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

West Fargo Planning and Zoning Commission
July 13, 2009 at 7:00 P.M.
West Fargo City Hall

Members Present: Tom McDougall
Wayne Nelson
Frank Lenzmeier
Terry Potter
Kim Keller

Members Absent: Harriet Smedshammer, Jason Gustofson

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Brock Storrusten, Rob Deringer, Mark McCallister, Jason Eid, Eric Binstock, Steve Iverson, Mark Bourdon, Mike Malmberg, Tim Solberg

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the June 8, 2009 meeting minutes as printed and mailed. Commissioner Nelson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A09-20 Westport Beach 6th Addition, a replat of Lots 40-43, Block 9 of Westport Beach 1st Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The existing subdivision, which was originally platted in May of 2004, is located south of 40th Avenue West and west of 9th Street West. This application is very similar to Westport Beach 5th Addition, which was reviewed at the last meeting. 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 40-43 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 6th Addition. Lots 1 & 2 are shown at 4,875 ft² (37.5' x 130') and Lots 3 & 4 are shown at 4, 485 ft² (34.5' x 130').

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. A certificate is received showing taxes are current.
2. An updated drainage plan is received and approved by the City Engineer.
3. A Final Plat is received showing the necessary easements.

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

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

Chair Lenzmeier opened public hearing A09-21 Eagle Run Plaza 3rd Addition, a Replat of Lot 2, Block 1 of Eagle Run Plaza 2nd Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located west of Sheyenne Street (Cass County Highway #17) and north of 32nd Avenue West, was originally platted and zoned for apartments and retail commercial lease space in November of 2004. The property was replatted in February of 2008 to allow for a commercial wireless tower and a future Fire Station. The applicant proposes to subdivide the property to allow for the sale of the tower property separately. The proposed use is generally consistent with City Plans and Ordinances.

The developer submitted an area plan and subdivision plat for the area being subdivided. The developer proposes to split out the property being used as a commercial wireless tower so that it can be sold separately. The applicant is providing a 20-foot access easement across Lot 2 to access the tower lot.

The staff has included a site plan for the existing tower site in the agenda packets, which was submitted for the City Commission tower co-location application and for the building permit. The access easement will provide access to the south side of the lot where the tower is located, and access to the equipment buildings would be along the east side of the property. The conditional use permit for the original commercial wireless tower provided a landscape plan as required by the Zoning Ordinance. The applicant needs to ensure that the landscaping can be accommodated on the proposed tower lot and still provide adequate room for access. If necessary the lot width should be adjusted accordingly.

The street rights-of-way were provided for in the original subdivision plat. Park dedication was taken care of with the original subdivision plat for commercial use which is not being changed. Notices were sent to City departments and utility companies; and notice was placed in the paper. No concerns were raised.

Staff recommends that the proposed subdivision replat is approved on the basis that it is consistent with City plans and ordinances. The conditions of approval are as follows:

1. A revised drainage plan is received and approved by the City Engineer and Public Works Director.
2. Necessary easements are placed on the Final Plat.
3. Adequate provision is made for access around the commercial wireless tower property and landscaping is installed as previously approved.

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

Commissioner McDougall asked if there is an actual easement on the property by the tower company for the tower. Larry stated that the actual site is being platted with a lot which the tower company will own. Commissioner McDougall referred to his property and indicated that he thought the 35' wide lot seemed odd.

Chair Lenzmeier asked about the City of Moorhead easement along the south side. Larry stated that there is a high power electrical corridor along 40th Avenue with the Moorhead easement on the north side and Minn-Kota to the south.

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

Chair Lenzmeier opened public hearing A09-22 Eagle Run Plaza 4th Addition, a replat of Lot 1, Block 4 of Eagle Run 12th Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located west of Sheyenne Street (Cass County Highway #17) and south of 29th Avenue West, was platted and zoned for retail commercial lease space in November of 2004. The applicant proposes to subdivide the lot as part of a land swap to provide for a fire station for the City. The proposed use is consistent with City Plans and Ordinances.

