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Larry M. Weil, Planning Director  
Steven Zimmer, Senior Planner  
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission  
March 14, 2011 at 7:00 P.M.  
West Fargo City Hall

Members Present: Frank Lenzmeier  
Terry Potter  
Edward Sheeley  
Jason Gustofson  
Tom McDougall  
Kim Keller  
Jerry Beck

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Dustin Scott, Jim Bullis, Steve Iverson, Richard Lewis, Michael Domitrovich, Don Dabbert, Jim Brownlee, Jon Hauser, Justin Kristan, Mike Reitan

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the February 14, 2011 meeting minutes as printed. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A11-4 The Wilds First Addition, a Subdivision and Rezoning from A: Agricultural to R-1A: Single Family Dwellings property in SE¼ of Section 31, T139N, R49W, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property, which is bordered by Sheyenne Street to the east and 9<sup>th</sup> Street West to the west, is located south of the Nelson Acres subdivisions and north 52<sup>nd</sup> Avenue South. The area was annexed into the City in 2003. Last fall the developer proposed platting a portion of a larger tract and zoning the parcel to R-1A: Single Family, as well as developing a private golf course; however, due to proposed development costs, the golf course proposal was dropped. The developer now proposes platting to accommodate a proposed single family development. This plat is consistent with the city's Comprehensive Plan.

The developer is proposing to plat a 41 acre single family development. The developer has submitted an application, Area Plan and Preliminary Plat. The City's Land Use Plan depicts the area as Low Density Residential. The Comprehensive Plan shows Sheyenne Street and 52<sup>nd</sup> Avenue West as Minor Arterial Streets; and 9<sup>th</sup> Street West as a Collector Street.

The Area Plan submitted by the developer shows where the proposed subdivision is located, as well as the surrounding properties/developments. The Preliminary Plat consists of 50 single family lots.

The street framework for the development consists of Sheyenne Street, 9<sup>th</sup> Street West, and a connecting street from 9<sup>th</sup> Street West to Sheyenne Street. The necessary right-of-ways should include a total of 150' along Sheyenne Street (75' of right-of-way on each side), 90-110' along 9<sup>th</sup> Street West depending on the street design, and minimum of 66' of right-of-way for 47<sup>th</sup> Ave W from 9<sup>th</sup> Street West to Sheyenne Street, which depends on street design and pedestrian facilities placement. Local streets that intersect with 47<sup>th</sup> Ave W must have a minimum of 62' of platted R-O-W.

At the time the agenda packets were sent out, the area plan showed connectivity from 9<sup>th</sup> to 11<sup>th</sup> Streets West on the south side in a future plat; however, staff felt it would also be appropriate to provide east west connectivity from Sheyenne Street to 11<sup>th</sup> Street West. A meeting was held with the developer and City staff this morning showing proposed 50<sup>th</sup> Avenue west providing that connectivity.

Pedestrian and bikeway linkages are proposed throughout the development. A pedestrian/bikeway extension from Westport Beach through this development is proposed along 9<sup>th</sup> Street West. Also, a pedestrian/bikeway connection is proposed from 9<sup>th</sup> Street West to Sheyenne Street along 47<sup>th</sup> Ave. Class I bikeways are planned along Sheyenne Street and along 52<sup>nd</sup> Avenue West. This development is being developed to provide green space and walking/multi-use paths on the interior of the development. These paths and green spaces should be shown on the area plan to show connectivity to future Class I paths. Additional connections are proposed to allow future access to the Sheyenne Diversion where a future pedestrian/bikeway facility is planned. Any access connections should be shown on a plat and installed with the street improvement district, so as to protect their placement and function.

Park dedication is required for the development. The required amount of park dedication for residential development is 10% of the gross area. The developer proposes to dedicate the open/green spaces throughout the development. The Park District has reviewed the developer's proposal and has yet to make a decision. The City is waiting for their formal recommendation.

Notices were sent to property owners within 150', township, county and City officials, as well as utility companies and SE Cass Water Resource District. The Post Office has indicated that the mode of delivery will be Cluster Box Units (CBU), so the developer will need to work with the Post Office and City to site the location of the units throughout the development.

