



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

PLANNING COMMISSION MEETING City Hall - Council Chambers June 21, 2010 – 6:00 p.m.

A. CALL TO ORDER

B. APPROVAL OF MINUTES

- May 17, 2010 regular meeting

C. PUBLIC HEARINGS

- Application 2010-02 (amended)

Consider a zoning ordinance amendment to Section 3 – Definitions, a zoning ordinance amendment to Section 6 – B-1 Limited Business, and a request for a conditional use permit (CUP) to allow a limited transit vehicle storage facility with light, routine maintenance as an accessory use at 204 2nd Avenue South (portions of this application were heard at the May 17, 2010 Planning Commission meeting)

- Application 2010-03

Consider a conditional use permit (CUP) to allow automotive sales and open lot outdoor display at 174 3rd Street South

D. OLD BUSINESS

E. NEW BUSINESS

F. GENERAL INFORMATION

G. OPEN FORUM

H. ADJOURNMENT

**CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
MAY 17, 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 May 17, 2010 to order at 6:00 p.m.

ROLL CALL

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

Commissioners Absent: David Levy and Tom Mabie

City Staff Present: City Administrator Mitch Berg, Council Liaison Judy Seeberger, Assistant City Administrator/Planner Sara Taylor and City Attorney Mark Vierling

ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON

It was moved by Commissioner Schneider and seconded by Commissioner Hoye to appoint Dan Goldston as Chairperson of the Planning Commission for a term of two years, or until his term expires. Motion carried.

It was moved by Commissioner Schneider and seconded by Commissioner Goldston to appoint Pam Hoye as the Vice Chairperson of the Planning commission for a term of two years, or until her term expires. Motion carried.

APPROVAL OF MINUTES

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

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 records, the address of record going forward will be 2nd Avenue South. The property is zoned B-1 Limited Business and is surrounded by light commercial/industrial businesses and residential properties. Approximately one month ago, it was brought to the city's attention that the applicant was leasing the property and operating a limited transit vehicle storage facility, which is not permitted by city zoning code. The applicant and property owner were notified that in order to permit such use, they would need to obtain an amendment to the zoning code and a conditional use permit for the property. If approved, the applicant intends to purchase the property and continue the use long-term. Planner Taylor noted the previous business at the site, a truck repair shop, generated multiple complaints from residents, as well as ongoing code violations related to the business, and led to the rezoning of the property to Limited Business. The proposed use is for a "dial-a-ride" service in which small or mid-size buses and/or passenger vans are dispatched for on-demand transportation. The existing metal garage storage building would house a small office area, as well as storage for the vehicles. The general operating hours would be 5:00 a.m. to 8:00 p.m., Monday through Friday, and the majority of the activity would be contained within the building.

Planner Taylor reviewed required property maintenance improvements, including possible hookup to city sewer. Staff believes a limited transit vehicle storage facility would be compatible as a conditional use within the B-1 zoning district and recommends approval of the application and the conditions listed in the staff report, with changes noted to the hours of operation and vehicle passenger loads. Staff received two comments from adjacent property owners supporting the proposed use. Commissioner Levy's comments/concerns regarding property maintenance, outdoor storage/parking, and traffic routes were noted. Notice of the public hearing was published in the Stillwater Gazette and mailed to all property owners within 350 feet of the property.

Discussion followed on the timeline for the required improvements and it was noted the applicant is planning on purchasing the property this fall. Commissioner Schneider believes the current owner should take care of some of the improvements this summer, particularly weed and scrub vegetation removal. She also expressed concern with potential fire department issues. Planner Taylor indicated the project is not subject to a full plan review at this time since no changes are proposed to the building or parking areas; however, Attorney Vierling indicated the Planning Commission or City Council could require fire and building inspections as part of the CUP approval. Planner Taylor stated the building official would work with the applicant regarding the need for sprinkling the building and she will follow-up with the fire chief to determine if his department has any concerns with the application. Commissioner Goldston questioned whether the property had been tested for hazardous waste, given the past use of the property. Planner Taylor indicated hazardous waste would be evaluated by Washington County as part of the septic system inspection required as part of the sale of the property. She stated staff is not recommending vehicle maintenance as part of the approval, since this was not part of the applicant's original proposal and has not been addressed in the staff report.

