



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

PLANNING COMMISSION MEETING
City Hall - Council Chambers
August 22, 2011 – 6:00 p.m.

A. CALL TO ORDER

B. SWEARING IN OF NEW MEMBER JASON OBLER

C. ELECTION OF OFFICERS

D. APPROVAL OF MINUTES

- February 22, 2011 regular meeting

E. PUBLIC HEARINGS

- Public hearing to consider a conditional use permit (CUP) to allow outdoor uses in conjunction with the proposed tavern/restaurant at 193 3rd Street North

F. OLD BUSINESS

G. NEW BUSINESS

H. GENERAL INFORMATION

I. OPEN FORUM

J. ADJOURNMENT

**CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
FEBRUARY 22, 2011
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice thereof, Chairperson Goldston called the regular Bayport Planning Commission meeting of February 22, 2011 to order at 6:00 p.m.

ROLL CALL

Commissioners Present: Dan Goldston, Todd Gilles, David Levy and Joe Ritzer

Commissioners Absent: Pam Hoye

City Staff Present: Assistant City Administrator/Planner Sara and City Council Liaison Michele Hanson

APPROVAL OF MINUTES

It was moved by Commissioner Levy and seconded by Commissioner Gilles to approve the January 18, 2011 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS

Public hearing to consider a conditional use permit (CUP) to allow the existing commercial office use at 836 Minnesota Street South to continue and be recognized as a conditional land use under the city's Lower St. Croix Bluffland and Shoreland Management Ordinance: Assistant Administrator/Planner Taylor reviewed the background of the CUP request. In 2010, the DNR notified the city that the parcel located at 836 Minnesota Street South was in violation of the Lower St. Croix River Act, as it contained a commercial business in a designated rural district of the St. Croix River. After researching the matter, staff determined that this parcel was once part of Baytown Township, which is considered a "rural" community, and therefore designated as a rural district of the St. Croix River. However, in 1982, when this parcel was annexed into the City of Bayport, which is an "urban" community, the city assumed the urban designation and zoned the parcel for commercial use, which was consistent with past and anticipated future use of the property. Unbeknown to the city at the time, once a parcel is designated as "rural" or "urban" within the St. Croix Riverway, its designation cannot be changed, regardless of annexation. In order to resolve this discrepancy, the city worked with the property owner on legislation to allow certain pre-existing land uses in rural districts to continue, upon the issuance of a CUP. In May of 2010, the legislation was adopted and last October, the city approved an amendment to the Bayport City Code of Ordinances to incorporate the approved legislation and be consistent with the Lower St. Croix River Act.

To comply with the legislation and city ordinance, the property owner/applicant, Brian Zeller, is requesting a CUP for the existing commercial office use. Planner Taylor noted that no significant modifications are proposed to the property as part of this application. The primary purpose of the application is to obtain a CUP to allow the existing commercial office use to continue to operate at the property, as is.

Staff is recommending approval of the CUP, as it will allow the existing commercial land use to continue, and is consistent with the city's zoning and comprehensive land use plan. Planner Taylor reviewed the conditions of approval regarding designated hours of operation, installation of nameplate signage, installation of a dumpster enclosure, and connecting to city sewer and water service.

She noted that tonight's public hearing was published in the Stillwater Gazette and mailed to property owners within 350 feet of the property, and the city received comments from both the Sierra Club and St. Croix Scenic Coalition. These groups requested the city consider requiring the building to be painted an earth tone or requiring additional screening, prohibiting glare-producing window glass, requiring minimal or no signage, and requiring a new CUP for any building enlargement or expansion of use. The city also received a response from the DNR, stating they had no objections on the application, as submitted and were in agreement with staff's recommendations. Planner Taylor indicated that staff believes the city's recommended conditions of approval have taken the above concerns into consideration.

Property owner Brian Zeller stated he believes the Sierra Club and St. Croix Scenic Coalition concerns have been addressed in the staff report and indicated he plans to meet or exceed the city's expectations regarding landscaping and other exterior improvements. He answered questions regarding the storage and advertising of vehicles for sale on the property, the exterior building materials and color, and the scope and timeline for the required site improvements.

