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

West Fargo Planning and Zoning Commission  
July 12, 2010 at 7:00 P.M.  
West Fargo City Hall

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

Members Absent: Tom McDougall,

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Dustin Scott, Bill Burke, Todd Fuchs, Darcy Pope-Fuchs, Rod Klein and Ryan Kellerman

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the June 14, 2010 meeting minutes as printed and mailed. Commissioner Keller seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A10-21 Conditional Use Permit to Increase amount of allowable signage in A: Agricultural District at 1805 West Main Avenue, West Fargo, ND (NE ¼ of Section 12, T139N, R50W, Cass County, North Dakota).

Steven reviewed the following information from the staff report:

The property is located along the south side of West Main Avenue near the I-94 on-ramps, on the Red River Valley Fairgrounds. The property is zoned Agricultural and is unplatted. The applicant is requesting an increase in the allowable signage in an Ag District. As per city ordinances the maximum sign area is 32ft<sup>2</sup>, the applicant is requesting 76.5 ft<sup>2</sup>.

The applicant is requesting 76.5 ft<sup>2</sup> of wall signage with a letter height that can be read easily by motorists Main Avenue and within the fairgrounds. This building is located on the Red River Valley Fairgrounds which has a conditional use permit that allows them to make changes to the property without having to go through a conditional use permit process for things related to the activities of the RRV Fairgrounds. This building is not associated with the RRV Fair.

The proposed signage would be comparable to the size and type of signage allowed in commercial and industrial zoned areas. The city has previously reviewed a request for a CUP to increase the amount of signage on the fairgrounds property and was approved, but was limited to 50 ft<sup>2</sup>. It is the opinion of staff that if this building is to be used in conjunction with and ancillary to the RRV Fair and other activities held on this property that the previously approved 50 ft<sup>2</sup> is acceptable and would be allowed.

Notices were sent to area property owners within 350' and no comments were received.

Staff recommends Conditional Approval based on precedence set in approving previous CUP for signage on fairgrounds property. It is recommended to approve the application ONLY if the applicant agrees to reduce the size of the sign to 50 ft<sup>2</sup>.

Steven stated that he had received a call from the applicant this afternoon who indicated they were in agreement with the 50 ft<sup>2</sup> limitation. The applicant would need to submit a mock-up of the sign showing the change.

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

Commissioner Potter asked about the previously approved Soil Conservation sign and if it was adequate. Steven stated that it can still be seen from I-94. Commissioner Gustofson asked what difference it makes; it's in the middle of the fairgrounds with limited visibility from any major streets.

Steven indicated that a precedent was set with the Soil Conservation sign last year. Originally it was recommended by staff that the sign be denied; however, the applicant reduced the size to 50 ft<sup>2</sup>. The current applicant agreed to the reduction in sign size, we need to be consistent, otherwise where do we draw the line? The next applicant might request a larger sign and so on and so on ...

Commissioner Sheeley made a motion for approval based on staff recommendations that the sign be limited to 50 ft<sup>2</sup> and a condition that a mock-up be provided showing the change in size. Commissioner Keller seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A10-22 Hayden Heights 2<sup>nd</sup> Addition, a Replat and Rezoning from R-1A: Single Family Dwellings to PUD: Planned Unit Development Lots 1-5, Block 1 and Lots 11 & 12, Block 2 of Hayden Heights Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located on the north side of 40th Avenue West about two miles south of I-94 and one mile west of Sheyenne Street. The property is situated west of the Sheyenne Diversion. The applicant proposes developing twin homes and single family residential structures. The proposed development is consistent with the City's Land Use Plan.

An Area Plan and Preliminary Plat of the property were submitted with the application. The preliminary plat shows 13 twin home structures which are 36-50' in width and 100' in depth and 8 single family structures which are 60-70' in width and 100-170' in depth. Access into the twin home area is via a 22-foot wide private drive called Hadley Way. The private drive would have two access points on public streets, 14th St W and 15th St W. The developer plans on using Lot 15 as a community garden area for the residents of this development. The plat shows an access off of the private drive between Lots 14 & 16.

Notices were sent to adjacent property owners, utility companies and City departments for review and comment.

Concept Development and Detailed Development plans are required to show the buildings, setbacks, elevations and landscaping are required prior to final approval for the PUD zoning.

Park Dedication has been met for this property.

Staff recommends approval with the following conditions:

1. Concept Development plans and Detailed Development Plans are received.
2. An Attorney Title Opinion is received.
3. Any necessary easements are placed on the Final Plat.
4. A subdivision improvement agreement is received.

Todd Fuchs, 948 Homestead Court, stated that he's opposed to private drives due to issues with not enough parking. He was against a similar request for a private drive near his neighborhood and any given weekend or evening there are 8-10 vehicles parked along the street instead of in driveways, which could cause issues if there's an emergency.

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

Steven indicated that both the police and fire departments have reviewed the request. There will not be any parking allowed along the private drive and all City Ordinance parking requirements are met.

Chair Lenzmeier asked if the developer is waiting to see if the Commission approves this prior to submitting Concept and Detailed Development Plans. Applicant Bill Burke indicated that he's waiting to see if this is approved prior to moving

forward with more detailed plans.

