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Larry M. Weil, Planning and Community Development Director  
Tim Solberg, Senior Planner  
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission  
January 13, 2014 at 7:00 P.M.  
West Fargo City Hall

Members Present: Jerry Beck  
Eddie Sheeley  
Terry Potter  
Scott Diamond  
LeRoy Johnson  
Connie Carlsrud  
Tom McDougall

Members Absent: Tom Kiewel

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Dustin Scott, Nate Vollmuth, Mark Bucholz, Dale Bucholz, Sue Kish, John and Debbie Trombley, Brandi Koffler, Chris Bruce, Amy Anderson, Carrie Summerfield, Ken Doggett, Andrea Sandbeck

The meeting was called to order by Chair McDougall.

Commissioner Potter made a motion to approve the December 9, 2013 meeting minutes as written. Commissioner Johnson seconded the motion. No opposition. Motion carried.

The first item on the agenda was election of Chair and Vice Chair.

Commissioner Potter made a motion to nominate Tom McDougall as Chair. Commissioner Sheeley seconded the motion. No opposition. Motion carried. Commissioner Johnson made a motion to close nominations and a unanimous ballot be cast for Commissioner McDougall. Commissioner Beck seconded the motion. No opposition. Motion carried.

Commissioner Potter made a motion to nominate Eddie Sheeley as Vice Chair. Commissioner Carlsrud seconded the motion. No opposition. Motion carried. Commissioner Johnson made a motion to close nominations and a unanimous ballot be cast for Commissioner Sheeley. Commissioner Beck seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A14-1 The Yard's 3<sup>rd</sup> Addition, a replat of Lots 7-8, Block 1 of The Yard's 2<sup>nd</sup> Addition, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The property is located directly to the north of the B.N.S.F railroad line, between Cass County Highway 19 and the Sheyenne River. The proposed use is consistent with City Plans and Ordinances. The applicant wishes to reconfigure the existing lots to provide adequate space for a lot to accommodate a potential sale.

Legal notice has been given in the paper and departmental reviews have been sent out. We have not received any comments of concern.

Staff recommends approval with the following conditions:

1. An Attorney Title Opinion is received.
2. A drainage plan is received and approved by the City Engineer.
3. A certificate is received showing taxes being current.
4. Any necessary easements are shown on the Final Plat.

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

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

Chair McDougall opened public hearing A14-2 Conditional Use Permit at 316 11<sup>th</sup> Street West (Lot 1, Block 1 of Westgo Commercial 3<sup>rd</sup> Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The property has been zoned for commercial and industrial uses for a number of years. Lots within the development have developed with light industrial uses. The property is partially developed with a communications tower and cold storage which are approved Conditional Uses. The proposed use is consistent with local plans and ordinances.

A site plan has been submitted showing the construction of a building addition which would be 2,100 ft<sup>2</sup> in area (30' x 70'). The property is located about two blocks from any major streets and within an industrially developed area. The proposed building is intended to be constructed of steel and for use as cold storage rental units.

It appears the criteria for granting a conditional use has been met.

Notices were sent out to property owners in the area. No comments have been received.

Staff recommends approval.

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

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

Chair McDougall opened public hearing A14-3 Maple Ridge at the Preserve 4<sup>th</sup> Addition, replat of Lots 16-19, Block 1 of Maple Ridge at the Preserve 2<sup>nd</sup> Addition & part of Lot 2, Block 1 of Koppang's Subdivision, City of West Fargo, North Dakota and Rezoning from R-R: Rural Residential to PUD: Planned Unit District Lots 17-19, Block 1 of Maple Ridge at the Preserve 2<sup>nd</sup> Addition, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The property is on the east side of the Sheyenne River, north of 32<sup>nd</sup> Avenue East and west of 4<sup>th</sup> Street East. The proposed rezoning is consistent with the City's Land Use Plan, which depicts the area as developing as Low Density Residential. The proposed use is consistent with City Plans and Ordinances.

When the first phase of the Maple Ridge development was proposed, the farmstead property owner had concerns with regards to access to the property. The farmstead is currently accessed via a private access easement through a rural residential development. The Planning & Zoning and City Commissions previously required the Area Plan be revised to show another access to the farmstead from Claire Drive East. The farmstead is now included within the subdivision with Lot 16 shown as an 80' wide access easement accessing the farmstead property (Lots 17 & 19). The access easement includes a turnaround on Lots 17 and 19. Lot 18 which is from the middle of the river to the west side of the river is a landlocked parcel which is unbuildable and hopefully will be added to adjacent property in the future as it is developed.

