



# CITY OF BAYPORT

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

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**PLANNING COMMISSION MEETING**  
**City Hall - Council Chambers**  
**June 10, 2013 – 6:00 p.m.**

**A. CALL TO ORDER**

**B. APPROVAL OF MINUTES**

- **May 20, 2013 regular meeting**

**C. PUBLIC HEARINGS**

- **Consider a Planned Unit Development (PUD) General Development Plan and a Preliminary Plat for Inspiration Phase III-B**
- **Consider variances to construct a detached garage in front of the principal dwelling and within the required front yard setback at 424 5<sup>th</sup> 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 20, 2013  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice thereof, Acting City Administrator/Planner Taylor called the regular Bayport Planning Commission meeting of May 20, 2013, to order at 6:00 p.m.

**ROLL CALL**

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

Commissioners Absent: None

City Staff Present: Acting City Administrator/Planner Sara Taylor, City Council Liaison Patrick McGann, City Engineer Barry Peters, City Attorney Andy Pratt

**OATH OF OFFICE TO NEW MEMBER J. BRAD HALLETT**

Acting City Administrator/Planner Taylor administered the oath of office to Brad Hallett, who was recently appointed by the City Council to fill the seat vacated by David Levy.

**APPOINTMENT OF CHAIRPERSON**

Former chairperson David Levy is no longer on the Planning Commission, and Commissioner Obler has offered to serve in this capacity.

It was moved by Commissioner Hallett and seconded by Commissioner Richtman to appoint Jason Obler as the chairperson of the Planning Commission for a term of two years, or until his term expires. Motion carried.

**APPROVAL OF MINUTES**

It was moved by Commissioner Ritzer and seconded by Commissioner Richtman to approve the September 17, 2012 meeting minutes as presented. Motion carried.

**PUBLIC HEARINGS** – None

**OLD BUSINESS** – None

**NEW BUSINESS**

Consider a final plat for Phase III-A of the Inspiration development: Acting City Administrator/Planner Taylor noted that approval of the preliminary plat for Inspiration as a planned unit development (PUD) was approved in 2004. Phase I, which includes build out of 121 single-family lots is nearing completion. The current owner, Bayport Mainstreet Holding and builder D.R. Horton are requesting approval for final platting of a second addition of single-family lots, which consists of 16 lots and the related infrastructure improvements in the south portion of the development along Prairie Way South. Much of the grading and infrastructure in this area was completed in Phase I of the development, and staff has determined that minimal site improvements will be required. The required improvements were reviewed. Planner Taylor mentioned that the master developer's agreement requires the entire trail system to be completed prior to subsequent

phases of the development being approved by final plat. However, staff has determined this to be impractical at this time because the remaining trails will be located in an area that is not yet graded or equipped with infrastructure/utilities. As such, staff is recommending that completion of the trail system be deferred until a final plat is proposed for this area later this year. She noted the developer will be required to submit park dedication fees and enter in to a developer's agreement and PUD agreement as part of the final plat approval. Staff is recommending approval of the final plat for Phase III-A, subject to the conditions listed in the staff report.

Commissioner Gilles inquired about final plat approval for the remaining lots in Phase III. Planner Taylor explained that the developer would be seeking final plat approval for Phase III in multiple stages, due to the economy and recovering housing market. The city recently received a preliminary plat application for Phase III-B, which will be heard at the June 10 Planning Commission meeting.

Commission Obler requested clarification of a minor drafting issue noted in Engineer Peter's May 7 memo. Engineer Peters explained the easement lines on the proposed final plat appear to be 7.5 feet between lots 1 and 2 in block 1, instead of the intended five feet, and this will be corrected on the final plat. Engineer Peters also noted the contractor will be building a rock entrance to the construction area and construction traffic will be directed to use this entrance.

Commissioner Richtman requested further detail on deferring completion of the trail system. Planner Taylor and Engineer Peters indicated completion of the trail system in the northwest quadrant of the development is not practical at this time since the area is not graded, but completion will be required as part of the final plat approval for Phase III-B, anticipated sometime this summer.

Commissioner Ritzer questioned whether the architectural styles would be comparable to the existing homes, and staff indicated they would comply with the original PUD permit.

It was moved by Commissioner Obler and seconded by Commissioner Ritzer to recommend to the City Council to approve the final plat for Phase III-A of the Inspiration development with the findings of fact and conditions listed in the staff report and presented at the meeting. Motion carried.

#### **GENERAL INFORMATION**

The next meeting of the Planning Commission is scheduled for Monday, June 10, 2013, at 6:00 p.m.

**OPEN FORUM – None**

#### **ADJOURN**

It was moved by Commissioner Hallett and seconded by Commissioner Gilles to adjourn the meeting at 6:16 p.m. Motion carried.



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## PLANNING REPORT

TO: Bayport Planning Commission

FROM: D. Daniel Licht, AICP

RE: Bayport – Inspiration Phase III-B; PUD General Development Plan/Preliminary Plat

REPORT DATE: 5 June 2013

MEETING DATE: 10 June 2013

TPC FILE: 195.02 – 13.01

### A. BACKGROUND

DR Horton, Inc. has entered into an agreement with Bayport Mainstreet Holding (BMH), LLC to acquire Outlot A, Inspiration and has submitted application for a Planned Unit Development (PUD) general development plan and preliminary plat to develop 110 single family lots and 163.41 acres of open space as Inspiration Phase III-B. The Inspiration development was originally approved by the City Council in October of 2004 as a PUD general development plan and preliminary plat that included a total of 328 residential housing units and 145 acres of restored native prairie open space. There are 121 single family lots that have been final platted and developed within Phase I and final plat for 16 single family lots within Phase III-A was recently approved on June 3, 2013. The PUD general development plan and preliminary plat submitted by DR Horton proposes alterations to the approved subdivision design and PUD standards for this portion of Inspiration that will be detailed herein.

#### Exhibits:

- Project narrative by applicant
- Inspiration Overall Land Use Component Plan (2004)
- Proposed Phase III-B Preliminary Plat Submittal (13 sheets)
- Revised Restoration Plan (2012)(2 sheets)
- Example architectural renderings provided by applicant (4 sheets)
- City Engineer's review dated June 5, 2013

## **B. ANALISYS**

**Review Context.** The original PUD general development plan and preliminary plat for Inspiration approved in 2004 was established following an intensive planning effort to define objectives for the character and quality of the neighborhood through development of single family lots, multiple family dwelling units and extensive open space preservation and restoration. Development under a PUD District such as that established for Inspiration allows flexibility from the standard requirements of the Zoning Ordinance for certain elements of the development, such as lot dimensions and setback requirements in order to achieve a specific objective.

The Inspiration PUD general development plan and preliminary plat approved in 2004 remains valid. This status entitles BMH (or another owner) to develop the subject site through submission of a final plat application. Application for final plat approval is a technical process that formally establishes the division of the property as lots of record or outlots and dedicates public rights-of-way and easements. The City must approve a final plat application if it is consistent with the preliminary plat and Zoning Ordinance (or in the case of Inspiration the PUD District) and includes all of the required improvements and financial arrangements required by the Subdivision Ordinance.

Because the current application essentially proposes to modify the property owner's current entitlements and the requirements under which the subject site is to be developed, this also serves to define the approach to the Planning Commission's consideration of the request. The project narrative submitted by the applicant indicates that the primary impetus for the changes proposed for Inspiration Phase III-B is the result of the housing market collapse that occurred after the project was approved in 2004 and present conditions. As such, the Planning Commission must consider if the proposed deviations from standard Zoning Ordinance requirements incorporated in the design of the preliminary plat and PUD general development plan are not only consistent with the intent of the base requirement but also with the flexibility previously approved for Inspiration in 2004. One area where we would specifically caution the Planning Commission is that the City cannot address potential concerns related to the effect of the proposed changes to the PUD general development plan and preliminary plat approved in 2004 on property values of existing developed lots within Inspiration. Property values are subject to market forces beyond the City's control and establishing a definite cause/effect between a proposed modification to the approved development plans and area property values is highly problematic.

**Comprehensive Plan.** The Comprehensive Plan guides development of the subject site for a mix of residential land uses and natural features based on the previously approved PUD general development plan and preliminary plat for Inspiration approved in 2004. The single family lots and open space land uses proposed for Inspiration Phase III-B are consistent with the intent of the City's Comprehensive Plan for future land use development of the subject site.

**Zoning.** The subject site is zoned R- PUD District with a base zoning classification of single family urban and permitted uses as set forth in Section 6 of the Zoning Ordinance. The applicant is proposing to develop single family lots and open space in accordance with a modified PUD general development plan and preliminary plat. Development of single family lots as a permitted use and open spaces complies with the PUD District. Specific changes being proposed to the subdivision design and lot requirements will be outlined in subsequent paragraphs. A PUD permit will be drafted upon approval of the PUD general development plan and preliminary plat establishing the uses, lot requirements, setbacks and

other stipulations of said approvals for consideration with application for final plat and recorded with the parcels within the development.

