



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

**CITY COUNCIL AND PLANNING COMMISSION
JOINT WORKSHOP**

City Hall - Council Chambers

October 21, 2013

5:00 p.m.

***** Please note: There will be no public comment taken at the workshop. *****

CALL TO ORDER

REVIEW OF THE PLANNING COMMISSION

- **Function and responsibilities**
- **Vacancies and term expirations**
- **Training opportunities**

ADJOURN



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

Date: October 16, 2013
To: Planning Commission
From: Sara Taylor, Assistant City Administrator / Planner
Subject: Offices of Chairperson and Vice Chairperson

BACKGROUND

The bylaws of the Planning Commission state that the Vice Chairperson is to act in the absence of a Chairperson. As such, current Vice Chairperson Joe Ritzer will take on the role as the Chairperson of the Planning Commission for the remainder of the year.

Since Joe will be taking on the role of the Chairperson, the Planning Commission will need to elect a new Vice Chairperson. Because there are currently two vacant seats and Commissioner Brad Hallett was recently appointed in May of 2013, staff recommends Commissioner Jeff Richtman be elected to serve as the Vice Chairperson, due to his experience and longevity on the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission adopt a motion electing Jeff Richtman as the Vice Chairperson for two years or until his term expires.



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

PLANNING COMMISSION MEETING

City Hall - Council Chambers

October 21, 2013 – 6:00 p.m.

A. CALL TO ORDER

B. APPROVAL OF MINUTES

- July 22, 2013 regular meeting

C. PUBLIC HEARINGS

- Consider an amendment to the existing conditional use permit for outdoor seating and use associated with the tavern/restaurant at 193 3rd Street North
- Consider a conditional use permit for outdoor seating and use associated with the proposed restaurant/café and a variance to allow a rear addition to the existing building on the property located at 320 5th Avenue North

D. OLD BUSINESS

E. NEW BUSINESS

- Election of Vice Chairperson

F. GENERAL INFORMATION

- Planning Commission vacancies

G. OPEN FORUM

H. ADJOURNMENT

**CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
JULY 22, 2013
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice thereof, Assistant City Administrator/Planner Taylor called the regular Bayport Planning Commission meeting of July 22, 2013 to order at 6:00 p.m.

ROLL CALL

Commissioners Present: Brad Hallett, Jason Obler, Jeff Richtman and Joe Ritzer

Commissioners Absent: Todd Gilles

City Staff Present: Assistant City Administrator/Planner Sara Taylor, Planning Consultant Dan Licht, City Council Liaison Patrick McGann, City Engineer Barry Peters, and City Attorney Andy Pratt

APPROVAL OF MINUTES

It was moved by Commissioner Ritzer and seconded by Commissioner Richtman to approve the June 10, 2013 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS - None

OLD BUSINESS

Consider a Planned Unit Development (PUD) General Development Plan and a Preliminary Plat for Inspiration Phase III-B: Commissioner Obler stated the application was continued to give the applicant an opportunity to address comments and concerns expressed at the public hearing held June 10. He explained the public hearing on the application was closed and no further public comment or questions would be heard. Planning Consultant Licht noted the city extended the application review process to September 13, 2013 to allow city staff and the developer to address the issues that were raised at the public hearing. He reviewed that the architectural review process was established as a function of the homeowner's association (HOA) through an Architectural Review Committee (ARC), and the city has no official controls over the architectural requirements. In response to a concern about the planned three-quarter access to Stagecoach Trail at Inspiration Parkway North, he reiterated that Washington County has control of the intersection, and city staff feels the existing and proposed additional access to Stagecoach Trail is satisfactory to handle traffic entering and exiting the development. He indicated staff is recommending approval of the application, subject to the 18 conditions of approval noted in the July 18, 2013 planning report.

Ron Mullenbach, DR Horton, reviewed the changes made to the application since the last meeting, detailing changes to the front porches, garage doors, offering smaller home sizes, process for retiring color schemes, and marketing optional "Inspired by Nature" upgrades. He stated DR Horton would welcome one or two current Inspiration residents to serve on the HOA Board. He added the revised plan eliminates Periwinkle Place as a through street, adds a village green, and provides a paved trail from the village green to the city's park property.

Discussion followed on DR Horton retiring elevations and home styles in the future and placing additional conditions of approval for the homes adjacent to Stagecoach Trail. Commissioner Obler proposed that additional conditions of approval include an amendment to the Master Declaration of Covenants for the development to establish a majority membership of Inspiration resident homeowners on the ARC, assurance that this is incorporated into the PUD permit and enforceable documents, with a section addressing how the guidelines be administered. He proposed a stipulation regarding the design guidelines and the defined standards with respect to the bulk height and density of buildings to create consistency with the existing

residential neighborhood. He noted the residents have been trying to accomplish the original intent of the architectural values and traditional design guidelines for several years and recognized that the city should not be responsible for regulating the requirements. He believes the landscaping requirement needs to revert back to 2.5% calculation that is exclusive of hardscape, sprinkler systems, retaining walls, etc. Commissioner Richtman inquired whether the proposed stipulations could be incorporated into tonight's action and Planner Licht stated additional stipulations could be added to staff's conditions of approval. Planner Licht noted the apparent misunderstanding related to the architectural standards and reiterated that the intent was never for the city to regulate or enforce the standards, so as not to inflict subjective opinions and/or consume city resources.

Mr. Mullenbach stated the additional stipulations appear subjective and open-ended and he's not clear what DR Horton is being asked to agree to. In reviewing homes throughout the city, he echoed Commissioner Richtman's comment that there does not appear to be a defined historic style to Bayport architecture. He added that DR Horton has expanded the styles of homes available and believes they fit well with the neighborhood. He expressed concern that DR Horton may not have a vote on amending the Master Declaration, if the vote is taken prior to them becoming the declarant or owner of the property, because they would not yet own lots in Phase III-B.

It was moved by Commissioner Obler and seconded by Commissioner Ritzer to recommend to the City Council to approve a Planned Unit Development (PUD) General Development Plan and a Preliminary Plat for Inspiration Phase III-B, subject to the findings and conditions listed in the staff report, and the following additional stipulations: amending staff condition #2 to state that the landscaping requirement will not include the cost of irrigation and/or retaining walls, establish design guidelines to encourage homes that are architecturally compatible with historic neighborhoods and inline with traditional design standards, and encourage homes to be designed/ renovated in character and size with the historical nature of the city; adding condition #19 to amend the HOA Master Declaration prior to application for final plat approval of any portion of Inspiration Phase III-B to establish a majority membership by Inspiration resident property owners on the HOA Architectural Review Committee, to be elected by a majority of property owners; and adding condition #20 stating that the architectural requirements applicable to construction of new dwelling units within Inspiration Phase III-B will be incorporated within and made part of the PUD permit, with an administrative section addressing how such guidelines are to be administered with respect to new housing applications and future amendments.

