

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-067-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR BAYHILL COVE TO REDUCE THE NUMBER OF APPROVED BUILDING SITES FROM 15 TO 14 (S.V. BAYHILL COVE, LLC).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the approved regulating plan for Bayhill Cove be amended to reduce the number of previously approved building sites from 15 to 14 and that two of the remaining undeveloped building sites are allowed to be combined into one larger building site. The subject property is described in Exhibit A and by the following:

010-2460-00070 and 010-2460-00080

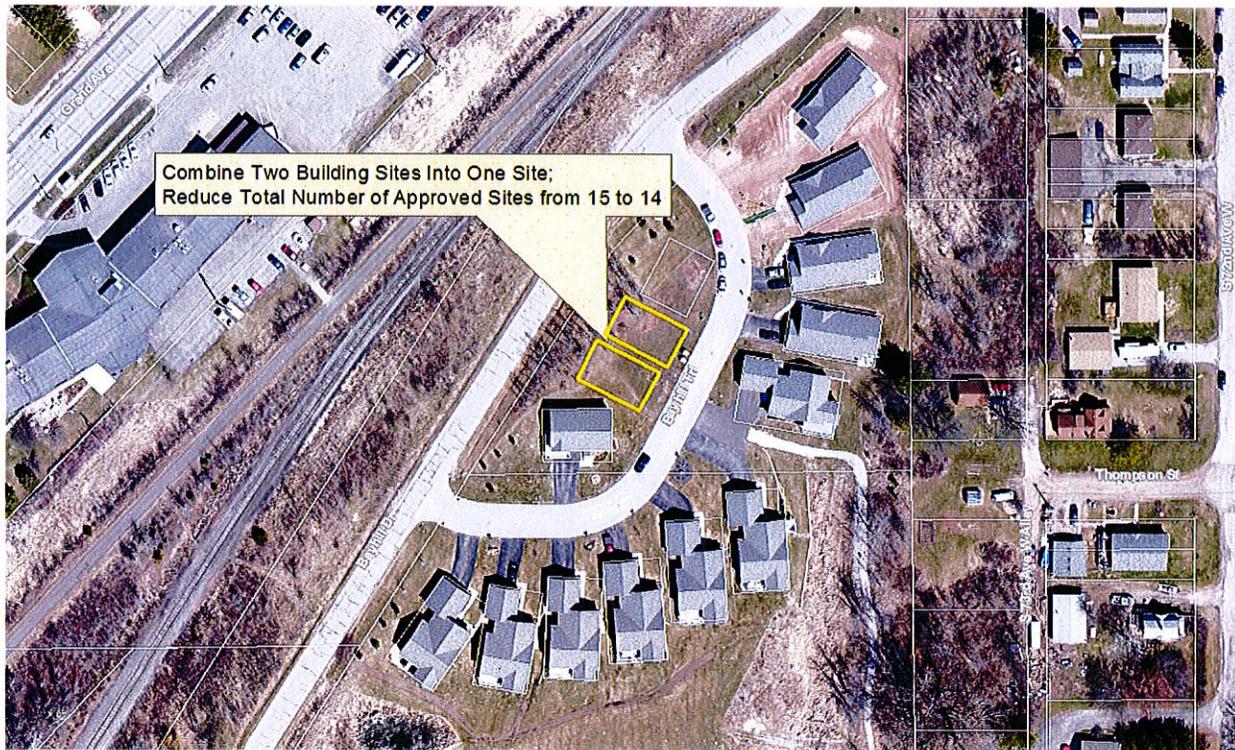


Exhibit A
(Ref. File No. 13-119)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:



Attorney

PC/PLNG SR:cs 10/4/2013

STATEMENT OF PURPOSE: This ordinance is to reduce the number of approved building sites in the Bayhill Cove development from 15 to 14 by combining two undeveloped building sites into one larger building site.

On October 9, 2012, the planning commission heard item PL 12-145 to rezone this property to from R-1 (residential-traditional) R-P (residential-planned). The request was approved by the city council on November 26, 2012. Per Section 50-14.07.I of the City Code, requests to amend an existing regulating plan shall follow the rezoning process if the request relates to uses, densities, or height. The city council needs to approve or deny the request to change the previously approved density of the regulating plan.

On October 8, 2013, the Duluth city planning commission will hold a public hearing on the proposal.

The motion to approve an amendment to the regulation plan by the city council must prevail with a simple majority.

Date of application: September 16, 2013
Action deadline: January 14, 2014



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-121	Contact	Steven Robertson, (218) 730 5295	
Application Type	Regulating Plan Amendment	Planning Commission Date	October 8, 2013	
Deadline for Action	Application Date	September 16, 2013	60 Days	November 15, 2013
	Date Extension Letter Mailed	September 27, 2013	120 Days	January 14, 2014
Location of Subject	Bayhill Cove CIC No 107; 010-0246-00070			
Applicant	S.V.Bayhill, LLC	Contact		
Agent	Charlie Bell	Contact		
Legal Description	010-0246-0070			
Site Visit Date	September 15, 2013	Sign Notice Date	September 24, 2013	
Neighbor Letter Date	September 26, 2013	Number of Letters Sent	24	

