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Tim Solberg, AICP, Director of Planning and Zoning
Larry M. Weil, Community Development Director
Lisa Sankey, Planner

West Fargo Planning and Zoning Commission
March 12, 2019 at 5:30pm
West Fargo City Hall

Members Present:

Tom McDougall
April Walker
Joe Kolb
Shane LeBahn
Megan Huffman

Members Absent:

Eric Dodds
Dave Gust
Jana Reinke

Others Present: Larry Weil, Tim Solberg, Dustin Scott, John Shockley, Courtney Williams, Mike Henline, Barb Erbstoesser, Austin Morris, Todd Rheault, Katina & Justin Behm, Julie & Maynard Helgaas, Carole Abernathey, Brian Herding

Minutes Submitted By: Courtney Williams, *Executive Assistant to the City Administrator*

The meeting was called to order by Chair McDougall at 5:30pm.

Commissioner Walker made a motion to approve the February 12, 2019 meeting minutes as printed and mailed. Commissioner Kolb seconded the motion. No opposition. Motion carried.

Chair McDougall opened Public Hearing - A19-9 Halverson's Industrial Park 4th Addition, a replat of 311 and 323 15th Street NW (Lot 1-3, Block 2 of Halverson's Industrial Park Addition), City of West Fargo, North Dakota – Vogel

Lisa discussed the following:

The purpose of this application is to combine three lots.

- The applicant is proposing to combine three lots into two.
- Proposed Lot 2 is developed with an office/warehouse.
- The proposed lot sizes will adequately meet yard requirements for development in the LI: Light Industrial zoning district.

Notices were sent to applicable agencies and departments and no comments have been received.

The proposed application is consistent with the City plans and ordinances.

It is recommended that the City approve the proposed application on the basis it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. An updated drainage plan is approved by the City Engineer.
2. An Attorney Title Opinion to the City of West Fargo is received.
3. Signed Final Plat is received with any necessary easements.
4. A certificate is received showing taxes are current.

There was no Public Comment. The Public Hearing was closed.

Commissioner Huffman moved and Commissioner Walker seconded to approve the application with the four conditions listed in the staff report. No opposition. Motion carried.

Chair McDougall opened Public Hearing - A19-10 Rezoning from A: Agricultural, to C-OP: Commercial Office Park 310 24th Avenue East (property located in the NW¼ of Section 20, T139N, R49W), City of West Fargo, North Dakota – Rusty Goose

Tim discussed the following:

The purpose of this application is for a Rezoning from A: Agricultural to C-OP: Commercial Office Park.

- The applicant intends to sell the property and wishes to rezone the property to ensure the buyer's intended use will be permitted.
- The property is not platted which will be required prior to any development.
- The Interstate Corridor Overlay increases building and site requirements and would remain in place on the property.

Property owners within 150' feet were notified and no comments have been received to date.

- The City's new Comprehensive Plan does not restrict the use on the property and would not require a land use plan amendment. Staff finds it to be consistent with the City's new Comprehensive Plan.
- Buffer requirements found in the City's Landscaping Standards Section 4-449-A will ensure proper landscaping buffering between the Commercial Office Park uses and residential uses to the south.

It is recommended that the City approve the proposed application in concept on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Property is platted in accordance with City of West Fargo Subdivision Ordinance prior to any future development.

Tim stated that there is a typo in the recommendation; it should read 'approve with concept.'

Mike Henline, 2308 Rivers Bend Drive appeared before the Commission to voice concerns about trees and noise protection as well as privacy if a multi-level building goes in.

There was no other Public Comment. The Public Hearing was closed.

Commissioner Walker asked if there was a river setback, to which Tim stated it is 100 feet from the established riverbank, and that the riverbank is established by the City Engineer per City Ordinance.

Commissioner Kolb asked if there was a height allowance for an office park, to which Tim stated there are none.

Barb Erbstoesser, Director of the West Fargo Park District appeared before the Planning & Zoning Commission and stated that the path along 23rd Avenue will have park dedication.

Commissioner McDougall asked if there were buffer requirements in a zoned commercial office park, to which Tim stated there are buffer requirements in the landscaping standards of the zoning ordinance.

Austin Morris with Enclave Development appeared before the Planning & Zoning Commission and stated the goal is to build an office building on the north side of the lot to take advantage of the visibility of the interstate. He stated they would work to preserve as many trees as possible on the site.

Commissioner Kolb moved and Commissioner LeBahn seconded to approve the application as presented with the recommendation listed in the staff report. No opposition. Motion carried.

Chair McDougall opened Public Hearing – A19-11 Zoning Ordinance Amendment to Section 4-427-A C-OP: Commercial Office Park District.