Applicant Matt Liveringhouse, CEO of Midwest Paratransit Services, Inc. stated it would be essential for his business to be able to perform minor vehicle maintenance in the building, including oil changes and brake work. Complex maintenance/inspection at the 30,000-mile and beyond schedule would be performed at another facility. He expressed concern with selling the building in the future with a restricted zoning use for a building designed for automotive functions. Attorney Vierling explained that a CUP runs with the property, and a future owner would be able to use the property in the same manner within the confines of the permit as issued. Commissioner Hoye questioned allowing vehicle maintenance since residents were not made aware of this requested use. Administrator Berg reviewed staff concerns and suggested postponing the public hearing to allow staff more time to adequately address all concerns. Attorney Vierling stated it would be a judgment call whether the new information presented would warrant a new public hearing. He indicated the public comment period could be kept open until the next Planning Commission meeting or the matter could be passed on to the City Council with recommendation to take further public comment regarding the vehicle maintenance issue. Planner Taylor stated the applicant is aware of the complaints generated by the previous business and does not anticipate similar issues arising with the proposed use. She indicated more stringent conditions could be imposed, if needed, at the time of the annual review of the CUP. Applicant Liveringhouse stated he could take care of removing weeds in the front of the building once he takes ownership; however, he prefers the proposed timeline for other improvements to accommodate his purchase date of the property and to spread out the cost of the required improvements.

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

Mel Horak, 226 3rd Avenue South, and business owner at 201 2nd Avenue South, stated he wholeheartedly supports the proposed use and believes it is the best use for the property since its

development. He reiterated that the building was designed for truck maintenance and supports the applicant's proposal to perform minor vehicle maintenance inside the building.

Commissioner Schneider noted the challenges of enforcing the CUP for the previous business and supports the applicant's proposed use, including indoor minor maintenance. She recommended a review of the operation by the fire department. Commissioner Goldston believes the proposed use provides a much-needed improvement to an empty building.

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

It was moved by Commissioner Hoye and seconded by Commissioner Goldston to recommend to the City Council to approve 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. Motion carried.

It was moved by Commissioner Goldston and seconded by Commissioner Hoye to recommend to the City Council to approve a conditional use permit to allow a limited transit vehicle storage facility at 204 2nd Avenue South, with the conditions noted by staff and the additional conditions of allowing minor indoor vehicle maintenance (oil changes, tire replacement/repair, battery and alternator replacement, vehicle inspection) and that the City Council allow additional public comment to be taken at the June 7, 2010 meeting, related to the proposed indoor vehicle maintenance. Motion carried.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION – None

OPEN FORUM – None

ADJOURN

It was moved by Commissioner Hoye and seconded by Commissioner Goldston to adjourn the meeting at 6:55 p.m. Motion carried.

Sara Taylor

From: mattliveringhouse@midwestparatransitservices.com
Sent: Thursday, June 17, 2010 2:55 PM
To: Sara Taylor
Cc: Otney, Andrew
Subject: Conditional Use Permit Application

Good afternoon Sara,

This email notifies the City of Bayport that Midwest Paratransit Services, Inc. is withdrawing the submitted Conditional Use Permit Application. My company did not fully describe the full use of the facility in the original application. Additionally, the terms presented by the Planning and Zoning committee are too restrictive and not acceptable.

It is Midwest Paratransit Services, Inc. intent to submit a new application that will fully describe the scope and usage that will be acceptable.

Thanks for your continued assistance.

Matt Liveringhouse
Vice President
Midwest Paratransit Services, Inc.

PC : THIS MEMO WAS RECEIVED LATE THURSDAY
AFTERNOON, AFTER THE PACKETS WERE ALREADY
PREPARED. AS SUCH, STAFF WILL PROVIDE AN
UPDATE AT THE MEETING.

MEMORANDUM

DATE: June 15, 2010

TO: Planning Commission (June 21st meeting)
Mitch Berg, City Administrator

FROM: Sara Taylor, Assistant City Administrator/Planner

SUBJECT: Public hearing to consider a zoning ordinance amendment to Section 3 – Definitions, a zoning ordinance amendment to Section 6 – B-1 Limited Business, and a request for a conditional use permit (CUP) to allow a limited transit vehicle storage facility with light, routine maintenance as an accessory use at 204 2nd Avenue South (portions of this application were heard at the May 17, 2010 Planning Commission meeting)

A. BACKGROUND

On May 17, 2010, the Planning Commission held a 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 2nd Avenue South, submitted by applicant Matt Liveringhouse and property owner Dave Schulte. At this meeting, the applicant requested that his application be amended to include light, routine maintenance of limited transit vehicles as part of the CUP, which would be conducted inside the building, during the hours of 8:00 am – 8:00 pm. Following discussion, the Planning Commission recommended approval of the application to the City Council, including the amendment.