Proposal

The applicant wishes to amend an approved regulating plan to reduce the number of approved building sites from 15 sites to 14. Any amendment to the Regulating Plan that involves changes to land use, density, or height is required to follow the rezoning process and receive approval from the City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-P	Residential/Undeveloped	Preservation/Low Density Neighborhood
North	I-G	Transportation (Railroad/Trail)	Preservation
South	N/A	N/A	N/A
East	R-1	Residential	Traditional Neighborhood
West	I-G	Transportation (Railroad/Trail)	Preservation

Summary of Code Requirements (reference section with a brief description):

UDC Sec. 50-14.07.E: The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11 that governs the uses, location, density, dimensional standards and character of the proposed project. In accordance with the purpose of the R-P district, approval of the R-P plan is deemed to include subdivision approval; R-P districts are not required to submit a separate subdivision application under Section 50-37.5.

UDC Sec. 50-14.07.H: All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved R-P developments, and will be rezoned to the R-P zone district.

UDC Sec. 50-14.07.I: Applications to amend an existing R-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Future Land Use, Preservation- Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low intensity private or public uses.

Future Land Use, Low Density Neighborhood- Single-family housing with urban services. Typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent to the neighborhood.

Governing Principles: #8 - Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious.
- 2) On August 25, 2008 the City Council adopted Resolution No. 08-0523 granting a Low Density Planned Development (LDPD) Special Use Permit for a clustered housing development of 15 homes located on east side of Bayhill Drive south of Pulaski Street/75th Avenue West, with the addition of a sidewalk adjacent to one side of the roadway. On October 9, 2012, the Planning Commission heard item PL 12-145 to rezone this property to R-P. It was approved by the City Council on November 26, 2012.
- 3) Any proposed change to the R-P Regulating Plan that involves land use, density, or height needs to be approved by the City Council through the rezoning process (including a public hearing in front of the Planning Commission). Other changes to the R-P Regulating Plan can be approved by the Land Use Supervisor.
- 4) The applicant wants to reduce the number of buildable sites in order to turn two smaller building sites into one larger building site, which is seen as more marketable to the public. The proposal to change the number of building sites from 15 to 14 is not in conflict with the spirit of the original Low Density Planned Development. The amendment will not create material adverse impacts on nearby properties.
- 5) The amendment is in compliance with the City's Comprehensive Land Use Plan-Governing Principles and Policies and the Future Land Use Map.
- 6) No comments were received from the public, City Departments, or Government agencies.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends to Planning Commission that the proposed amendment to reduce the density of the R-P Regulating Plan be recommended for approval by City Council for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) The proposed amendment to the Regulating Plan district is consistent with the future land use category "Low Density Neighborhood".
- 3) Material adverse impacts on nearby properties are not anticipated.

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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 13-121
R-P Amendment
Bayhill

Legend

DuluthStream_cl

TROUT_FLAG

- Trout Stream (GPS)
- Other Stream (GPS)

Zoning (Final)

Floodplain Type

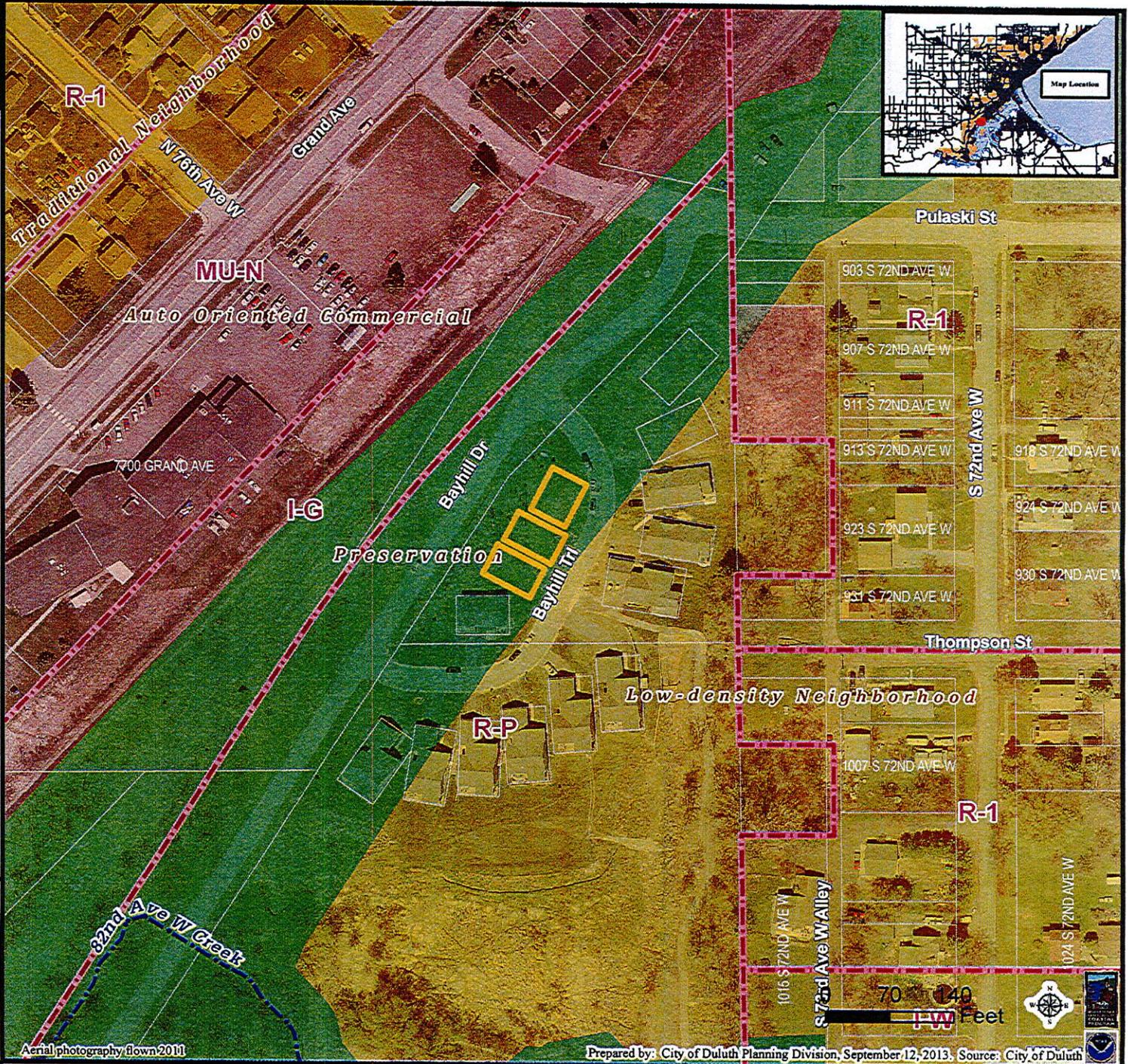
- General Flood Plain
- Flood Way
- Flood Fringe