The Preliminary Plat consists of 9 large residential lots backing up to the Sheyenne River, as well as a single family lot to the east which has frontage on Claire Drive East. The developer proposes vacating a portion of the access easement on the east lot to accommodate a single family structure. Lot depths are 320' and greater with a 100' riverbank control line except the lot fronting on Claire Drive East which is about 135' in depth. Staff has recommended zoning the property to Planned Unit Development due to the unique nature of the development and lack of frontage on a public road for each lot.

Access for the development is proposed to be a private access easement, because a public street with standard right-of-way width, given the current lot configuration, would severely limit the development potential of the lots. The developer

proposes a small private development with high end homes. The City Staff have determined that access to Claire Drive East must be maintained for public safety. The existing 80' access to Claire Drive East could be converted to a public street which would require a minimum right-of-way width of 62', or the access easement could be reduced to accommodate a minimum 22' wide improved drive. The applicant is proposing some sort of berming and screening, possibly fencing along east side of the drive. The easement would need to accommodate a 5' setback to the property line to meet City standards and should also maintain a minimum of 5' setback to the home build line, so the minimum width should be 32' in width.

A drainage plan is required for the subdivision. Regional storm water retention areas are shown on the Area Plan and were provided for in the first phase of the development.

Park dedication was provided for with previous subdivisions, so no additional park dedication is required.

Notices were sent to area property owners. The City also provided the proposed development plans to City departments, Park District, Post Office, SE Cass Water Resource District, and utility companies. The Police Department has concerns about year-round maintenance of the private drive and will require that if a gate is used it be a breakthrough gate. These are both issues that will need to be addressed in the detailed development plans and developers agreements. We have received a few emails in opposition which were provided to commissioners, as well as three phone calls in opposition to the development. One call of opposition relates to the use of the 80' access easement for anything other than access, and the other calls related to the private access along the rear of the lots adjacent to the development and the preservation of the existing trees.

Tim stated that the area is designated as Low Density Residential. Because the proposed zoning is Planned Unit Development, the Concept Development Plans would be reviewed and if approved, the developer would submit Detailed Development Plans for review and consideration.

It is recommended the City Planning and Zoning Commission conditionally approve the proposed application in concept on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. Departmental and agency comments are taken into consideration.
2. Neighborhood concerns are considered in development of detailed development plans.
3. An Attorney Title Opinion is received.
4. A certificate of taxes showing taxes being current is received.
5. A Drainage Plan is received and approved by the City Engineer.
6. A Final Plat with any necessary easements is received.
7. A subdivision improvement/PUD agreement is received.
8. An approved mail delivery plan is developed.

Sue Kish, 3036 Claire Drive East, stated that she understood this would remain farmland. The majority of the residents purchased with that understanding and this would be totally different. She's concerned about wildlife, the road in their backyard. How far will the road be away from them and what type of buffer is proposed?

John Trombley, 3000 Claire Drive East, stated that they submitted an email. They live on Lot 13. The proposed turnaround would be directly behind their house. They're concerned with the loss of trees. When they built, the last thing they imagined was anyone destroying this area. They bought to avoid increased density, thinking this was the perfect combination of rural and urban.

Mr. Trombley stated that they asked their realtors about their property values and were told they would be negatively impacted by the two roads and loss of trees. He reviewed the potential development to the north. He realizes the developer has the legal right to develop, but asked to be treated with fairness as this will change their quality of life and impact the salability of their property through decrease in property values. He asked for compromise to maintain quality property values and to allow for development.

Debbie Trombley asked about the existing drainage behind their property. They intend to landscape and wonder where to drain their sump pumps. She asked if the road will be curbed.

Tim stated that has yet to be determined. Tonight the concept is being reviewed. The Assistant City Engineer could provide comments on drainage. Dustin Scott stated that the storm drain will remain and drainage plans will be designed for the new development. Curb and gutter are not likely as it would be a private drive.

Mrs. Trombley asked about snow removal, where will they put the snow? They have a beautiful backyard and thought it was farmland behind them.

Brandi Koffler, 3006 Claire Drive East, stated that when they asked about the property behind them, they were told Mr. Meyer intended to build a large home. She's concerned that it's now being divided up into 9 lots with a road. She's very disappointed and sad about this, the loss of wildlife...

Mrs. Kish stated that this went from 2 lots to 10. It's not fair.