On June 7, 2010, staff presented the Planning Commission's recommendation to the City Council. After discussing the matter, the City Council felt that because the applicant did not specify light, routine maintenance as part of his original application, it was not included in the notice of public hearing, and therefore the general public did not receive adequate notice to comment on the amended application. As such, the City Council extended the application review period for an additional 60 days and referred the application back to the Planning Commission for the purpose of holding the necessary public hearing to obtain additional public comment on the amended application. The City Council also requested that as part of the application, the Planning Commission consider an amendment to the zoning ordinance to include a definition of a "limited transit vehicle storage facility."

Notice of the public hearing to consider the amended application was mailed to all property owners within 350' of the subject property and published in the Stillwater Gazette on June 10, 2010. A copy of the staff report that was prepared for the June 7, 2010 City Council meeting is attached for reference.

B. STAFF COMMENTS AND SUGGESTED FINDINGS OF FACT

It should be noted that staff has only provided comments on the amended portions of the application below. Please refer to the attached staff report that was prepared for the June 7, 2010 City Council meeting for comments and findings on portions of the original application.

Amendment to Section 3 – Definitions of the zoning ordinance

Because many terms listed within the city’s zoning ordinance are self explanatory, many of them are not explicitly defined within the definitions section of the ordinance. However, for terms that may be ambiguous or unclear, it is prudent to specifically define the term, as is the case with “limited transit vehicle storage facility.” Staff feels the following definition captures the intent of the term and recommends Section 3 – Definitions be amended as follows:

Limited transit vehicle storage facility. An indoor parking garage designated to store small or mid-size bus or passenger vans for use in transporting up to 16 passengers, not goods or services. The facility shall allow storage and dispatching of limited transit vehicles, but does not allow for pick-up or drop-off of passengers at the facility at any time. As an accessory use, the facility may contain a small office area for employee use during business hours and may permit light, routine maintenance of limited transit vehicles associated with the business, such as oil changes, vehicle inspections, tire changes, and brake pad replacement, inside the building, during limited business hours.

Amendment to CUP application to include light, routine maintenance

The proposed, primary use of the property has not changed; it would include dispatch of passenger vehicles in the early morning, return of the vehicles in the evening, and storage of the vehicles within the building when not in operation. As an accessory to the primary use, the applicant is requesting that light, routine maintenance of the transit vehicles, such as oil changes, vehicle inspections, tire changes, and brake pad replacement, be permitted inside the building. All routine maintenance activity would be limited to the hours of 8:00 a.m. – 8:00 p.m., which must also comply with the city’s noise ordinance.

Based on feedback from the Planning Commission and City Council, and because staff feels that routine maintenance is incidental to the primary use, much the same as automobile maintenance conducted by a residential property owner at their own home/garage, it will not have a negative impact on the neighborhood. As such, staff recommends approval of the amended CUP application to include light, routine maintenance of the transit vehicles inside the building as an accessory use.

C. RECOMMENDATION

Staff recommends approval of a zoning ordinance amendment to Section 3 – Definitions, a zoning ordinance amendment to Section 6 – B-1 Limited Business, and a request for a conditional use permit (CUP) to allow a limited transit vehicle storage facility with light, routine maintenance as an accessory use at 204 2nd Avenue South. Suggested findings of fact and conditions of approval are stated in this staff report, as well as the attached staff report that was prepared for the June 7, 2010 City Council meeting. 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 July 6, 2010.

MEMORANDUM

DATE: May 18, 2010

TO: City Council (June 7th meeting)
Mitch Berg, City Administrator

FROM: Sara Taylor, Assistant City Administrator/Planner

SUBJECT: Consider a request for an ordinance 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 and a CUP to allow a limited transit vehicle storage facility at the property located at 204 2nd Avenue South

A. INTRODUCTION

The property is located at 204 2nd Avenue 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.

The Planning Commission held the required public hearing on May 17, 2010. Notice of the 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 5:00 a.m. – 8:00 p.m., Monday through Friday 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 16 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 5:00 a.m. – 8:00 p.m., Monday through Friday, with no activity conducted with the general public and no activity during non-business hours. Gasoline storage is 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 2nd Avenue South, in accordance with city code.
- ❑ Limited transit vehicle traffic shall be routed on 2nd 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 revocation or modification of 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. PLANNING COMMISSION ACTION

At its meeting on May 17, 2010, the Planning Commission voted 3-0 to recommend approval of the application, subject to the findings of fact as stated in section "C" and the conditions recommended by staff. In addition, the Planning Commission recommended the following:

- The CUP shall permit light, routine maintenance of only limited transit vehicles associated with the approved use, inside the building, such as oil changes, vehicle inspections, tire changes, brake pad replacement, etc. during the hours of 8:00 a.m. – 8:00 p.m., which must also comply with the city's noise ordinance.
- The City Council shall allow additional public comment to be heard at the June 7, 2010 City Council meeting in regard to the light, routine maintenance use requested by the applicant, since this request was not included in the applicant's original application and was not included in the notice of public hearing.