**Subdivision Design Changes.** The following is a summary of the changes from the 2004 PUD general development plan and preliminary plat to the subdivision design proposed with the current application:

- The overall number of single family lots within the area of Phase III-B has been decreased by six and the total acreage devoted to residential uses is reduced by 1.9 acres. This is a result of proposed changes to the minimum lot requirements eliminating the approved 59 village single family lots (as well as establishing a more common minimum 70 foot lot width for all lots). The changes to the minimum lot requirements and elimination of the village single family lots further results in additional design changes within Phase III-B.
- The 2004 PUD general development plan and preliminary plat provided 33.82 acres of open space within the area of Phase III-B. With the changes to the subdivision design, there is a total of 34.72 acres, or an increase of 0.9 acres of open space proposed within the Phase III-B PUD general development plan and preliminary plat.
- The proposed Phase III-B subdivision design includes eight lots within Block 3 on the south side of Inspiration Parkway between Stagecoach Trail (CR 21) and Primrose Path. This area was approved to be a landscaped passive open space within Outlot C with the 2004 PUD general development plan and preliminary plat.
- The number of lots proposed within Block 1 is eight more than shown on the 2004 PUD general development plan and preliminary plat. The approved plan included an opening between the lots in the area of Lots 19-20, Block 1 and also did not have lots on the west side of Primrose Path extending to Inspiration Parkway or lots fronting directly to Inspiration Parkway.
- Outlots E and F were to be developed as village greens but are now proposed as landscaped passive open space on the proposed PUD general development plan and preliminary plat for Inspiration Phase III-B. Outlot E would be sized so as only to encompass a wetland area whereas Outlot F would continue to have open areas available for passive recreation. However, the developer notes the changes as reducing the village green space from 3.0 acres as approved in 2004 on the PUD general development plan and preliminary plat to 0.66 acres on the proposed Phase III-B plans.
- The Phase III-B PUD general development plan and preliminary plat also eliminates the planned alleyways within Blocks 6, 7 and 8 and instead extends Periwinkle Place between the north section of Inspiration Parkway and Planters Path such that all lots have direct access to a public street. The private alleyways were required to be owned and maintained by the homeowners association, which can be a financial burden to individual homeowners that bear this cost as well as pay property taxes that provide for street maintenance. We would also note that the design of the several of the lots and blocks with alleyways were approved fronting to the two village greens with rear loaded alley access, which may be a challenge in terms of marketing the “curb appeal” of a house on one of these lots.
- The traffic circle proposed at the intersection of north Inspiration Parkway and Primrose Path has been replaced by a traditional four way intersection. With potential access restrictions by

Washington County to and from Stagecoach Trail (CR 21) at north Inspiration Parkway, the traffic volume anticipated for this intersection is likely to be reduced.

- The rural section design for segments of the City streets within the area of Phase III-B along north Inspiration Parkway has been limited to just that area west of the four-way intersection of Primrose Path, Primrose Path north of Inspiration Parkway and Primrose Path south of Planters Path, which is primarily required to match into existing streets.
- The developer estimates that the changes to the lot requirements and elimination of the alleys reduces impervious surface within the Inspiration Phase III-B area by 1.56 acres.

**Architecture.** The approvals for Inspiration in 2004 included private covenants establishing architectural guidelines for the single homes to be constructed within the development. The architectural guidelines are overseen by the homeowners association through an architectural review committee that determines if a proposed house design complies with these requirements. Given the often inherent subjectivity of evaluating architectural requirements, the extent of the City’s involvement in the process should be limited to verifying that house plans have been approved by the architectural review committee prior to issuing a building permit. Provided that the architectural plans for any proposed house within Inspiration and specifically Inspiration Phase III-B follow the architectural review committee process and are found to be consistent with requirements of the architectural guidelines imposed through the private covenants, the City has no cause to address architectural issues as part of this application.

Notwithstanding the City’s limited role in the architectural review process, DR Horton has submitted information regarding the house plans to be offered within Inspiration Phase III-B. There are to be eight house models offered, of which seven have four different architectural packages for the front elevation for 29 possible different exteriors. The architectural guidelines for Inspiration also have requirements regarding color choice to provide more potential visual differentiation between homes within the neighborhood. The house plans being offered provide a range in floor area between 2,567 and 3,400 square feet and three bedrooms / two and one-half baths up to four bedrooms / three baths. DR Horton indicates that their housing plans change over time and those offered in Inspiration may vary from those presented with the application.

**Lot Requirements.** Inspiration was approved with unique lot requirements that deviated from the standard requirements of the City’s R-2, Single Family Urban Zoning District. The developer is proposing a single set of lot requirements larger than the village lots and smaller than the traditional lots with an average lot area of 9,380 square feet for Phase III-B. Given the context of the overall site plan and preliminary plat that includes permanent open space and the ability of these lots to accommodate a range of house style and sizes, the proposed lot requirements are consistent with the intent of the flexibility from the R-2 District standards approved in 2004.

	R-2 District	Inspiration (2004)		Phase III-B
		Village	Traditional	
Min. Lot Area	10,000	5,500sf.	9,600sf.	7,800sf.
Min. Lot Width	75ft.	50ft.	80ft.	70ft.
Min. Lot Depth	130ft.	100ft.	100ft.	100ft.
Impervious	35%	62%	48%	48%

**Setbacks.** Likewise, Inspiration was approved with setbacks that deviated from the requirements of the R-2 District, particularly for the small village lots some of which had alley access, compared in the table below. Except for the side yard setback, the requirements proposed for the modified PUD general development plan and preliminary plat are consistent with the setbacks of the R-2 District. Requiring a single 7.5 foot setback from interior side lot lines regardless of whether the building is part of the dwelling or part of an attached garage simplifies construction upon each lot and ensures a minimum 15 foot separation between principal buildings for rear yard access and fire safety. City staff considers the proposed setbacks to be appropriate given the context of the 2004 approvals and the demonstrated ability to construct a variety of house types and sizes upon these lots.

	R-2 District	Inspiration (2004)		Phase III-B
		Village	Traditional	
Front	20ft.	15ft.	20ft.	20ft.
Side Corner	20ft.	20ft.	20ft.	20ft.
Interior	10ft./House 5ft./Garage	10ft./House 5ft./Garage Total 15ft.	10ft./House 5ft./Garage Total 15ft.	7.5ft.
Rear	30ft.	23ft./House 5ft./Garage	20ft.	20ft.

**Open Space.** The proposed PUD general development plan and preliminary plat include six outlots with a total area of 34.72 acres and each is designated as passive open space. Outlots A-F are to 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.

**Landscaping.** The developer has provided a landscape plan illustrating proposed planting to be installed within the passive open space areas and indicating that two street/yard trees will be installed by the builder after home construction is complete. The City will require a cash escrow to ensure installation of the proposed street/yard trees.

The landscape plan for the outlots is generally consistent with the revised restoration plan approved in October 2012, with additional plantings shown in Outlots E and F. The developer must identify the specific quantities of plantings in Outlots A, C and D to verify that the quantities are consistent with the revised restoration plan approved in October 2012. The developer is responsible for completion of the restoration plan prior to the City assuming responsibility for the maintenance of the outlots as has been previously agreed.

The 2004 Inspiration PUD general development plan and preliminary plat includes landscape plans for the entry points to the neighborhood from Stagecoach Trail (CR 21). City staff recommends that the developer be required to install plantings at the neighborhood entry from Stagecoach Trail (CR 21) in accordance with the approved landscape plan for this area.

**Access.** The subject site will have access via Stagecoach Trail (CR 21) with an intersection at Inspiration Parkway north, the location of which is the same as approved in 2004, as well as connections to existing local streets within Inspiration Phase I. The development of Phase III-B will provide an important second access from Inspiration to Stagecoach trail to disperse traffic and ensure emergency vehicles are able to enter the neighborhood.

Construction of the north intersection of Inspiration Parkway and Stagecoach Trail (CR 21) is subject to Washington County approval and the proposed PUD general development plan and preliminary plat have been submitted for their review. The City is required to submit an application for an access permit and permits to perform construction within the County right-of-way on behalf of the developer. The developer will be required to reimburse the City for all costs related to obtaining the access and right-of-way permits from Washington County.

Washington County is updating traffic management plans for Stagecoach Trail (CR 21) in consideration of development of St. Croix Preparatory Academy west of Inspiration after 2004 and also the significant heavy truck traffic that will utilize the road during construction of the St. Croix bridge. Washington County anticipates signaling the south Inspiration Parkway and Stagecoach Trail intersection in 2013. Based on these factors, Washington County staff is recommending that the north Inspiration Parkway and Stagecoach Trail (CR 21) intersection be limited to a three-quarter intersection that would not allow a left turn from north Inspiration Parkway to southbound Stagecoach Trail (CR 21) if not restricted to only right-in/right-out turning movements by a raised median in Stagecoach Trail (CR 21). City staff supports maintaining at least a three-quarter intersection at north Inspiration Parkway and Stagecoach Trail (CR 21) to disperse traffic entering/exiting the neighborhood and ensure adequate emergency vehicle access and will work with the developer to address this issue with Washington County prior to an application for final plat approval.