Developer Mark Bucholz stated that they want to work with the neighbors and takes offense with some of the comments received tonight and via email. The lots are wider than standard single family ones, they propose lots of greenspace. He and his father intend to build their personal homes here. They bought it for the beauty, trees and peacefulness. They want to maintain that. He understands it's scary with the road; however, they are offering a natural berm, screening and fencing. This will be a private driveway that will be gated. This is a neighboring property and they have a right to develop it. He indicated they could develop covenants that any trees require approval to be removed. By going the PUD route, they would be able to have a private drive, maintain as many of the trees as possible rather than constructing a standard city street with 62' of right-of-way.

Dale Bucholz stated that they're proposing to place the turnaround in an area that doesn't have trees and the smaller drive would allow them to conserve as many trees as possible.

Mark indicated that building homes further to the east isn't feasible. He stated that they will be planting trees to replace ones removed and assume the residents to the east will be landscaping and planting trees in their backyards as well.

Chris Bruce, 3042 Claire Drive East stated that he lived in Eagle Run for 10 years and they never did see any trees. They're starting over again and is concerned about existing trees being removed.

Mark stated that the property owners are placing expectations on someone else's property. Commissioner Sheeley stated that this is the concept phase of the development. They will come back with detailed development plans.

Mrs. Koffler asked why they couldn't they just build two homes or why can't it be a City Park. People fish off of it. Mark stated that kids are using 4-wheelers and fishing on someone else's property.

Mrs. Trombley asked why there's a turnaround. Mark stated City Code requires it for emergency access. He discussed a possible dead end at the driveway and working with the City. Larry stated that the fire department prefers turnarounds rather than backing down. Two accesses are also required for developments

Discussion was held regarding buffering the driveway. Residents indicated they'd prefer a hedge rather than a solid fence.

Tim stated that there is no buffering requirement. He stated there will be opportunity with the Detailed Development Plans to provide more detail and to work with area property owners. Chair McDougall suggested the developer and property owners meet to discuss concerns and compromise.

The public hearing was closed.

Commissioner Beck made a motion to approve the concept development plans based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

Tim indicated property owners would be notified regarding meetings.

Chair McDougall opened public hearing A14-4 Conditional Use Permit for a group child care facility for up to 18 children at 1717 13<sup>th</sup> Street East (Lot 6, Block 3 of Huntington Woods Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant, who recently moved, was operating a child care facility at a different location. She would like to provide child care services for up to 18 children. The proposed use would be allowable as a conditional use within the R-1A: Single Family Dwelling District

The applicant submitted an application for a conditional use permit, site plan for the property, and has indicated she intends to care for 14-15 children. The property has a double-stall garage and two-stall driveway which accesses 13<sup>th</sup> Street East. The yard is fenced. A 6' solid fence is required to enclose the area in which children are to be playing outside.

Residential daycares are required to provide off-street parking of one space/10 children (drop-off and pick-up) and 1 space for every employee in addition to the two required spaces for all single family residential units. As per these requirements, the applicant must be able to provide 2 off-street parking spaces for the 18 children, plus additional parking for any employees. Currently the property can accommodate 2 on-site/off-street parking spaces in addition to the two spaces in the garage for the residential use. All spaces are constructed of a durable material, concrete or asphalt.

Notices were sent to property owners within 350'. Comments have been received addressing concerns related to traffic and excessive amounts of home daycares/businesses in the residential neighborhood. Staff has reviewed conditional use permits and known daycares in the area and attached a short report on these along with the conditions imposed by the Planning and City Commissions.

Staff recommends conditional approval only if ALL of the following conditions are met:

1. Adequate off-street parking spaces are provided to meet city code requirements.
2. Children are dropped off in the driveway only.

Applicant Andrea Sandbeck stated that they just moved in and started up the daycare last Wednesday. The trailers parked on the street aren't theirs, they used them for moving and they are now gone. Parents have been told not to park on the street, there's adequate room on the driveway.

There were no public comments. The hearing was closed.

Commissioner Potter asked about the playground equipment a neighbor mentioned being in the front yard. Mrs. Sandbeck stated that their gate was frozen shut and then the playground equipment was frozen in the front yard. It's been moved to the back yard. Commissioner Johnson asked about fencing. Mrs. Sandbeck indicated the property was fenced.

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

Chair McDougall opened public hearing A14-5 Conditional Use Permit for veterinary clinic with overnight facilities at 816 Meyer Drive (Lot 4, Block 1 of Meyer's 4<sup>th</sup> Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The proposed subdivision is north of 13<sup>th</sup> Avenue East, west of 9<sup>th</sup> Street East. The applicant submitted an application for a conditional use permit for a veterinary clinic with overnight facilities. The proposed development is consistent with the City's Land Use Plan which depicts the area as General Commercial.

