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

West Fargo Planning and Zoning Commission
June 8, 2009 at 7:00 P.M.
West Fargo City Hall

Members Present: Harriet Smedshammer
Jason Gustofson
Tom McDougall
Wayne Nelson
Frank Lenzmeier
Terry Potter
Kim Keller

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Brock Storrusten, Rob Deringer, Bernie Dardis, Clayton Brennan, Keith Berndt, Jim Bullis, Mark McCallister, Bob Sedevie, Terry and Anne Schneider, John Atkinson, Larry Francis, Jerry Beck, Jason Eid, Eric Binstock, Alexis Paxton, Wayne Stautz, Terry Pearson

The meeting was called to order by Chair Lenzmeier.

Commissioner Nelson made a motion to approve the May 11, 2009 meeting minutes as printed and mailed. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A09-11a Rezoning from R-2: Limited Multiple Dwellings to R-1A: Single Family Dwellings Lots 30-33, Block 9 of Westport Beach 1st Addition (proposed Westport Beach 3rd Addition), City of West Fargo, North Dakota & Land Use Plan Amendment from Medium Density to Low Density Residential.

Larry reviewed the following information from the staff report:

This area was originally platted in May of 2004 and is south of 40th Avenue West and west of 9th Street West. Last month the applicant submitted an application for a subdivision replatting 4 twin home lots into three single family lots to construct single family detached homes. Because the proposed development is not consistent with the City's Land Use Plan which depicts the area as Medium Density Residential, the applicant is proposing a Land Use Plan Amendment from Medium Density Residential to Low Density Residential, as well as rezoning from Limited Multiple Dwellings to Single Family Dwellings.

The applicant has submitted an application for a Land Use Plan amendment and rezoning following Planning and Zoning conditions placed on the Preliminary Plat. Notices were sent to property owners within 150 feet and no comments were received.

It is recommended to approve land use plan amendment and rezoning on the basis that it would promote a compatible development pattern with adjacent properties to the west and properties to the south.

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

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 A09-16 Westport Beach 5th Addition, replat of Lots 36-39, Block 9 of Westport Beach 1st Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The applicant has submitted an application for a subdivision and proposes to replat 4 twin-home lots to readjust lot lines to construct twin homes. The proposed development is consistent with the City's Land Use Plan which depicts the area as Medium Density Residential.

The Preliminary Plat shows 4 lots along the north side of 44th Avenue West. These lots, Lots 36-39 Westport Beach First Addition, were originally platted at 4,680 ft² (36' x 130'). They are being replatted as Lots 1-4 of Westport Beach 5th Addition. Lots 1 & 2 are shown at 4,875 ft² (37.5' x 130') and Lots 2 & 3 are shown at 4,485 ft² (34.5' x 130').

This subdivision is not required to provide for park dedication due to the fact that its park dedication requirements were met when it was originally platted. All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hookup fee. The hookup fees for the Westport Beach development have already been paid.

Notices were sent to City Departments, utility companies and the U.S. Postal Service.

It is recommended to consider conditional approval of the subdivision replat based on its consistency with City plans and ordinances. The conditions of approval are as follows:

1. An Attorney Title Opinion is received.
2. A certificate is received showing taxes are current.
3. A Final Plat is received showing the necessary easements.

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

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

Chair Lenzmeier opened public hearing A09-17 Subdivision, Rezoning from Agricultural to R-1: One & Two Family Dwellings of property in the NW¼ of Section 32, T140N, R49W, Cass County, North Dakota & Land Use Plan Amendment from Agricultural Preservation/Urban Reserve to Low Density Residential.

Steven reviewed the following information from the staff report:

The property is located on the east side of County Hwy 17, South of 19th Avenue North and north of Sheyenne Diversion's north tie-back levee. The applicant is proposing to subdivide and rezone the property for single family use. The property is in the city's Extraterritorial Area and the applicant intends to request annexation.