**Streets.** The Inspiration PUD general development plan and preliminary plat approved in 2004 allowed for platting of 50 foot wide rights-of-way for public streets. The streets were to be constructed as 26 feet wide with either an urban section curb and gutter or rural section ditch as part of the planned drainage train. The developer is proposing to utilize the same street sections as part of Phase III-B but with additional urban sections. A rural section street will be used to match into existing streets with rural section designs. The 26 foot wide streets are to be posted on one side for no parking to provide adequate width for emergency vehicles at all times, which will be done by resolution adopted by the City Council concurrent with approval of a final plat application. All street designs and construction are subject to review and approval by the City Engineer.

**Trails/Sidewalks.** A five foot wide concrete sidewalk is to be constructed along one side of streets having an urban section design. The trail plan for provision of eight foot wide asphalt off-street trails through open space areas approved in 2004 with the original Inspiration PUD general development plan and preliminary plat will be completed as part of Phase III-B. The combination of sidewalks and trails within Inspiration Phase III-B is consistent with the 2004 Inspiration PUD general development plan and preliminary plat and will provide excellent pedestrian, bicycle and recreational user circulation within Inspiration and access to/from the neighborhood via the existing trail to Barkers Alps Park.

One comment from Washington County with regards to the trails and access issues at north Inspiration Parkway and Stagecoach Trail (CR 21) is the trail segment along the south side of north Inspiration Parkway. Washington County is concerned that this trail segment will encourage pedestrians to attempt to cross Stagecoach Trail (CR 21) at north Inspiration Parkway rather than at the south access to the development. Without a pedestrian crossing at Stagecoach Trail (CR 21), this trail segment has no destination unless a trail were added along Stagecoach Trail. As such, City staff recommends that the trail segment be eliminated along north Inspiration Parkway and within Outlot C to the point at which there is an intersecting trail to north Inspiration Parking between Blocks 3 and 4.

**Grading Plan.** The developer has submitted a grading plan and stormwater runoff calculations for the proposed preliminary plat. The submitted plans identify a stand of trees within Outlot A to be preserved and a second stand within the area of Blocks 2, 3 and Outlot C that will be removed. The plans approved in 2004 for Inspiration included handling stormwater drainage using a combination of curb and gutter, storm sewer and overland through drainage train. The proposed grading plan would utilize urban section streets with curb and gutter and storm sewer to a greater extent to manage stormwater within the development. All grading, drainage and erosion control plans and issues are subject to review and approval by the City Engineer. Wetland issues are additionally subject to review and approval by Washington County and the Middle St. Croix Watershed District.

**Utility and Street Lighting Plan.** The developer has submitted plans for extension of sanitary sewer, water and storm sewer within the preliminary plat. The development of Phase III-B will allow second connection of the watermains within Inspiration to trunk facilities within Stagecoach Trail (CR 21) to loop the system providing improved water quality and ensuring service. The utility plan also indicates the location of proposed street lights within Inspiration Phase III-B, which were to be installed only at street intersections and trail entrances. All sanitary sewer, watermain, storm sewer and street light plans are subject to review and approval by the City Engineer.

**Easements.** Section 7.7 of the Subdivision Ordinance establishes easement requirements for the preliminary plat to overlay utilities outside of the public right-of-way, for drainage purposes or for wetland protection. Single family lots will have a typical 10 foot wide drainage and utility easement parallel to the front and rear lot lines and five foot wide easement parallel to the side lot lines. Existing easements abutting Stagecoach Trail (CR 21) and along the north plat line are shown on the submitted plans but are not affected by the proposed development. All easements are subject to review and approval of the City Engineer.

**Park Dedication.** Development of the subject site remains subject to the Inspiration Master Development agreement entered into with approval of the original final plat on April 4, 2005. The Master Development agreement requires that subsequent final plats of Inspiration after Phase I would satisfy park dedication requirements established in Section 8 of the Subdivision Ordinance through payment of a cash fee in lieu of land equal to 10 percent of the fair market value of the subject site. The fair market value of the subject site is to be determined by an appraiser agreed to by the developer and the City at the time of application for final plat approval.

**Phasing Plan.** The developer indicates that Phase III-B is to be built out in three sub-phases. The first phase includes 45 single family lots and completion of Inspiration Parkway with connection to Stagecoach Trail (CR 21) at the planned north intersection. The second phase provides for connection of Primrose Path and Periwinkle Place between the north and south segments of Inspiration Parkway and includes 33 single family lots. The third and final buildout of Phase III-B is construction of Primrose Place north of Inspiration Parkway and development of 32 lots. There is no time frame for buildout of each phase, which will depend on market conditions. However, the phasing plan allows the City to evaluate whether adequate street and utility access is being provided for a development involving multiple stages. Construction of the remaining north section of Inspiration Parkway and underlying utilities as the first phase of Inspiration Phase III-B provides the necessary traffic circulation and utility access for not only the current proposed subdivision but the overall neighborhood as well.

**Development Agreement and PUD Permit.** 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 approval. The City Attorney will coordinate execution of these documents upon final plat approval by the City.

**Burial Mounds.** Three burial mounds were identified within the area of the Inspiration development and were to be protected by being established as separate outlots within Outlot N, Inspiration approved with the Phase I final plat. No portion of Outlot N is being effected by the proposed Phase III-B development so there will be no negative impacts to the burial mounds.

**Nature Center.** The 2004 PUD general development plan approval included a requirement for the original developer to construct a nature center to be conveyed to the City for use by the public upon completion of the open space restoration. The conveyance of the nature center hasn't occurred to date. The open space restoration is anticipated to be completed in 2015. The status of the nature center will need to be resolved between the City and the BMH and the issue should not be a factor in considering the current application.

**Outlot M, Inspiration.** The final plat of Inspiration Phase I included Outlot M at the southwest corner of the development. This parcel is separated from the balance of the Inspiration development by railroad right-of-way and has sufficient area to be a buildable parcel. The Master Developer's Agreement for Inspiration Phase I provides that the City be given first opportunity to acquire the parcel for a future public purpose use. City staff and the developer have discussed the conveyance of Outlot M to the City for \$1. Finalization of the property transfer requires approval of the City Council and would be transacted separately from consideration of the Phase III-B application.

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

The Planning Commission is asked to consider approval of the Inspiration Phase III-B PUD general development plan and preliminary plat subject to the following stipulations:

1. 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.
2. Single family lots shall be subject to the following lot and setback requirements:

Lot Requirements	
Min. Lot Area	7,800sf.
Min. Lot Width	70ft.
Min. Lot Depth	100ft.
Impervious	48%
Setbacks:	
Front	20ft.
Side Corner	20ft.
Interior	7.5ft.
Rear	20ft.

3. Outlots A-F as shown on the preliminary plat 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.
4. 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.
5. The developer shall identify the specific quantities of plantings in Outlots A, C and D to verify that these quantities are 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.
6. 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.
7. 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.
8. 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
9. All street designs and construction are subject to review and approval by the City Engineer.
10. The trail segment along north Inspiration Parkway and within Outlot C to the point at which there is an intersecting trail to north Inspiration Parking between Blocks 3 and 4 shall be eliminated, subject to approval by City staff.
11. 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.
12. All sanitary sewer, watermain, storm sewer and street light plans are subject to review and approval by the City Engineer.
13. All easements are subject to review and approval of the City Engineer.
14. 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.
15. 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.

16. 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.

**D. RECOMMENDATION**

Our office and City staff recommends approval of a PUD general development plan and preliminary plat for Inspiration Phase III-B. The proposed modifications to the Phase III-B development plans from the 2004 PUD general development plan and preliminary plat maintain the intent to promote a development of a unique neighborhood with residential dwellings set into permanent open space areas while addressing practical market considerations regarding housing choice and minimizing financial responsibilities for homeowners associations to provide for long term ownership and maintenance of amenities and infrastructure. Suggested findings of fact and conditions of approval are stated in section "C" herein. The Planning Commission is asked to make a recommendation on the application,

- c. Sara Taylor, Acting City Administrator/City Planner  
Andy Pratt, City Attorney  
Barry Peters, City Engineer  
Ron Mullenbach, DR Horton  
Fran Hagen, Westwood Professional Services



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May 16, 2013

Sara Taylor  
City of Bayport  
994 North 3<sup>rd</sup> Street  
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Re: Inspiration Project Update

Ms. Taylor,

On behalf of D.R. Horton, Inc.-Minnesota, I am pleased to submit this application for preliminary plat approval of "Inspiration North", which is proposed to include 110 single family homes in Phase III-b of Inspiration.

#### PROJECT BACKGROUND

In 2004 and 2005, Contractor Property Developers Company (CPDC) received preliminary and final City approval for the 328-unit Inspiration project and began construction in 2005. The project approvals included 121 single family homes in phase I, a 75-unit condominium in phase II, 132 single family homes in phase III and 145 acres of restored prairie/open space. The PUD approvals allowed flexibility in the timing of the phase II and phase III areas.