E. RECOMMENDATION

Staff recommends approval of an ordinance 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 2nd Avenue South. Suggested findings of fact and conditions of approval recommended by staff and the Planning Commission are stated in the staff report. City Council action to approve or deny the application is requested.



**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

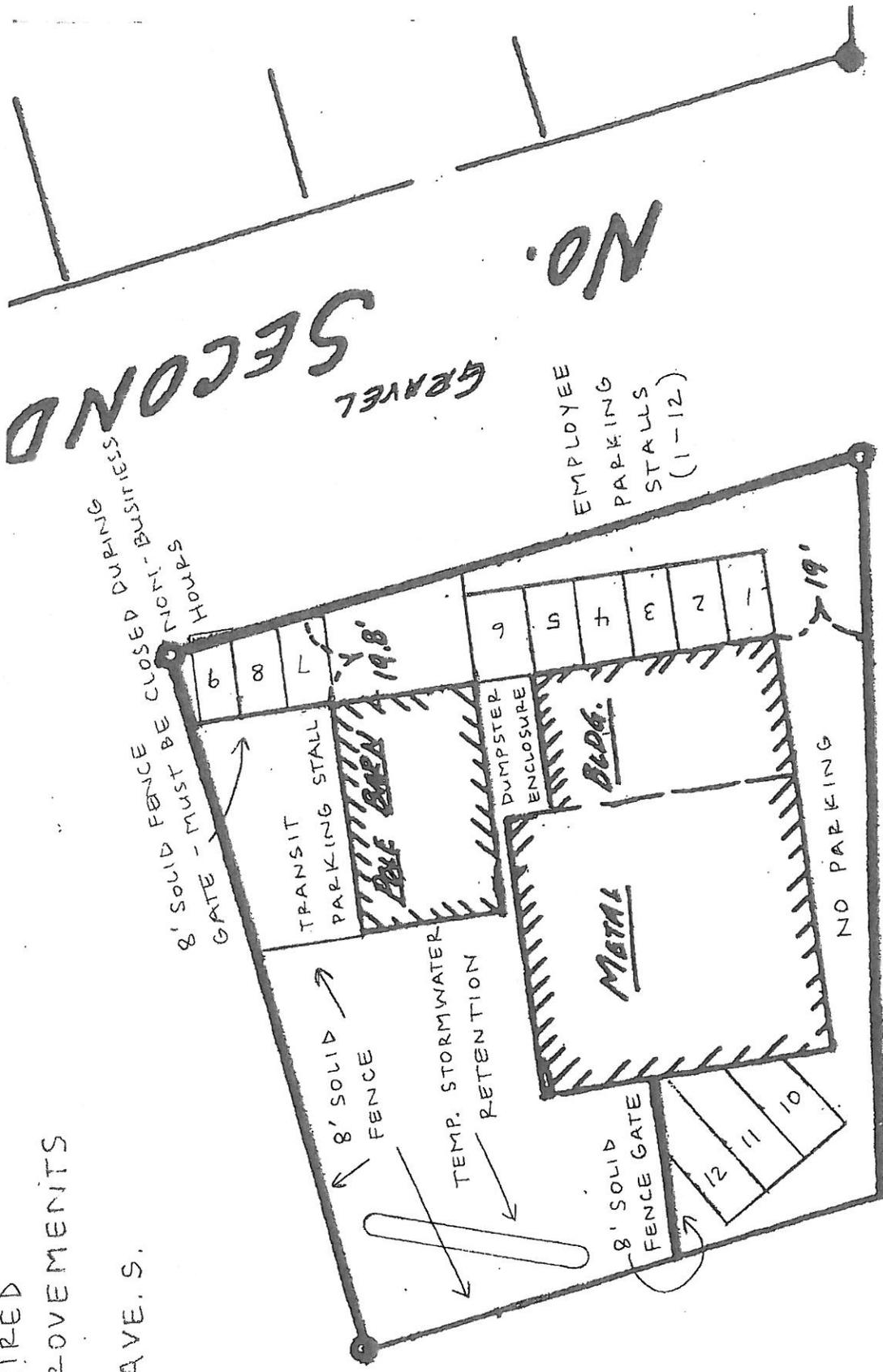
List of required improvements and site plan to comply with Limited Transit Storage Facility CUP
204 2nd Avenue South

<u>Improvement</u>	<u>Completion Date</u>
- 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 page 2 of this attachment for site plan 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.