The current land use for the area is Agricultural Preservation/Urban Reserve and a land use plan amendment is required to allow for low density residential. The agricultural preservation/urban reserve designation is intended to establish and preserve areas for agricultural uses and eventual future urban growth. This designation is only applied to areas outside of the West Fargo corporate limits and within the extraterritorial area that are not protected by the Sheyenne Diversion. Urban scale development is not recommended in these areas until adequate infrastructure arrangements have been made. The proposed use is consistent with City Plans and Ordinances only after the land use plan is amended.

The applicant has submitted a preliminary plat and area plan. The Preliminary Plat provides for 250 lots. Lots range in size from 7,000 to over 42,000 ft². The average size lot will be between 8,000 & 9,000 ft². City ordinances state that the minimum area of lots in R-1 zoning is 5,000 ft² for a one family lot. The smallest lot proposed in this subdivision is 7,000 ft², which is well above the minimum of 5,000 ft².

The developer is asking to amend the land use plan to show this area as low density residential. As per the city's comprehensive plan, low density residential is referred to as any development that has the density of 10 units/acre or less. This development is being proposed at 4.6 units/acre, which would classify this as low density residential.

The platted access point to Cass County Hwy #17 would be aligned with 16th Ave NW on the west side of Cass County Hwy #17. There is also second access point shown off of 19th Ave NE. The City right-of-way dedication standard for the County Hwy #17 and 19th Ave are 150 feet as the streets are intended to be minor arterial streets. Cass County Engineering was

notified as the road in this area is in the Extraterritorial Area and maintained by the County.

The Preliminary Plat shows individual sewer and water services will be required, as well as street improvements that have been requested. The proposed street right-of-ways are 70 feet which is more than adequate. The Preliminary Plat does not have street names shown. Names must be approved by the city prior to recording the plat. For the city to extend services to this area it first must be annexed into the city, which the developer is requesting at this time. The City Engineer is in the process of preparing engineer estimates to determine the costs associated with municipal services. It would be appropriate to delay action on the subdivision until the July meeting until the City Commission can review the costs.

This property is located along a roadway that is located within the CO: Corridor Overlay District which requires a 45 foot setback from ROW. It also requires that residential developments that have double frontage on a designated street (Hwy 17) and local streets must implement either a fencing plan or install landscape treatments such as berming and buffering.

Park dedication is required for the property. The park district has 30 days from the time they were notified to make a recommendation. The park district is not expected to provide a recommendation until after their June meeting.

Notices were sent out to City departments, Cass County, township officials, utility companies and neighboring property owners and few comments have been received. The issue of flooding and water flow is the concern of all individuals. The developer has taken elevations in this area and the city engineer and SE Cass Rural Water have been notified and are reviewing the potential impact(s) of this development on the flow/storage of flood water on the surrounding properties. It would be prudent for the city to delay a decision until it can be shown that this development will not have significant negative effects on properties to the west.

It is recommended to delay action on the subdivision plat for one month until the City can develop a municipal services plan, the City has received additional information from SE Cass Water Resource District, and recommendations are received from the park district.

Clayton Brennan, 2608 Ann Street, stated concerns with drainage, especially since they're still reeling from the recent flooding. He submitted a photo to the commissioners showing the area during the flood. He referred to a culvert that was emptying water into the area to the east.

Mark McCallister, Reed Township Chair, stated that when the water gets high enough, it crosses Cass County Highway #17. He stated concern with there being nowhere for the water to go if this area is developed. He described where the water flows during flooding and indicated there aren't enough culverts or places for the water to flow.

Bob Sedevie, 407 16th Avenue NW, stated that he lives west of Cass County Highway #17 and asked about R-1 zoning. Steven stated that the average size lot will be 8,000–9,000 ft². Mr. Sedevie stated that with 250 single family lots, he's concerned with only two accesses in and out of the development; he also didn't understand how that many homes could be considered low density. He also stated that he's concerned with flooding on the west side and more culverts are needed.