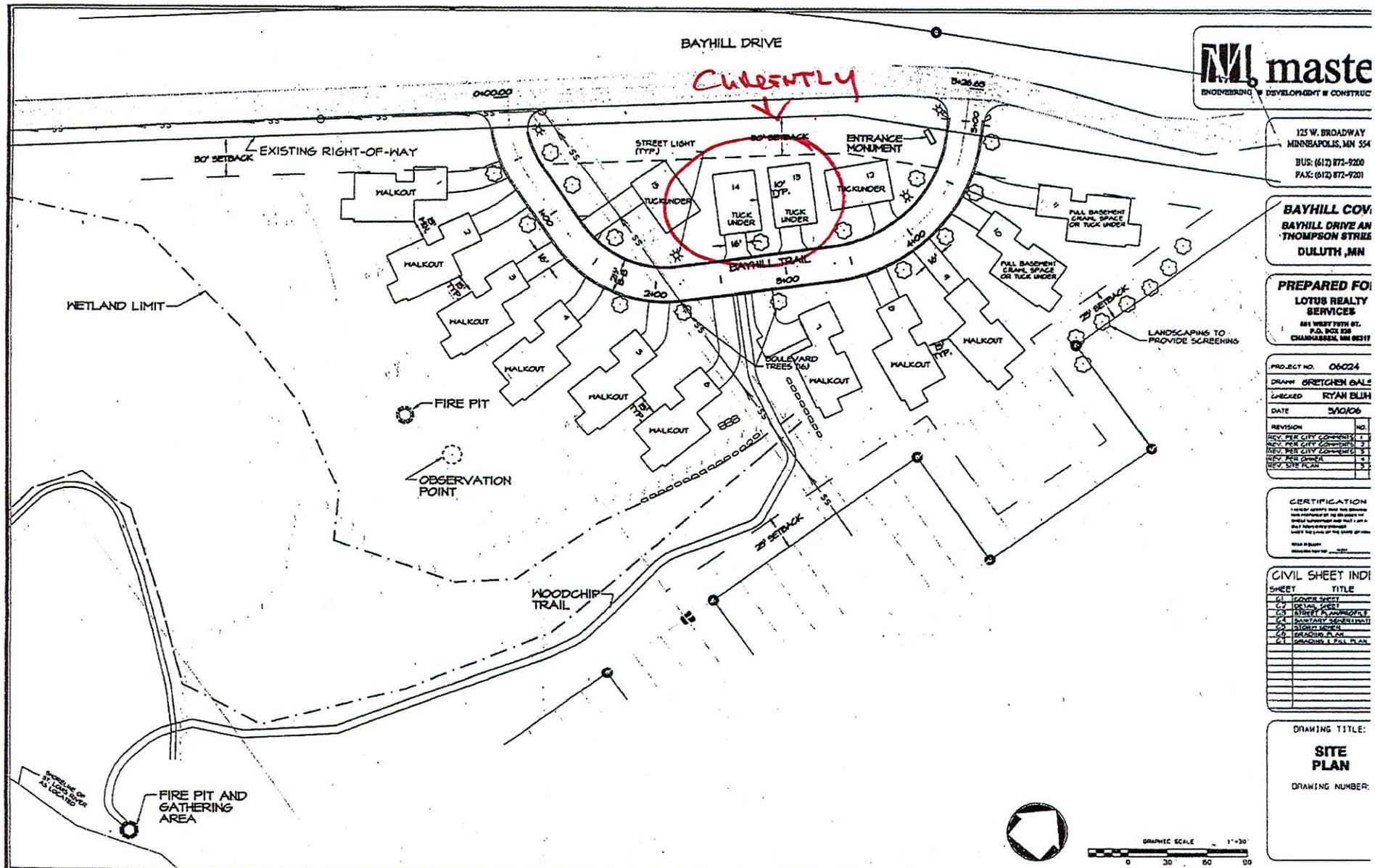
Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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maste
ENGINEERING • DEVELOPMENT • CONSTRUCTION