The developer submitted an area plan and subdivision plat showing the property split into two lots. The developer and City have worked out a land trade between this property and a lot located on 6th Street West to the southwest. A conceptual site plan for the fire station has been developed to ensure that the fire station can be accommodated on the property.

The street rights-of-way were provided for in the original subdivision plat. Park dedication was taken care of with the original subdivision plat. Though non-commercial or non-industrial uses would require additional dedication than was originally provided, the proposed use would be for a public facility, so it would not increase the dedication amount required.

The subdivision is located within the Corridor Overlay District which provides for the development of a landscape plan. The applicant should be responsible for submitting a landscape plan for the areas along the public streets. Trees along Sheyenne Street should be a minimum of 1 ½ inches in size and planted within the required buffer area on the lots when the lots are developed. Trees along 29th Avenue West and 5th Street West should be a minimum of 1 ¼ inches in size and planted within the boulevard areas when the lots are developed.

Notices were sent to City departments and utility companies; and notice was placed in the paper. No concerns were identified for the proposed subdivision.

Staff recommends that the proposed subdivision replat is conditionally approved on the basis that it is consistent with City plans and ordinances. The conditions of approval are as follows:

1. A revised drainage plan is received and approved by the City Engineer.
2. Necessary easements are placed on the Final Plat.
3. An Attorney Title Opinion is received
4. A landscape plan is received for the subdivision.
5. A subdivision improvement agreement is received.
6. A mail delivery plan is approved by the Post Office.

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

Discussion was held regarding the previous proposed location for the fire department. Larry stated that they have always wanted to be fairly close to Sheyenne Street and had looked at both sides of the river. Steven stated that they actually prefer this site.

Commissioner McDougall asked about signal lights. Larry stated that it would depend upon traffic. Brock indicated it was probably too close to the one along 32nd Avenue.

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

Chair Lenzmeier opened public hearing A09-23 Conditional Use Permit for increased size of two development signs for Lots 1-6, Block 1 and Lots 1 & 2, Block 3 of Christianson's 1st Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located south of I-94 and west of Sheyenne Street/Cass County Highway #17. The applicant proposes larger development signage to market the development property which requires a conditional use. The City has approved a proposed subdivision for the development area which has not been filed. The proposed use is consistent with City plans and ordinances.

The applicant proposes to market the area and wishes to increase the sign area for two development signs for the property. The applicant has submitted an application and sign scheme for the signs which are currently mounted on a semi-tractor trailer. Development signs on semi-tractor trailers are not allowed under the City's Sign Regulations. The City is in the process of citing the applicant for the sign violation.

One of the proposed signs would be about 111 square feet in area; the other proposed sign would be about 78 square feet in area. The signs would be freestanding signs. The applicant indicated that given the vehicle speeds and sight distance from eastbound I-94, they felt the larger signs were necessary for drivers to process the information without being distracted.

The applicant wanted the City to consider as part of this application a Zoning Ordinance amendment to the Sign Regulations providing for semi-tractor trailers for a sign scheme. The applicant was informed by the staff that the request was beyond the parameter of this application. Another application would need to be submitted which would follow a different public notice and public hearing process. The Zoning Ordinance does provide for larger development signs as a conditional use, and the

City has approved larger signs previously.

The size of the proposed signs appears to be reasonable for the location and is consistent with City plans and ordinances. According to the ordinance, signs must be removed within two years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner.

The applicant should submit a site plan showing the location of the signs with setbacks prior to the issuance of a permit. Notices were sent out to property owners within 350 feet. We were contacted by one property owner interested in seeing the proposed signage.

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

1. The applicant is required to immediately remove the semi-tractor trailer with illegal signage from the property.
2. A site plan is submitted showing the location of the proposed signs.

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

Commissioner Keller asked if the sign needed to be removed immediately. Steven stated that the developer has been contacted about this. Steve Iverson indicated that he will do his best to get a crew out there tomorrow and have it removed.