Steven stated that both 19th Avenue NE and Cass County Highway #17 are considered minor arterial roads with limited access. The minimum distance between accesses 650'.

Jerry Beck, 1751 County Highway #17 North, stated that he's concerned with flooding. Restricting the water flow will cause problems. He's also concerned with ingress and egress as there is talk about moving his driveway to the interior of the new development. He submitted a letter listing his concerns for the record.

Larry Francis, 306 15th Ave NW, stated that he's lived west of Cass County Highway #17 since 1987 and is also concerned with flooding and water not being able to flow across the highway because of this development. Two years ago when he added onto his garage, he had to notify everyone in his development. He's concerned because the notification area for this was only 150'. He's concerned with there being 250 houses and that the development not conforming with the rest of the houses in the area.

County Engineer Keith Berndt stated that their standard for r-o-w is 100' and not the 75' staff recommends. They would like an additional 25' to provide for turn lanes along Cass County Highway #17, which according to their subdivision regulations, the developer would pay for. He would also like to be part of the staff discussions regarding the flood elevations.

Mr. Sedevie asked what the minimum height/elevation the houses would need to be built at. Larry indicated that the City Engineer and SE Cass Water Resource District are in the process of studying these issues.

Eric Binstock, 605 32nd Ave NW, stated that 19th Avenue NE should be paved, especially with the increased traffic this development is going to bring to the area.

Terry Schneider, 319 15th Avenue NW, stated that any paving, improvements to Cass County Highway #17 is only going to cause more issues with flooding.

John Atkinson, 306 16th Avenue NW, stated that he bought his house last year to get out of the City. He doesn't want to look at other houses, deal with street lights shining into his bedroom window, increased traffic, flooding issues... He's a first time home buyer and his house is taxed at a value \$40,000 more than the cost of his house and is concerned that this development will lower his property value even more so. He's also concerned with safety – low income neighbors.

Mr. McCallister stated that 19th Avenue NE is the most expensive section for Reed Township to maintain and indicated it's not the best route to travel in the winter because it gets plugged with snow.

Jason Eid, President of Eid-Co, stated that he understands their concerns with the flooding issues and a year ago he began working with the City Engineer regarding storm water retention and detention. The 250 homes won't all be built at once, it will be phased in with 10-20 homes per year.

Commissioner Smedshammer asked about the culvert north of the tieback levee and asked where the water will go. Mr. Eid stated that he's leaving it to the City Engineer, but won't build homes right along the tieback levee at first in case they need to have more room for drainage. He also hopes that the drains along Cass County Highway #17 and 19th Avenue NE will remain, but again will leave it up to the engineers.

Commissioner Smedshammer stated concerns with increased traffic and asked for time frames for development. She also asked how many have 50' lot frontage. Mr. Eid stated that during the boom years, they built 50 homes per year in the Huntington Woods development. He doesn't see this area as being as desirable. He gave an example of Sheyenne Park 4th Addition as a development with similar sized lots/lot frontage.

Commissioner Keller asked about Huntington Woods. Mr. Eid stated that the lots to the north were 70-80' wide lots with 50' ones to the south.

Anne Schneider, 319 15th Avenue NW, stated concerns with the possibility of there being fencing with an earthen berm along Cass County #17 and that it would push the water to the west. Brock indicated that the developer will need to provide for their own drainage and that it's currently being reviewed by the City Engineer and SE Cass Waster Resource District.

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

Commissioner McDougall made a motion to table action on this until the July meeting. Commissioner Gustofson seconded the motion, no opposition. Motion carried.

Chair Lenzmeier opened public hearing A09-18 Rezoning from R-2: Limited Multiple Dwellings to R-3: Multiple Dwellings Lot 8 Block 2 of Eagle Run 12th Addition, City of West Fargo, North Dakota & Land Use Plan Amendment from Medium Density Residential to High Density Residential.