125 W. BROADWAY
MINNEAPOLIS, MN 554
BUS: (612) 872-9200
FAX: (612) 872-9201

BAYHILL COV
BAYHILL DRIVE AND
THOMPSON STREET
DULUTH, MN

PREPARED FOR
LOTUS REALTY
SERVICES
441 WEST 25TH ST.
P.O. BOX 238
CHAMBERLAIN, MN 55817

PROJECT NO: 06024
 DRAWN: SRETCHEN DALE
 CHECKED: RYAN ELIJAH
 DATE: 5/10/06

REVISION	NO.
REV. FOR CITY COMMENTS	1
REV. FOR CITY COMMENTS	2
REV. FOR CITY COMMENTS	3
REV. FOR OWNER	4
REV. SITE PLAN	5

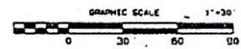
CERTIFICATION
I hereby certify that the drawings were prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Minnesota.

Drawn By: _____
 Checked By: _____
 Date: _____

CIVIL SHEET INDEX

SHEET	TITLE
01	GENERAL SHEET
02	DETAILED SHEET
03	STREET PLAN/PROPOSED
04	BOUNDARY SURVEILLANCE
05	STORM WATER
06	LANDSCAPE PLAN
07	SEWERAGE & RAIN PLAN

DRAWING TITLE:
SITE PLAN
DRAWING NUMBER:



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BayHill

On the River

September 14, 2013

Steven Robertson
Senior Planner-Planning Div.
City of Duluth-Rm 208
411 West First Street
Duluth, Minnesota 55802

Dear Mr. Robertson;

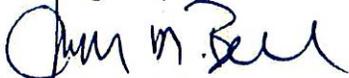
It is the intent of S. V. Bayhill, LLC to change the number of detached town homes in Bayhill Cove C.I.C. No. 107 from a planned development of 15 to 14. By reducing the number of units, the green space will be larger in scope and will be more conducive to beauty and environmental qualities.

The original 2 townhomes are less desirable because of limited livable space where the single townhome that will be built, on those two lots, will afford more livable space and.....reduce the amount of land necessary to build the two townhomes on.

If you have any questions regarding this new plan, please contact me at 218-391-3069.

Thank you for your time.

Best regards,



Charles M. Bell
Owner of S. V. Bayhill, LLC.

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BayHill

On the River

September 14, 2013

We are in support of S.V.Bayhill, LLC changing from 15 detached townhome site to 14 detached townhome sites in the Bayhill Cove Common Interest Community No.107.

Larry & Sheri Scanlon
7629 Bayhill Trail
Duluth, MN 55807

Michael Talarico
7630 Bayhill Trail
Duluth, MN 55807

Ron & Judy Karlen
7632 Bayhill Trail
Duluth, MN 55807

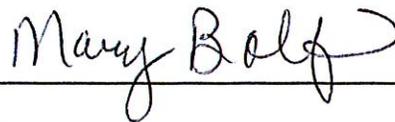
Mark & Mary Bolf
7630 Bayhill Trail
Duluth, MN 55807

Duane & Barbara Tourville
7628 Bayhill Trail
Duluth, MN 55807

Ken & Dianne Engblom
7626 Bayhill Trail
Duluth, MN 55807











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Lauren & Catharine Larsen
7622 Bayhill Trail
Duluth, MN 55807

Catharine J. Larsen

Mark & Jill McCoon
7618 Bayhill Trail
Duluth, MN 55807

[Signature]

Patrice Larson
7614 Bayhill Trail
Duluth, MN 55807

Terry & Nancy Olson
7610 Bayhill Trail
Duluth, MN 55807

Terry A. Olson

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RECEIVED SEP 16 2013

CITY PLANNING DIVISION
SPECIAL USE PERMIT
"Low Density Planned Development"
STAFF REPORT
by Kyle Deming, Planner II



I. Applicants:

S.V. Bayhill LLC / Lotus Realty
Brad Johnson
P.O. Box 235
Chanhasseen, MN 55317
612-369-4364 phone
952-937-3506 fax
bcjohnson@visi.com

Mike Talarico
313 North Central Avenue
Duluth, MN 55807
218-628-1056 phone
218-348-2423 cell

II. The Proposal: Amendment to a "Common Interest Community" of 15 single family dwellings on 12.89 acres. The proposed amendments includes:

- 1) Introduction of three new building types (Plan B, C, and G)
 - a.) Plan B, "The Bay View," which is a full two-story home with tuck-under garage, relocating windows and gable, and introducing an 8' x 15' deck to the 2nd story front of the house.
 - b.) Plan C, "The Bay Walk," an entirely new tuck-under garage building type with the building's gable end turned toward the street.
 - c.) Plan G, "The Back Bay #4," an entirely new one-level building that puts the garage next to the house. This unit is designed to fit where two units were originally planned.
- 2) A request to combine units 13 and 14 into one unit where Plan G could be constructed.
- 3) Elimination of the sidewalk along Bayhill Trail.

