



West Fargo Planning and Zoning Commission
August 28, 2006 at 7:00 P.M.
West Fargo City Hall

Members Present: Frank Lenzmeier
 Jason Gustofson
 Wayne Nelson
 Terry Potter
 Ross Holzmer
 Harriet Smedshammer
 Kim Keller

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Rhonda and Rory Jorgenson, Chris Johnson, Dave Forester, Terry and Karen Maul, Mike Shriner, Mark Simmons, Joe Christianson

The meeting was called to order by Chair Lenzmeier.

Commissioner Nelson made a motion to approve the August 14, 2006 meeting minutes. Commissioner Potter seconded the motion. No opposition. Motion carried.

Larry Weil reviewed the following information from the staff report:

At their meeting on August 14, 2006, the Planning and Zoning Commission tabled action on the basis of the application being incomplete as park space was not provided for in the plat or area plan as required by the approval of Goldenwood First Addition. Also, the developer proposed changing some lots in the plat and revised the area plan to address neighborhood concerns.

Since the Commission meeting the developer revised the area plan to provide a future park area and address some of the residents' concerns. The proposed park is about 6.8 acres in size and the remaining amount of area required for park dedication would be provided as cash-in-lieu of land dedication. The Preliminary Plat has also been revised to provide for two additional single family detached dwellings and four less twin home dwellings. The revised plans have been sent to various City departments and the Park District for their review. The staff recommends approval subject to the following:

1. An Attorney Title Opinion is received.
2. A revised drainage plan is received and approved by the City Engineer.
3. A certificate is received showing taxes being current.
4. Restrictive covenants are updated if necessary to address the changed lots and care and maintenance of the buffer areas.
5. The Final Plat is revised providing that 15th Avenue NW meets the 660-foot spacing standard from the access to the south.
6. Necessary easements are placed on the Final Plat.
7. The location of CBU's should be identified on a plan.
8. The Park District and developer reach agreement on the location of future park(s), the developer submits a revised area plan showing the location of the future park facilities, and a revised park dedication agreement is received.
9. A subdivision improvement agreement is received.

Larry stated that he received an email from the Parks Superintendent, indicating the developer has addressed park dedication issues.

Commissioner Gustofson asked what had changed. Larry indicated that the lake size increased, instead of two retention ponds there would be one large one, the park district has come to an agreement regarding park dedication and 5th Street NW is now shown as a cul-de-sac.

Commissioner Nelson asked about the 15th Avenue NW spacing. Larry stated that it still doesn't meet spacing requirements. It needs to be moved 60-70' to the north to meet spacing requirements. Item #5 addresses the spacing.

Commissioner Smedshammer asked about 15th Avenue NW – there is already a 15th Avenue and 16th Avenue NW, on the north side of the tie-back levy. Larry stated this will need to be reviewed with the 911 addressing people.

Commissioner Keller asked if residents were satisfied.

Rhonda and Rory Jorgenson, 1323 5th Street NW, asked if there could be an easement (sidewalk) provided for access into the proposed park area, so people don't have to walk all the way around. Larry stated that when the plat comes in for this area, it would be reviewed at that time; pedestrian accesses wouldn't be reflected in the area plan.

Mr. Jorgenson asked about twin homes vs. single family. Larry stated that this area is designated in the Comprehensive Plan as Low Density, 6 units per acre maximum. Low density is either single family or twin homes. Mr. Jorgenson stated concern with a development sign in the area which showed commercial development. Larry indicated they would need to go through a land use plan amendment with public hearings to change the land use. The approved land use for this area is low density.

Mrs. Jorgenson stated that they bought their home thinking the area was going to be developed with single family and now there are a number of twin homes being built around them.

Terry Maul stated concern with false advertising by the developer and with the possibility of commercial development.

Dave Foerster, 1326 5th Street NW, stated that he spoke with Mr. Bergquist, who said the twin homes west of 4th Street were mis-drawn. He also told him that 5th Street was going to be a "t", not a cul-de-sac. He stated concern with the address changing. He also stated that he likes the larger lakes, but would prefer two smaller parks.

Chris Johnson asked if the area plan keeps changing, what assurances do they have that the park will remain. At what point will they know what will happen. Larry stated that a park dedication agreement is required for "x" number of acres. He stated that there is some flexibility. The development is approved on the basis that they need to provide a park. He also stated that 15th Avenue will be slid to the north, which will affect the blocks to the west and could affect the park.

Mr. Johnson stated that they're concerned because the developer has been less than forthright with them. He asked how hard it would be for them to change it to commercial. Larry stated that changes to anything other than low density would require a land use plan amendment with hearings.

Discussion was held regarding the development signs and brochures residents were given when they purchased their homes.

Mr. Johnson stated that on the north side of Goldenwood Drive (Lot 4), there is a model home, which has been capped. He stated concern with kids standing on top and falling through. Larry stated that the building department has standards for completion once a building permit is issued.

Property owners stated concern with the new development, expansion of the retention pond affecting their taxes. Chair Lenzmeier stated that anything that is done to benefit their property could be special assessed.

Mike Shriner, 1265 Goldenwood Drive, stated that he lives on a lake lot and he was told there would be high end homes. He asked what the City's policy is on "high-end"? Larry stated that the City cannot control the price of a home. Mr. Shriner stated concern with property values decreasing. This is the third change he's seen.