AVE. PART. SO.



MEMORANDUM

DATE: June 15, 2010

TO: Planning Commission (June 21st meeting)
Mitch Berg, City Administrator

FROM: Sara Taylor, Assistant City Administrator/Planner

SUBJECT: Public hearing to consider a conditional use permit (CUP) to allow automotive sales and open lot outdoor display at 174 3rd Street South

A. BACKGROUND

The property is located at 174 3rd Street South, at the intersection of Highway 95 (or 3rd Street South) and 1st Avenue South. The property contains an existing building that was previously used to repair and service automobiles, known as Dann's Service Center. The total lot area is approximately 16,600 square feet. The property is located at the south end of the city's central business district and is zoned B-2 Central Business. Surrounding uses include commercial businesses to the north and east, transitioning to residential on the west and south.

In November of 2008, the property owner, Jeff Hause, J.G. Hause Construction Inc., was granted variances to construct a new two-story office/retail building on the property. However, because of the economic market, Mr. Hause has been unable to secure tenant(s) to justify construction of the new building on the site. Mr. Hause is currently in the process of developing a long-term business plan for the site, which he hopes will include plans for construction of a new building in the near future. However, to help offset anticipated costs for future improvements to the property, Mr. Hause would like to secure a lease for short-term use of the site until the long-term plan is complete.

Mr. Hause and the applicant/lessee, Richard Swanson, have applied for a conditional use permit (CUP) to utilize the site for automotive sales and open lot outdoor display on an interim basis. The existing building would be remodeled to serve as a multi-use building for a J.G. Hause Construction sales office, as well as a retail sales office/showroom for both on-site and on-line sale of automobiles and recreational vehicles/equipment. The office, retail, and showroom are permitted uses within the B-2 Central Business zoning district. However, the requested outdoor display of cars and trucks, with a limited outdoor display area for small motor/recreational vehicles during business hours is a conditional use, and therefore requires a CUP. As part of the CUP, the property owner and applicant are also requesting some flexibility with required site improvements.

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 June 10, 2010.

The following informational items are attached:

- narrative by the property owner
- site plan with proposed layout
- exterior sketch of the existing building with improvements

B. STAFF COMMENTS

As stated above, the property contains an existing service station/garage building, which has sat vacant for

the last several years. To accommodate the interim businesses, the applicant is proposing to complete some minor remodeling to the interior of the existing building for office space. However, the floor plan of the building will continue to include two garage bays with overhead doors, which will facilitate access for automobiles and recreational vehicles, such as ATV's, boats, snowmobiles, and jet skis to be displayed in the indoor retail showroom.

The property owner is also planning some visual improvements to the building's exterior and overall site, such as painting the building and replacing most doors and windows, adding a decorative façade to the building for signage, installing an eight (8) foot privacy fence along the north and west property lines, installing an enclosed outdoor storage/dumpster area, and patching and sealcoating the existing asphalt parking and display areas. The outdoor sales lot will consist of fifteen (15) spaces for the display of passenger cars and trucks, during both business hours and non-business hours, and a total of six (6) stalls will be designated for employee and customer parking. General business hours will be Monday through Saturday, 9:00 am. – 9:00 p.m. The applicant has requested that a limited area be designated for the display of small recreational vehicles, such as snowmobiles, ATV's, jet skis, and motorcycles during business hours. However, to keep with the intent of the ordinance, which only allows the display of automobiles by conditional use, staff feels that outdoor display of the above mentioned recreational vehicles is a stretch, with the exception of motorcycles. These recreational vehicles are not considered "street legal" and do not meet the interpretation of an automobile. For this reason, staff is recommending only limited outdoor display of up to five (5) motorcycles be allowed on the site, and only during business hours.

As stated, the property owner is in the process of developing a long-term business plan for the site, which may not include auto sales and display in the near future. For this reason, he is requesting that the city consider deferring major required site improvements for a period of one (1) year, during which time he will be able to develop a long-term business plan and determine whether auto sales and display is a viable option for the site, without having to bear the cost of substantial improvements immediately, which may prove to be obsolete in the long-term plan. Examples of the deferred improvements will most likely include relocating the display/parking areas to comply with required setbacks, installing curbing around display/parking areas, resurfacing and striping the parking/display area, installing landscaping, mitigating impervious surface, and addressing drainage/stormwater runoff.