Larry reviewed the following information from the staff report:

The property is located north of 32nd Avenue and West of Sheyenne Street in the Eagle Run Development. The subdivision was approved by the City in November 2004 and the lot was zoned R-2: Limited Multiple Dwellings to accommodate smaller apartment buildings, townhouses or condominiums of eight units or less. The applicant is requesting the property to be rezoned to R-3: Multiple Dwellings to accommodate larger apartment buildings and more density. The application is not consistent with City Plans and Ordinances.

The Eagle Run 12th Addition subdivision and related zoning was approved by the City Commission in November 2004. The

subdivision was platted and zoned to accommodate commercial, high density residential and medium density residential development. Each of the two high density residential lots have been developed with 252 dwelling units in six structures for a total of 504 units in twelve structures. The high density residential development accounts for potentially all the allowable number of units for the entire section of land (Section 19) based on typical development characteristics. Though the R-2 zoning on the lot would allow for up to 160 3-bedroom units or up to 175 2-bedroom units based on lot size, the developer agreed to limit the remaining multiple family property for the development (which is the subject property) to 88 dwelling units with structures of eight units or less to accomplish the City's objective of mixing the multiple family unit types and to diversify the types of housing within Section 19.

The proposed R-3 zoning would allow 193 2-bedroom units, 214 1-bedroom units, or 241 efficiency units on the property with a concentration of high density multiple family in the subdivision. The Comprehensive Plan goals and objectives promote a diversity of multiple family residential units including townhouses, condominiums and lower and higher density rental properties to be evaluated by each section of land to ensure an equitable distribution throughout the growth area. Twenty percent of the multiple family units are to meet the medium density standards. Also, the Plan objectives are attempting to provide a housing development pattern with the ratio of single family dwelling units to multiple family units between 60-70% single family to 30-40% multiple family. This ratio would be similar to the development patterns of the existing City. West Fargo has a similar development pattern to Moorhead, however Fargo has about 55% of its housing stock in multiple family with large concentrations around West Acres and south of I-94.

The proposed rezoning would require a Comprehensive Plan Land Use Plan amendment from medium density residential classification to high density residential. The City would also need to reconsider its policy regarding the ratio of single family/multiple family. The manner in which densities are calculated was changed with the 2008 Comprehensive Plan. The 2000 Comprehensive Plan calculated density based on the gross subdivision area which did not relate well with the established zoning district and made calculations difficult as subdivisions developed. The 2008 Comprehensive Plan bases the density on the lot area which more closely relates to past development patterns and the zoning districts. Per the 2008 Comprehensive Plan, the developer could develop the property at a density of 16 units per acre of lot area which could increase the number of dwelling units on the subject property from 88 units to 141 units, provided that the City Commission amends the developer's agreement. The structures would continue to be limited to a maximum of 8 units per structure.

Based on the density changes in the Comprehensive Plan, it would seem reasonable to allow for additional units on the property. If the number of units is increased by 53 units to a total of 141 units, medium density would account for about 22 percent of the units within the subdivision. The increase in medium density units can be accommodated under the R-2 zoning; however, the developer's agreement would need to be amended.

It is recommended to deny the rezoning application on the basis that it is not consistent with the City's Land Use Plan, and a Land Use Plan amendment from medium density residential to high density residential is not consistent with the goals and objectives of the Comprehensive Plan.

There were no comments from the public, the hearing was closed.

Applicant Jim Bullis stated that they're looking for a product that makes economic sense. There are a number of 43 plexes to the west, commercial to the south and it's difficult to make 4, 6, & 8 plex lots work financially. The rents don't justify the construction costs. They're looking at a mix – 12-18 plexes. Maybe they should have asked for a PUD.

Larry stated that the comp plan does provide under medium density for 12-unit structures, but they need to be creative or "upscale". The intent is to allow for a mix as per the original developer's agreement. Mr. Bullis stated that this is more of a workforce neighborhood and not really a high end market.

Chair Lenzmeier suggested working with staff. Larry stated that the intent is that with larger buildings they need to show something exemplarily—something creative and different from the traditional "boxes".