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

The next item on the agenda was Revised Plat Review - A09-19 Selberg's 4th Subdivision, a subdivision and rezoning from A: Agricultural to R-1E: Rural Estate District, property located in the NE $\frac{1}{4}$ of Section 30, T140N, R49W, Cass County, North Dakota.

Steven stated that at their June 29, 2009 meeting, the City Commission held the public hearing for the rezoning from Agricultural to R-1E for the proposed subdivision property and gave the ordinance its first reading. At their July 6, 2009 meeting, the City Commission received a request by the developer to add additional lots to the development. The City Commission tabled action on the second reading of the rezoning ordinance and Final Plat approval, and the Commission sent the revised Final Plat back to the Planning and Zoning Commission for their recommendation.

Steven reviewed the revised plat, which now shows 16 lots instead of the original 15. Larry stated that the health department had some concerns with the lot area with the plat submitted to the City Commission, so it was reduced to just adding one additional lot.

Commissioner McDougall made a motion for approval of the revised plat. Commissioner Potter seconded the motion.

Commissioner Keller asked about discussion with public health regarding soil testing several years ago and about putting in rural sewage systems. Larry stated that there has been discussions in the past, depends upon the soils. He also stated that if there is the potential that an area will be in the city, then there is a requirement that pipe or some type of system be installed. This area will probably not become part of the City. He stated that the Eagle Run area was outside the City, but the City was not comfortable with individual septic systems, so the area was set up at the start with a public sewer and water system.

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

The next item on the agenda was Continued - A09-17 Subdivision, Rezoning from Agricultural to R-1: One & Two Family Dwellings of property in the NW $\frac{1}{4}$ of Section 32, T140N, R49W, Cass County, North Dakota & Land Use Plan Amendment from Agricultural Preservation/Urban Reserve to Low Density Residential.

Steven stated that a meeting was held with Engineering, Public Works, the City Administrator and Public Works regarding the best way to go about developing this area to extend services on a regional basis. On June 29, 2009, the City Commission reviewed staff recommendations regarding annexing the entire area instead of just the Eid property, with 540 acres instead of Eid's 80. The rationale for annexing the additional area was to address the area infrastructure needs, including paving at 19th

Avenue North, extending services on a regional basis rather than on a subdivision by subdivision basis as it is more cost effective in this manner. The City Commission approved proceeding with annexation of the remaining land in Section 32 which is outside City limits.

Steven reviewed the revised plat, which was submitted after the packets were mailed out. The park district has asked for more frontage along the street and another entrance was added along Cass County Highway #17. He stated that the access does meet sign district requirements and the total number of lots was reduced by about 9-10 for a total of 241.

Steven stated that drainage and water flow was also brought up at the staff and City Commission meetings. According to ordinances, the developer cannot worsen flooding on neighboring properties and they have to be able handle drainage, as well as control the water flow. The City Engineer and developer are looking at drainage issues. He referred to a 25' buffer easement and referred to a proposed ditch, which may need to be adjusted. Larry stated that they're not sure if they'll need 25' or 50'.

As a result of the City Commission action, the staff recommends that the proposed subdivision and rezoning be approved, subject to the following conditions:

1. The Land Use Plan is amended from Agricultural Preservation to Low Density Residential.
2. A drainage plan is received and approved by the City Engineer which adequately addresses flood plain issues for the subdivision property while not increasing the flooding potential of properties west of Cass County Highway 17.
3. An Attorney Title Opinion is received.
4. A buffer area is established along Cass County Highway 17 and 19th Avenue NE to buffer the residential development from the arterial street/highway traffic noise. Buffering will consist of berming and tree planting or berming and fencing.
5. A Final Plat is received with adequate right-of-ways and utility easements.
6. A certificate is received showing taxes are current.
7. Restrictive covenants are received prior to recording the Final Plat if proposed.
8. A park dedication agreement is received.
9. Improvements to 19th Avenue will be required in a timely manner to accommodate the increased traffic. An agreement will be obtained with the Township.
10. A subdivision improvement agreement is received.

Chair Lenzmeier referred to item #2 regarding the drainage plan requirement.