In reviewing the existing site and the application for the proposed use, staff feels that the property owner has made an effort to address issues of concern with his proposed site improvements, which relate primarily to repair and maintenance. Staff also understands that economic times have made it financially difficult for individuals to pursue new business ventures, and this situation is a good example. For these reasons, staff feels it may be appropriate to allow some flexibility to accommodate the proposed interim business, by deferring major required site improvements for a period of one (1) year. Staff feels that this will allow the property owner sufficient time to either make the required site improvements required as part of the CUP or discontinue the automobile sales and outdoor display use to implement his long-term business plan for the site.

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

After reviewing the property and the CUP application, staff feels that the proposed use of office/retail and automobile sales and outdoor display would be compatible as a conditional use within the B-2 zoning district and the city's comprehensive land use plan. In addition, past use of the adjacent property for automobile sales suggest compatibility with the surrounding neighborhood. However, to comply with regulations set forth by city code, and minimize impacts, staff recommends approval of the following conditions:

- A solid wood eight (8) foot fence shall be constructed a minimum of two (2) feet from the property line along the west and north portions of the property in accordance with sketch submitted by the applicant.
- Improvements to the existing building shall include painting of the exterior, replacement of most windows and doors, and installation of decorative façade and signage.
- Improvements to the site shall include installation of an enclosed outdoor storage/dumpster area to match the solid wood eight (8) foot fence, patching and sealcoating the existing asphalt parking and display areas, and restoring sod/landscape areas in accordance with sketch submitted by the applicant.
- The outdoor display/parking area shall consist of three (3) customer parking spaces (one handicapped), two (2) employee parking spaces, fifteen (15) passenger automobile display spaces for up to fifteen (15) cars/trucks, and a limited area for display of up to five (5) motorcycles during business hours, in accordance with sketch submitted by the applicant.
- General hours of operation shall be Monday through Saturday, 9:00 am. – 9:00 p.m. No business activity shall be conducted outside of the established hours of operation.
- A permit from MNDOT must be secured for the access location into the parking lot and the left turn lane pavement marking and striping on Highway 95, if applicable.
- The business operation shall not commence until all building and site improvements included within this report have been completed and approved by the city.
- By April 1, 2011, the property owner/applicant shall notify the city of their long-term business plan for the property (to continue or discontinue with the auto sales and outdoor display use). If the desire is to continue the use, staff will work with the property owner to identify the required deferred site improvements, as mentioned within this staff report, to be completed and approved by the city by July of 2011 (approximately one year from issuance of the CUP). Failure to complete the required site improvements within the specified timeframe may result in the city modifying or revoking the CUP.
- The CUP shall be periodically reviewed, 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 the surrounding neighborhood. The city will continue to monitor the property on a regular basis, to ensure ongoing compliance with the conditions of the CUP.
- This application and any site improvements may be subject to the review and approval of the Middle St. Croix Watershed Management Organization (MSCWMO). Any conditions required by the MSCWMO shall be implemented by the property owner/applicant.

D. RECOMMENDATION

Staff recommends approval of Application 2010-03 for a conditional use permit (CUP) to allow automotive sales and open lot outdoor display at 174 3rd 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 July 6, 2010.