With regard to density, lot size, and setbacks, Planner Licht noted these would be similar to Phase I of the development, with a net reduction in the total number of single-family lots proposed for Phase III-B. Councilmember Obler expressed concern with final grade and lot type suitability for the different home styles. Planner Licht stated the developer is required to submit a grading plan that specifies the type of house that is capable of being built on each lot, which is reviewed by city staff. Commissioner Hallett shared a document that was recently circulated amongst Inspiration homeowners that included information and photographs of the neighborhood that demonstrate the architectural variety of home styles built earlier in Phase I of the development versus the recent DR Horton homes. He believes the DR Horton construction defeats the purpose of the original vision for the neighborhood. Councilmember Obler added that some residents feel that the recent construction creates a sterile environment and does not promote a sense of a nature-inspired development. Mr. Mullenbach noted the open dialogue his company has promoted with the current Inspiration homeowners and expressed disappointment and concern that he was not given the opportunity to view this document nor respond to the written concerns before the meeting. Planner Licht noted the proposed stipulations to include the two comprehensive plan policies regarding design guidelines and standards are ambiguous and not defined, making it problematic for DR Horton to respond to the stipulations.

Commissioner Ritzer commented on the original homeowners buying into the vision of the planned development and the varying factors over the years that have created a different character than originally marketed. Planner Licht stated that the city continues to work within the context and authority of the approvals granted in 2004, and DR Horton is following the same architectural requirements as previous builders in the development. Commissioner Hallett believes the architectural standards have changed since

2004 and stated a desire to work towards a compromise that will assure the recommendations made by the Planning Commission are incorporated into future construction within Inspiration.

Attorney Pratt commented that amending the Master Declaration to establish a majority membership of Inspiration resident property owners on the ARC, prior to final plat approval, could be problematic as DR Horton does not have the ability to complete that action. Commissioner Ritzer added that it seems unfair to allow the residents to have control of something they don't own, but Commissioner Obler believes the homeowners could provide an objective viewpoint for ARC approvals. Discussion followed on approving DR Horton's compromise of appointing a minimum of two current homeowners on the ARC and their willingness to work through the issues identified by the homeowners. Commissioner Obler indicated he would consider amending his motion relative to composition of the ARC to include one Inspiration resident property owner, a Bayport resident at large, and the declarant. He further suggested adding a stipulation to the motion that city staff regulate the architectural guidelines.

Assistant City Administrator/Planner Taylor noted that when Inspiration was originally proposed in 2004, the Planning Commission and City Council were very clear that the covenants and special conditions that were implemented for the development, such as the architectural standards, were not to require additional city resources or become burdensome for the taxpayers and city staff. As such, review and approval of the architectural standards were to be a component and function of the homeowners association and reiterated the importance of retaining this requirement.

Planner Licht reminded the Planning Commission that a motion was on the floor, and summarized the conditions of the motion made by Commissioner Obler and seconded by Commissioner Ritzer, as follows:

1. The developer shall revise the plan set dated 16 May 2013 and open space restoration plan to reflect the proposed site plan dated 11 July 2013 and any additional conditions outlined herein and submit these for city staff review prior to City Council consideration of the PUD general development plan and preliminary plat.
2. The developer shall amend the architectural guidelines to include those elements addressed in their email correspondence dated 3 July 2013 prior to application for final plat approval of any portion of Phase III-B and the additional items recommended by the Planning Commission:
 - Cedar front porches will be standard design.
 - Concrete porches will not be allowed in the new phases.
 - Composite front porch decking will be an option for buyers.
 - Tongue-in-groove wood patio ceilings will be an option for buyers.
 - Porch swings will be an option for buyers.
 - Additional exterior light fixtures will be an option for buyers.
 - Garage doors will be painted a color to match/compliment the rest of the home; color to be selected at the design center consultation when the home colors are selected.
 - Garage doors will have hardware added to the standard design.
 - Garage doors with windows in the top panel will be an option for buyers.
 - Front doors will be painted a color to match/compliment the rest of the home; color to be selected at the design center consultation when the home colors are selected.
 - Two additional front doors that include glass in the main door or side lights will be an option for buyers.
 - Wood grain fiberglass doors with glass options will be an option for buyers.
 - The number of color pre-selections will include new colors from Sherwin Williams.
 - Color pre-selections will be "retired" once used on 18% of the homes in a phase and/or the overall site so that popular color schemes do not get overused.
 - The developer will create an "Inspired by Nature" marketing piece to guide buyers toward exterior upgrades and features desired by the neighborhood (front door, garage doors, paint, exterior lighting, patio ceiling, porch swing, landscaping, outdoor living spaces, etc.).
 - The landscaping requirement will not include the cost of irrigation and/or retaining walls.

- Establish design guidelines which encourage development that is architecturally compatible with historic neighborhoods and in keeping with traditional design standards.
 - Encourage buildings to be designed and/or renovated in character and size with the historical nature of the city.
3. Issuance of a building permit shall be contingent upon certification from the Homeowners Association Architecture Review Committee that the proposed structure complies with the Inspiration architectural guidelines.
 4. Single family lots shall be subject to the following lot and setback requirements:

Lot Requirements	
Min. Lot Area	7,800sf.
Min. Lot Width	65ft.
Min. Lot Depth	100ft.
Setbacks:	
Front	20ft.
Side Corner	20ft.
Interior	7.5ft.
Rear	20ft.