Commissioner Keller made a motion to deny the request. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A09-19 Selberg's 4th Subdivision, subdivision & rezoning from Agricultural to R-1E: Rural Estate District property in the NE¼ of Section 30, T140N, R49W, Cass County, North Dakota.

Steven reviewed the following information from the staff report:

The property is south of 32nd Avenue NW, west of Cass County Highway #17, east of the Sheyenne River and shown on the City's FIRM (Flood Insurance Rate Map) as in a "Special Flood Hazard Area Inundated by 100-Year Floods." The subdivision is located within the inner tier of the City's extraterritorial area (one mile). The original developer of Selberg's 3rd Subdivision received plat approval in June 1999, and provided an area plan showing the development of the proposed plat area in a subsequent phase of development. The applicant purchased the property from the original developer and proposes subdividing the property for the purpose of selling lots and providing for additional rural residential development.

The proposed subdivision is located within one mile of the City which is under the extraterritorial authority of the City for planning and zoning purposes. The 2009 Legislature made some changes to the extraterritorial enabling statutes. Cities of our size are provided two miles of extraterritorial area to help plan for orderly development as the City grows. That area that is between one and 2 miles (outer tier) falls under joint authority of the City and township/county. The regulations of the township/county would govern in this area unless the City has approved a plat or site plan within the section or portion of a section prior to May 1, 2009. The statute does not require township/county review in the inner tier of the extraterritorial area; however the City has always sent information to the township/county and requested comments.

A preliminary plat of the property and proposed area plan for the remaining undeveloped property was submitted with the application. The preliminary plat proposes 15 platted lots. The City's Future Land Use Plan depicts the area developing as rural residential. It is likely the area will always remain rural in character. The Preliminary Plat provides for 70 feet of street right-of-way for the local streets under the City's ordinances. The applicant has provided 75 feet of right-of-way along the west side of Cass County Highway 17 which meets the subdivision standard for mile-line streets. Only 50 feet of right-of-way was established on 32nd Avenue NW which is also a mile-line street. This is consistent with the right-of-way for the Selberg's 3rd Subdivision which was developed prior to the current standards; however should be increased to 75 feet to meet the standards.

The applicant is also asking to rezone this property to R-1E: Rural Estate District. Selberg's 1st, 2nd & 3rd are zoned R-1E. The proposed subdivision is located within a designated 100-Year Floodplain. Generally properties within the 100-Year Floodplain are allowed to make improvements if the structures are adequately raised and protected; however, if properties are in a designated floodway, they are not allowed to make structural improvements.

When Selberg's 3rd Subdivision was approved it was approved with the condition that the developer takes steps to protect the area from flooding. In response to the city, county, and SE Cass RWD's concerns, the developer constructed an earth berm/levee around the area of Selberg's 3rd and also contains the area proposed for this plat. In 1999 a flood study was completed for the area by Houston Engineering for FEMA (Federal Emergency Management Agency), which showed an area south of the proposed subdivision as an identified flood breakout area. As a result the applicant voluntarily identified the flood breakout area on the area plan immediately adjacent to the Selberg's 3rd Subdivision and the proposed Selberg's 4th Subdivision which was sent to review agencies for review and comment. Certain procedures as set forth by FEMA, State and City need to be followed when reviewing building permits in floodplain areas to insure that structures are built to National Flood Insurance Program standards.

Park dedication is required for the development; however it would be appropriate to utilize the required flood breakout area to meet the park dedication. The developer owns the property south of the proposed subdivision and to the Sunrise Acres Subdivision. The City and developer should enter into an agreement establishing the dedication of the breakout area as meeting the park dedication obligation.

Notices were sent to City Departments, utility companies, the post office, adjacent property owners, county and township officials for review and comment. The County Engineer and Fargo/Cass Public Health have submitted concerns for this plat. The concerns of the County Engineer are that the dike ownership must be defined for maintenance reasons, examining the integrity of the levee, and asked for an addition 25 feet of right-of-way along Cass County Highway 17.