TO: City of Bayport

FR: Jeff Hause
Nicott Square, LLC

RE: Conditional Use Permit
174 3rd Street

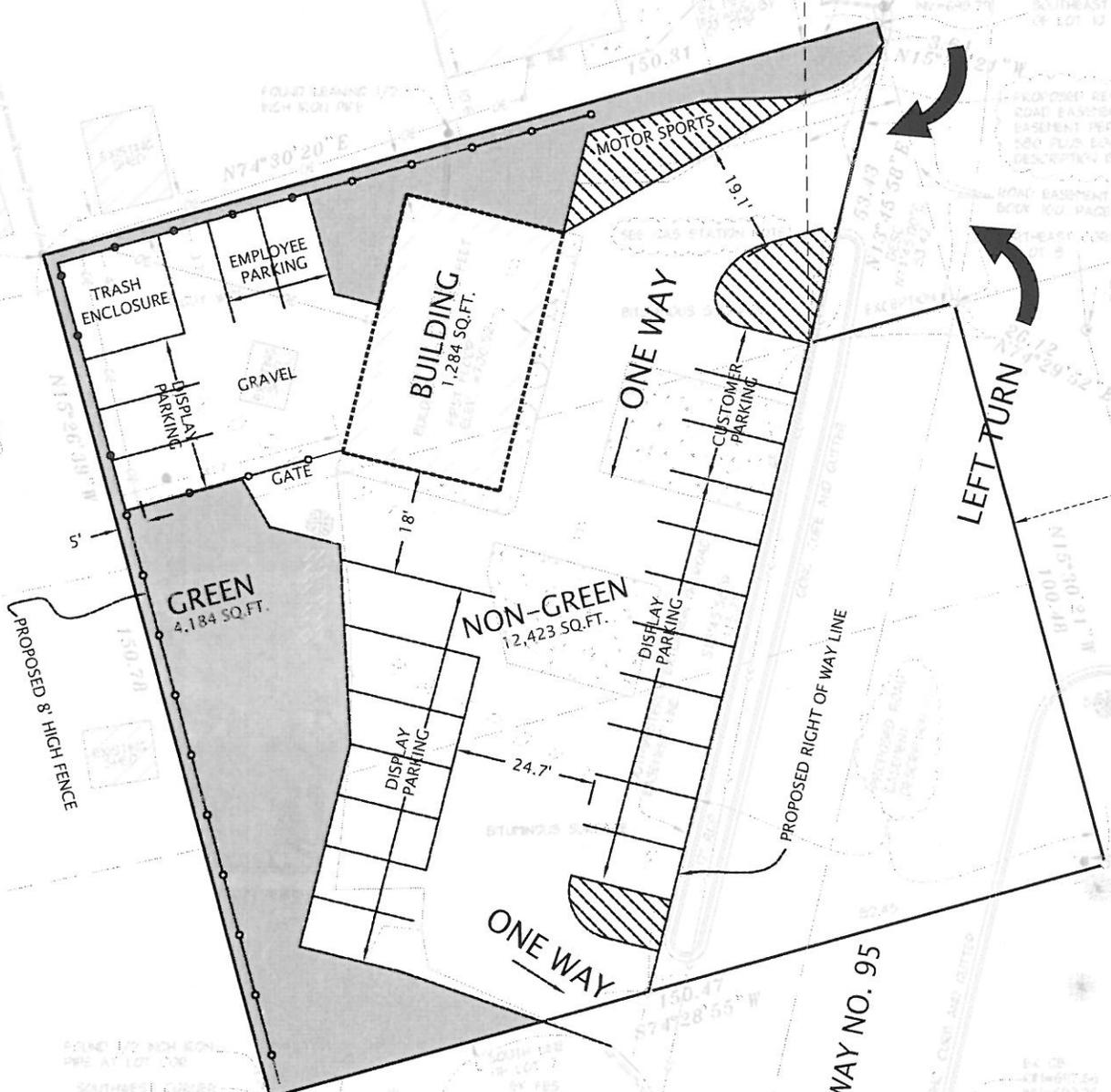
DA: ~~May~~ 2010
June

The following is an outline for business use:

Two new area businesses intend on occupying the vacate site of the former service station. One an existing construction company located in Stillwater to open a branch office. The second business a new on-site and on-line sale of ATV's, automobiles, boats, motorcycles, RV's and snowmobiles. We will sell all of the fore mentioned merchandise on-line, however only cars and trucks will be displayed on the outside lot. Motorcycles, ATV's, snowmobiles, and jet skis will be displayed inside. We would like to store some excess merchandise in the enclosed area. We would like permission to display some of the inside merchandise on the outside lot during the day. The intent of motor sales business is that the units sold will be consignment units. Some of the units may have to be purchased; an automobile dealer's license will be required. The interior of the building will be occupied by a small construction sales office and an office/showroom for the motor sales. The exterior remodel will consist of: new paint, new corner façade with vertical corrugated metal, new door and windows in office area, new signage, patch and seal coat asphalt. The asphalt will be replaced when a decision is made on the remodel/replacement of existing building. An eight foot high fence installed (see survey). Class five will be placed in the enclosed area until replaced with black top during final construction faze. We are requesting the ability to utilize enough land space to put the equivalent of 30 cars outside on the lot.

The site owner has been granted approval for constructing a new building at the site. I have decided not to move forward with those plans at this time due to the current global economy. I have had two potential restaurant leases; both were not able to secure financing. By applying for a temporary C.U.P. the owner will be better able to gauge the best use and financial viability of the site. The following are possible long term plans: 1). Use as proposed in this temporary C.U.P. 2). Addition and remodel to existing building. 3). Existing building demolished and a new building constructed.