Unfortunately, the collapse of the housing market and the related oversupply of homes and lots resulted in project struggles. CPDC voluntarily let the project go back to the bank in 2007. Neighborhood Development Partners (DBA Bayport Mainstreet Holding, LLC) acquired the Inspiration development from the bank in February of 2008 as a Sheriff's Certificate.

That development team could not make the project work either and allowed the project to go back to their investment firm in 2010. The investment firm, operating as Bayport Mainstreet Holding, LLC (BMH), hired an asset manager to help them work through the entitlement issues and make the project marketable. There were a number of complicated restructuring elements that the asset manager proposed to the investment firm. After reviewing their options, BMH hired Landform as the asset manager in April 2012.

On October 2012, the Bayport City Council approved an update to the Prairie Restoration plan for the 145-acre prairie and the asset manager has been working to complete the restoration and continue prairie maintenance according to this plan. This work will continue according to the approved plan and the bulk of the restoration is expected to occur this year with final completion in 2015.

It has always been the intent to maintain a vibrant successful neighborhood in a financially responsible manner. To that end, Bayport Mainstreet Holding, LLC has entered into a purchase agreement with D.R. Horton, Inc.-Minnesota to complete the remaining 132 approved single family home sites. The phase II (condominium) property is currently owned by Alliance Bank and is not part of the property we control.

## PRELIMINARY PLAT FOR INSPIRATION NORTH

As you know, the Inspiration master-plan was conceived, modeled and themed during a completely different economic period which included a housing paradigm that no longer exists. In other words, what was well-intended at Inspiration back in 2003 - 2004, literally doesn't work today. Even with everyone's best efforts, no one could have foreseen what was coming with the collapse of the economy and the housing market. However, we are beginning to see a recovery, as evidenced in the new home construction in Inspiration.

D.R. Horton has acquired 43 home sites in the Phase I portion of the development and has been successfully working with homebuyers to develop these parcels with new homes for Inspiration residents. Based on the success of these sales, D.R. Horton previously submitted an application to final plat the final 16 lots on Prairie Way South located in the southeasterly portion of Inspiration (Phase III-a) and is now requesting preliminary plat approval for 110 new home lots on the north end of the project (Phase III-b). Development of these remaining parcels will complete the single family portion of the plat.

### *Homes*

We have prepared a new preliminary plat that better responds to the current market, while maintaining the character of the neighborhood and providing prairie or open space views for nearly all lots. The Traditional Single Family homes have been very successful in this neighborhood and we have refined the plan for this phase to include 110 new Traditional Single Family homes where 116 homes were originally proposed. We have accomplished this by modifying the lot configuration and eliminating the village single family homes, which have been less successful for the previous developer and are not likely to be successful in today's market.

All new homes will be consistent with the *Inspiration Architectural Review, Design and Landscape Guidelines* adopted by the Inspiration Homeowners Association.

### *Reduced Impacts*

The modification to the preliminary plat maintains the flavor of the original development concepts, while allowing us to develop 6 fewer homes in this portion of the project (110 homes where 116 were originally proposed), reduce the impervious area by 1.56 acres, and increase the open space in this phase by nearly 1 acre.

### *Streets, Trails and Sidewalks*

This plat includes completion of all remaining streets within Inspiration, including the planned northern connection to Stagecoach Trail. Streets will be constructed to the same standards as the prior phases with street lights and sidewalks on one side of the new public streets.

## *Landscaping*

Our landscape plan builds upon the landscape palette developed with the original Inspiration plans and includes a mix of plantings within the open space areas. Each lot will be subject to the landscaping requirements in the *Inspiration Architectural Review, Design and Landscape Guidelines*. The preliminary plat includes a new Outlot A and Outlot C, which are a replat of land that is in the prairie restoration area that will ultimately be conveyed to the City and managed by the Foundation. Additionally, Outlot D is included in the prairie restoration area but was planned to be retained by the Homeowners Association and would not be conveyed to the City. These outlots will be restored as outlined in the approved *Inspiration Ecological Restoration and Management Program*. The other open spaces areas (Outlot B, D, E and F) will be planted with materials identified in the Restoration and Management Plan to beautify these open spaces and ensure a consistent theme within the neighborhood.

## SUMMARY

We believe that these modifications will allow the project to be completed in a manner consistent with the spirit and intent of the original vision for the neighborhood. We are pleased to be part of this development and look forward to completing the remaining single family homes in Inspiration and building on the investment the City of Bayport and the residents have made in the community.

We respectfully request approval of the preliminary plat for the 110 traditional single family home lots in Inspiration at the next available Planning Commission and City Council agendas.

If you have any questions or comments about this request, please contact me at 612.638.0225 or [klindahl@landform.net](mailto:klindahl@landform.net).

Sincerely,  
Landform



Kendra Lindahl, AICP  
Principal



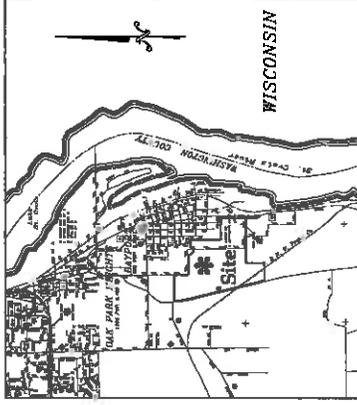
# Preliminary Plat Submittal

for  
**Inspiration North**  
**Bayport, Minnesota**

Prepared for:  
**DR Horton, Inc.**  
**20860 Kenbridge Court, Suite 100**  
**Lakeville, Minnesota 55044**  
**Contact: Mike Suel**  
**Phone: 952-985-7823**  
**Fax: 952-985-7400**

Prepared by:  
  
**Westwood**  
**Professional Services, Inc.**  
 20000 Grandview, NE 68844  
 PHONE: 952-985-7823  
 FAX: 952-985-7400  
 www.westwoodps.com  
**Project number: 000374.00**  
 Contact: Francis G. Hagen

## Vicinity Map



(ref to Site)

Sheet Number	Sheet Title
1	Cover
2	Existing Conditions & Resource Inventory
3	Existing Conditions & Resource Inventory
4	Preliminary Overall Plan
5	Phasing Plan
6	Preliminary Plat
7	Preliminary Plat
8	Preliminary Grading Plan
9	Preliminary Utility & Street Lighting Plan
10	Preliminary Details
11	Preliminary Street Profiles
12	Preliminary Landscape Plan
13	Preliminary Landscape Plan

NO.	DATE	REVISION	SHEETS

**NOT FOR CONSTRUCTION**

## Preliminary Plat Submittal

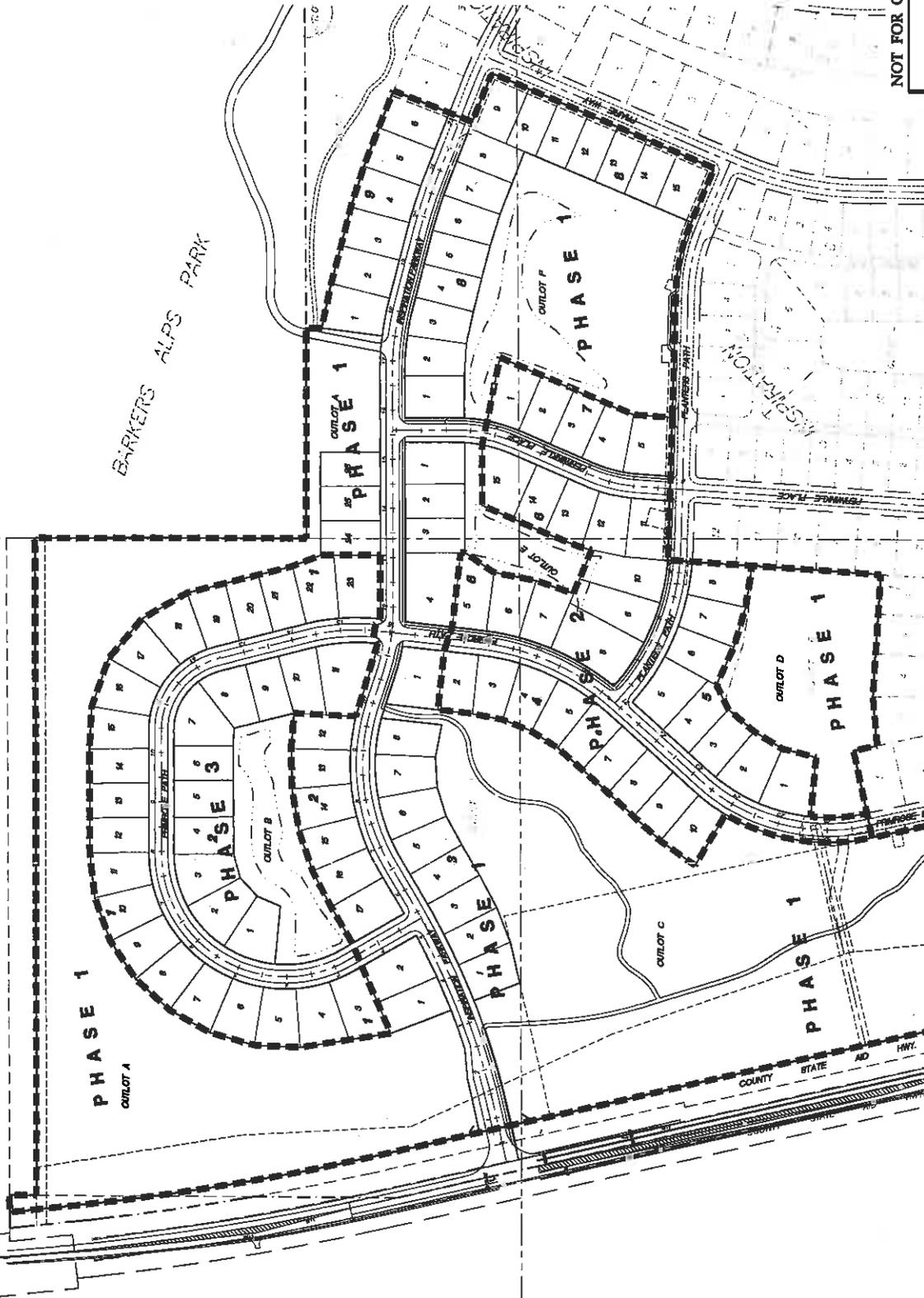
for  
**Inspiration North**  
**Bayport, Minnesota**