Tim discussed the following:

- The purpose of this application is an amendment to Section 4-427-A C-OP: Commercial Office Park District. A proposed amendment would allow for medical and dental facilities such as clinics, hospitals, nursing, basic care or convalescent homes, not including Behavioral Health Care Facility to be a permitted use.
- The current ordinance does not provide for medical facilities, which staff believes to be a compatible use within the current districts permitted uses.
- The verbiage used is taken directly from the C: Light Commercial district and was intended to allow for typical medical facilities that would be a common site in an office setting. Further, having recently clarified language on nursing, basic care or convalescent homes, not including Behavioral Health Care Facilities would further protect the district from permitting by right uses which may be considered less compatible.

Notices have been placed in the newspaper and across City Departments, and no comments have been received to date.

Following the public hearing and obtaining public comments, consider recommending approval of the ordinance amendments.

There was no Public Comment. The Public Hearing was closed.

Commissioner Huffman moved and Commissioner Walker seconded to approve the application with the recommendation listed in the staff report. No opposition. Motion carried.

Chair McDougall opened Public Hearing – A19-12 Elmwood Court 4th Addition, Replat and Rezoning from P: Public Facilities to PUD: Planned Unit Development of 408 and 320 19th Avenue West (Lots 63 & 64, Block 2 of Elmwood Court Addition), City of West Fargo, North Dakota – West Fargo Park District

Tim discussed the following:

The purpose of this application is to replat and rezone for sale and development.

- The applicant has submitted an application, preliminary plat and area plan. The concept is simply to begin the process of rezoning to a Planned Unit Development (PUD) to begin a departure from it being used for Park facilities.
- The property was platted in 2002. Lot 64, Block 2 was dedicated and platted as Park, Lot 63, Block 2 was acquired by the West Fargo Park District and not dedicated on the plat.
- The plat is providing two lots. Lot 1, which includes a multi-use path connecting to South Elmwood Park, would be retained by the Park District.
- The applicant proposes rezoning a portion of the property to PUD, which would allow sale and development. A new lot would continue to provide the existing multi-use path and would remain zoned for Public Facilities owned by the West Fargo Park District.
- A PUD typically at concept phase would provide a concept of what is being proposed. At this time, however it is unknown how this property may develop. If a concept is to be approved, staff would suggest that a PUD Amendment be required in the future to ensure a second public hearing is provided to the neighborhood.
- Lot 64, Block 2 of Elmwood Court Addition is labeled as "PARK" on the recorded plat and provided within the dedication statement as dedicated "TO THE USE OF THE PUBLIC". Proper procedure for the vacation of this will likely be required and consideration by the City Attorney may be required.

Notices have been sent to property owners within 150' and applicable agencies and departments

- Phone calls and emails have been received with concerns regarding the property being developed near the residential area. All email correspondence received is attached to the staff report. The general concern is that whatever may develop be compatible with the adjacent residential. Some have expressed opposition to the property being developed at all.
- An email response from the Director of the West Fargo Park District is included for reference as a response to some opposition to the application.
- The President of the Board of City Commissioners has suggested that the Park District hold a neighborhood meeting prior to sale and development to help inform the neighborhood and City of the plans for the site.

Development on the site would not be inconsistent with the G-2 Sub-Urban-Growth Sector, however at the time of West Fargo 2.0 there was no discussion of this site redeveloping so it is not mentioned or considered as a developable piece of property.

It is recommended that the City approve the proposed application in concept on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Proper procedure for vacating Park land is provided for by the West Fargo Park District.
2. PUD Amendment is required for future development of the proposed Lot 2, Block 1 of Elmwood Court 4th Addition.
3. Concerns of adjacent properties be taken into consideration by applicant as detailed plans are developed.
4. Detailed Development Plans will be subject, but not limited to 4-440 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.

Commissioner McDougall asked if the park district owns both lots, to which Tim stated the Park District owns the farmstead as dedicated land, and owns the rest as deeded land. Tim stated the plan is to keep the bike path as is and continue to maintain as park property.

Barb Erbstoesser, Director of the West Fargo Park District appeared before the Planning & Zoning Commission and gave a brief history of the site and why they were interested in selling the lots.

West Fargo residents Katina and Justin Behm, 315 19th Avenue West, appeared before the Planning & Zoning Commission and spoke in opposition to the proposed application.

West Fargo residents Judy and Maynard Helgaas, 412 19th Ave W appeared before the Planning & Zoning Commission and spoke in opposition to the proposed application.

West Fargo Park Board Vice President Todd Rheault appeared before the Planning & Zoning Commission to speak in favor of the application. He stated that the Park Board would be discussing the application at the Park Board meeting on March 13, 2019 and residents are invited to come and voice their opinions.

West Fargo resident Brian Herding, 417 19th Avenue West, appeared before the Planning & Zoning Commission and spoke in opposition to the proposed application.

West Fargo resident Carole Abernathy, 412 19th Avenue West, appeared before the Planning & Zoning Commission and spoke in opposition to the proposed application.

There was no other Public Comment. The Public Hearing was closed.