I feel that the site being utilized it will be an improvement over the existing vacant building and lot. The lot the will be kept in an orderly and respectable manor. The new businesses will bring a minimum of three new area employees. The new businesses will increase awareness to existing Bayport's area businesses.



1ST AVENUE SOUTH
(BITUMINOUS SURFACE)

MINNESOTA STATE HIGHWAY NO. 95
(BITUMINOUS SURFACE)

LEFT TURN

ONE WAY

ONE WAY

BUILDING
1,284 SQ.FT.

GREEN
4,184 SQ.FT.

NON-GREEN
12,423 SQ.FT.

TRASH ENCLOSURE

EMPLOYEE PARKING

MOTOR SPORTS

DISPLAY PARKING

GRAVEL

GATE

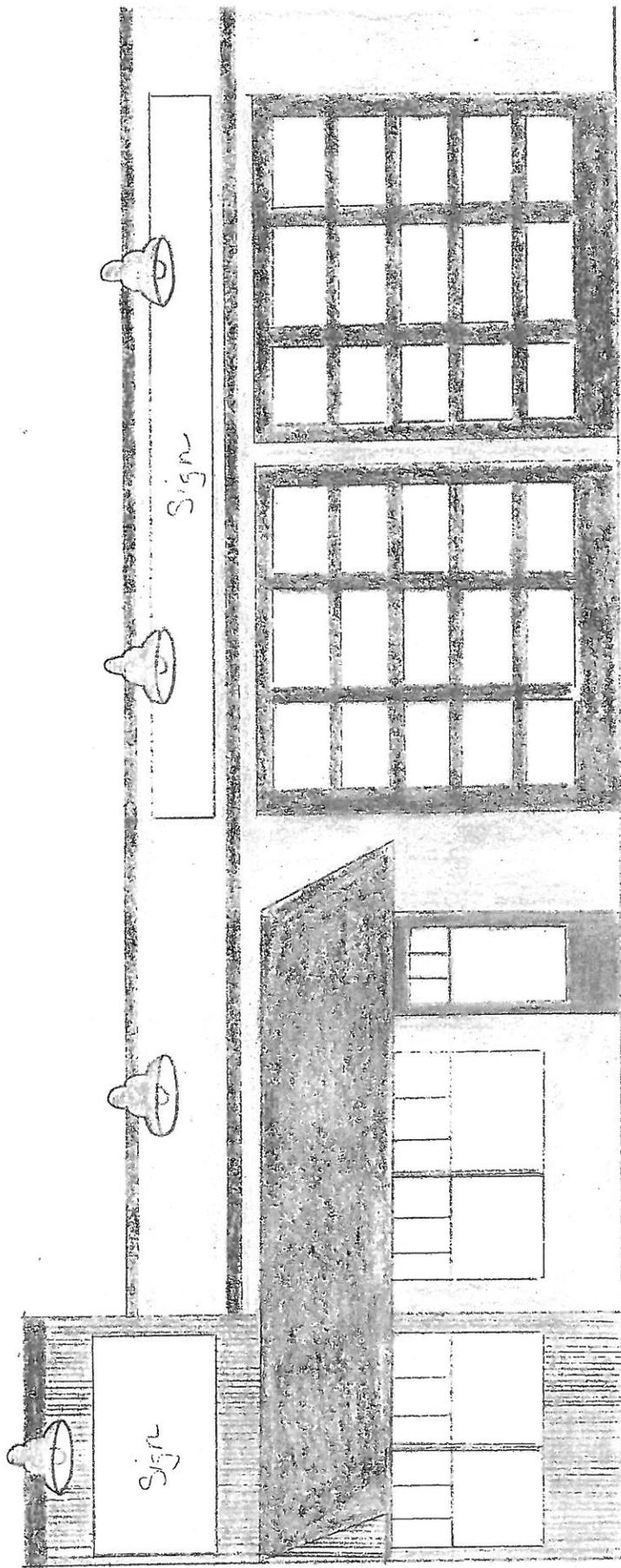
CUSTOMER PARKING

DISPLAY PARKING

DISPLAY PARKING

PROCESSED 8' HIGH FENCE

PROPOSED RIGHT OF WAY LINE



Sign

Sign

JG House - Bayport, MN

Front Elevation 4/4"=1'

6'

7'

12"

6'

7'

12"

19'8"