Date: 9/16/13 Sheet: 1 of 13









NOT FOR CONSTRUCTION

Inspiration  
 North  
 Bayport, Minnesota

Prepared for:

DR Horton, Inc.  
 2880 Kensington Court, Suite 100  
 Edinburg, Minnesota 55124

Project No. 1775  
 Date: 5/7/13

Woodward Clyde Professional Services, Inc.  
 1775  
 5/7/13

Woodward Clyde Professional Services, Inc.  
 1775  
 5/7/13

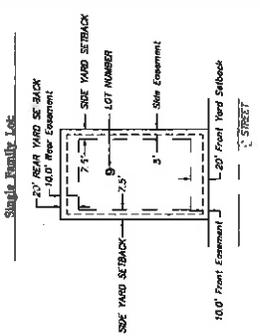


Professional Engineer  
 License No. 1775

Professional Engineer  
 License No. 1775

Professional Engineer  
 License No. 1775

Call 48 hours before digging.  
**811 or 800-4-A-SHED**  
 Common Ground Alliance

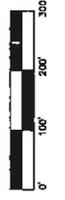


**DEVELOPMENT DATA**  
 Existing Zoning: R4D  
 Total Site Area: 64.78 Ac.  
 Open Space (Outlots A-F): 54.23 Ac.

Proposed Single Family Lots: 110 Lots  
 Gross Density: 1.70 units/ac

**LOT STANDARDS**  
 Single Family  
 Lot Width (at Front Yard Setback): 65' min. (70' typ.)  
 Lot Depth: 100' min. (100' typ.)  
 Minimum Lot Area: 5,000 sq. ft.  
 Front Yard Setback: 20'  
 Side Yard Setback: 2.5'/7.5'; 15' total  
 Side Yard Setback: 5.0' min.  
 Impervious Coverage: 40% max.

**NOTES**  
 -The lot dimensions and areas on this plan are approximate and are based on the supporting data for which lot dimensions and areas are shown.



Date: 5/16/13 Sheet: 6 of 13

NOT FOR CONSTRUCTION

**Inspiration North**  
 Dayton, Minnesota

**DR Horton, Inc.**  
 2880 Kambidge Court, Suite 200  
 Lafayette, Minnesota 55044

Prepared for:  
 DR Horton, Inc.  
 2880 Kambidge Court, Suite 200  
 Lafayette, Minnesota 55044

Project No.: 13-0001  
 Date: 5/16/13  
 Sheet No.: 6 of 13

Minimum Professional Services, Inc.  
 10000 Highway 101  
 Minneapolis, MN 55426  
 Phone: 763-429-1000  
 Fax: 763-429-1001  
 Website: www.miniprof.com

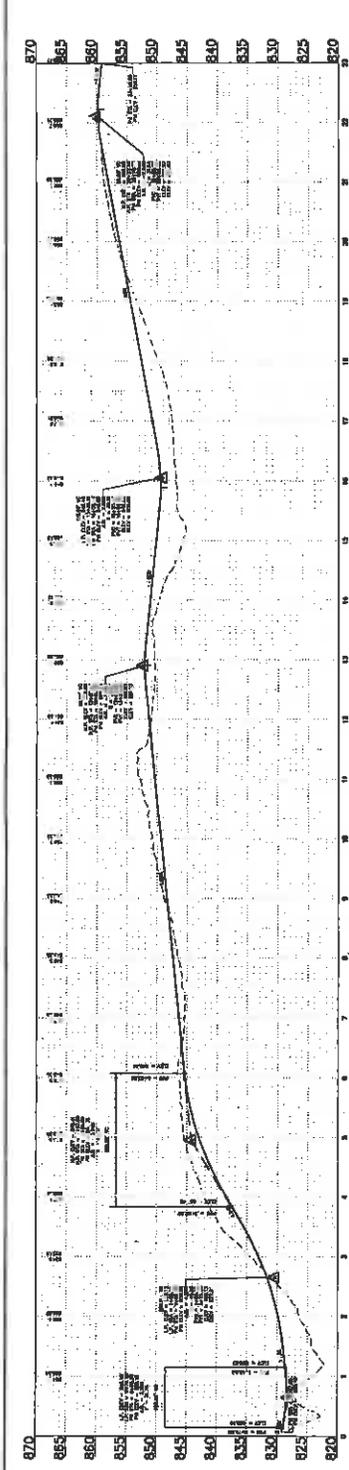




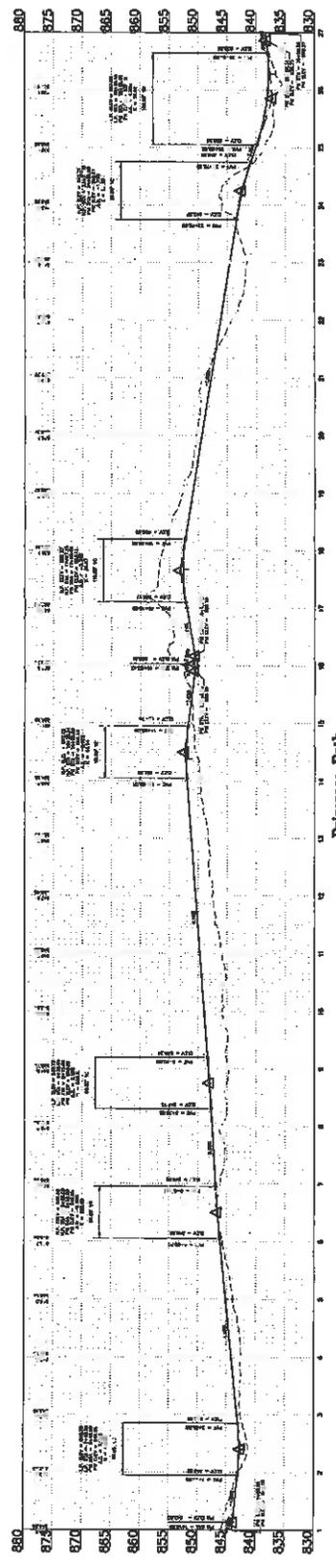




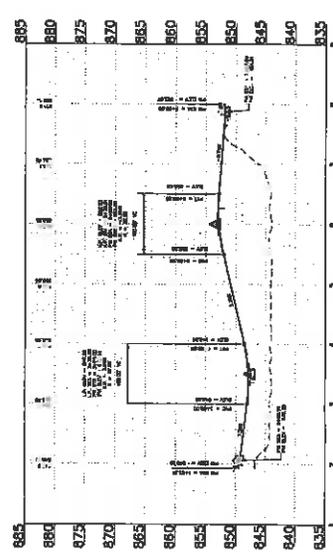




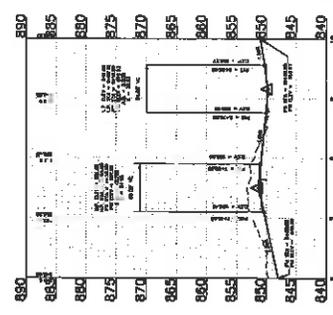
Inspiration Parkway



Primrose Path



Periwinkle Place



Planters Path

NOT FOR CONSTRUCTION

Date: 5/16/13 Sheet: 11 of 13

Preliminary  
 Street Profiles

**Inspiration  
 North**  
 Boyert, Minnesota

**DR Horton, Inc.**  
 2850 Knowledge Court, Suite 300  
 Lakeland, Minnesota 55044

Proposed for:  
 District: \_\_\_\_\_  
 Office: \_\_\_\_\_  
 Date: \_\_\_\_\_

I hereby certify that the data on which this profile is based is true and correct to the best of my knowledge and belief.  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: 5/16/13 Station No. 9775

