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

West Fargo Planning and Zoning Commission
July 9, 2012 at 7:00 P.M.
West Fargo City Hall

Members Present: Tom Kiewel
Frank Lenzmeier
Terry Potter
Tom McDougall
Jerry Beck
Edward Sheeley
Connie Carlsrud

Others Present: Larry Weil, Lisa Sankey, Dustin Scott, Mike Thorstad, Jason Eid, Cory Hawley, Judy Holmen, Wally Tintes

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the June 11, 2012 meeting minutes as printed. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-32 Westview 1st Addition, Subdivision & Rezoning from Agricultural to R-1SM: Mixed One & Two Family Dwelling District of property in the SE¼ of Section 29, T139N, R49W, Cass County, North Dakota.

Larry stated that since the staff report went out, a revised plat was submitted covering the east half from the west boundary of the church property to the north. The remaining 20 acres will be platted as single family in the future. He then reviewed the following information from the staff report:

The property is located east of the Sheyenne River on the north side of 40th Avenue East and west of the 9th Grade Academy. The developer is proposing a single family development with a church. The property is located within the West Fargo Extraterritorial area and will need to be annexed.

The applicant proposes to develop a residential subdivision in the SE¼ of Section 29, east of the Sheyenne River and west of the West Fargo School District property (9th Grade Academy). The City's Land Use Plan depicts the majority of the area developing as Low Density Residential.

The applicant has submitted a preliminary plat and area plan. The Area Plan shows the Osgood development to the south and the Reserve at Osgood 1st Addition to the west. The west side of the subdivision borders a quarter section line. A collector street (future 4th Street East) is planned for extending from 40th Avenue East to north of 32nd Avenue East and would not allow residential lot access. The collector street is intended to align with Fargo's 63rd Street South. The collector street system for Section 29 was determined when Furnberg First Addition was approved. The Shadow Wood First Addition developed an area plan which was consistent to the approved collector street system. The location of the collector street system was planned prior to development, because of the number of property owners within Section 29. The quarter lines were common boundaries for ownership.

The Preliminary Plat consists of single family lots, plus two larger lots for the future Faith Lutheran Church facility. All lots meet or exceed the minimum lot and yard requirements for the R-1SM District. The staff has been informed by the applicant that the Preliminary plat will be revised to plat the church property and residential directly to the north which is about the east half of the property. The remaining property is intended to be platted at a later date.

The plat shows 11 residential lots with direct access to 7th St E. This is allowed due to the fact that 7th St E is a considered a

local street. Lots 18-20, Block 1 & Lots 23-26, Block 3, are proposed with access via 30' access easement. These properties are proposed to be built out as townhome development with detached single family units. The pavement/access to these units must be a minimum of 24' in width.

Access can only be allowed onto 40th Ave E at a spacing of less than 660' if it is approved by the city. The church is requesting an access onto 40th Ave at a spacing of less than 660. A traffic analysis should be done to determine the suitability of the requested access. There will also be an access onto 7th St E from the church property.

The street right-of-way for the internal local streets is shown at 62' and the north half of 40th Avenue East is shown at 75'. Seventh Street East right-of-way is shown as 30' for this plat. All meet the minimum city right-of-way standards.

The subdivision borders 40th Avenue which is an arterial street and is located in the Corridor Overlay District. Residential subdivisions are required to provide a dedicated buffer strip or provide an easement for the buffering of up to 30'. Buffering techniques may include a 4-6' berm and screening with solid fencing, coniferous trees or both. The Corridor Overlay District requires landscaping along the street corridor and increased building setbacks. This subdivision will be required to follow the city's Landscape Standards ordinance.

Larry stated that the easement/landscape buffer mentioned in the staff report, will be excluded from this plat and the next plat will address this for the residential area.

A drainage plan is required for the development. The developer proposes being part of the regional storm retention for Section 29. An area plan meeting was held with area property owners to discuss retention requirements. Property owners agreed that regional retention made the most sense. Other municipal service needs were also discussed at the area plan meeting.

