

**CITY OF BAYPORT  
PLANNING COMMISSION MEETING MINUTES  
CITY COUNCIL CHAMBERS  
AUGUST 16, 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 August 16, 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: City Administrator Mitch Berg, City Council Liaison Torry Kraftson, Assistant City Administrator/Planner Sara Taylor and City Attorney Nick Vivian

**APPROVAL OF MINUTES**

It was moved by Commissioner Schneider and seconded by Commissioner Levy to approve the July 19, 2010 meeting minutes as presented. Motion carried.

**PUBLIC HEARINGS**

Application 2010-05: Consider an amendment to Appendix B - Zoning, Section 3 – Definitions, and an amendment to Section 6 – B-1 Limited Business of the Bayport City Code of Ordinances, to allow a limited transit vehicle storage facility and a heavy commercial vehicle repair and maintenance business with a conditional use permit (CUP) at 204 2<sup>nd</sup> Avenue South: Assistant Administrator/Planner Taylor reviewed the background for the application, noting the applicant withdrew his original application that was recommended for approval by the Planning Commission in May 2010. The current application requests use as a heavy commercial vehicle repair and maintenance business, in addition to a limited transit storage facility. Planner Taylor stated there were multiple complaints issued for the property when it contained a heavy commercial truck repair shop, which led to rezoning of the property to B-1 Limited Business. She stated that none of the site improvements required by staff as part of the initial application have been completed, and the current application indicates several of the improvements will not be initiated until May 2011, or are unacceptable and will not be completed at all. Staff believes the city has been lenient with the required improvements to date and that most of the improvements are needed to bring the property into compliance with city code and to mitigate blight. Staff recommended that normal property maintenance improvements be required and completed, regardless of whether a CUP is issued as part of the current application. Additional improvements would be required as a condition of approval of the application. Staff feels the proposed use of a limited transit vehicle storage facility would be compatible within the zoning district; however, they are not recommending the heavy commercial vehicle repair business, as it would be too intense of a use and is not consistent with the city's comprehensive plan. Notice of tonight's public hearing was published in the Stillwater Gazette and mailed to all property owners within 350 feet of the property.

Attorney Vivian stated he concurs with staff recommendations and reminded the commissioners that any changes to allow the requested uses within the B-1 zoning district, would apply to the entire zoning district. Planner Taylor reviewed current complaints for the property relating to traffic, noise, and parking, and noted the current business is operating without an approved conditional use permit.

Chairperson Goldston opened the public hearing and the following were heard:

Matt Liveringhouse, applicant and CEO of Midwest Paratransit Services, Inc., answered questions related to his business, the property as it meets his future plans, site improvements, and his desire to operate a full commercial vehicle repair facility. Commissioner Levy stated that the applicant's lack of effort in making any site improvements since the May meeting would factor into his decision regarding the current application and questioned follow through on improvements, if the application is approved. Mr. Liveringhouse stated he wants his business to be a good fit for the neighborhood and would be willing to invest in the recommended improvements, if the use included commercial automotive maintenance and repairs.

Mel Horak, 226 3<sup>rd</sup> Avenue South, stated he believes a viable truck repair facility could be operated on the property, with the right conditions, and enforcement of such conditions. He would like to see the property improved and maintained.

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

Discussion followed on property maintenance issues, utility service, applicant's resistance to the required conditions of approval, current complaints and enforcement, lack of enforcement by the city with the former business, applicant's long-term business plan, and permitted uses in the zoning district.

It was moved by Commissioner Schneider and seconded by Commissioner Levy to recommend to the City Council to approve an amendment to Appendix B-Zoning, Section 3-Definitions of the city code to define a limited transit vehicle storage facility, subject to findings of fact as stated in the staff report. Motion carried.

It was moved by Commissioner Hoye and seconded by Commissioner Schneider to recommend to the City Council to approve an amendment to Appendix B-Zoning, Section 6 – B-1 Limited Business of the city code, to allow a limited transit vehicle storage facility as a conditional use in this zoning district, subject to findings of fact as stated in the staff report. Motion carried.

It was moved by Commissioner Hoye and seconded by Commissioner Goldston to recommend to the City Council to allow a limited transit vehicle storage facility as a conditional use at 204 2<sup>nd</sup> Avenue South, subject to findings of fact and conditions as stated in the staff report, including mitigation of city code violations related to property maintenance and required site improvements. Motion carried.

Applicant Liveringhouse explained that he would be able to operate his current business with the above-stated recommendations, but denial of the commercial vehicle repair component would pose issues with purchasing the property by not allowing him to maximize use of the building over time.

It was moved by Commissioner Schneider and seconded by Commissioner Levy to recommend to the City Council to deny an amendment to Appendix B-Zoning, Section 6 – B-1 Limited Business of the city code, to allow heavy commercial vehicle repair and maintenance as a conditional use in this zoning district and a conditional use permit to allow the use at 204 2<sup>nd</sup> Avenue South, subject to findings of fact as stated in the staff report. Motion carried.

Consider an amendment to Appendix B - Zoning, Section 10 – Rezoning Ordinances of the Bayport City Code of Ordinances: Planner Taylor indicated the intent of Section 10 is to provide a list of land parcels in the city that are rezoned over time. She reviewed staff's recommendation to simplify the text of the ordinance by creating an index that would reference the land parcels and date of adoption,

instead of including the legal description within the text of the ordinance. The index would then correspond with amendments to the zoning map. She noted that a full copy of the resolution or ordinance adopting the rezoning, including the legal descriptions, would be kept permanently on file with the city. Notice of tonight's public hearing was published in the Stillwater Gazette.

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

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

It was moved by Commissioner Levy and seconded by Commissioner Hoye to recommend to the City Council to approve an amendment to Appendix B-Zoning, Section 10-Rezoning Ordinances of the city code, calling for the rezoning of land parcels within the city to be referenced by index and reflected by amendment to the city's official zoning map. Motion carried.

**OLD BUSINESS** – None

**NEW BUSINESS** – None

### **GENERAL INFORMATION**

Supreme Court ruling regarding variances: Attorney Vivian and Administrator Berg reviewed a recent Minnesota Supreme Court ruling that defines a much stricter standard for reasonable use when determining an undue hardship, as municipalities consider approving variances. Attorney Vivian noted that since the majority of Bayport's lots are nonconforming, most variances to alter a nonconforming use would currently have to be denied. There is pressure on the legislature to draft new legislation that would allow cities more flexibility in deciding if an undue hardship exists. Administrator Berg stated that staff would be reviewing past variances to identify possible changes to the city's zoning code that would allow property owners more flexibility to improve their property without a variance. City Council liaison Torry Kraftson supported these efforts.

**OPEN FORUM** – None

### **ADJOURN**

It was moved by Commissioner Schneider and seconded by Commissioner Hoye to adjourn the meeting at 7:25 p.m. Motion carried.