Steven asked Brock if the 10' utility easement couldn't be included within the 25' buffer easement. Brock stated that yes, it could.

Eric Binstock, 605 32nd Ave NW, asked if the 25' buffer easement was included within the 75' of right-of-way. Steven stated it was not.

Chair Lenzmeier asked how item #9, improvements to 19th Avenue North, would work. Steven stated that the City isn't going to go to the expense of graveling it every year, nor do they have the equipment to maintain it the way the township does, so they would pave it and special assess it. Brock indicated they would probably pave up to the first access to the west and as the area develops, increase paving.

Reed Township Chair Mark McCallister stated that if they only pave part of it, the township won't be able to grade it. Brock indicated the City would take over maintenance. Mr. McCallister stated that the township just put down \$25,000 in gravel on that section within the last 3 weeks. He asked about maintenance in the meantime. Larry stated that the City will need to work with the township.

Mr. McCallister stated that they would still like to see a hydrology study conducted on the east side of Cass County Highway #17 and that the City should assume liability for the west side in terms of flooding and flood protection. Brock indicated that flood protection issues are part of SE Cass Water Resource District's responsibilities.

Discussion was held regarding flood studies and the most recent flooding in the area this past spring.

Chair Lenzmeier indicated that Commissioner McDougall had to leave for another meeting, but had some concerns regarding

the property on the west side of Cass County #17 and flooding potential. He asked about annexing the property on the west side. Mr. McCallister stated that they don't want to be annexed and there isn't much the township can do.

Discussion was held regarding flood control.

Mark Bourdon, 318 Woodland Place, stated that in terms of annexing and flood control to the west, he would be concerned being that he lives to the north and west, that the water would be shifted to their development. He stated this last spring they were flooded and at risk for over 6 weeks. Commissioner Nelson stated that annexation would give the residents the benefit of flood protection and city services. Mr. Bourdon stated that his home is fairly new with a private septic system. They have large lots in their development and would have to pay higher taxes if they were annexed into the City.

Chair Lenzmeier stated that discussion was getting off track and again referred to item #2 in the staff recommendations regarding drainage plan to address the property and not affecting properties west of Cass County Highway #17.

Mike Malmberg, 318 15th Avenue NW, stated that he would like to know what the plan is going to entail. Brock stated that prior to final plat approval, the drainage plan is going to have to be reviewed and approved. In preparing the drainage plan they're going to have to look at several factors, including the history of flooding in the area.

Mr. Binstock mentioned providing more culverts. He stated that if the water can't drain, it's going to affect his property to the north. Brock stated that SE Cass Water Resource District is going to have to look at the big picture.

Mr. Malmberg asked how the Eid property is going to be protected. Will they increase elevations? Brock referred to a LOMR – letter of map revision which would remove the area from the flood plain, indicating that most of the property is not in the 100 year flood plain. Mr. Binstock stated that is because Cass County Highway #17 acts like a dike and protects them.

Discussion was held regarding elevations.

Cass County Planner Tim Solberg asked for clarification on the local streets.

Mr. Malmberg asked about the speed limit along Cass County Highway #17 and the access into the Eid Development, as currently it's 55 mph. Brock stated that the speeds will be reduced. Discussion was held regarding accesses into the development.

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

Under nonagenda, Larry updated the Commission on the extraterritorial statutes approved during the last legislative session. The first mile is maintained by the City, the outer mile becomes joint jurisdiction to foster more cooperation. Larry stated that staff is in the process of delineating that area and then will sit down with the townships to address issues.

Mr. McCallister indicated that in terms of zoning and building permits, they'd be willing to work with the City, wouldn't mind it remaining as is, with the City in terms of permitting.

Steven indicated that instead of a NDPA conference this year, the Western Planner Conference will be held in conjunction with South Dakota in Spearfish on September 8th. He asked that commissioners notify us if interested in attending.

Commissioner Nelson made a motion to adjourn. Commissioner Keller seconded the motion. No opposition. Meeting adjourned.