Comments were received from a property owner in the Nelson Acres development to the north with concerns regarding placement of the proposed bikepath and ensuring bike riders and horses were kept safe. The property owner indicated he would be planting landscaping to help keep people away and asked if the developer would consider landscaping, fencing, etc., to help mitigate risks. Steven indicated that we cannot require this, but would like to see staff and property owners work together. The property owner also had questions regarding future park facilities – playgrounds, sledding hills.

It is recommended that the City conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval are as follows:

1. Departmental comments are taken into consideration.
2. A certificate of taxes showing taxes being current is received.
3. A Drainage Plan is received and approved by the City Engineer.
4. A Final Plat with any necessary easements is received.
5. The required utility hook-up fee is adequately addressed.
6. A park dedication agreement is received.
7. A subdivision improvement agreement is received.
8. Revised area plan be submitted showing east west connectivity on the north side of the development between 9<sup>th</sup> and 11<sup>th</sup> Streets West.
9. A buffer/screening/landscape plan is received for along Sheyenne Street and 9<sup>th</sup> Street West.
10. The applicant submits a mail delivery plan to the Post Office for approval.

Richard Lewis, 103 48<sup>th</sup> Avenue East, stated that he doesn't have any real problems with the development, is just concerned because this started off as a golf course and now the use has changed. They don't want to see them come back with apartments. They'll be watching this area to make sure this doesn't happen.

Steven stated that the Comprehensive Plan shows this area as single family. They would have to come in with a new plat and amend the comprehensive plan if something else is proposed.

There were no other comments from the public. The hearing was closed.

Commissioner McDougall asked about access from Sheyenne Street and the connectivity issue. Steven stated that 47<sup>th</sup> Avenue does connect to Sheyenne Street. Staff was looking for east/west connectivity through the development, which has been addressed. Chair Lenzmeier asked if the area plan received tonight addressed item #8 in the staff recommendations. Steven stated that it did.

Commissioner Gustofson asked if there are any twin home lots proposed. Steven stated that larger lot single family is proposed. Developer Steve Iverson stated that there wouldn't be any twin homes, but may have some smaller, entry level lots closer to the SW corner near the diversion in the future; however with this plan there is nothing smaller than 70-75' widths.

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

Chair Lenzmeier opened public hearing A11-5 Shadow Wood 5<sup>th</sup> Addition, a Replat of Lot 24, Block 4 of Shadow Wood 2<sup>nd</sup> and Subdivision and Rezoning from A: Agricultural to R-1: One and Two Family Dwellings of property located in the NW¼ of Section 29, T139N, R49W, West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located west of Veteran's Boulevard on the north side of 36<sup>th</sup> Avenue East, south of 32<sup>nd</sup> Avenue East. The developer owns several parcels in the North ½ of Section 29. The area was annexed into the City in 2005 with the first subdivision approved in 2007. Shadow Wood 2<sup>nd</sup> Addition was approved in September of 2008. The proposed rezoning is consistent with the City's Land Use Plan, which depicts the area as developing as Low Density Residential. The proposed use is consistent with City Plans and Ordinances.

The developer has submitted an Area Plan and Preliminary Plat. The area plan submitted by the developer shows approximately 160 acres which extends from Veteran's Boulevard to the Sheyenne River in the north half of the Section. The Preliminary Plat consists of approximately ±56.2 acres of land which provides for development of 56 residential lots. Also, several lots for parks, park linkages and retention pond are included. The R-1: One & Two Family Dwelling District zoning corresponds to the zoning approved for Shadow Wood 1<sup>st</sup> and 2<sup>nd</sup> Additions. Pedestrian/bikeway linkages are provided for through the subdivision.

The street right-of-ways are 62' for local streets, which meet the standards under the City's Subdivision Ordinance. The right-of-way for 4<sup>th</sup> Street East (Collector Street) is shown as 100', because the developer desires a median. With the Reserve at Osgood 1<sup>st</sup> Addition to the south, the minimum right-of-way of 80' proposed by the developer was deemed to be adequate by the City even though a pedestrian/bikeway is planned. The right-of-way for 36<sup>th</sup> Avenue East (Collector Street) is shown as 100', which would be adequate. The street right-of-way for 36<sup>th</sup> Avenue East extends south into the southeast quarter which is owned by another party. The owner would need to agree to the plat arrangement, or the street layout would need to be revised back to the quarter line. There are concerns about the alignment of the proposed 34<sup>th</sup> Ave along the north side of the development. The developers of the property to the north and Shadow Wood Development are working out an agreement that will mirror the area plans previously submitted and will spell out right-of-way dedication required of both parties. This plan must be reviewed and approved by both parties and submitted to the city prior to filing the plat for Shadow Wood 5<sup>th</sup>.