Park dedication is required for the development.

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. Arrangements for payment need to be made prior to the subdivision plat being recorded.

Notices were sent to area property owners, as well as City departments, Park District, Post Office and Fargo Planning office. 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 in the past that the area will be serviced with Cluster Box Units (CBUs) as the mode of delivery. The developer needs to coordinate with the Post Office and make provision for the mode of delivery as part of the street improvement district.

It is recommended that the Preliminary Plat be approved subject to the following:

1. Departmental and other public comments are taken into consideration.
2. A certificate of taxes showing taxes being current is received.
3. A berming/buffering/landscape plan is received which provides for adequate buffering for the subdivision and landscaping with trees (40th Avenue East & 4th Street East).
4. A Drainage Plan is received and approved by the City Engineer.
5. A Final Plat is received with any necessary utility easements.
6. Recommendation from the Park District and a park dedication agreement is received.
7. The required utility hook-up fee is adequately addressed.
8. A CBU location plan is reviewed and approved by the Post Office and City.
9. A Subdivision Improvement Agreement is received.
10. Restrictive covenants are received and filed with the Final Plat.

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

Commissioner McDougall asked for clarification on the revised plat. Larry indicated the west half will be platted at a later date.

Chair Lenzmeier asked about access for the church yet to be determined and if it's appropriate to go forward. Larry stated that 7th Street East will be going in this year, so if access onto 40th Avenue isn't allowed then the two church lots will need to be combined or an access easement be used. Currently the Sheyenne 9th Grade Center has access onto 40th Avenue, which meets the 660' spacing requirement.

Discussion was held regarding regional retention.

Discussion was held regarding park dedication. Larry indicated that the park district hadn't made a decision yet. Chair Lenzmeier stated concern with cash-in-lieu, especially once the land is gone and developed as something other than park and the cash is spent, there's nothing to show for it. He referred to the Fire Department having to pay \$80,000 for land for their satellite facility in Eagle Run and wondered why the developer couldn't have dedicated land toward public uses rather than to the park.

Commissioner Sheeley asked about the percentage of dedication. Larry stated that we can ask them or staff could figure out land dedication. Larry stated that the park district makes the final determination on what they want --- land or cash-in-lieu.

Assistant City Engineer Dustin Scott stated that in conversations with the Park, they're running into issues with having enough personnel to maintain the park facilities. Larry stated that cash-in-lieu must go toward equipment and park facilities.

Commissioner Beck made a motion for approval based on staff recommendations, with an additional recommendation that an Attorney Title Opinion be received. Commissioner Potter seconded the motion. Discussion was held regarding coordination regarding park dedication. Larry indicated that park dedication is one of the conditions for approval. The commission then voted on the motion on the floor. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-33 Burlington 7th Addition, Replat, Planned Unit Development Amendment to allow for a multiple family development and Land Use Plan Amendment from Office Park to High Density Residential Lots 1 & 2, Block 1 of Burlington 6th Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located south of 19th Avenue East, east of 9th Street East and west of Burlington Drive. The property is vacant. The area to the east and north is developed with apartment buildings.

The Burlington Addition was platted in June of 2000 for a mixed use development including commercial, luxury townhouse apartments, apartments, townhouse condominiums and single family. The property along 9th Street East which was planned for commercial development and the lots to the east planned for luxury townhouse apartments have not been developed and were sold to another party. In 2010 the area was replatted to allow for development of the FM Ambulance site with the remaining property intended for commercial and apartments.

The proposed lot arrangement and use is not consistent with the City's Land Use Plan and would require a change from Office Park to High Density Residential along 9th Street East.

The applicant has submitted an application with Area Plan, Preliminary Plat, and concept development plan for multiple family development. The Area Plan shows the development in the area. Interstate 94 is located to the south, and multiple family uses are developed to the north and east of the subdivision. North of 19th Avenue East is single family development. Northwest of the subdivision is a middle school, and to the west is unplatted vacant property which has a Future Land Use Plan designation of Office Park.