5. Outlots A-D and F as shown on the revised site plan shall be deeded to the City, preserved through a conservation easement and held by Minnesota Land Trust and maintained by the Inspiration Stewardship Foundation consistent with the 2004 Inspiration PUD general development plan and preliminary plat approvals.
6. The Homeowners Association shall retain ownership of Outlot E and all improvements therein as well as be responsible maintenance, repair and replacement for the trails within Outlots A and F.
7. The builder shall provide a cash escrow with application for each building permit guaranteeing installation of two street/yard trees to be installed by after home construction is complete.
8. The developer shall submit a detailed landscape plan indicating the type, size and quantities of plantings in Outlots A-F to be consistent with the revised restoration plan approved in October 2012 and the developer shall complete the restoration plan prior to the City assuming responsibility for the maintenance of the outlots as has been agreed.
9. The developer shall be required to install plantings at Stagecoach Trail (CR 21) and Inspiration Parkway north in accordance with the landscape plan approved with the 2004 Inspiration PUD general development plan and preliminary plat.
10. Construction of the north intersection of Inspiration Parkway and Stagecoach Trail (CR 21) is subject to Washington County approval and the developer will be required to reimburse the City for all costs related to obtaining the required access and right-of-way permits.
11. The City Council shall adopt a resolution concurrent with approval of a final plat application designating one side of all public streets as no parking zones and the developer shall be required to install no parking signage as deemed necessary
12. All street designs and construction, including the proposed roundabout at Inspiration Parkway North and Primrose Path, are subject to review and approval by the City Engineer.

13. All grading, drainage and erosion control plans and issues are subject to review and approval by the City Engineer with wetland issues additionally subject to review and approval by Washington County and the Middle St. Croix Watershed District.
14. All sanitary sewer, watermain, storm sewer and street light plans are subject to review and approval by the City Engineer.
15. All easements are subject to review and approval of the City Engineer.
16. Satisfaction of park dedication requirements established in Section 8 of the Subdivision Ordinance shall be through payment of a cash fee in lieu of land equal to 10 percent of the fair market value of the subject site to be determined by an appraiser agreed to by the developer and the City at the time of application for final plat approval.
17. The developer will be required to enter into a separate developer's agreement and PUD permit specifically for Inspiration Phase III-B as a condition of approval for a subsequent application for final plat.
18. The developer shall submit a complete application for final plat in accordance with the approved phasing plan no longer than one year after said approval, or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing by the applicant and approved by the City Council in accordance with Section 4-2-1.16 of the Subdivision Ordinance.
19. The HOA Master Declarations shall be amended prior to application for final plat approval of any portion of Inspiration Phase III-B to establish majority membership by Inspiration resident property owners on the Home Owners Association Architectural Review Committee to be elected by a majority of the property owners.
20. The architectural requirements applicable to construction of new dwelling units within Inspiration Phase III-B shall be incorporated within and made part of the PUD Permit with an administrative section addressing how such guidelines are to be administered with respect to new housing applications and future amendments.

Several of the commissioners expressed their support for the overall preliminary plat application and commended DR Horton for their willingness to incorporate or modify their original application, in response comments and/or concerns expressed at the June 10, 2013 public hearing. Commissioner Richtman noted that he was supportive of the preliminary plat application with staff's recommended conditions of approval; however, he did not feel the additional conditions related to the architectural standards that Commissioner Obler included in the motion were warranted. Upon conclusion of discussion, the motion passed 3-1, with Commissioner Richtman voting nay.

Planner Licht stated the City Council would be considering the application at the September 3, 2013 meeting.

NEW BUSINESS – None

GENERAL INFORMATION – None

OPEN FORUM – None

ADJOURN

It was moved by Commissioner Hallett and seconded by Commissioner Richtman to adjourn the meeting at 8:37 p.m. Motion carried.

MEMORANDUM

DATE: October 16, 2013

TO: Planning Commission (October 21st meeting)

FROM: Sara Taylor, Assistant City Administrator/City Planner

SUBJECT: Public hearing to consider an amendment to the existing conditional use permit for outdoor seating and use associated with the tavern/restaurant at 193 3rd Street North

A. BACKGROUND

The property is located at 193 3rd Street North and is legally described as Lot 1, Block 59, Bayport, Washington County, Minnesota. It is zoned B-2 Central Business and contains an existing commercial building. The first floor of the building is a tavern/restaurant called "Perro Creek Tavern" which is being leased to new proprietors and the second floor is the professional offices for J.G. Hause Construction. Both the office and tavern/restaurant are permitted uses in the B-2 Central Business zoning district. The property is surrounded by commercial businesses to the north, south, and west, and residential to the east.

In 2011, property owners Jeffrey and Michelle Hause, Haz LLC, completely renovated the building and made extensive improvements to the overall site, including additional off-street parking spaces, front and rear patio areas, screening from adjacent properties, and landscaping. In conjunction with the tavern/restaurant use, the owners also obtained a conditional use permit (CUP) to allow outdoor storage and activity, including designated areas for a walk-in cooler, seating, smoking, consumption of liquor, and a recreation area to facilitate outdoor games. However, the new restaurant proprietors are striving to create a quaint and relaxing outdoor dining option for patrons, which includes additional seating and enhancements to the rear patio area. As such, an amendment to the existing CUP is required.

Notice of the Planning Commission's public hearing was mailed to all property owners within 350 feet of the subject property and published in the Stillwater Gazette on October 3, 2013. The following informational items are attached:

- narrative by the property owner
- site plan for the property approved in 2011
- new site plan for the property with rear yard enhancements and additional seating
- photos of the existing rear patio area

B. STAFF COMMENTS

The CUP issued in 2011 included approval of an outdoor patio/seating area in the rear of the building consisting of approximately 250 square feet with tables and chairs to accommodate approximately 16 patrons for smoking and consumption of beverages, including liquor. The remainder of the rear yard was to be landscaped with turf, with the exception of two game courts for horse shoes or a similar type recreation game. The rear of the property is completely

enclosed with a solid wood fence, 8 feet in height, to provide screening from adjacent properties. The CUP also included approval of a narrow bar rail and service walkway on the north side of the building for wait staff to access the outdoor patio/seating area in the front of the building with tables and chairs to accommodate approximately 14 patrons. This area is enclosed with a decorative 5 foot iron fence.

As part of the site inspection required for issuance of new liquor and food licenses, it was brought to the city's attention that the property owner and/or new restaurant proprietors had made some modifications to the rear yard and outdoor seating area. Specifically, the game courts had been removed and replaced with a fountain, and rock pathways and graded rock pads were added to accommodate additional outdoor tables and seating. The improvements increase the overall outdoor dining capacity for this property from 30 to 40 seats, which requires city approval and an amendment to the existing CUP.

In reviewing the modifications, staff has concluded that removal of the game courts and the additional landscaping enhancements encourage a more intimate and quiet outdoor dining area, which will be more compatible with the surrounding uses and neighborhood. In addition, shared off-street parking arrangements have been made with adjacent businesses to accommodate restaurant patrons and employees, to reduce impacts to the abutting residential area. Although the modifications to the rear yard result in an increase of impervious surface area, the property still exceeds the requirements for pervious or green/landscaped areas within the city's central business zoning district. As a condition of the CUP and/or liquor licenses issued for this property, all outdoor seating, activity, and liquor consumption will be required to cease by 10:00 p.m. Sunday – Thursday and 12:00 a.m. on Friday and Saturday, which is consistent with the original city approvals in 2011.