The proposal will not increase the number of units permitted nor will it increase the amount of the site to be developed. The changes will be to swap one building type for another.

III. Reason for Planning Commission Action:

Sec. 50-32. Permit from city council.

Subject to the provisions of this Article, the city council may, by resolution, grant a special permit for the special uses set out in this Article in any district, . . . All future use of the land and structures erected thereon pursuant to the special use permit shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying a permit, the city council may deny a permit should it find that the proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts upon the community.

Sec. 50-32.2. Study and report by the planning commission.

All applications for special use permits shall be referred by the city clerk to the planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held before the planning commission.

IV. Date Application Received – June 30, 2008; b) Action Deadling – October 28, 2008

Planning Commission: Action	<u>Rand/Barrett, add. Conditions</u>	Date	<u>Aug. 12, 2008</u>
City Council: Action	<u>Approve with / Approved Unanimous</u>	Date	<u>Aug. 25, 2008</u>

1) Require sidewalk on one side
2) Add language (standard) that allows Sec. of Planning Commission to approve minor modifications to the approved plans
III A1

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- V. Location: Southwest corner of Bayhill Drive and 75th Ave. W/Pulasky St. in Norton Park.
- Legal Description: That part of Gov't Lot 2, Sec. 24, and that part of the SW¼, SW¼, Sec. 13, T49N,R15W lying southeasterly and south of a line described as follows:
- Commencing at the NW corner of said Section 24, thence South 0 degrees 29 minutes 58 seconds East (assumed bearing), along the West line of said Section 24 a distance of 1177.03 feet to the beginning of the line to be described: then North 32 degrees 34 minutes 45 seconds East along the Southeasterly right of way line Burlington Northern, Inc. (formerly the Duluth Transfer Track of the Northern Pacific Railway) also being the Northwesterly right of way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds page 2 to the South line of said SW¼ of SW¼; then continuing Northeasterly along the said Southeasterly right of way line of the Burlington Northern, Inc. to the South line of Pulasky Street; thence Southeast along the South line of Pulasky Street to the East line of said SW¼ of SW¼. Except that part of Gov't Lot 2 Sec 24. T49N,R15 lying Southeasterly, Southerly and Westerly of a line described as follows;
- Commencing at the NW corner of said Section 24, thence South 0 degrees 29 minutes 58 seconds East (assumed bearing), along the West line of said Section 24 a distance of 1297.96 feet to the beginning of the line to be described; thence North 32 degrees 34 minutes 45 seconds East along a line 66.00 feet distant and parallel with the Southeasterly right of way of Burlington Northern, Inc. (formerly the Duluth Transfer Track of the Northern Pacific Railway) a distance of 212.00 feet; thence South 57 degrees 25 minutes 15 seconds East a distance of 46.51 feet; thence Southerly and Easterly along a tangential curve concave to the North having a radius of 183.00 feet and a central angle of 49 degrees 21 minutes 28 seconds a distance of 157.65 feet and the cord of said curve bears South 82 degrees 05 minutes 59 seconds East: thence South 11 degrees 07 minutes 58 seconds East a distance of 307 feet, more or less, to the Northwesterly bank of the St. Louis River and said line there terminating. Except that part platted as Spirit Cove Division.
- ALSO
- Lots 19 through 24, Block 33, Hunter and Markells Grassy Point Addition according to the plat thereof.
 Lots 26 through 29, Block 34, Hunter and Markells Grassy Point Addition according to the original plat thereof on file and of record in the office of the Register of Deed; in and for said St. Louis County, Minnesota, in Book "C" of Plats, page 130.

- VI. Existing Area Zoning: The subject site and adjoining property is zoned R-1-c, Single Family Residential. To the northwest is M-2, Manufacturing along the BNSF RR and Munger Trail and C-2 Commercial along Grand Avenue. To the Northeast is R-2, Two Family Residential, to the south is R-1-c.
- Existing area Development: The site is vacant, surround uses include single family and duplex residential. Spirit Cove "Special Use Permit" Development is located to the south. Commercial and Multi-family uses are located to the northwest. A substantial amount of construction disposal fill was placed on the central portion of the site in the late 80's.

- VII. Number of Surrounding Property Owners Notified: 30
Comments from various Agencies, Groups and Individuals: None.

- VIII. Conclusions: The Planning Commission finds that the ordinance governing the application is Section 50-32 et. seq and 50-36.1 et. seq.; that compliance with that ordinance requires that the following facts, features, or events show compliance;
- i) Will the proposed special use permit result in a random pattern of development with little contiguity to existing or programmed development?
- Staff Response:** No, this is a very low residential use in an area zoned for higher density residential use. The proposed amendment will only change the look of buildings on the site, not change the type or number of dwellings.
- ii) Will the requested use(s) cause anticipated negative fiscal or environmental impacts upon the community?
- Staff Response:** No, existing utilities and public roadways serve this site. No upgrades are anticipated. The proposal is only to swap one building type for another.
- iii) Will conditions and safeguards protect the comprehensive plan and conserve and protect property and property values in the neighborhood?
- Staff Response:** The Comprehensive Plan is clear about the importance of having pedestrian facilities throughout the community. Eliminating the sidewalk would be incongruent with the Comprehensive Plan.