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

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

Discussion followed on reviewing use and regulations for the entire property, including the empty lot on the north side of the existing building and requiring a detailed landscape plan, prior to making a recommendation to the City Council. Planner Taylor stated staff did not require a firm landscape plan or sign detail at this time due to the required installation of city sewer and water, which will impact landscaping and sign placement plans. Per direction from the Planning Commission, she believes staff can work with the property owner to address the Planning Commission's concerns, i.e., incorporating additional landscaping/screening of the building from the river, stormwater retention techniques, and mitigation of code enforcement issues relating to the storage and advertising of recreational and motor vehicles for sale on the property.

Discussion followed on ways to eliminate the unauthorized sale of vehicles, such as posting signage and limiting vehicular access with curbing and/or barricades. Mr. Zeller indicated he hopes to keep the water and sewer utility mains as close to the property line as possible, however he is working with excavators and city staff to address topography challenges and the possible need for a fire hydrant, due to the length of the run from existing utility lines.

It was moved by Commissioner Levy and seconded by Commissioner Goldston to recommend to the City Council to approve a conditional use permit (CUP) to allow the existing commercial office use at 836 Minnesota Street South to continue and be recognized as a conditional land use under the city's Lower St. Croix Bluffland and Shoreland Management Ordinance, as per staff's recommended findings of fact and conditions of approval. Motion carried.

Planner Taylor indicated the CUP would be considered at the March 7, 2011 City Council meeting. Staff will work with the property owner to address the issues identified by the Planning Commission.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION – None

OPEN FORUM – None

ADJOURN

It was moved by Commissioner Gilles and seconded by Commissioner Ritzer to adjourn the meeting at 6:32 p.m. Motion carried.

MEMORANDUM

DATE: August 8, 2011

TO: Planning Commission (August 22nd meeting)
Mitch Berg, City Administrator

FROM: Sara Taylor, Assistant City Administrator/City Planner

SUBJECT: Public hearing to consider a conditional use permit (CUP) to allow outdoor uses in conjunction with the proposed 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, which until recently, included a residential apartment on the second floor and a tavern on the first floor called "Captains Corner." The property is surrounded by commercial businesses to the north, south, and west, and residential to the east.

New property owners Jeffrey and Michelle Hause, Haz LLC, are currently in the process of renovating the building to include a professional office for their construction company on the second floor and a tavern/restaurant on the first floor. In conjunction with the tavern/restaurant use, the owners have submitted an application for 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 horse shoes, bean bag toss, bocce ball or similar type outdoor games. Both the office and tavern/restaurant are permitted uses in the B-2 Central Business zoning district. However, any outdoor storage or activity related to the office or tavern/restaurant requires a CUP that specifies conditions under which the outdoor uses are permitted.

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 July 28, 2011 and August 11, 2011. The following informational items are attached:

- narrative by the property owner
- proposed site plan for the property
- proposed exterior façade elevations for the building

B. STAFF COMMENTS

As stated, the new property owners are proposing outdoor storage and activity in conjunction with the tavern/restaurant use. To facilitate the necessary amount of cold storage required for a full restaurant, a new cooler will be placed in the rear of the building and set back a minimum of 5 feet from the north side property line, to comply with city code. The cooler will be enclosed with a privacy fence to screen it from public view.

The outdoor patio/seating area in the rear of the building will be approximately 250 square feet and set back a minimum of 5 feet from the south side property line, to comply with city code. This area will contain outdoor tables and chairs to accommodate approximately 16 patrons for smoking and consumption of beverages, including liquor. A permanent roof will be installed over a portion of this area, to accommodate patrons and wait staff during inclement weather, at a minimum setback of 10 feet from the south side property line, to comply with city code. This patio/seating area will also include a new handicap accessible ramp and entrance to the building, which did not previously exist at the property.

The north side of the building will include a narrow bar rail for patrons, as well as a service walkway for wait staff to access the outdoor patio/seating area in the front of the building. The seating area in the front of the building will contain outdoor tables and chairs to accommodate approximately 14 patrons for smoking and consumption of beverages, including liquor. Both areas will be approximately 300 square feet and will be enclosed with a decorative 5 foot iron fence, located on the property line, which has been approved by the Minnesota Department of Transportation for the portion located adjacent to Highway 95.