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

The purpose of a CUP is to regulate uses that are not permitted by right in a zoning district. As part of the application process for a CUP, the property should be reviewed for compliance with the performance standards set forth by city code, impacts and overall compatibility with the surrounding neighborhood, and whether the proposed use would be beneficial to the community. If the use is determined to be compatible with city code and not have a negative impact on the neighborhood, a request for the CUP should be granted.

A majority of the parcels in the immediate vicinity of the subject property are zoned and used for commercial purposes, some of which include outdoor patio and activity areas. However, staff recommends that reasonable limitations be placed on the proposed outdoor use in a manner that allows the property owners and/or proprietors to successfully operate outdoor amenities related to the tavern/restaurant, while respecting adjacent property owners. As such, allowing an amendment to the existing CUP for the enhancements to the rear yard and additional outdoor seating may be appropriate. However, to comply with regulations set forth by city code, staff recommends the following conditions of approval:

1. The outdoor areas shall be limited to dining, seating, smoking of tobacco, and consumption of liquor, as described above. All sales related to the tavern/restaurant use shall be contained inside the building.
2. The outdoor areas shall conform to the areas delineated on the site plan and be contained within the appropriate fenced areas at all times.

3. The outdoor areas shall contain appropriate receptacles to dispose of tobacco products and waste.
4. All outdoor activity must cease by 10:00 p.m. Sunday – Thursday and 12:00 a.m. Friday and Saturday and comply with all other noise requirements set forth by city code. Any outdoor entertainment or activity that is beyond the operation of regular tavern/restaurant services shall require a special event application issued by the city.
5. Lighting for the outdoor areas and rear entry shall be limited to down-lit fixtures and mounted to the building, unless otherwise approved by the city.
6. The total outdoor seating capacity shall be limited to 40 patrons.
7. A combination of vegetation and/or sod shall be maintained in all green areas delineated on the site plan.
8. The property is zoned B-2 Central Business and shall be used only for commercial uses, as specified within this zoning district. Any proposed change to a conditional use within this zoning district shall require a CUP.
9. Any outstanding fees due to the city and/or the Metropolitan Council for sewer availability charges (SAC) shall be paid by the property owner.
10. The CUP may be reviewed for compliance on an annual basis, or as the City Council deems necessary, to ensure compliance with the conditions of the CUP.

D. RECOMMENDATION

Staff recommends approval of an amendment to the existing CUP for the property located at 193 3rd Street North, to allow exterior modifications to the rear yard site plan approved in 2011, resulting in an overall increase in total outdoor seating capacity from 30 to 40 seats. 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 November 4, 2013.

TO: City of Bayport

**FR: Jeff & Michelle Hause dba Haz, LLC
K&K Hospitality dba Perro Creek Tavern**

RE: Amended CUP

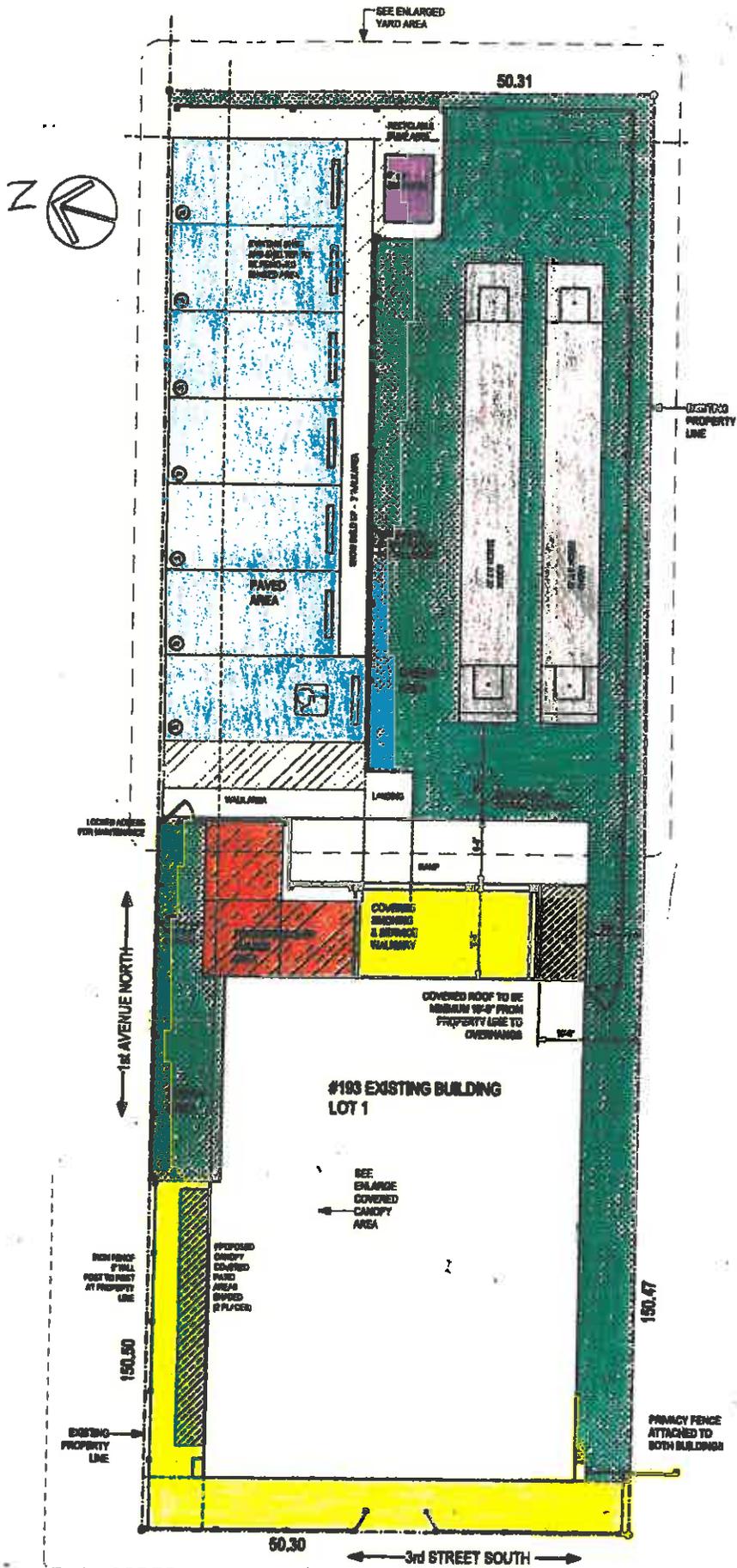
DA: September 17, 2013

To Whom It May Concern:

We request the following changes to the existing CUP. Remove recreation area and replace with additional seating for food service. PCT is currently open Tuesday thru Saturday 2:30 pm to Midnight. Food service provided 4 pm to 9 pm Tuesday, Wednesday, Thursday, and 4 pm to 10 pm Friday and Saturday. Sod removed in to create seating areas and replaced with pervious trap rock gravel. The total number of seats requested is 40 for food service. The current CUP allowed for 30 seats front and back outdoor area.