An easement, or other means, i.e. platting the dike as a lot, should be completed at this time which encompasses the dike in both Selberg's 3rd & 4th. Also, an official association must be set up that agrees to take over maintenance responsibilities for the entire dike at the appropriate time when the developer does not have a major role in the development. It appears that the levee is constructed adjacent to, but south of Selberg's 3rd and 4th Subdivisions. At this time following this spring's flood, it would be appropriate to examine the integrity of the dike.

The right-of-way proposed for the west half of Co. Hwy 17 allows for 150' of total R-O-W, which is the maximum the City can require, as per the Comprehensive Plan and subdivision ordinance. If additional ROW is desired the county may purchase the additional property from the owner. Additional ROW would also require moving the existing dike.

The Public Health Department submitted the comment that soil tests must be done before any septic systems can be installed. These tests should be conducted prior to the final plat approval since it may affect the final lot sizes and layout.

Staff recommends approval with the following conditions:

1. A proposed road development and maintenance plan is developed prior to Final Plat consideration by the City Commission. This may be addressed within the restrictive covenants that will be filed with the Final Plat.
2. A proposed drainage plan is received and approved by the City Engineer and Public Works Director prior to final approval by the City Commission.
3. Soil tests be conducted and approved for proposed lot layout for septic systems.
4. An Attorney Title Opinion is received.
5. A certificate of taxes is received showing that taxes are current.
6. Platting the dike or establishing any necessary easements for it, as well as necessary easements on the Final Plat.
7. Receiving a subdivision improvement agreement.

County Engineer Keith Berndt stated concerns with flooding and urged that the levees be built to Corps of Engineer standards. He also stated concerns with road, levee and drainage maintenance within the development as they've dealt with subdivisions in the past in which property owners have contacted the county when those areas are not being maintained and they want someone to take over the maintenance. He also suggested an additional 25' of right-of-way be dedicated to allow for turn lanes along Cass County Highway #17.

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

Developer Eric Binstock stated that as with Selberg's 3rd Addition, they will continue to do their own snow removal and road maintenance. In terms of flooding, the dike and levees kept their area from flooding this past spring. He also indicated they've spoken about possibly forming an association, with an architectural review board as well.

Commissioner McDougall asked about the location of the levee. Mr. Binstock pointed it out on the map – along Cass County Highway #17, then along the south side of the development to the Sheyenne River.

Commissioner McDougall asked about individual septic systems. Mr. Binstock stated that during the development of Selberg's 3rd from 2001-2004, they determined that the silty/clay topsoil was suitable for drain fields.

Commissioner Potter asked about the flood breakout area. Mr. Binstock stated that it has never been a floodway. Water breaks out at 19th Avenue and the designated area doesn't function as a floodway or retention area.

Commissioner McDougall asked about the elevation of the dike. Mr. Binstock stated that it's about 896-899'; however, they're going to push it up over 900'.

Discussion was held regarding a certified dike/levee, as well as maintenance. Larry stated that it is a recommendation from the County and not a condition for approval, as is the request for additional right-of-way.

Mr. Binstock stated that he's opposed to the additional 25' feet of r-o-w, because it would involve moving the existing levee.

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

The next item on the agenda was 2009 Bench Sign Franchise.

Larry reviewed the following information from the staff report:

The City Commission established a Bench Sign Franchise Ordinance in 1993 to allow bench advertising signs within the City

Limits subject to Planning and Zoning Commission review and meeting certain requirements. Following the establishment of the Ordinance, the Planning and Zoning Commission reviewed an application from FM Bench Ad Company, held the necessary hearings and developed some location placement requirements for bench advertising signs which are as follows:

1. Bench signs are only allowed if sidewalks are provided along the area.
2. A minimum of 30 feet of distance must be provided from the point of curvature of an intersection to the sign.
3. If the sign is located in a residentially zoned area, all property owners within 150 feet, excluding streets and alleys, must concur with the placement.
4. Bench signs must not in any way obstruct the sidewalk and be placed parallel to the sidewalk.
5. No more than 20 bench signs shall be allowed within the City.