Minnesota Professional Services, Inc.  
 10000 University Ave.  
 Suite 100  
 Minneapolis, MN 55425  
 Tel: 763-424-8888  
 www.mnps.com







# OPEN SPACE RESTORATION PLAN

## INSPIRATION BAYPORT, MN

**NOTE: Areas not colored on the map include private lots, public right-of-way, common space, and areas where restoration work is complete and the focus of open space management has shifted from restoration to ongoing maintenance.**



**NOTE: Areas 10 & 11 will not be conveyed to the City and will continue to be owned and maintained by the Home Owners Association**

Map Key #	Objective	Timeline	Activity
1 6.1 AC	Oak Savanna Restoration	2012 (Oct.) 2012 (Nov.) 2013 (Sept.) 2014 (Sept.) 2015 (May)	Fall burn to control buckthorn Seed with native grass and sedges Re-spray buckthorn with broadleaf herbicide Re-spray buckthorn Plant forb plugs
2 3.2 AC	Oak Savanna Restoration	2012 (Oct.) 2012 (Nov.) 2013 (Sept.) 2014 (Sept.) 2015 (May)	Fall burn to control buckthorn Seed with native grass and sedges Re-spray buckthorn with broadleaf herbicide Re-spray buckthorn Plant forb plugs
3 3.7 AC	Oak Savanna Restoration	2012 (Oct.) 2012 (Nov.) 2013 (Sept.) 2014 (Sept.) 2015 (May)	Fall burn to control buckthorn Seed with native grass and sedges Re-spray buckthorn with broadleaf herbicide Re-spray buckthorn Plant forb plugs
4 8.7 AC	Establish wet prairie grasses in area dominated by stringy nettle	2012 (Sept.) 2012 (Oct.) 2013 (Nov.) 2013 (June) 2013 (Aug.)	Treat with Roundup Fall burn Seed with native grass/forb mix Mow Planting Mow Planting
5 2.9 AC	Restore dry prairie & small wetland (not planted or 95% failure)	2012 (July) 2012 (Aug.) 2012 (Oct.) 2013 (June) 2013 (Aug.)	Mow Treat with Roundup Seed with native grass/forb mix Mow Planting Mow Planting
6 2.2 AC	Restore dry prairie & small wetland (not planted or 95% failure)	2012 (July) 2012 (Aug.) 2012 (Oct.) 2013 (June) 2013 (Aug.)	Mow Treat with Roundup Seed with native grass/forb mix Mow Planting Mow Planting
7 14.7 AC	Interseed with short grass native prairie seed mix (after fall maintenance burn)	2012 (Oct.) 2012 (Nov.) 2013 (June) 2013 (Aug.)	Fall burn (part of 2012 maintenance) Seed with native grass/forb mix Mow Planting Mow Planting
8 3.1 AC	Establish native vegetation in Indian Mound area (NOTES: NO WORK SHALL BE PERFORMED WITHOUT GUARANTY WITHOUT PRIOR WRITTEN APPROVAL)	2012 (July) 2012 (Aug.) 2012 (Oct.) 2013 (June) 2013 (Aug.)	Mow, cut and treat buckthorn seedlings Treat with Roundup Seed with native grass/forb mix Mow Planting Mow Planting
9 12.2 AC	Restore dry prairie in area with heavy need canary grass infestation	2012 (Sept.) 2012 (Oct.) 2013 (June) 2013 (Aug.) 2013 (Oct.)	Mow Planting Treat with Roundup, seed with native mix Mow Planting Mow Planting Treat with Roundup, seed with native mix
10 2.8 AC	Restore dry prairie around small wetland (less of thistle with little native vegetation existing)	2012 (Oct.) 2012 (Oct.) 2013 (June) 2013 (Aug.)	Fall burn (part of 2012 maintenance) Remove and dispose of jute fence Seed with native grass/forb mix Mow planting Mow planting
11 2.5 AC	Restore dry prairie & small wetland (not planted or 90% failure; steep slopes, can't use drill)	2012 (July) 2012 (Aug.) 2012 (Oct.) 2013 (June) 2013 (Aug.)	Mow Treat with Roundup Seed with native grass/forb mix Mow planting Mow planting



## OPEN SPACE MAINTENANCE SCHEDULE

Open space will be maintained through a combination of mowing and prescribed burns.

- All open space areas will be mowed each year.
- Specific areas within the overall open space will be burned each year and every 3rd year thereafter to kill non-native vegetation and encourage the growth of native prairie vegetation.

Following is a schedule corresponding to the numbered areas on the plan identifying the first year of prescribed burns for each area and subsequent recommended years in parentheses

Area 1: 2011, (2014, 2017...)

Area 2: 2013, (2016, 2019...)

Area 3: 2012, (2015, 2018...)

Area 4: 2013, (2016, 2019...)

Area 5: 2011, (2014, 2017...)

Area 6: 2012, (2015, 2018...)

Area 7: 2013, (2016, 2019...)

**NOTE:** This schedule is a recommendation only. Periodic changes to the burn schedule may be required due to shifting environmental conditions including, but not limited to the following:

- fire bans/drought conditions
- wind issues
- plant community shifts/changes
- combining/re-ordering of numbered areas for environmental and/or economic reasons



NORTH



THE TAYLOR	3 BEDROOM   2.5 BATH	2,238- 2,287 SQUARE FEET
THE NAPLES	3 BEDROOM   2.5 BATH	2,704 SQUARE FEET
THE MAGNOLIA	4 BEDROOM   2.5 BATH	2,567 - 2,579 SQUARE FEET
THE PORTICO	4 BEDROOM   2.5 BATH	3,040 SQUARE FEET
THE EASTON	4 BEDROOM   3.5 BATH	2,947 SQUARE FEET
THE MADISON	4 BEDROOM   2.5 BATH	3,270 SQUARE FEET
THE SONOMA	4 BEDROOM   3.5 BATH	3,329 SQUARE FEET
THE WHITNEY	4 BEDROOM   3.5 BATH	3,400 SQUARE FEET

**D·R·HORTON**<sup>®</sup>  
*America's Builder*

INSPIRATION



THE TAYLOR



THE MAGNOLIA



THE NAPLES

**D·R·HORTON**<sup>®</sup>  
*America's Builder*

INSPIRATION



**D·R·HORTON**<sup>®</sup>  
*America's Builder*

INSPIRATION



THE EASTON



THE PORTICO



THE MADISON



## MEMORANDUM

TO: Fran Hagen, Westwood Professional Services  
Sara Taylor, City Administrator  
Daniel Licht, The Planning Company

FROM: Barry Peters, City Engineer

DATE: June 4, 2013

RE: Inspiration Phase 3B Preliminary Plat Review  
SEH No. A-BAYPO 12136 14.00

I've reviewed the Preliminary Plat, submitted by Westwood Professional Services for the Inspiration Phase 3B project in Bayport. In general, the submittal is complete. I have the following comments from my review. City staff may have other comments following their reviews.

**1. Sheets 2 and 3 of 13**

- In the tree inventory, note sizes for "Significant Trees" (minimum 6 inches in diameter for deciduous trees, or a minimum 12 feet in height for coniferous trees).

**2. Sheet 4 of 13**

- In the Impervious Coverage Comparisons, isn't the "Before 80" lots 57 instead of 51?

**3. Sheets 6 and 7 of 13**

- Easement between Lots 12 and 13, Block 1 should be increased in size to accommodate storm sewer maintenance.
- Easement between Lots 20 and 21 Block 1 should be increased in size to accommodate storm sewer maintenance.
- Easement between Lots 9 and 10 of Block 2 should be increased in size to accommodate storm sewer maintenance.

**4. Sheet 9 of 13**

- Seems like an extra hydrant along Primrose Path, south of Planters Path. Don't believe the middle hydrant is required.
- Project will need to include connection of trunk water main along the west side of Stagecoach Trail from Inspiration Parkway North to stub for St. Croix Prep. Cost sharing between Inspiration and St. Croix Prep as well as required easements needs are included in an Agreements with St. Croix Prep.

**5. Sheet 10 of 13**

- Revise typical section detail to include the required MnDOT design mix.
- Due to the limited roadway width, parking is limited to 1 side in Inspiration, including the future phase. Note in details where No Parking signs will be located for the rural sections. The details note that there is no parking on the curb side of the picked urban/rural.

**6. Sheets 12 and 13 of 13**

- Final submittals will need to indicate where plants in the schedule are to be planted. May be concerns with some of the shown plants in the HWL of the ponds.
- Plantings will need to be clear of all storm sewer pipes, inlets and outlets.
- Need to be able to maintain ponding areas, plantings should allow for this.

Permits will be required for the sanitary sewer and water main extensions. An Access Permit and Utility Permit will be required from Washington County for the Inspiration Parkway North connection to Stagecoach Trail and for the water main improvements within Stagecoach Trail.

Let me know if you have any questions.