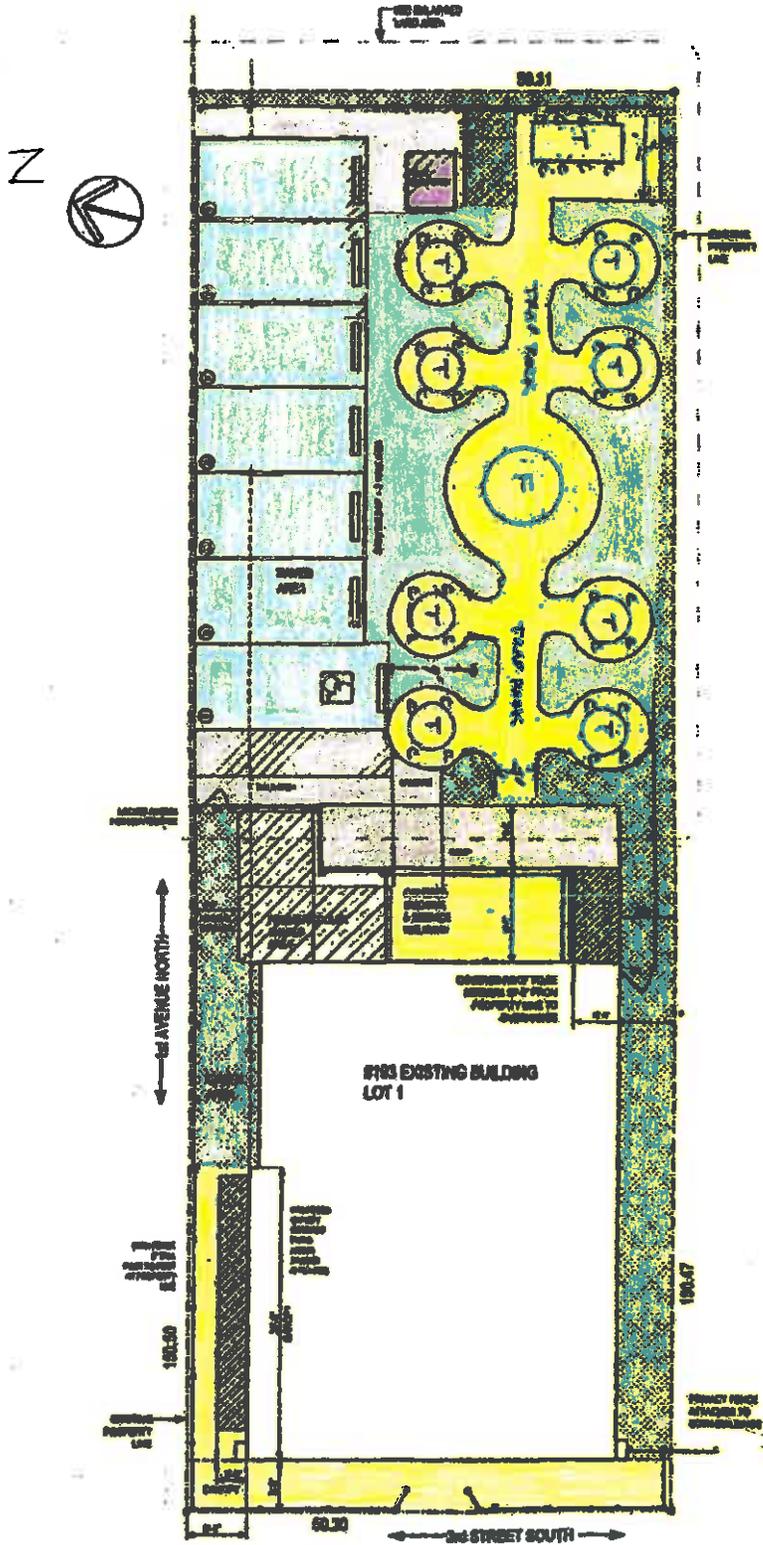
We feel this request should be approved by the city because it decreases the noise level of the existing CUP. The existing CUP allowed for outdoor activities including but not limited to bean bags, beer pong, giant Jenja, and live bands. Our desire is to provide a quaint and relaxing dining experience. We believe all 40 seats will not be used at the same time but will allow diners to spread out and not have to all sit on the more constrained and warmer sidewalk area in the front and side of the building. By allowing the additional chairs to stay in place it will save our staff and customers time by rearranging seating. The back patio will be open for food service less than half the year. Typically the ideal weather in Minnesota for outdoor dining is May 15th thru October 15th. Sometimes the season is shorter and/or inclement weather that does not allow for outdoor dining. These reasons combined with economic variability and a desire to be a good neighbor we ask the city to grant the amended to allow 40 seats for outdoor dining. The 40 dining seats may be located on the front and/or the back according to the needs of property owner or lessee.

SITE PLAN APPROVED IN 2011 - 193 3RD STREET NORTH



PROPOSED SITE PLAN - 193 3RD STREET NORTH

- Outdoor seating areas
- Planting/sod areas
- Dumpster enclosure
- Off-street parking stalls
- Impervious walkways
- Existing building footprint



Lot Calculations

Lot area
 Minimum pervious (20%)
 Planting/sod areas
 Patio (50% pervious)
 Total pervious

Square Feet

7,500
 1,500
 1,850
 563
 2,413



MEMORANDUM

DATE: October 16, 2013

TO: Planning Commission (October 21st meeting)

FROM: Sara Taylor, Assistant City Administrator/City Planner

SUBJECT: Public hearing to consider a conditional use permit for outdoor seating and use associated with the proposed restaurant/café and a variance to allow a rear addition to the existing building on the property located at 320 5th Avenue North

A. BACKGROUND

The property is located at 320 5th Avenue North and is legally described as a portion of Lot 9, Block 28, Bayport, Washington County, Minnesota. It is zoned B-2 Central Business and contains an existing commercial building, which until recently, included a retail business called "Broken-In Sports." The property is surrounded by commercial businesses to the south, east, and west, and residential to the north.