Larry stated that the City has established development standards. If you fit within density standards, street design and parks are provided, then the developer is given flexibility. There are minimum standards regarding lot width and size. He gave Charleswood as an example. It started off as single family, they've added condos, decreased lot sizes. This has happened with most developments in town.

Terry and Karen Maul, 1329 5th Street NW, stated they have the same concerns as everyone else. They asked if the cul-de-sac could still be changed? They want the developer locked into a commitment and asked if they didn't have a say. Larry stated that when staff and the Planning and Zoning Commission look review developments, they check to see if it meets the ordinance, if it's consistent with City standards. The City Commission has another function and ultimately has the authority to approve or deny requests, there will be another hearing on the rezoning at the City Commission level.

Larry stated that in terms of the developer's marketing of the property – it should be marketed the way it's going to be developed. Recourse would be to notify the better business bureau. In terms of construction standards – the building inspector can look at building code issues and if there are violations, the contractor's license could be pulled.

Mr. Maul asked about bylaws requiring 6 months to build. Larry stated that there is a certain period of time allowed to make progress on construction under the building codes. In terms of by-laws, those are put in place by the developer and are above and beyond City Ordinances. Mr. Foerster asked what would constitute progress. Larry stated that the building administrator and City Commission have reviewed issues regarding building construction progress in the past with other developments.

Chair Lenzmeier stated that Larry and Commissioner Nelson have explained the role of the Planning and Zoning Commission. It's important what you say and your concerns are not falling on deaf ears.

Residents asked to be notified when this item goes before the City Commission.

Commissioner Gustofson made a motion for approval based on staff recommendations. Commissioner Nelson seconded the motion. No opposition. Motion carried.

The next item on the agenda was A06-47Request for Access Connection to Sheyenne Street and 32nd Avenue West for 521 32nd Avenue West, 3330 Sheyenne Street & 3342 Sheyenne Street (Lot 1, Block 2 of Eagle Run 8th Addition), City of West Fargo, North Dakota.

Larry Weil reviewed the following information from the staff report:

The property is located south of 32nd Avenue West and west of Sheyenne Street (Cass County Highway 17). A retail center is being developed on the property which is consistent with City Plans and Ordinances. The streets are classified as minor arterials which are limited access streets requiring review by the Planning and Zoning Commission and City Commission. Maintenance for Sheyenne Street has been taken over by the City. Most of the area along Sheyenne Street south of I-94 has been annexed into the City.

The City has received a request from the developer of Eagle Run Plaza for direct access to Sheyenne Street and 32nd Avenue West. The developer also requested that the City conduct a traffic impact analysis. The developer submitted a partial concept development plan of the retail center and location of the proposed accesses. Currently there are three buildings constructed on the property.

In 2004 the developer of the commercial retail center requested accesses at the same locations. At that time the developer had one building under construction, and Sheyenne Street (Cass County Highway 17) was under the jurisdiction of Cass County. It was agreed between City and County staff that the request for accesses was premature, so the Planning and Zoning Commission did not take action on the request.

Within the past year the City has assumed maintenance of Sheyenne Street as far south as 52nd Avenue. Recently the City Commission approved road improvements including turn lanes and traffic signals at 32nd and 40th Avenues, as well as a paving overlay. Also, the City Commission approved lowering the speed limit from 55 miles per hour to 40 miles per hour.

The City Public Works Department has completed the study which was included in the agenda packets. The study concludes that the proposed development will not adversely impact the existing traffic operations of the Sheyenne Street corridor provided the suggested recommendations are instituted. Greater control will be needed in the future to assure compliance of right in – right out traffic. The speed limit should be reduced to allow for shorter sight distances. The City Engineer has reviewed the preliminary access plans for Sheyenne Street and 32nd Avenue West. A number of items need to be addressed which are listed in a letter to the developer and are attached.

Staff recommends approval with the following conditions:

1. Proper access easements for traffic control are obtained as described above.
2. The recommendations contained in the traffic impact analysis are followed.
3. All items in the City Engineer's letter are addressed.
4. The accesses are not completed until the improvements on Sheyenne Street are completed.

Applicant Joe Christianson asked when the remaining improvements would be installed. Larry stated that late Fall signals should be installed and speed limits reduced. Mr. Christianson stated that they have existing businesses ready for access and are ready to move forward with a plat.

Chair Lenzmeier asked about Item #7 b in the Assistant Engineer's letter regarding the Highway #17 turn lane. Steven stated that it is so they are aware of the grading.

Larry stated that staff is concerned that the access not be opened until all the improvements are made.

Commissioner Keller asked why this item is coming before the Planning and Zoning Commission after the work has begun. Commissioner Holzmer asked how the culverts and access got put in prior to approval.

Mr. Christianson stated that they thought it had been approved and found out afterwards it wasn't.

Commissioner Gustofson stated that there have been at least three different people/developers working on this property, so he could see why there would be confusion.

Commissioner Holzmer asked why they are trying to eliminate access on Sheyenne Street in other areas, but are adding one here. Larry explained the 660' access spacing requirements.

Commissioner Holzmer stated concern with the proximity of the barrels along the road. Larry indicated that there is a lip along the side of the road that could be hazardous.

Commissioner Gustofson made a motion for approval based on staff recommendations. Commissioner Keller seconded the motion. Commissioners Smedshammer, Keller, Gustofson, Lenzmeier, Nelson and Potter voted aye. Commissioner Holzmer voted nay. Motion carried 6-1.

Commissioner Nelson made a motion to adjourn. Meeting adjourned.