CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
APRIL 21, 2014
6:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Commissioner Ritzer called the regular Bayport Planning Commission meeting of April 21, 2014, to order at 6:00 p.m.

ROLL CALL

Commissioners Present: Brad Hallett, Jeff Richtman and Joe Ritzer

Commissioners Absent: None

City Staff Present: Assistant City Administrator/Planner Sara Taylor and City Council Liaison Patrick McGann

OATH OF OFFICE TO NEW MEMBERS BRAD ABRAHAMSON AND ELIZABETH KELLY

Commissioner Ritzer administered the oath of office to the new commissioners and welcomed them to their new positions.

APPROVAL OF MINUTES

It was moved by Commissioner Richtman and seconded by Commissioner Hallett to approve the October 21, 2013 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS

Consider a request for a variance to exceed the maximum square footage allowed for accessory structures in the R-1 Single-family Estate zoning district for the residential property located at 12 Point Road: Planner Taylor stated the subject property is zoned R-1 Single-family Estate and contains an existing single family home with an attached garage, a detached garage/storage building and a detached pool house. She explained the existing and proposed square footage of all accessory structures on the property exceeds the allowed 2,000 square feet, and a variance is required to allow a proposed addition to the existing detached garage. A new home, attached garage and detached garage were constructed on the property in 2002-2003 after the original home sustained substantial flooding in 2001. A review of the current property conditions revealed the property contains two detached structures and 3,049 square feet of accessory space; city code allows one detached structure and up to 2,000 square feet of total accessory space. In addition, the elevation and fill around the structures does not comply with city code requirements and/or the conditions of approval for the new construction in 2002-2003. City code requires all structures to be constructed at a minimum elevation of 693 feet with 15 feet of fill around each structure in the floodplain. The property currently contains elevations from 690-693 feet, with inadequate fill around the structures. The current owners purchased the property in 2012, and the limited city records do not explain why the discrepancies exist. Planner Taylor reviewed the proposed improvements that would address the discrepancies and increase compliance with city code. These include demolishing the existing pool house, bringing in the necessary fill to an elevation of 693 feet at a minimum of 15 feet around all structures, and converting 295 square feet of the existing attached garage into living space. The applicant is requesting a variance to allow a 1,010 square foot addition to the existing detached

garage. The proposed improvements would result in 3,047 square feet of accessory space, which is a decrease of two square feet from existing conditions. Staff feels the owners are willing to make a substantial investment to bring the property into compliance with city codes, which is a significant improvement over the present conditions, and which existed at the time of purchase and were not created by the current owner. As a result of the variance, several site improvements will be completed that will improve the character of the property and preserve the existing structures at the regulatory flood protection elevation. Staff recommended approval of the variance, subject to the conditions of approval stated in the staff report. Planner Taylor noted that notice of the public hearing was published in the Stillwater Gazette and mailed to property owners within 350 feet of the property. No public comment was received on the application.

On behalf of the owners, applicant Bruce Lenzen said the garage addition would be used as a combination workshop/storage area. He reiterated his clients were not aware the property was non-compliant when they purchased it, but understand the need to comply with city code and are willing to comply with the variance conditions of approval, which include removal of the pool house and bringing in an estimated 2,200 yards of fill. Planner Taylor said the Minnesota Department of Natural Resources (DNR) has reviewed the application. The DNR is supportive of the variance, with the addition of the necessary fill to comply with elevations to 693 feet. She added the DNR would also approve the grading/fill plan for the property.

Commissioner Ritzer opened the public hearing and no comments were heard.

It was moved by Commissioner Hallet and seconded by Commissioner Richtman to close the public hearing. Motion carried.

Commissioner Richtman noted it appears the garage footings are already in place for the addition and expressed concern that there is no erosion control, i.e. silt fence, in place. Planner Taylor explained work on the addition was stopped last fall when the discrepancies were discovered and indicated a silt fence is required. She noted the variance would not increase the total impervious coverage on the lot.

It was moved by Commissioner Kelly and seconded by Commissioner Abrahamson to recommend to the City Council to approve a variance to exceed the maximum square footage allowed for accessory structures for the residential property located at 12 Point Road, subject to the findings and conditions listed in the staff report. Motion carried.

The application will be heard by the City Council on May 5, 2014.

Consider a request for an amendment to an existing conditional use permit to allow expanded hours for outdoor seating and consumption of food and beverages within the uncovered front porch area at the Hesley Jensen American Legion Post 491, located at 263 3rd Street North: Planner Taylor stated the property is zoned B-2 Central Business and contains an existing commercial building that is surrounded by commercial businesses to the north, south and west, and residential homes to the east. The American Legion is requesting that its 2008 conditional use permit (CUP) be amended to allow expanded hours for outdoor seating, smoking of tobacco, and consumption of food and beverages on the outdoor, uncovered front porch. The current CUP allows such activity from 10:00 a.m. to 10:00 p.m., and they are requesting it be amended to allow expanded hours on Friday and Saturday evenings until 12:00 a.m. The requested hours are consistent with several other restaurant/tavern outdoor patio areas in the vicinity, which have not had a negative impact on the neighborhood. As such, staff feels the request is reasonable and recommends approval, subject to the conditions of approval stated in the staff report. Planner Taylor noted that notice of the public

hearing was published in the Stillwater Gazette and mailed to property owners within 350 feet of the property. No public comment was received on the application.

Discussion followed on similar businesses use of outdoor space and seating capacity of the outdoor porch being limited to six seats. Planner Taylor stated the CUP does not specify the number of patrons allowed on the outdoor porch; however due to the size of the porch, the number of patrons is self-regulating and no issues have been identified.

Commissioner Ritzer opened the public hearing and the following were heard:

Barry Torgerson, owner of the apartments at 205 and 221 1st Avenue North adjacent to Perro Creek Tavern, expressed concern that allowing the expanded hours would set a precedent for other restaurants/taverns and generate noise concerns for his tenants. It was noted the precedent for hours was already set at midnight for weekend use and this request would allow similar hours for the American Legion. Planner Taylor will follow up with Mr. Torgerson to verify the conditions of approval for the Perro Creek Tavern CUP.

It was moved by Commissioner Hallet and seconded by Commissioner Kelly to close the public hearing. Motion carried 5-0.

The consensus of the Planning Commission was that the request was reasonable and would bring the American Legion's outdoor porch use in line with other establishments in the area.

It was moved by Commissioner Richtman and seconded by Commissioner Hallett to recommend to the City Council to approve an amendment to an existing conditional use permit to allow expanded hours for outdoor seating and consumption of food and beverages within the uncovered front porch area at the Hesley Jensen American Legion Post 491, located at 263 3rd Street North, subject to the findings and conditions listed in the staff report. Motion carried 5-0.

The application will be heard by the City Council on May 5, 2014.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION
Planner Taylor stated the Planning Commission would not meet in May and the next meeting is scheduled for June 16, 2014, at 6:00 p.m.

OPEN FORUM – None

ADJOURN
It was moved by Commissioner Kelly and seconded by Commissioner Richtman to adjourn the meeting at 6:33 p.m. Motion carried.