New property owner Julia Kaemmer and applicant Olivier Vrambout are currently in the process of renovating the building to include a restaurant/café establishment with onsite coffee roasting. In conjunction with the restaurant use, the owner and applicant have submitted an application for a conditional use permit (CUP) to allow outdoor dining/seating and consumption of liquor in both the front and rear of the building, as well as a variance to allow a rear addition to the existing building. A restaurant/café is a permitted use in the B-2 Central Business zoning district. However, any outdoor activity requires a CUP that specifies conditions under which the outdoor uses are permitted. A variance is also required to allow expansion of a legally non-conforming building that does not meet current setback standards from the property lines.

Notice of the Planning Commission's public hearing was mailed to all property owners within 350 feet of the subject property and published in the Stillwater Gazette on October 3, 2013. The following informational items are attached:

- narrative by the property owner
- aerial photo with outline of property lines
- proposed site plan for the property

B. STAFF COMMENTS

The property owner and applicant are proposing outdoor seating in conjunction with the restaurant/café. The outdoor seating area in the front of the building will contain tables and chairs to accommodate up to 9 patrons for dining and consumption of beverages, including liquor. This area will be enclosed with a decorative temporary fence or barrier, to contain the outdoor activity within the property lines, and allow pedestrian use of the remaining sidewalk. The temporary barrier will be erected daily, weather permitting. The barrier, as well as tables and chairs for this area will be removed and stored within the building during non-business hours.

The outdoor seating area in the rear of the building will be located on a proposed bluestone patio, with tables and chairs to accommodate approximately 15 patrons for dining and consumption of beverages, including liquor. This outdoor area will also be adjacent to a new handicap accessible ramp and entrance to the building, which previously did not exist at the property. Outdoor seating for both areas will consist of no more than 24 seats, due to space constraints and the inability to provide additional off-street parking on site for customers.

To facilitate the necessary amount of storage required for a full restaurant and to accommodate on site coffee roasting, the property owner and applicant are also proposing a 9' x 12' addition to the rear of the building. The existing building is relatively small compared to other commercial and retail buildings in the city. As such, a small expansion is proposed to house the coffee roaster and facilitate food storage and coffee roasting on site. The addition will also include an observation window and coffee "bar", to enable patrons the opportunity to sit, observe and learn about the roasting process.

This lot and building are similar to many properties in Bayport in that they both existed prior to the adoption of the city's zoning code. As such, city code recognizes that the building may not meet current setback requirements and the property may not be able to meet current design and performance standards (i.e. parking requirements, impervious coverage, etc.) that are required for new lots or structures and allows some flexibility, as long as improvements do not increase non-conformity with current code. In reviewing the building improvements and overall site plan for the property, staff feels that the owners are making a significant effort to bring the property into compliance with city codes and enhance the property to be compatible with the surrounding neighborhood. The proposed site plan includes the addition of three hard surfaced, off-street parking stalls, results in an increase of pervious or green/landscaped areas, includes the installation of a dumpster enclosure, provides a handicap parking stall and accessible entrance to the building, and includes façade improvements to enhance the overall appearance of the property, which staff feels are significant improvements over the existing conditions.

It should be noted that liquor service is proposed for the establishment, but the applicant has yet to apply for this license. The applicant is proposing business hours of 7:00 a.m. – 5:00 p.m., Tuesday – Saturday and any liquor service at the establishment must comply with city and state liquor regulations. However, since the CUP will apply to the property and not just the applicant and this particular proposed business, it is necessary to place restrictions on the hours of operation and liquor consumption in the outdoor areas. To be consistent with other restaurants located in Bayport with outdoor seating, outdoor liquor consumption will be limited to 10:00 p.m. Sunday – Thursday and 12:00 a.m. on Friday and Saturday. General use and activity at the property must also comply with the noise requirements set forth by city code. Any outdoor entertainment or activity beyond the operation of regular restaurant services shall require a special event application and approval by the city, prior to such activity.

C. SUGGESTED FINDINGS OF FACT AND CONDITIONS OF APPROVAL

The purpose of a CUP is to regulate uses that are not permitted by right in a zoning district. As part of the application process for a CUP, the property should be reviewed for compliance with the performance standards set forth by city code, impacts and overall compatibility with the surrounding neighborhood, and whether the proposed use would be beneficial to the community. If the use is determined to be compatible with city code and not have a negative impact on the neighborhood, a request for the CUP should be granted.

Minnesota Statutes 462.357, Subd 6.(2) states in part that “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.” This language establishes the criteria by which the Planning Commission is to consider the variance application. If the variance is determined to meet the criteria, a request for the variance should be granted.

A majority of the parcels in the immediate vicinity of the subject property are zoned and used for commercial purposes, some of which include outdoor patio and seating areas. As such, allowing a CUP for the proposed outdoor seating and activity may be appropriate. In addition, the proposed expansion to the rear of the building is both reasonable and minimal, to facilitate use of the property as a restaurant/café, which is a permitted use in the B-2 Central Business zoning district. The setback and depth of the addition will be similar to adjacent commercial buildings along 5th Avenue North. As such, a variance to allow the 9' x 12' rear addition may be appropriate. However, to comply with regulations set forth by city code and reduce potential impacts to adjacent properties, staff recommends the following conditions of approval:

1. Outdoor activity shall be limited to dining, seating, smoking of tobacco, consumption of beverages, including liquor, in designated areas indicated on the site plan. All sales related to the restaurant/café use shall be contained inside the building.
2. The outdoor areas shall contain appropriate receptacles to dispose of tobacco products and waste.
3. All outdoor activity must cease by 10:00 p.m. Sunday – Thursday and 12:00 a.m. Friday and Saturday and comply with all other noise requirements set forth by city code. Any outdoor entertainment or activity that is beyond the operation of regular restaurant services shall require a special event application issued by the city.
4. Lighting for the outdoor areas and rear entry shall be limited to down-lit fixtures and mounted to the building, unless otherwise approved by the city.
5. A solid fence, 8 feet in height, shall be installed along the east and west property lines, as delineated on the site plan, to screen the outdoor activity and dumpster enclosure from adjacent properties.
6. The outdoor seating area in the front of the building must be located within the property lines and be contained with a temporary barrier at least 4 feet in height when the outdoor area is in use. The barrier, as well as tables and chairs for this area, must be removed and stored within the building during non-business hours. The city and/or Washington County may require that a permanent barrier be installed in the future, as deemed appropriate for safety reasons.
7. The total outdoor seating capacity shall be limited to 24 patrons.