The property owners are also proposing an outdoor recreation area to the rear of the building, which will include two game courts for horse shoes or a similar type game. The game courts will be set back a minimum of 5 feet from the south side property line and 16 feet from the east rear property line. The rear of the property will be completely enclosed with a solid wood fence, 8 feet in height, which will screen the outdoor activity from the adjacent commercial properties and parking stalls on the south and north sides of the building, as well as the multi-family residential property on the east side of the property.

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 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 retains the same amount of off-street parking, 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 removal of the existing garage on the property,

which staff feels are significant improvements over the existing conditions. In addition, the proposed outdoor storage, seating, and activity areas will meet all setback requirements and be screened from adjacent properties, to minimize impacts.

It should be noted that the liquor license issued for the property limits outdoor consumption to 10:00 p.m. Sunday – Thursday and 12:00 p.m. on Friday and Saturday. Staff feels that in order to be consistent with these restrictions, all outdoor seating and activity should also be limited to these hours. General use and activity at the property must also comply with the noise requirements set forth by city code.

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 considered.

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, which have not had a negative impact on the neighborhood. However, staff recommends that reasonable limitations be placed on the proposed outdoor activities in a manner that allows the property owners to successfully operate outdoor amenities related to the tavern/restaurant, while respecting adjacent property owners. As such, allowing a CUP for the proposed outdoor storage and activity may be appropriate. However, to comply with regulations set forth by city code, staff recommends the following conditions of approval:

1. The outdoor activity areas shall be limited to seating, smoking of tobacco, consumption of beverages, including liquor, and recreational court games in designated areas, as described above. All sales related to the restaurant/tavern use shall be contained inside the building.
2. The outdoor storage and activity 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 activity 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.
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 30 patrons.
7. 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.
8. Outdoor activity, seating, consumption of liquor, and recreation 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 paving, sod/landscaping, dumpster enclosure, and game courts.
9. 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.
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 a CUP to allow a designated outdoor storage area for a walk-in cooler and designated outdoor activity areas for seating, smoking, consumption of beverages, including liquor, and a recreation area to facilitate two horse shoe courts or a similar type court game in conjunction with the tavern/restaurant use to be located at 193 3rd Street North. 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 September 6, 2011.

TO: City of Bayport

FR: Jeff & Michelle Hause for
Hefty Hause Inc. dba Hefty's
193 3rd St. N.
Bayport, MN 55003

RE: Conditional Use Permit
Outside Area

DA: July 18, 2011

To Whom It May Concern:

We are requesting the City of Bayport to approve an outside area for smoking, games, & alcohol consumption for the above mentioned property. The building is under new ownership and being completely remodeled. The former owners used the building for Captain's Corner bar & an apartment. The proposed use will be a bar (Hefty's) & an office. Hefty's is a new entity to open in Bayport this fall. The office space has been leased to J.G. Hause Const., Inc. of Stillwater.

Our plan is create an outside area on the North side and back of existing building. To help shield certain weather conditions, an awning would be added to North side and a porch to the back (East side) of building. We feel this will enhance our customer's enjoyment of the existing property. We believe this option will create additional revenue for our establishment and in turn the City, County & State. Several establishments in the area (in & out of State) have similar designated area(s). The area would be located on the side and back of the existing building and would not intrude on the front of building or sidewalk. The building and proposed area is located in the commercial zone of the City. We feel it would be aesthetically pleasing and add to the "charm" of the Bayport community.

