if fully set down herein and are hereby made a part of this Permit. (reference to correspondence from Planning and Zoning, planner, etc. is designated as written findings of this Council.)
26. This Permit may be amended or revoked at any time in accordance with due process of Law following review by the Planning Commission, due public notice, and public hearing, based on any significant violation of the terms of this Conditional Use Permit.
27. Approval of the general or "concept" plans presented as of August 10, 1983, by the City County shall in no way bind the Council to later approval of more detailed plans and issuance of necessary permits for construction, occupancy, and use of the land (site) as described herein. Approval of more complete, detailed plans and specifications for development, use, and occupancy of the land and water involved, however, shall be based upon an evaluation of the Applicant's ability to comply with the basic intent and purpose of this Conditional Use Permit.

SETTLEMENT AGREEMENT

**Re: Group 41, Ltd. v. City of Bayport and Bayport Marina Association, Inc.
Washington County Court File No.: 82-CV-08-4846**

This is a Settlement Agreement made and entered into this _____ day of _____, 2010 between Group 41, Ltd., a Minnesota corporation ("Group 41") and the City of Bayport, a Minnesota municipal corporation ("City").

For the consideration as set forth herein and the mutual covenants herein contained, it is hereby agreed by and between Group 41 and the City as follows:

1. Group 41 shall submit an application to the City seeking an amendment to the Conditional Use Permit 83-5C attached hereto as Exhibit A.

2. The Amendment to be submitted shall be limited to a change to the first paragraph of Exhibit A under PERMITTED LAND USES the front page of Exhibit A by deleting said paragraph in its entirety and inserting in its place the following:

All uses permitted in the R-4 Single Family Urban, LS-1 (Lakeshore) Overlay, and is further permitted and regulated by the St. Croix River Bluff and Shoreland Protection Zone District. As of the effective date of this Conditional Use Permit, however, only the following specific uses shall be allowed pursuant to this Conditional Use Permit: marina, restaurant with on/off sale liquor, residential townhomes, boat sales and related items, boat repair services, sale of gas and oil for use in boats, rental of boat slips. All uses shall be further subject to all special conditions as hereinafter outlined. All uses are subject to all City ordinances, including, but not limited to, all ordinances pertaining to building codes, occupancy codes and licensing codes.

3. If the City approves the Amendment as requested, the City shall file with the Washington County Recorder the CUP as amended and such amended CUP shall replace and repeal the CUP as approved by City Resolution No. 08-07 adopted by the City Council of the City of Bayport on May 19, 2008. The City will file the amended CUP with the County Recorder simultaneous with the City and Group 41 signing a Stipulation of Dismissal with Prejudice as set forth below. The Stipulation for Dismissal will be held and not filed pending completion of the items in Paragraphs 1, 2, 3 and 4.

4. The City will consider and cooperate with the anticipated joint request of Group 41 and Bayport Marina Association, Inc. to vacate the public right-of-way consisting of platted Fifth Avenue upon which the existing sign is located which advertises the restaurant. The legal description of said property is: That parcel designated as Fifth Avenue on the plat of Bayport Marina, lying adjacent to Outlot D, Bayport Marina and being formerly described as Lot 4, Block 108, Bayport (formerly South Stillwater) in Washington



County, Minnesota. The City shall cooperate with the approval of such sign permit for such sign. The settlement and resolution of this matter is expressly conditioned upon the City's approval of the vacation of the public right-of-way referenced above.

5. Group 41's claims against the City shall be dismissed with prejudice and without costs and disbursements to any party once the items set forth in Paragraphs 1, 2, 3 and 4 are completed pursuant to the attached Stipulation of Dismissal.

6. Group 41 understands and agrees that by signing the Stipulation of Dismissal with Prejudice it is hereby releasing the City and all of its officials, officers, directors, attorneys, principals, representatives, administrators, executors, successors and assigns, employees and agents from any and all claims, demands, liabilities, obligations, actions or causes of action of any nature whatsoever, whether or not now known, suspected or claimed, including costs, disbursements, and expert fees, attorney's fees, expenses and compensation and demands of whatsoever kind or nature on account of or in any way growing of all known or unknown damages, losses and claims of whatsoever nature including compensatory, consequential or punitive damages in anyway involved or connected with or related to the allegations of Plaintiff's Complaint and Amended Complaint in the above-captioned lawsuit including any and all claims for injunctive relief, mandamus, declaratory judgment or any other equitable or statutory relief requested and related in any manner to said claims as described herein. Nothing in this Settlement Agreement shall be deemed a waiver or release by Group 41 (or its successors or assigns) of any claims, rights, interests, demands or causes of action related to existing or future liquor licenses sought by or issued to Group 41 or its tenants.

7. It is understood and agreed that this Agreement is a settlement of disputed claims and this Agreement, in its consideration, shall not be deemed or construed as an admission of liability by the parties by whom liability is expressed denied.

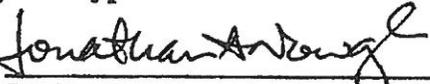
Dated: 4-1-10

Group 41, Inc.

By: 
Its: President

Dated: 1/19/2010

City of Bayport

By: 
Its: Mayor

Dated: 1/19/2010

City of Bayport

By: 
Its: City Clerk



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

DUE DATES AND MEETINGS FOR PLANNING AND ZONING APPLICATIONS IN 2011

<u>Due date for application/fees</u>	<u>Planning Commission Meeting</u>	<u>City Council Meeting</u>
Thursday, December 16	Tuesday, January 18	Monday, February 7
Thursday, January 20	Tuesday, February 22	Monday, March 7
Thursday, February 17	Monday, March 21	Monday, April 4
Thursday, March 17	Monday, April 18	Monday, May 2
Thursday, April 14	Monday, May 16	Monday, June 6
Thursday, May 19	Monday, June 20	Monday, July 11
Thursday, June 16	Monday, July 18	Monday, August 1
Thursday, July 14	Monday, August 15	Tuesday, September 6
Thursday, August 18	Monday, September 19	Monday, October 3
Thursday, September 15	Monday, October 17	Monday, November 7
Thursday, October 20	Monday, November 21	Monday, December 5
Thursday, November 17	Monday, December 19	January 2012
Thursday, December 15	January 2012	February 2012

*All meetings will be held at 6:00 p.m. at City Hall, unless otherwise noted.
For further information regarding planning and zoning applications or related matters, call Sara Taylor at 651-275-4404.*