8. A combination of vegetation and/or sod shall be installed in all green areas delineated on the site plan. Landscaping improvements equal to 1% of total project cost are required.
9. Outdoor dining, seating, and consumption of liquor will not be allowed until all building and site improvements have been completed at the property, including but not limited to installation of the off-street parking, handicap accessible ramp and walkway, fencing, patio, sod/landscaping, and dumpster enclosure, and paving all impervious areas in the rear of the building with asphalt, concrete, or pavers of an equivalent material.
10. Three off-street parking stalls shall be maintained on site for employee and patron use, as well as the temporary loading and unloading of food service product, but shall not be utilized for storage or parking of food truck/catering vehicles associated with the business.
11. The property is zoned B-2 Central Business and shall be used only for commercial uses, as specified within this zoning district. Any proposed change to a conditional use within this zoning district shall require a conditional use permit.
12. The CUP may be reviewed for compliance on an annual basis, or as the City Council deems necessary, to ensure compliance with the conditions of the CUP.

D. RECOMMENDATION

Staff recommends approval of a CUP to allow outdoor dining and seating, including consumption of liquor, in designated areas in the front and rear of the building, for up to 24 seats in conjunction with the restaurant/café to be located at 320 5th Avenue North. Staff also recommends approval of a variance to allow an expansion to the existing building with a 9' x 12' rear addition, at the existing setback, located on the property line. 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 November 4, 2013.

TO: City of Bayport

FROM: Olivier Vrambout for
Flanons, LLC dba L'Etoile du Nord Cafe
320 5th Ave. N.
Bayport, MN 55003

RE: Conditional Use Permit

October, 1, 2013

To Whom It May Concern,

We are requesting the City of Bayport to approve two outside dining areas and an addition for the above mentioned property. The existing building and proposed areas are located within the commercial zone of the City. The building is under new ownership and is being completely remodeled. The former owner used the building for retail sales. The proposed use will be a cafe with onsite coffee roasting, L'Etoile du Nord Cafe. Our business hours will be Tuesday through Saturday, 7:00am-5:00pm.

Our plan is to provide outside dining areas, which will also serve beer and wine, on both the north (rear) and south (front) sides of the building. Both existing eating establishments adjacent to 320 5th Ave. N., as well as several others in the City, have similar designated areas. We feel the additional space will enhance our customer's enjoyment of the existing property, and bring additional revenue for our establishment, for the neighboring establishments, and in turn the City, County and State. Further, we feel the areas would be aesthetically pleasing and add to the charm of the Bayport community.

-The proposed area on the south (front) side would be sidewalk dining similar to one of the adjacent eating establishments referenced above, specifically La Cocinita. As the sidewalk is atypically broad on this City block alone, sidewalk dining has not, in the case of La Cocinita, been considered intrusive. The sidewalk directly in front of 320 5th Ave. N. is even broader yet, and therefore any potential sidewalk seating can only enhance the presence of our business and that of the adjacent businesses. This proposed area would provide no more than 9 outdoor seats.

-The proposed area on the north (rear) side of our building would be patio dining similar to the other adjacent eating establishment referenced above, specifically Bayport Barbeque. Our rear lot has been, and is presently, vacant and unsightly. Our proposed patio will provide immediate beautification of the surrounding areas, both the adjacent commercial parking areas and the neighboring residential areas abutting these parking areas. The proposed patio will provide ample green space with planted buffers and decorative landscaping. This area would provide no more than 15 seats.

Our plan also includes the construction of a small (9'x12') addition to the north (rear) facade to be used to house our coffee roaster, as the existing building size prohibits all but the essentials of a cafe business program. We have been roasting Fair

Trade coffees from around the world for five years, two years of which have been at another location within the Bayport city limits. We feel that bringing our coffee roasting business directly to our cafe location will further enhance our business and the business of our neighbors and provide a unique focal point to the City of Bayport. The coffee roasting will primarily be done outside of business hours, but the proposed building will include a "coffee bar", to allow patrons to sit at the service window to enjoy their coffee within sight of its source.

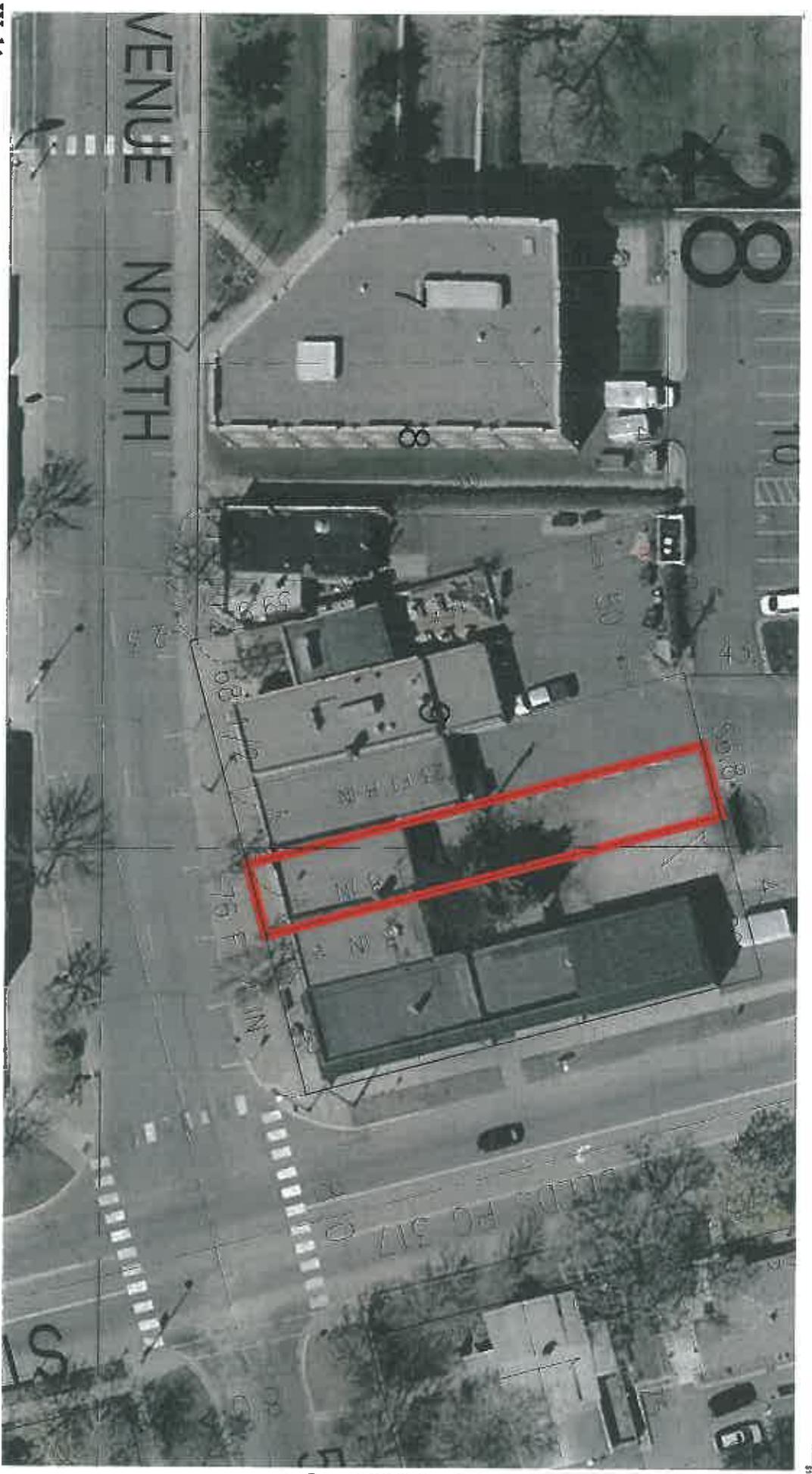
We believe this requested Conditional Use Permit, if granted, will promote significant aesthetic, economic and community enrichment for the City of Bayport as provided by L'Etoile du Nord Cafe.