Commissioner Kolb moved and Commissioner Walker seconded to deny the proposed application based on a lack of information. Commissioners Kolb, Walker, Huffman & McDougall voted in favor of denying. Commissioner LeBahn voted against. Motion carried 4-1.

The next item on the agenda was Revised Plat - A19-4 Forum Communications 1st Addition, Subdivision located in the SE ¼ of Section 5, T139N, R49W, City of West Fargo, North Dakota – 4 Suns LLLP

Tim discussed the following:

- The applicant is proposing to plat a previously un-platted parcel, which is zoned but not developed, into one lot.
- The applicant has submitted a preliminary plat and a concept master site plan showing future development of the site made up primarily of buildings and parking.
- Right-of-way is showing as 97 feet. The additional right of way is consistent with the City's previous easement acquisition on the property to accommodate future infrastructure and road needs of the corridor. No additional public streets or easements are being proposed at this time.
- Preliminary site plans that were provided do not appear to address retention needs. The standard for any subdivision is that the City Engineer review and approve a drainage plan prior to approval. There are a couple of protections that the City has to avoid future problems. One is the subdivision of land and the other is the building permit. Given plans at this point are preliminary, it is possible to allow the plat to move forward with a general drainage plan with future retention requirements to be considered at time of building permit. If the plat is intended to accommodate the sale of property it

is acceptable to continue with a generic drainage plan. If and when development occurs, area planning of drainage and retention will be required.

- Public dedication is required for the development, which would be 5% of the plat area for land or cash-in-lieu of land dedication at the established annual rate per square foot of developable land area. The City has not received any recommendations from City Departments or Park District for the dedication, which will need to be addressed prior to City Commission consideration.

Notices were sent to applicable agencies and departments, and a letter was received from the North Dakota Department of Transportation, which expressed concern on new access that appeared in the preliminary site plans provided and that the new development will add storm water runoff to the detention pond which lies west of the plat.

The proposed application is consistent with the City plans and ordinances as the property has already been zoned.

At their February 12, 2019 meeting, the Planning and Zoning Commission recommended approval of the subdivision, subject to the seven conditions listed below.

It is recommended that the City approve the proposed application on the basis it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Any additional access to Main Avenue and 9th Street follows proper procedures for approval.
2. A drainage plan is approved by the City Engineer taking into consideration the concerns expressed by ND DOT as well as future development plans of the property.
3. A signed subdivision agreement is received.
4. A signed public dedication agreement is received.
5. An Attorney Title Opinion is received.
6. Final Plat is received with any necessary easements.
7. A certificate is received showing taxes are current.

The applicant has updated the plat because the potential for development of the property has moved along quicker than they had originally expected. To avoid coming back with a future plat, staff is proposing to amend the original plat with the updated preliminary plat provided which includes further subdivision, required easements and will include more thorough analysis of an approved drainage plan by the City Engineer.

The new plat provides four lots for development and appropriate access and utility easements to properly service all lots. Access control by Ordinance would limit the developments access to Main Avenue and 9th Street NE until approved by the City Commission. The developer has abandoned plans to expand upon or drain into the ND DOT retention pond located to the west of the property and instead plans to drain to a retention pond to be developed on the north side of the property.

Staff would uphold its recommendation that the City approve the proposed application on the basis it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Any additional access to Main Avenue and 9th Street follows proper procedures for approval.
2. A drainage plan is approved by the City Engineer taking into consideration the concerns expressed by ND DOT as well as future development plans of the property.
3. A signed subdivision agreement is received.
4. A signed public dedication agreement is received.

5. An Attorney Title Opinion is received.
6. Final Plat is received with any necessary easements.
7. A certificate is received showing taxes are current.

Tim stated that there is no zoning change, just amending the original plat.

Commissioner Walker moved and Commissioner Kolb seconded to approve the application with the seven conditions listed in the staff report. No opposition. Motion carried.

Chair McDougall continued Public Hearing – A18-2 Tehar 2nd Addition, Replat of Lot 1, Block 1 of Tehar Subdivision, Subdivision property in the SE¼ of Section 18, T139N, R49W, City of West Fargo, North Dakota and Rezoning from A: Agricultural to PUD: Planned Unit Development – Graham.

Chair McDougall opened the Downtown District Guidelines discussion. Tim stated the guidelines are a proposed education piece for upcoming zoning district changes. Tim stated there was no action needed, and that a more thorough presentation will be given at the next meeting.

Chair McDougall opened the April 9th Meeting Scheduling Conflict discussion. Tim proposed that because the Board of Equalization meeting is scheduled for April 9th, the Planning and Zoning Commission will hold the April Planning & Zoning meeting a week earlier, on April 2nd at 5:30pm. No opposition.

There were no non-agenda items.

Commissioner Walker moved and Commissioner LeBahn seconded to adjourn No opposition. Meeting adjourned.