The developer is proposing a change to the land use plan from Office Park to High Density Residential which would result in 61,959 square feet (1.42 acres) of property being removed from the commercial land use category. The City has a limited amount of land for commercial development according to the Land Use Plan. The City has not supported removing commercially designated land use from the Land Use Plan. It would be more appropriate to limit the multiple family to the area designated for that use.

The Preliminary Plat shows three lots within the subdivision. Proposed Lots 1 and 2 and part of Lot 3 are currently

designated for Office Park use on the City's Land Use Plan, while the balance of Lot 3 is designated for High Density Residential. If the multiple family development is revised to Lot 2, Block 1 of Burlington 6th Addition, a subdivision replat is not needed, unless rearranging Lot 1, Block 1 of Burlington 6th Addition.

The concept site plan shows three 36-unit apartment buildings along with 10 detached garage structures. The density for the development is 12.9 units per acre which is significantly below the allowable density which is 24 units per acre for 1-bedroom units or 20 units per acre for 3-bedroom units. The proposed 36-unit buildings have a unit mix of 9 1-bedroom units, 25 2-bedroom units, and 2 3-bedroom units.

According to the Planned Unit Development District, detailed development plans for development need to be submitted for public review and consideration by Planning and Zoning Commission and City Commission. At this time detailed development plans have not been submitted, so final review and consideration could only take place at the next Planning and Zoning Commission meeting following submittal of the required Detailed Development Plans consisting of the dimensioned site plan, landscape plan, drainage/utility plan, and building elevation and floor plans if any changes are proposed for construction. Along with all the dimensions on the site plan, calculations of the landscape open space area should be shown.

Access to the property is via established private access easements rather than direct access to public streets. According to prior agreement, traffic from the multiple family development is to be dispersed between Time Square Way and Queens Way. Pedestrian traffic should be accommodated by installing a 4-foot sidewalk along the south side of Queens Way and along the west side of Time Square Way. The private drives should be signed with "No Parking" signs which are the responsibility of the developer. Times Square Way was originally platted as a loop drive. The south connection was vacated with a previous plat which now creates two private drives with the same name. It would be appropriate to rename the west segment to avoid confusion.

A landscape plan should be developed as part of the detailed development plans and should follow the current City landscaping standard.

Notices and maps were sent out to City departments, Post Office, SE Cass Water Resource District and utility companies. It was noted by the Police Department that the private drives need to be sized to accommodate the traffic generated by the apartments.

It is recommended that the application be continued until the next meeting allowing for submittal of the remaining required detailed development plans, and furthermore to allow the developer to consider making revisions to the application to limit the multiple family use to Lot 2, Block 1 of Burlington 6th Addition.

Larry stated that notices were published in the paper and sent to property owners, so the public hearing should still be held.

There were no comments from the public.

Discussion was held regarding the high density residential not being consistent with the City's Land Use Plan. Commissioner Kiewel asked about limited commercial availability. Larry stated that this area involves 1.42 acres, which overall is a very small amount; however, the City Commission has been very concerned in the past regarding commercial properties. And it may be an issue of continuation. Last year there was a similar application south of 32nd Avenue, along 4th Street East involving 4 acres, which was denied by the Planning and Zoning Commission. Larry stated that the primary issue is that this area has been designated for commercial use.

Commissioner Sheeley asked what the developer may come back with. Larry stated that we haven't had any discussions or a response from the developer as he's been working out of town quite a bit.

Commissioner Sheeley made a motion to continue the public hearing until the next meeting. Commissioner McDougall seconded the motion. No opposition. Motion carried.