An annual fee is required by the franchise ordinance, annual review and permit issued by the Planning and Zoning Commission, specific procedures to follow for changing or adding sign locations, liability insurance and other requirements. Please refer to the attached Bench Sign Franchise Ordinance.

The company holding the current City franchise license is Custom Graphics Bench Works, Inc. with Alexis Paxton listed as the representative. The annual permit expires each year on June 30th. Ms. Paxton submitted a request for annual renewal in May with the list of bench sign locations and fee to be approved at the June Planning and Zoning Commission meeting. The Certificate of Liability Insurance has been submitted for the period August 1, 2009 through August 1, 2010.

Upon reviewing the list of sign locations, it was determined that there are no changes from the locations approved last year. Eighteen locations for signs have been approved and are currently in place.

Larry stated that since 2000, there has been a lot of developmental growth throughout the City. The City Commission will be receiving a request at their June 15th meeting from another sign company, asking that more sign contractors be allowed. The City Commission can review, amend or allow the ordinance to remain the same. The City Attorney indicated that the Planning and Zoning Commission may want to table action this evening so the City Commission can review the request and provide more direction. There is a protective provision under the current franchise agreement that should the City Commission decide to change the current franchise, the owner would be granted an additional 60 days. He stated he does not know what the position of the City Commission will be on this issue.

Chair Lenzmeier suggested that this be looked at after the renewal. Larry stated that a City Commission item has already been prepared and the current franchise holder was contacted today and asked to attend tonight's meeting.

Commissioner Keller asked if the City Commission could end up approving a new company at the next meeting. Larry stated that it would require an ordinance amendment with two readings.

Chair Lenzmeier questioned the timing of the request, that it seemed unfair. Discussion was held regarding approving the permit and looking at this over the next year. Commissioner Gustofson indicated that the City of Fargo bids it out every 5 years. Larry stated that even if the Planning and Zoning Commission renews the permit, the City Commission can amend the ordinance and then the current holder would be given 60 days.

Commissioner McDougall asked what the other sign company's proposal to the City was. Larry stated that it was to amend the sign franchise ordinance to allow for more than one contractor.

Commissioner Gustofson questioned if this doesn't pertain to the Planning and Zoning Commission, then why do they have to review it.

Commissioner McDougall made a motion to approve the bench sign franchise permit for Custom Graphics/Benchworks. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

The next item on the agenda was Detailed Development Plans - A09-10 Charleswood 26th Addition, Replat & Rezoning from R-1A: Single Family Dwelling to PUD: Planned Unit Development, Lots 1-3, Block 4 of Charleswood 17th Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

Since the last meeting the developer has submitted detailed development plans including site plan, elevation plans, floor plans, and foundation plans. The developer has not submitted drainage/utility plans and landscape plan. The site plan shows front yard setbacks of 26 or more feet which are adequate. The side yard setback for the west side of the structure is 6 feet which should be increased to a minimum of 7 feet. The developer indicated that he may purchase a portion of the adjacent lot if necessary. Rear yards are fairly deep and include a water feature which meanders between the lots for the north structure and lots for the south structure.

Building elevations show a single-story townhouse structure. The front of the structure is faced with stack stone and dryvit. The sides and rear of the structure have traditional siding. The roof has asphalt shingles. Floor plans show the main floor of each unit with kitchen, dining room, family room, den, bath, master bedroom and master bathroom. Two additional bedrooms, bath, and mechanical room are in the lower level of each unit. The units have triple garages.

Since the last meeting it has been brought to our attention that the developer has subdivided the lots for the north structure to provide for common areas for the driveway and water feature. This is considered an illegal subdivision. A similar situation could occur with this subdivision if the developer desires to place the water feature in the common area. To correct the existing violation and prevent a similar situation for the current application, the developer is required to file a replat which will include the lots of both development phases. It is the staff recommendation that the detailed development plans be approved for the Planned Unit Development with the condition that a replat application is made immediately to address the violations and intended development plan.