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iv) What appropriate conditions and safeguards, including performance bonds and a specified period of time for the permit, are necessary?

Staff Response: Staff recommends that the sidewalk be retained in the plans.

IX. Recommendations for Planning Commission Action:

Approve subject to the condition that the development be limited to, constructed, and maintained in accordance with the following plans and that the sidewalk along Bayhill Trail be retained:

1. Site Plan and Grading Plan (C6) and Grading/Fill Plan (C7) by Master Engineering entitled "Bayhill Cove" dated 5/10/06 and date stamped by the Planning Department 6/30/2008;
2. Building plans by FOX-1, entitled "SV Bay Hill LLV - Phase II" dated stamped 6/30/2008 in the Planning Department with plans having the following title:
 - a. Plan A - "The Spirit of the Bay,"
 - b. Plan B - "The Bay View,"
 - c. Plan C - "The Bay Walk,"
 - d. Plan D - "The Back Bay,"
 - e. Plan E - "The Back Bay #2,"
 - f. Plan F - "The Back Bay #3,"
 - g. Plan G - "The Back Bay #4
3. "Entry Monument Sign, L1, by Markell-Labree Design Group (no date).

APPENDIX A:

History of Past Actions:

- a. On September 27, 1971, the City council approved construction of a 205 unit mobile home park on this site (FN 1-71078)
- b. On October 12, 1971, the Planning commission and on November 4, 1971, the City Council approved a rezoning of the subject property from M-2, manufacturing to R-1-c, Residential (FN1-91169)
- c. On November 12, 1974, the Planning Commission heard a presentation by H.N. Junti & Co. for development of this property (See November 12, 1974 minutes).
- d. On May 8, 1979, the Planning Commission approved the preliminary Community Unit Plan and on September 24, 1979, the City Council approved Resolution 79-770 for the "Bayhill" Special Use Permit by H.N. Junti.
- e. On July 21, 1981, the Planning Commission and on January 25, 1987, the City Council approved Resolution 82-0027, which granted a special use permit for the Community Unit Plan for the H.N. Junti Co. for the construction of a 276 unit condominium development.
- f. On July 14, 1987, the Planning Commission and on August 27, 1987, the City Council approved resolution 87-0700 which amended 82-0027 to provide for "Spirit Bay Development" as 62 townhouse/condominium units subject to 8 conditions. FN 87056
- g. On May 8, 1990, the Planning Commission gave preliminary and on September 11, 1990 gave final plat approval of "Spirit Cove Division" (FN 90152).
- h. In October 1990, the Planning Commission and on May 6, 1991, the City Council vacated a portion of Bayhill Drive in order to allow for platting of Spirit Cove Division (FN 90191).
- i. On August 10, 1993, the Planning Commission and on October 18, 1993, the City Council approved Resolution 93-0802 which amended resolution 82-0027 to permit, among other things, the construction of not more than 24 units without construction of 80th Ave. West or 84th Ave. West to connect Bayhill Drive with Grand Avenue. (FN93115)
- j. On February 24, 1999, the Planning Commission and on March 22, 1999 the City Council approved Resolution 99-0186 which vacated the pedestrian use of joint use (pedestrian/utility) easements legally described as: pedestrian and utility easements on Lots 3 and 5 Block 4, Spirit Cove Division. (FN 99019)

APPENDIX B: The Low Density Planned Development Special Use Permit (from the Zoning Code)

Sec. 50-36.1. Low density planned development--purpose.

The low density planned development special use is established to encourage a variety of housing types within established neighborhoods while maintaining the character and vitality of such neighborhoods. It is intended to promote more economic development with relation to public services, to preserve significant natural features through the consolidation of yards into open spaces of sufficient size and character to provide active or passive

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recreation facilities and to facilitate the development of a sufficient choice of housing types within the city. To this intent, it allows variation in the relationship of uses and required yards in developments compatible with the massing, use and scale of buildings within established neighborhoods.

Sec. 50-36.2. Same--Eligibility.

The owner of any tract of land comprising an area of more than four and less than 20 acres may submit to the city council a plan for the use and development of all such tracts for one-family homes, two-family homes, townhouses, and/or multiple dwellings containing no more than eight dwelling units, provided that such tracts are located within the R-1-b one-family residential district, the R-1-c one-family residential district, the R-2 two-family residential district or a combination of such districts. No use or development shall be permitted except in conformity with a specific plan complying with the standards and requirements hereinafter set forth. With respect to low density planned development, such standards and requirements shall supersede any inconsistent standards or requirements set forth elsewhere in this Chapter.

Sec. 50-36.3. Same--Standards.