The site plan shows an approximately 57' x 83' (4,591 ft<sup>2</sup>) building which is intended for use as a veterinary clinic.

Notices were sent to property owners and no comments were received. City Departments, Park District, SE Cass Water Resource District, utility companies and Post Office were also notified. Police noted the addition of two access points into the new location will take away some on-street parking spaces that have been used quite a bit by the surrounding businesses.

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

1. Overnight operations do not cause a nuisance to adjacent properties.

Ken Doggett, 1261 Cimarron Blvd., asked about overnight facilities and if animals would be kept outside. Applicant Amy Anderson stated that the reason they have a fenced area shown on the site plan is to provide a level of safety to decrease the potential of an animal getting loose. Currently employees have to walk animals outside on leashes. The primary reason for the overnight facilities is because they also act as the City dog pound. Mr. Doggett asked about the existing facility. Dr. Anderson stated that they hope to sell the building.

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

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

Chair McDougall opened public hearing A14-6 The Wild's 6<sup>th</sup> Addition, Subdivision and Rezoning from Agricultural to R-1A: Single Family Dwelling and P: Public Facility District, property in the S½ of Section 31, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The subdivision is located south of The Wilds 2<sup>nd</sup> and 3<sup>rd</sup> Additions which is west of Sheyenne Street and north of 52<sup>nd</sup> Avenue West. The developer proposes platting lots for single family development, as well as a park and future elementary school. The plat and uses are consistent with City plans and ordinances.

The developer has submitted an application, Area Plan and Preliminary Plat. The City's Land Use Plan depicts most of the area as Low Density Residential, with a small stretch along 52<sup>nd</sup> Ave as Medium Density Residential. A land use plan amendment will also be necessary. The Comprehensive Plan shows Sheyenne Street and 52<sup>nd</sup> Avenue West as Minor Arterial Streets; and 9<sup>th</sup> Street West as a Collector Street.

The Area Plan submitted by the developer shows where the proposed subdivision is located, as well as the surrounding properties/developments. With the addition of the school site, the Area Plan is slightly different than the plan which was approved with The Wilds 1<sup>st</sup> & 2<sup>nd</sup> Additions which affects the original street layout, retention ponds and park areas.

The Preliminary Plat consists of 134 single family. The lots exceed the lot and yard requirements for the proposed R-1A zoning. There are also two lots identified as park, as well as another for stormwater retention ponds. Lot 1, Block 5 is intended for a future elementary school.

Park dedication is required for the development. The required amount of park dedication for residential development is 10% of the gross area. The developer proposes to dedicate the open/green spaces throughout the development. The Park District reviewed and concurred with the developer's original proposal. The Park District is comfortable with the changes to this addition, but would like to revisit the total dedication within the Wild's to ensure they are on track with the original Area Plan. Staff intends to work with the developer and Park District on the overall area plan prior to final plat approval.

Tim indicated that since the developer is behind in park dedication for the area, an additional condition be required that the developer comply with park dedication requirements by providing a promissory note which would ensure the developer will provide the required 10% land dedication for the platted area up to this point. This document would be provided prior to final plat approval and recorded.

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

It is recommended that the City Planning and Zoning Commission conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. The proposed amendment to the Land Use Plan is advertised prior to City Commission final approvals.

2. An Attorney Title Opinion is received.
3. Departmental comments are taken into consideration.
4. A revised Area Plan is submitted showing the proposed parks, retention ponds and proposed pedestrian/bikeway connections with approvals from the Park Board.
5. A certificate of taxes showing taxes being current is received.
6. A Drainage Plan is received and approved by the City Engineer.
7. A Final Plat with any necessary easements is received.
8. The required utility hook-up fee is adequately addressed.
9. A park dedication agreement is received.
10. A subdivision improvement agreement is received.
11. A suitable mail delivery plan is in place with the Post Office.

As well as an additional condition that the developer comply with park dedication by providing a promissory note for 10% prior to final approval.

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

Chair McDougall stated concern with the park issue, especially with the lack of parks in Westport Beach.

Discussion was held regarding the developer's agreement/promissory note, which would be recorded to ensure the amount of land or cash-in-lieu.

Applicant Nate Vollmuth stated that he met with the park board and once this goes through they plan to go back and have the entire park plan reviewed.

Commissioner Diamond asked if promissory notes had been used in the past. Larry stated for improvement districts, not for park dedication.

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

Commissioner Johnson made a motion to adjourn. Commissioner Beck seconded the motion. No opposition. Meeting adjourned.