PLANS

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ELEVATIONS

FLOOR PLAN

FIELD NO. 1

PLAT

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NOTES

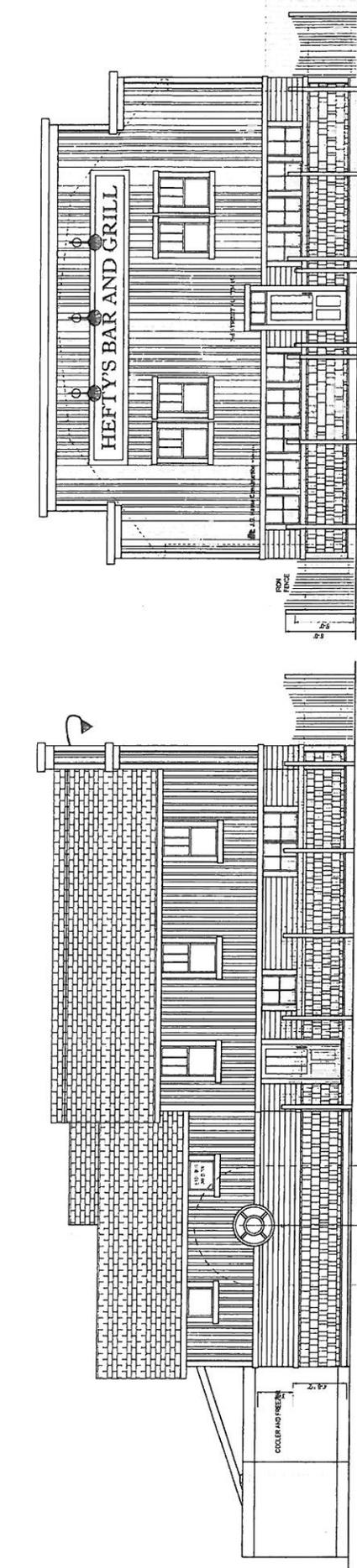
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PROJECT #

22A-34135

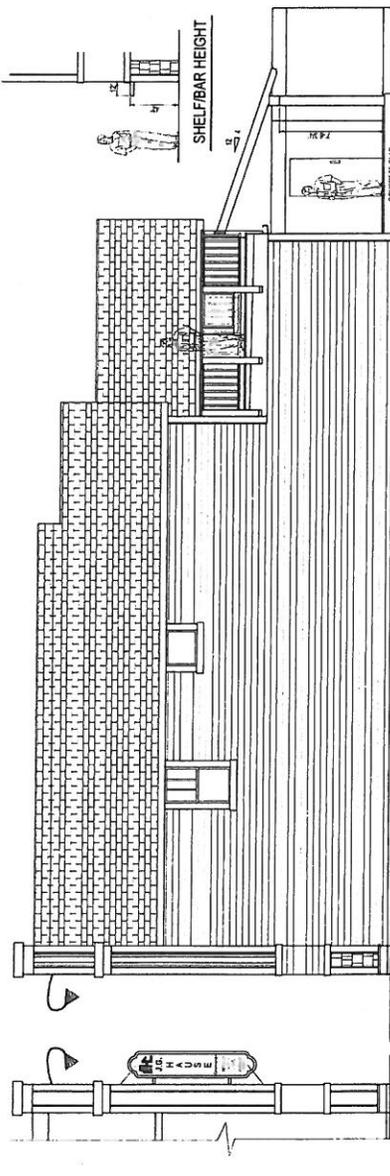
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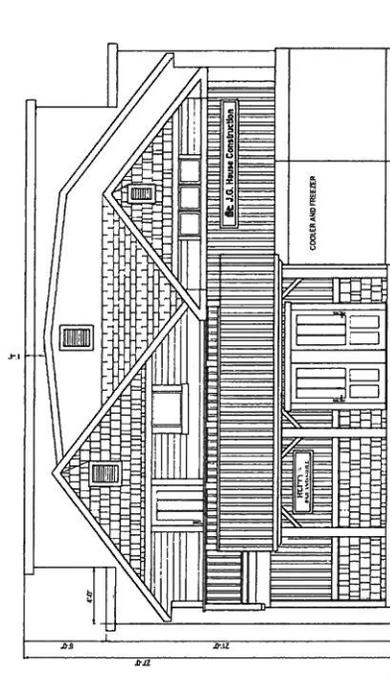
1ST AVENUE NORTH ELEVATION

3RD STREET SOUTH FRONT ELEVATION



RIGHT SIDE ELEVATION

REAR ELEVATION



OPTIONAL SIGNAGE