A low density planned development shall implement the purposes set forth in Section 50-36.1 of this Code and shall meet the following standards and requirements:

- (a) Lot area per family. The average lot area per family within the site shall not be less than 80 percent of the lot area per family required in the district(s) in which the development is located;
- (b) Frontage, building setbacks and yards. Frontages, building setbacks and yard requirements shall be established for each development plan to insure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such requirements:

Dwelling type	Minimum lot frontage (in feet)	Minimum building setback from any low density planned development boundary line (in feet)	Minimum distance between principal buildings (in feet)
One-family	50	30	15
Two-family	75	30	15
Townhouse	75	50	15
Multiple dwelling	75	50	15;

(c) Useable open space. Adequate provisions shall be made for the permanent preservation and maintenance of useable open space for the mutual use of all residents within the low density planned development. Useable open space shall not be less than 15 percent of the gross area of the project exclusive of streets, except that when the city council determines that publicly owned useable open space exists in close proximity to the proposed development, a lesser percentage may be approved. Usable open space shall be reasonably accessible from all dwelling units with minimal conflict with vehicular traffic. The use and development of such open space shall be limited to that approved through this special use permit;

(d) Natural features. Environmentally sensitive natural features such as swamps and other wetlands, steep slopes, rock outcrops, prime tree stands and flood plains shall be preserved by the development plan;

(e) Landscaping. Trees and/or shrubs shall be provided within all building setback and useable open space areas, and whenever practical, healthy trees within such areas shall be saved. Shade trees having a minimum trunk diameter of two inches at the time of placement shall be placed along all sides of parking areas with an average spacing of not more than 12 feet, and adjacent to all lot lines on public streets with a maximum spacing of 30 feet, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate. Views of garages shall be minimized through judicious placement or through the placement of coniferous vegetation or sodded earth berms. Storage areas for refuse shall be screened with wood, brick or stone fences;

(f) Off street parking. For each two dwelling units a minimum of three off street parking spaces shall be provided, at least 1/4 of which shall be located within a garage, except when the city council determines that because of the type of residents that will be occupying the dwelling units, lesser requirements are appropriate.

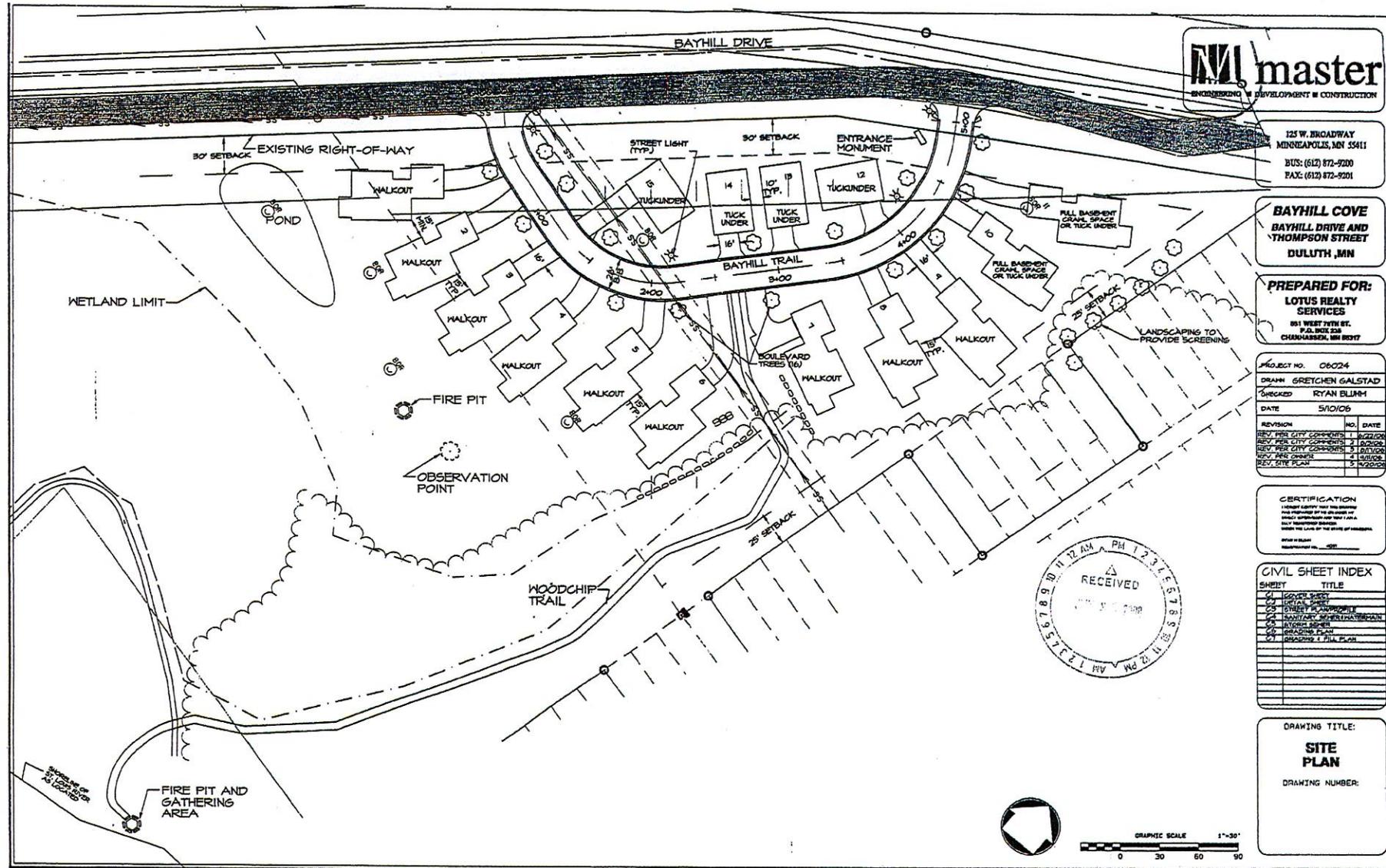
Each garage shall be similar in design character and materials to the dwelling to which it is appurtenant within the low density planned development. Each garage shall be designed and used for storage of not more than six vehicles. Parking areas containing more than eight adjacent parking spaces shall be separated by curbed landscaped islands which have a minimum width of eight feet and contain a minimum of two shade trees having a minimum trunk diameter of two inches at the time of placement, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate;