BCP



3601 Thurston Avenue N, Suite 100  
Anoka, MN 55303  
Phone: 763.231.5840  
Facsimile: 763.427.0520  
TPC@PlanningCo.com

## PLANNING REPORT

TO: Bayport Planning Commission

FROM: D. Daniel Licht, AICP

RE: Bayport – Klinger (424 5<sup>th</sup> Street South) Variance

REPORT DATE: 3 June 2013

MEETING DATE: 10 June 2013

TPC FILE: 195.02 – 13.02

### A. BACKGROUND

J. P. Bush Homes, Inc., on behalf of property owner David Klinger, is proposing to build a detached garage at 424 5<sup>th</sup> Street South. The property is developed with a single family dwelling and attached two car garage constructed in 1988. The single family house and attached garage were constructed on the side of a hill more than 20 feet above 5<sup>th</sup> Street. Access to the house and detached garage is via a single width driveway that rises the hill diagonally from south to north to minimize the slope but it remains significant with a steep drop off the east side of the pavement. The property owner states that the existing driveway is difficult to maintain at times during the winter and unsafe.

Due to the issues with the existing driveway, the property owner is proposing to construct a two car detached garage with usable attic space at the northeast corner of the subject site. The proposed detached structure would have a zero setback from the 5<sup>th</sup> Street right-of-way and be side loaded to be accessed from the south side perpendicular to the public street. Section 601.01(2)(f)(8) of the Zoning Ordinance requires that any structure be setback from any right-of-way a minimum of 20 feet and Section 703.10 states that no accessory building shall be nearer to the front lot line than the principal building on the lot. The applicant is requesting variances from the 20 foot setback to allow the construction of a detached garage that is also forward of the principal building as proposed. The property owner is also proposing to maintain use of the existing attached garage and driveway if the variance application is approved and the detached garage is constructed.

Exhibits:

- Site Location map
- Site Plan
- Grading Plan
- Garage architectural plan

**B. ANALYSIS**

**Variance.** 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 for the variance 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.

Very rarely is approval of a variance necessary for a property to be put to reasonable use allowed by the Zoning Ordinance where the variance is not simply a convenience for the property owner. This approach to considering applications ensures that variances are only approved when the action would be consistent with the intent of the Zoning Ordinance and policies of the Comprehensive Plan. The intent of the 20 foot setback for any structure from a right-of-way is to ensure visibility along the block, maintain area for stormwater drainage and location for utilities such as phone, gas, electric and/or cable typically located outside of the right-of-way, provide area for snow storage plowed from the street and to allow parking in front of a garage without extending into the right-of-way.

In case of the subject site, a decision was made to construct a single family dwelling on a steep slope that creates challenges for use of the subject site in this manner. Other homes have also been built in this area with equally, if not more, challenging driveway and access issues. The current property owner, who was not the original property owner, is asserting that the issues with maintaining and accessing the existing driveway at times during winter months create such practical difficulties so as to warrant approval of a variance to provide them relief and reasonable use of the property. However, the conditions on the property have not changed and the single family dwelling with attached garage and driveway has been in use for 25 years suggesting that the property has enjoyed reasonable use in compliance with the requirements of the Zoning Ordinance. No other structures along 5<sup>th</sup> Avenue encroach within the required front yard setback meaning a variance to allow construction of a detached garage at the proposed location would alter the character of the neighborhood as well as obstruct visibility

along the public street. On this basis, the property owner has not demonstrated that the criteria for approval of a variance are met.

**Alternatives.** Consideration must also be given to whether options exist to address the property owner's difficulties that would avoid the need for a variance to be approved. It must be emphasized that economic costs related to these alternatives cannot be the only basis for justifying the need for a variance. Several options are available to the property owner that would not require a variance and include:

- The property owner's difficulties with access to the existing attached garage occur only at times in the winter and they intend to otherwise maintain use of it. Construction of an asphalt or concrete pad in the location shown for the proposed detached garage that would provide the property owner reasonable off-street parking when the existing driveway is impassable is allowed by Section 712 of the Zoning Ordinance.
- The property owner's intent to maintain use and access to the existing attached garage means that little can likely be done to reduce the slope of the existing driveway. But the property owner could improve maintenance and safety of the driveway by providing a wider surface, upgraded surface materials, installation of a guard rail or retaining wall on the east side and even installation of a heating mechanism to prevent slippery conditions at times during the winter.
- The property owner could abandon vehicle access to the existing attached garage and construct an attached or detached garage setback a minimum of 20 feet from the right-of-way. Constructing a new attached or detached garage at a lower elevation than the existing attached garage would allow the slope of the driveway to be reduced. Furthermore, a new attached garage or detached garage could be side loaded to have a south facing door minimizing the need for turning movements.
- The applicant may also request a lesser variance requiring the property owner to demonstrate that the requested variance is the minimum necessary to relieve the claim of practical difficulties under the Zoning Ordinance.

**Proposed Detached Garage:** The following considerations apply to the proposed detached garage notwithstanding the requested variance:

- **Area.** Section 703.05 of the Zoning Ordinance limits the area of all attached and detached accessory structures on the property to not more than 2,000 square feet or 10 percent of the lot area, whichever is less. The subject site is 21,000 square feet in area. The footprint of the proposed detached garage is 675 square feet with a 351 foot second story. The existing garage is identified by the applicant as being 400 square feet. As such the total area of accessory structures on the property being proposed is 1,426 square feet and within Zoning Ordinance allowances.

- **Height.** Section 703.01(2) of the Zoning Ordinance limits the height of detached accessory buildings to 12 feet and one story, although the height can be increased to 17 feet administratively to match the pitch of the roof on the principal dwelling. The submitted plans for the proposed detached garage indicate provision of a second story that must be removed. The proposed detached garage has a height defined by the Zoning Ordinance of 16 feet. The Zoning Ordinance allows the height of a garage to be increased to 17 feet only if required to match the pitch of the roof on the single family dwelling but no information regarding the house has been submitted. Given that the property owner is requesting a variance to allow construction of the detached garage within the required front yard setback and forward of the principal building, the second story may be excessive.
- **Construction Materials.** The plans submitted for the proposed detached accessory garage indicate the exterior finish consists of cement fiberboard siding with a horizontal overlapping pattern and asphalt shingles. Section 703.06 of the Zoning Ordinance requires that the exterior design and color of the detached garage match that of the principal dwelling. The siding of the proposed garage is a narrower horizontal lap siding than on the principal dwelling and would need to be revised prior to issuance of a building permit. Likewise the color of the detached accessory building would be required to match that of the existing single family home. Section 703.06 of the Zoning Ordinance further requires the final exterior finish of the exterior of the detached garage be substantially completed within six months from the time the building permit was issued for the project.
- **Setbacks.** As discussed above, the detached garage is proposed to be zero setback from the right-of-way of 5<sup>th</sup> Street, whereas 20 feet is required. The proposed detached garage is also setback five feet from the north property line and 118 feet from the south property line, which complies with the five feet as required by Section 601.01(2)(f)(8) of the Zoning Ordinance.
- **Impervious Surface.** Section 601.01(2)(f)(6) of the Zoning Ordinance limits impervious surface on the subject site to 35 percent of the lot area. The subject site is 21,000 square feet in area. The existing single family dwelling, attached garage and driveway have an impervious area of 3,325 square feet or 15.8 percent of the lot area. The proposed detached garage and driveway would add 1,550 square feet of impervious surface. The total impervious surface area with existing and proposed structures and driveways would be 4,875 square feet or 23.2 percent of the lot area, which complies with Zoning Ordinance requirements.