Commissioner Gustofson made a motion for approval based on staff recommendations. Commissioner Keller seconded the motion.

Commissioner Keller asked about the comments submitted by the Police Department indicating that they're not in favor of private drives. Steven indicated that is their standard response. They still have jurisdiction if there is an emergency; however, they can't write tickets. So they want their concerns known up front. Larry stated that the developer or association is responsible for enforcing and towing.

Commissioner Sheeley asked if a developer has ever given the police approval to issue parking citations. Steven stated that it was been discussed.

Chair Lenzmeier asked what types of people will purchase these units. Mr. Burke indicated they believe 55+ for the larger lots and families for the smaller ones.

The commission voted on the motion on the floor. No opposition. Motion carried.

The next item on the agenda was Continued A10-4 Stockyard's Corner 5<sup>th</sup> Addition, a replat of Lots 6 & 7, Block 1 of Stockyard's Corner 3<sup>rd</sup> Addition, City of West Fargo, North Dakota.

Larry stated that we first reviewed this request back in March. The primary issue is with access. Under the previous Stockyard's Corner 3<sup>rd</sup> plat, there was a shared access as recommended by the ND-DOT as the only access between two of the lots. The access plan does not work well with the current infrastructure that is in place.

Larry stated that the ND-DOT seemed comfortable with the proposed access, provided the affected property owners, Mr. Hofer and Mr. Klein buy into the median concept proposed under the Main Avenue reconstruction project. A meeting was held with the owner of the Harley Davidson store who still wants to visit with the ND-DOT. The City doesn't have to right to trump the state to allow access.

Applicant Rod Klein stated that nothing has been done. He bought this property 3 years ago and was told by the ND-DOT there was no problem with the proposed access. He's made several phone calls and isn't getting much of a response. He needs help and doesn't know where to go.

Chair Lenzmeier asked what could be done as this situation is stopping someone from developing his property.

Larry indicated that access on Main Avenue has been a major issue for at least 20 years. When Geller's was platted, the state wouldn't grant access. Very large lots with access onto side streets had to be platted or frontage (backage) roads had to be placed on the back sides of property as the ND-DOT was discontinuing frontage roads due to safety issues.

Larry stated that from a City standpoint, we cannot dictate access. The state told us that was where they wanted access and everyone was in agreement. With Mr. Klein's proposed access the spacing would be good. He stated that Harley Davidson hasn't taken any action. They were going to get back to us two months ago.

Mr. Klein stated that they could've had a half hour meeting months ago. Nobody is that busy. Chair Lenzmeier asked if staff could facilitate another meeting. Larry stated that he could try to do so.

Mr. Fuchs asked what the worst that could happen if Mr. Klein put in an access without approval. Chair Lenzmeier stated that they could close it off. Mr. Klein stated that Mr. Hofer isn't going to put in access.

Steven stated that Mr. Hofer belongs to the Do-It-Right Committee who wants 6<sup>th</sup> Street aligned, with full access. So the median doesn't suit his interest.

Mr. Klein stated that it'd be different if he hadn't called Bismarck prior to purchasing the property and getting the okay. Somewhere he has a letter from Chard Orn, the Main Avenue Project Manager, indicating his proposed access was acceptable. Unfortunately he's misplaced his letter.

Larry discussed developing the back sides of the property and leave a wide enough area on the front for turnaround. He stated that staff could try to facilitate another meeting. Chair Lenzmeier stated he'd like to see another meeting.

Discussion was held regarding how to help this along.

Commissioner Keller made a motion to aggressively try to set up a meeting with Mr. Hofer, Klein, City & State Staff. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Under non-agenda, there was a request for A10-23 Simple Lot Split of Lot 3, Block 1 of Homestead 1st Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located on Homestead Court, is zoned for single family dwellings and platted for single family homes. The applicant proposes to increase the area of Lot 4 to accommodate a proposed fence along the east side of his property. The proposed lot split is consistent with City plans and ordinances.

The applicant has submitted an application for a Simple Lot Split and a survey of the propose lot split with new legal descriptions. After the split Lot 4 would be 16,319 ft<sup>2</sup> and Lot 3 would be 10,488 ft<sup>2</sup> which would exceed the lot area requirements for each of the lots. The area that would be added to Lot 4 is 3,249 ft<sup>2</sup>. The simple lot split meets the conditions to not require a subdivision replat according to the subdivision ordinance.

Property owners within 150', City Departments and utility companies were notified. We received comments from Qwest that there are utilities along the south and west edges of the subdivision plat which would be along the south and west property lines of the properties affected by the simple lot split.

The City received the application on June 28<sup>th</sup>, however we did not receive the survey until July 9<sup>th</sup> which was after the agenda for the Planning and Zoning Commission went out. Notice was sent out on July 9<sup>th</sup> which has not allowed much time for comments.

Staff recommends approval with the following conditions:

1. The parcel split from Lot 3 is included within the deed for Lot 4 and verification provided to the City.
2. Additional time for comments is given until Friday, July 16, 2010. If additional comments are received, or issues identified, they would need to be addressed prior to the approval becoming effective.

Applicant Todd Fuchs apologized for the delay and explained the reason for his request.

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

Commissioner Keller made a motion to adjourn. Meeting adjourned.