Then next two items on the agenda are continued – Public Hearing A12-24 Vibuck Addition, Subdivision, Rezoning from Agricultural to R-3: Multiple Dwellings & C: Light Commercial and Land Use Plan Amendment from Office Park to High Density Residential and General Commercial of property in the SE¼ of Section, 18, T139N, R49W, City of West Fargo,

North Dakota; and Public Hearing A12-25 WVP Addition, a Subdivision, Rezoning from Agricultural to R-3: Multiple Dwelling and PUD: Planned Unit Development and Land Use Plan Amendment from Medium and High Density Residential to High Density Residential and General Commercial of property in the NW¼ of Section 18, T139N, R49W (Barnes Township), Cass County, North Dakota.

Larry stated that property owners were notified. The applicant asked to delay this indefinitely; however, was told it could be delayed until October or it would need to be withdrawn.

Commissioner Sheeley made a motion to continue these hearings until October or be withdrawn. Commissioner McDougal seconded the motion. No opposition. Motion carried.

The next item on the agenda was A12-34 Minor PUD Modification for an accessory building at 925 10th Avenue East (Lot 2, Block 1 of Dakota Territory 10th Addition, City of West Fargo, North Dakota).

Larry reviewed the following information from the staff report:

In 2007 a Planned Unit Development Amendment was approved for construction of professional office space for an engineering company which was amended in August 2011 to accommodate expansion.

The request is for construction of an accessory building (garage) for an engineering firm. Detailed Development Plans, including site and elevation plans were submitting showing a ± 4878 square foot accessory building to the south side of the main building. The building will be used as a garage to store field vehicles, trailers, ATV's that currently sit outside of the current office building.

This property is located within the CO-R: Corridor Redevelopment District which requires a higher standard of building construction and site design. The building addition must be constructed with no more than 30% of the wall facing material being metal or fiberglass. The plans submitted show that this building will meet all CO-R District requirements. The elevation plans show a 14' tall building being faced with brick, glass, and architectural horizontal ribbed metal panel, which well exceeds the city's requirement of 70% non-metal or fiberglass materials. The building will be set back 30' from the west lot line, 9th St E, and 60' from the south property line. Both exceed the CO-R requirements.

The parking lot setbacks all meet CO-R requirements.

Notices with maps were sent to City Departments and property owners within 150'.

Staff recommends approval.

Commissioner Sheeley made a motion for approval. Commissioner Beck seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued - A12-19 Conditional Use Permit for Group Child Care Facility at 426 4th Avenue East (Lot 19, Block 5 of Meyer's 1st Addition), City of West Fargo, North Dakota.

Larry stated that this all should be continued. Steven met with the applicant and reviewed the site. A couple trees would need to be removed to accommodate extra parking. Also, due to concerns from area property owners, additional fencing would be required.

Commissioner McDougall made a motion to continue this until the next meeting. Commissioner Kiewel seconded the motion. No opposition. Motion carried.

Under non-agenda, Wally Tintes addressed the Commission regarding Park Dedication. Mr. Tintes indicated he was representing Mike Staber regarding the property on the west side of Cass County Highway #19. Several years ago Mr. Staber was quoted a price of \$35,000 for park dedication. He wants to get the land developed and into the City; however, he doesn't want to pay more than \$35,000. Between that amount and the \$8,000 Mr. Tintes paid for park dedication on the 5 acres he just developed, it ends up being 24% of the cost of what they paid for the land. He stated that it's going to cost over a quarter

of a million to tear down the building and he needs to save money for development.

Discussion was held on park dedication. Larry stated that it is 5% for commercial and 10% for residential. The value of the land can come from an appraisal, but typically in the past staff has looked at assessment records or recent sales instead. A purchase agreement can also be used to indicate the value, which was what Mr. Tintes did for his recent development.

Larry stated that Mr. Staber could make an argument that the Federal Beef property was already developed and therefore should be excluded from park dedication; however, there's still 100 acres of undeveloped property. Park dedication needs to be applied universally.

Commissioner McDougall made a motion to adjourn. Meeting adjourned.