(g) Arrangement of buildings. The location of all buildings shall be harmonious with significant natural features and shall maximize views of scenic resources from dwelling units;

(h) Building and structure design. All buildings and other structures shall be compatible with the texture, scale and massing of the existing development in the area;

(i) Sewage disposal. On site sewage disposal systems shall not be permitted.

D-13



2008 PROPOSED SITE PLAN

D-14

III A6



CITY OF DULUTH
CITY CLERK'S OFFICE
330 City Hall • 411 West First Street
Duluth, Minnesota 55802-1189
URL: www.ci.duluth.mn.us
Phone (218) 730-5500
Fax (218) 730-5923

fn 08081

August 29, 2008

Mike Talarico, Attorney for Brad Johnson
S.V. Bayhill, LLC
313 Central Avenue
Duluth, MN 55807

Re: Certified copy of Resolution 08-0523

Dear Mr. Talarico:

Enclosed is a certified copy of Resolution 08-523 which was adopted by the Duluth City Council at their August 25, 2008, meeting entitled:

RESOLUTION GRANTING AN AMENDMENT TO A LOW DENSITY PLANNED DEVELOPMENT SPECIAL USE PERMIT FOR BAYHILL COVE, A CLUSTER HOUSING DEVELOPMENT OF 15 HOMES LOCATED ON THE EAST SIDE OF BAYHILL DRIVE SOUTH OF PULASKI STREET/75TH AVENUE WEST (S.V. BAYHILL, LLC).

Sincerely,

MARTHA A. OSWALD
Assistant City Clerk

MAO:kj

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cc: Physical Planning
Zoning Coordinator

PC File

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CERTIFIED COPY OF RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

RESOLUTION 08-0523

ADOPTED: AUGUST 25, 2008

RESOLVED, that the city council finds the following:

(a) S.V. Bayhill, LLC, has submitted to the city a request for an amendment to an existing approved special use permit for a 15 dwelling low density planned development on property legally described as follows:

(1) That part of Government Lot 2, Section 24, and that part of the SW1/4, SW1/4, Section 13, T49N, R15W, lying southeasterly and south of a line described as follows: commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing) along the west line of said Section 24 a distance of 1,177.03 feet to the beginning of the line to be described; then north 32 degrees 34 minutes 45 seconds east along the southeasterly right-of-way line Burlington Northern, Inc. (formerly the Duluth transfer track of the Northern Pacific Railway) also being the northwesterly right-of-way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds, page two, to the south line of said SW1/4 of SW1/4; then continuing northeasterly along the said southeasterly right-of-way line of the Burlington Northern, Inc., to the south line of Pulasky Street; thence southeast along the south line of Pulasky Street to the east line of said SW1/4 of SW1/4 except that part of Government Lot 2, Section 24, T49N, R15W, lying southeasterly, southerly and westerly of a line described as follows: commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,297.96 feet to the beginning of the line to be described; thence north 32 degrees 34 minutes 45 seconds east along a line 66.00 feet distant and parallel with the southeasterly right-of-way of Burlington Northern, Inc. (formerly the Duluth transfer track of the Northern Pacific Railway) a distance of 212.00 feet; thence south 57 degrees 25 minutes 15 seconds east a distance of 46.51 feet; thence southerly and easterly along a tangential curve concave to the north having a radius of 183.00 feet and a central angle of 49 degrees 21 minutes 28 seconds a distance of 157.65 feet and the cord of said curve bears south 82 degrees 05 minutes 59 seconds east; thence south 11 degrees 07 minutes 58 seconds east a distance of 307 feet, more or less, to the northwesterly bank of the St. Louis River and said line there terminating. Except that part platted as Spirit Cove Division; and

(2) Lots 19 through 24, Block 33, Hunter and Markells Grassy Point Addition, according to the plat thereof; and

(3) Lots 26 through 29, Block 34, Hunter and Markells Grassy Point Addition, according to the original plat thereof on file and of record in the office of the register of deeds; in an for said St. Louis County, Minnesota, in Book C of Plats, page 130; and

(b) Said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on August 11, 2008, and the commission has subsequently reported its recommendation of conditional approval to the city council; and

(c) The applicant's compliance with conditions set out in this permitting resolution will remedy any shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents, and that compliance with the conditions contained herein will adequately protect the comprehensive plan and conserve and protect property values in the neighborhood and comply with City Code Section 50-32; and

(d) That a special use permit amendment is hereby granted to S.V. Bayhill, LLC,

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