A drainage plan is required for the development. The developer proposes regional storm retention areas for the development which will meet the retention standards. Two of the retention ponds for Section 29 are intended to be located in the Shadow Wood development and are already designed.

Park dedication is required for the development. The required amount of park dedication is 10% of the gross area for the overall development. The developer proposes dedicating more passive open space/park areas throughout the 160-acre development area. When the regional/community park land was purchased in Eagle Run, there was an agreement between the Park District and City that a portion of the land dedication required for future subdivisions would be in the form of cash-in-lieu to help cover annual bond payments. A greater percentage of the dedication amount would be cash-in-lieu on the west side of the Sheyenne River than on the east side (7% vs. 5%), because the regional/community park would be more accessible to the residents living on the west side. With the remaining 3-5% land dedication, neighborhood parks would be provided for the developments. The Park District has utilization rights for property on the School District property to the south. Specific neighborhood park areas for Section 29 have not been identified yet by the Park District. The staff has sent the subdivision plat to the Park District for their review and recommendations. By ordinance the Park District has 30 days to provide a recommendation. It would be appropriate to identify all land dedication areas for the entire Shadow Wood development prior to Final Plat approval for the proposed Shadow Wood 5<sup>th</sup> Addition, so that a proper park dedication agreement can be developed addressing park lands and cash-in-lieu of land dedication.

Notices were sent to area property owners. The City also provided the proposed development plans to City departments, Park District, Post Office and Utility Companies. The Park District is still reviewing the subdivision and likely will not have a recommendation prior to the Planning and Zoning Commission meeting. The Post Office has indicated that the mode of delivery will be Cluster Box Units (CBU), so the developer will need to work with the Post Office and City to site the location of the units throughout the development. Additionally, necessary easements need to be shown on the Final Plat. Finally, access control should be placed on the Final Plat for the Collector streets.

It is recommended that the subdivision plat and rezoning request be conditionally approved on basis the request is consistent with City plans and ordinances. The conditions of approval for the application are as follows:

1. Departmental comments are taken into consideration.
2. An Attorney Title Opinion is received.
3. A certificate of taxes showing taxes being current is received.
4. Restrictive covenants are received if applicable.
5. A Drainage Plan is received and approved by the City Engineer.
6. A Final Plat is received with any necessary utility easements.
7. The Final Plat is not approved until the City receives an overall park dedication plan from the developer and recommendation from the Park District, as well as a park dedication agreement.
8. The required utility hook-up fee is adequately addressed.
9. A CBU location plan is reviewed and approved by the Post Office and City.
10. A Subdivision Improvement Agreement is received.

Larry indicated that an additional condition should be added to address the 34<sup>th</sup> Avenue East alignment concerns. He stated that the original area plan showed local streets between Shadow Wood and the properties to the north and west; however, there have been changes in ownership since that time.

Applicant Jim Bullis stated that the area plan was developed 5 years ago in conjunction with Don Dabbert, who has an option on the property to the west. Mr. Bullis indicated that he doesn't own any other land and can't tell the commission how the Lobergs or Mr. Dabbert intend to develop that property. He would like to move forward with the plat and doesn't want it tabled. He's okay with 36<sup>th</sup> Avenue connectivity and stubbing out the road. Mr. Bullis stated that Prairie Heights Church to the north had some concerns, which they've addressed; however, he cannot address issues to the west because they don't own that property. As for the park dedication requirements, they've met with the park board and meet the requirements and are consistent with City plans. He stated that he's available to answer any questions.

Michael Domitrovich, City View, stated that they've had an opportunity to meet with the developer and have come up with a good agreement regarding 34<sup>th</sup> Avenue. The church is concerned with having to pay specials.