Respectfully submitted,

Olivier



Olivier Vrambout
Owner
L'Etoile du Nord



LEGEND

- UNIMPROVED WATER
- IMPROVED WATER
- UNIMPROVED WATER
- IMPROVED WATER
- MUNICIPAL BOUNDARY
- PLAT BOUNDARY

NORTH

SCALE: 1 inch = 30 feet

SECTIONAL CORNER VALUES AND DISTANCES

SECTION	16	17	18	19	20
PLAT	100000	100000	100000	100000	100000
SECTION	16	17	18	19	20
PLAT	100000	100000	100000	100000	100000



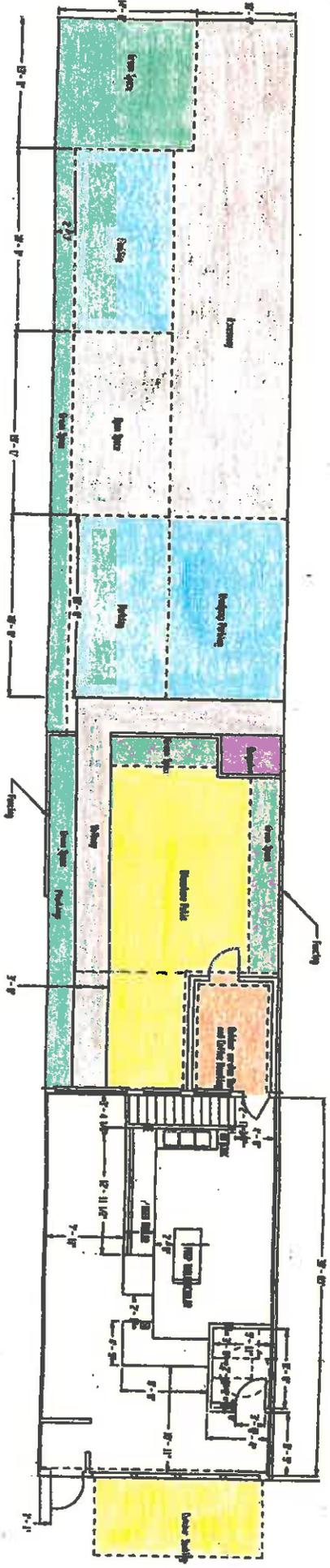
SECTION CORNER MAP

22	21	20	19	18	17	16
NW	NE	SE	SW	NE	SE	SW
23	24	25	26	27	28	29
30	31	32	33	34	35	36

PROPERTY IDENTIFICATION/VALUES/STREET ADDRESS

SECTION	16	17	18	19	20
PLAT	100000	100000	100000	100000	100000
SECTION	16	17	18	19	20
PLAT	100000	100000	100000	100000	100000

THIS DRAWING IS THE RESULT OF A COMPUTATION AND REPRODUCTION OF
 WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES
 REPERTORY LINES AS SHOWN ARE FOR REFERENCE PURPOSES AND MAY NOT
 REPRESENT ACTUAL CONDITIONS
 MAP LAST REVISED: August 16, 2012
 NO ADDITIONAL CHANGES HAVE BEEN REFERRED TO DATE
 DATE OF CONTROLS: November, 2011 DATE OF PHOTOGRAPHY: May, 2012



PROPOSED SITE PLAN -- 320 5TH AVENUE NORTH

- Outdoor seating areas
- Dumpster enclosure
- Off-street parking stalls
- Existing building footprint
- Rear building addition
- Planting/sod areas
- Impervious drive aisles or walkways

Lot Calculations

Square Feet

Lot area	3,600
Minimum pervious (20%)	720
Planting/sod areas	533
Patio (50% pervious)	261
Total pervious	794

1 SITE PLAN
AL



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

Date: October 16, 2013
To: Planning Commission
From: Sara Taylor, Assistant City Administrator / Planner
Subject: Offices of Chairperson and Vice Chairperson

BACKGROUND

The bylaws of the Planning Commission state that the Vice Chairperson is to act in the absence of a Chairperson. As such, current Vice Chairperson Joe Ritzer will take on the role as the Chairperson of the Planning Commission for the remainder of the year.

Since Joe will be taking on the role of the Chairperson, the Planning Commission will need to elect a new Vice Chairperson. Because there are currently two vacant seats and Commissioner Brad Hallett was recently appointed in May of 2013, staff recommends Commissioner Jeff Richtman be elected to serve as the Vice Chairperson, due to his experience and longevity on the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission adopt a motion electing Jeff Richtman as the Vice Chairperson for two years or until his term expires.