It is recommended that the Detailed Development Plans for the proposed development are conditionally approved on the basis that the application is consistent with City plans and ordinances. The conditions of approval include the following:

1. A subdivision replat is filed immediately which will include all the property within the Charleswood 24th Addition and proposed Charleswood 26th Addition.
2. The site plan is adjusted to provide for a 7-foot or greater side yard setback on the west side of the structure.
3. A drainage/utility plan for the entire development is received and approved by the City Engineer.
4. A landscape plan with tree species is submitted.
5. An Attorney Title Opinion is received.
6. A certificate is received showing taxes are current.
7. Any necessary easements are reflected on the Final Plat.
8. The applicant provides a copy of the restrictive covenants or condominium documents for the entire development.
9. A construction schedule is provided to the City.
10. The City receives a development improvement agreement.
11. The applicant works with the U.S. Postal Service to determine the location of cluster boxes.

Commissioner McDougall made a motion for approval. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - A09-6 Conditional Use Permit to increase amount of allowable signage in an Ag District in the NE¼ of Section 12, T139N, R50W, Cass County, North Dakota.

Steven stated that since the last meeting, the applicant has changed the location to the south side of the building due to the Steffes building to the west. City Staff still has some concerns with the request with this being in an Agricultural District.

Wayne Stautz, Operations Coordinator for Cass Count Soil Conservation District, stated that the building will primarily be used for storage, but also office and classroom space for workshops on rain gardens, urban conservation and rain barrels. The sign is so people will know where they are located.

Discussion was held on the purpose of the building – commercial vs. agricultural and the intent of the signage.

Bernie Dardis, Indigo Signworks, stated that he's at the meeting only on behalf of Wayne, the customer.

Steven stated that the intent of the conditional use permit for signage was for a few square feet over the allowable signage, which is 32 ft².

Mr. Dardis stated that removing District would take off about 26 ft². Larry stated that he's still concerned with the use of the property. Mr. Stautz stated that it would primarily be for storage with the exception of some summer programs to promote rain gardens.

Discussion was held regarding reducing the size of the letters. Mr. Dardis indicated that wouldn't work for the motoring public along the interstate. Discussion was held regarding removing some of the words – Cass County, District...

Commissioner McDougall made a motion for approval of a sign not to exceed 50 ft² on the south side of the building. Commissioner Nelson seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - A09-4 Woodlinn West 4th Addition, Replat & Rezoning from R-2: Limited Multiple Dwellings to C: Light Commercial & PUD: Planned Unit Development of Lot 1, Block 1 of Woodlinn West 3rd Addition & Lot B, Block 8B of the Replat of Lot 16, Block 8 of Meyer's 2nd, City of West Fargo, North Dakota.

Larry stated that there is no additional information. That this should either be continued or removed until the developer returns with more information.

Commissioner Gustofson made a motion to remove this agenda item. Commissioner Nelson seconded the motion. No opposition. Motion carried.

Under non-agenda, Larry stated that he received a request for a Minor PUD Modification for a Patio area with Picnic tables, surrounded by a wrought iron fence on the east side of the Dairy Queen. Staff has no issues with the request; however, do have concerns with the owner not yet complying with the original landscaping plan. Trees need to be planted on the north and south sides.

Dairy Queen Manager Terry Pearson stated that she's spoken to the owner about it and will try to push it through.

Commissioner Nelson made a motion for approval subject to the condition that the landscaping plan be brought into compliance. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Steven introduced Planning Summer Intern Rob Deringer.

Bernie Dardis apologized to the Commission if he offended anyone regarding the Bench Signs. He indicated he's been trying to work with the City Administrator on this for the past 11 months and someone in his office pointed out that it was on the agenda for this evening.

Commissioner McDougall made a motion to adjourn. Meeting adjourned.