Don Dabbert stated that he was made aware of these issues on Friday and has concerns with 34<sup>th</sup> Avenue not going through.

Commissioner McDougall asked for clarification on the Prairie Heights plat and 34<sup>th</sup> Avenue. He asked if the commission had the area plan then why they approved the plat. Commissioner Gustofson asked if church saw the area plan before purchasing the property. Senior Pastor Jon Hauser stated that they spoke with property owner Steve Loberg.

Mr. Dabbert stated that he understands the burden of specials; however it's not fair for the residential lots to bear the brunt of the costs either.

Larry stated that the area plan is supposed to bring the property owners together. Traditionally the City looks at arterial and collectors streets in terms of conformity. Local streets are allowed some flexibility. He stated that with the retention pond in place, development has become limited. The City would like to see a resolution to this.

Mr. Bullis stated that he's concerned that this not be delayed. At some point the road needs to go in; however, it's not his property to the west. Being that Mr. Dabbert was involved with the original development/area plan it shouldn't be a problem, but he cannot speak for Mr. Dabbert.

Chair Lenzmeier asked what their options were. Larry stated to delay action for 30 days to come up with a resolution, have the church dedicate additional right-of-way or somehow provide access to those properties. He stated that it's difficult to recommend the City play hardball with dedication/eminent domain, which should only be used as a last resort.

Chair Lenzmeier asked if the church was able to dedicate right-of-way. Mr. Domitrovich stated that this shouldn't be decided tonight at the public hearing. They would like to sit down with Mr. Dabbert to discuss this. Mr. Dabbert stated that they only just found out about this as well and have no intention of altering the original area plan. They intend to continue on with the development.

Discussion was held regarding delaying action until the next meeting. Mr. Bullis stated that he can't go any further west; he

can't fix it any more.

Chair Lenzmeier asked City Administrator Jim Brownlee about special assessments. Jim stated that under normal procedures the City does not buy local right-of-way and when roads are put in the costs are split 50/50 between property owners.

Mr. Domitrovich stated that the church isn't saying they don't want 34<sup>th</sup> Avenue; they're just not ready to pay for it. They're trying to be good neighbors, but the church isn't sure they can keep accruing these specials. He asked about having a special meeting.

Commissioner Gustofson asked about taking out the top 4 lots until this is resolved. Mr. Bullis stated that he could live with not putting improvements on the streets to the north and the lots. He is willing to pick up the specials on those for now, until there's a need for improvements. He stated concern with being delayed for more than 30 days.

Discussion was held regarding 34<sup>th</sup> Avenue. Commissioner Gustofson stated that 34<sup>th</sup> Avenue needs to go through. Steven stated that the City doesn't want a half street.

Commissioner Gustofson made a motion to continue this item until next month. Commissioner Beck seconded the motion. No opposition. Motion carried.

The next item on the agenda was A11-6 Simple Lot Split of Lot 24, Block 6 of The Preserve 1st Addition, City of West Fargo, North Dakota

Steven reviewed the following information from the staff report:

The property, which is located on the southeast corner of 4<sup>th</sup> Street East and 31<sup>st</sup> Avenue East is zoned and platted for single family development. The applicant proposes to decrease the area of Lot 24 to accommodate additional right-of-way along 31<sup>st</sup> Avenue East for a turn out lane. The proposed lot split is consistent with City plans and ordinances.

Staff recommends approval with the following condition:

1. The parcel split from Lot 24 is included within the deed and verification provided to the City.

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

The next item on the agenda was review of the Safe Routes to School Study.

Justin Kristan, FM Metro Council of Governments, reviewed the Executive Summary, indicating that the last study was done in 1991.

Within the District Wide Recommendations portion of the study Mr. Kristan referred to the 5 E's: Engineering (infrastructure), Enforcement, Education, Encouragement and Evaluation. He then referred to the school area recommendations for each site.

Mr. Kristan indicated the entire study with maps is available on their website.

Commissioner Sheeley suggested a driver feedback along 7<sup>th</sup> Avenue East, across from LE Berger School due to speeding issues.

Commissioner McDougall made a motion to recommend adoption of the Study by the City Commission. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

Commissioner McDougall made a motion to adjourn. Meeting Adjourned.