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

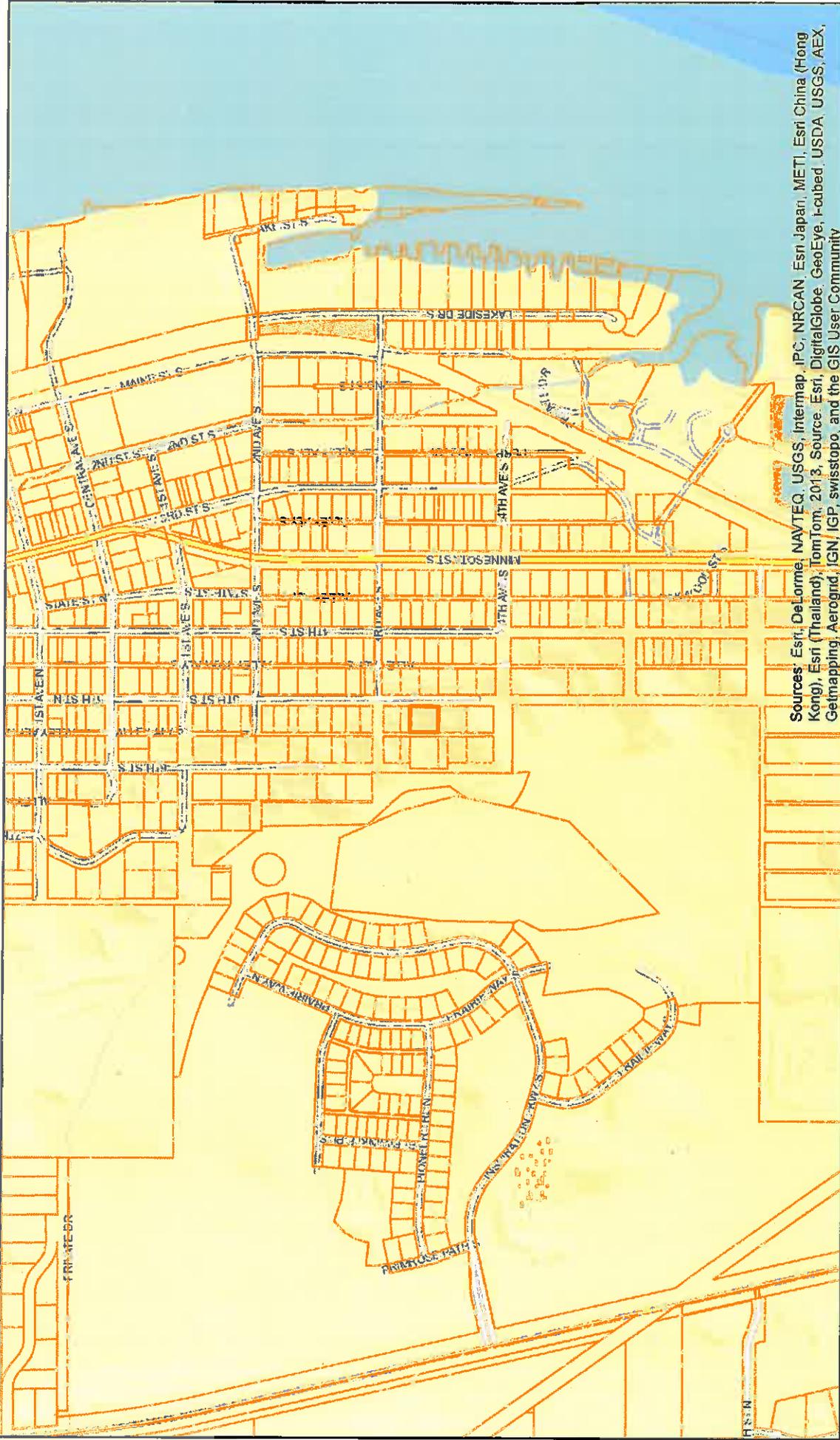
Our office and City staff suggests the Planning Commission adopt findings of fact recommending the variance application be denied based on the following findings:

1. The property has reasonable use within the requirements of the Zoning Ordinance with the existing single family dwelling and attached garage constructed in 1988.
2. The requested variance is not consistent with the intent of the 20 foot setback requirement established by Section 601.01(2)(f)(8) of the Zoning Ordinance as an official control implementing the Comprehensive Plan.
3. Approval of the variance would convey to the property owner rights not allowed to other properties within the same District and would alter the existing character of the neighborhood.
4. The property owner has alternatives that would not require approval of a variance to relieve the claim of practical difficulties regarding use of the property.

**D. RECOMMENDATION**

Our office recommends that the requested variance be denied as the property owner has not demonstrated that they are denied reasonable use of the property as allowed by the Zoning Ordinance with the existing single family dwelling and attached garage. Although access to the existing attached garage may be limited at times during winter, the property owner has alternative actions available to relieve the issues with winter maintenance and access that would not require a variance, the proposed zero setback from 5<sup>th</sup> Street is not consistent with the intent of the Zoning Ordinance and approval of the variance would alter the character of the neighborhood. The Planning Commission is asked to make a recommendation on the variance request and suggested findings of fact have been outlined in Section C of this report. The City Council will consider the application and recommendations of the Planning Commission on 1 July 2013.

- c. Sara Taylor, Acting City Administrator/City Planner  
Andy Pratt, City Attorney  
Barry Peters, City Engineer  
David Klinger, property owner



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, IPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013, Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Parcel ID: 1002920410039  
Parcel Address:  
424 5TH ST S, CITY OF BAYPORT

MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT

This drawing is the result of the compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

**SUBJECT PROPERTY: 424 FIFTH STREET SOUTH BAYPORT MINNESOTA**

**VARIANCE APPLICATION**

**MAY 16 2013**

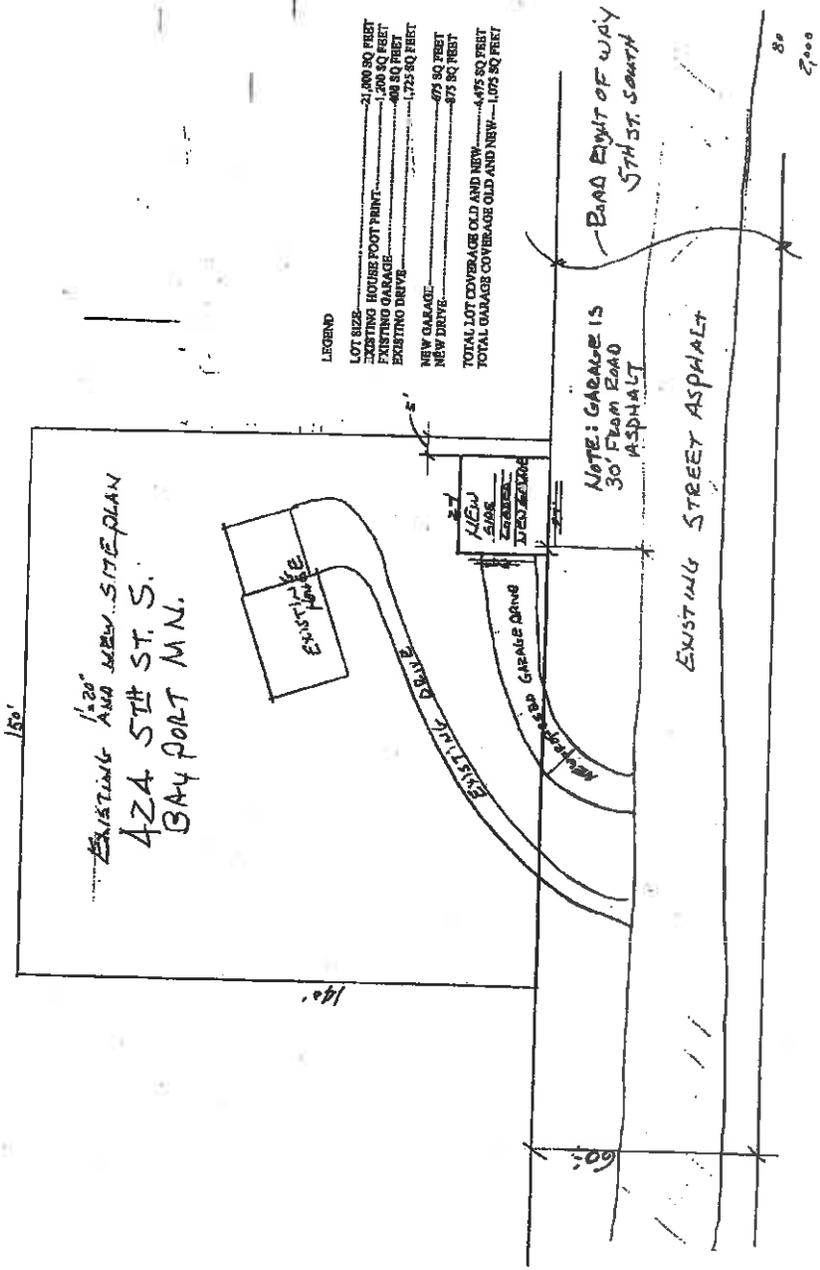
**The Homeowner is requesting to build a new garage on the front property line as shown in the attached site plans and drawings.**

**Hardship:**

**The homeowner has a current driveway that is not navigable during most of the year. The current drive is unsafe and has a slope that does not allow safe access to the residence for parking cars etc.**

**The proposed garage is to be positioned at the northeast corner of the property with a 5-foot setback from the side yard and zero from the front. A new driveway to be constructed to allow for side loading from the south.**

**This new garage structure will allow the owner a safe environment to park cars and eliminate the need to use the existing drive during severe weather.**



1/20"  
 EXISTING AND NEW SITE PLAN  
 424 5TH ST. S.  
 BAYPORT M.N.

LEGEND

LOT SIZE	21,000 SQ FEET
EXISTING HOUSE FOOT PRINT	1,200 SQ FEET
EXISTING GARAGE	400 SQ FEET
EXISTING DRIVE	1,725 SQ FEET
NEW GARAGE	475 SQ FEET
NEW DRIVE	475 SQ FEET
TOTAL LOT COVERAGE OLD AND NEW	4,475 SQ FEET
TOTAL GARAGE COVERAGE OLD AND NEW	1,075 SQ FEET

NOTE: GARAGE IS  
 30' FROM ROAD  
 ASPHALT

BAND RIGHT OF WAY  
 57' 3" SOUTH

EXISTING STREET ASPHALT

80  
 7,000

