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

West Fargo Planning and Zoning Commission
January 8, 2018 at 7:00 P.M.
West Fargo City Hall

Members Present: Scott Diamond
 David Gust
 Joe Kolb
 Shane LeBahn
 Tom McDougall
 April Walker

Members Absent: Jana Reinke

Others Present: Larry Weil, Tim Solberg, Lisa Sankey, Dustin Scott, Mike Graham, Matt Marshall

The meeting was called to order by Chair McDougall.

Commissioner Gust made a motion to approve the December 11, 2017 meeting minutes as printed. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-1 Westview 3rd Addition, Subdivision and Rezoning from Agricultural to R-1SM: Mixed One & Two Family Dwellings, property in the SE $\frac{1}{4}$ of Section 29, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following:

The plat continues the development pattern of Westview 1st Addition directly to the east of this property. The applicant proposes to develop 37 single-family residential lots which meet the R-1SM district standards. The R-1SM district allows for single family lots as narrow as 36'; however, limits this to no more than 30% of the lots to be between 36-40' and no more than two lots of that size to be side by side. It also requires that 20% of the lots are 50-60' in width.

Right-of-way of 62' for Westview Lane East and 38th Avenue East provided is adequate as they are to be local streets. The right-of-way for 4th Street East has been established with previous plats. The public dedication for the subdivision will need to be determined once recommendations are received from the Park District. Some land dedication was received with the Westview 2nd Addition for excess right-of-way dedication with intent that the remaining dedication for the development would be cash-in-lieu.

Property owners within 150' and applicable agencies and departments were notified and no comments were received.

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

1. A signed subdivision improvement agreement is received.
2. Park or land dedication agreement is received.
3. Sewer hook-up fee is received.
4. A drainage plan is submitted and approved by the City Engineer.
5. A signed Final Plat is received with any necessary easements.
6. A certificate is received showing taxes are current.

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

Commissioner Diamond stated that his only question was about parks in terms of running out of room. Tim stated that they were assessed for parks in the Shadow Wood and Shadow Creek Developments.

Commissioner Walker asked about roads and making the transition to line up with 4th Street. She asked if there wasn't a requirement of a 90 degree angle and if it wouldn't be better to have the skew further to the east. Discussion was held regarding the intersection.

Commissioner Walker made a motion for approval based on the six conditions listed in the staff report, with an additional condition that the intersections at 38th Ave East and Westview Ln be squared as much as possible with 4th Street. Commissioner Diamond seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A18-2 Tehar 2nd Addition, a Subdivision and rezoning from A: Agricultural to C-OP: Commercial Office Park property located in the SE¼ of Section 18, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

Applicant is proposing to develop the property to C-OP: Commercial Office Park which is consistent with the land use plan of office park uses. The property is within the CO: Corridor Overlay; CO-SR: Sheyenne River Corridor Overlay; and the CO-I: Interstate Corridor Overlay.

The CO-SR: Sheyenne River Corridor Overlay establishes a 100' building control line (including primary buildings, accessory structures, parking lots, fill and other development which may cause increased riverbank destabilization) from the "established riverbank as determined by the City Engineer". The established riverbank is typically determined in consultation with geotechnical analysis by a qualified professional engineer when considering development. Relaxation of the use restrictions within the 100' building control line may be considered if it can be demonstrated through a soils analysis done by a qualified professional engineer that the soils can accommodate the use without sustaining future damage, but may be no closer than 50' from the established riverbank.

The applicant has employed a geotechnical firm to perform an analysis on the soils in the area to determine if the building control line can be reduced to 80'. Staff is awaiting review and consideration by the City Engineer.

There are questions regarding right of way needs and ownership of Beaton Drive, as well as allowable use by the City. It appears that Beaton Drive was established on ND DOT Right-of-way for I-94 as a minimum access rural road to provide access to a couple parcels, one along Sheyenne Street and the other east of the Sheyenne River (Beaton farmstead). Beaton Drive was maintained by Barnes Township prior to approval of the Melroe Co. First Addition. By agreement with the Township, the City agreed to maintain Beaton Drive between the subdivision and Sheyenne Street which was outside the City Limits. These questions will need to be addressed prior to final plat approval. Response by North Dakota DOT is anticipated prior to final approval. ND DOT allowed some Interstate Right-of-Way along the Bobcat Property to be included within the City's street right-of-way.

Property owners within 150' and applicable agencies and departments were notified. The City Attorney suggested a better description on the plat for the building control line. This language should be developed in coordination with comment from the City Engineer and consistent with language of the CO-SR: Sheyenne River Corridor Overlay district standards.

Comments were received from Southeast Cass Water Resource District suggesting a more appropriate setback of 152' from the center of the river channel should be employed which would be consistent with Cass County riverbank controls in subdivision unincorporated Cass County. Staff responded to these comments with the City's CO-SR district standards and the geotechnical report provided by the developer and is awaiting a response. Tim stated that the Engineer for SE Cass Water Resource District would like to meet with City staff to discuss issues with riverbank stability.

The proposed application is consistent with the City's land use plan which depicts the area developing as Commercial Office Park. It is recommended that the City Planning and Zoning Commission hold the public hearing on the application and continue the hearing until the information on the geotechnical report satisfactorily addresses questions by the City Engineer, as well as questions answered regarding the City's ability to utilize the ND DOT right-of-way presently accommodating Beaton Drive. Once these questions are addressed it would be appropriate to approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. The language on the plat which addresses the required Sheyenne River setback and building control line should be revised

based on recommendation of the City Engineer and consistent with the CO-SR district standards.

2. Authorization is received from ND DOT enabling the City to fully utilize the Beaton Drive roadway area as a City street, or allowing the City to incorporate the roadway area as street right-of-way.
3. A signed subdivision improvement agreement is received.
4. Park or land dedication agreement is received.
5. A drainage plan is received and approved by the City Engineer.
6. Signed Final Plat is received with any necessary easements.
7. A certificate is received showing taxes are current.

Tim stated that the developer would prefer this moves forward.

Developer Mike Graham stated that if the concerns have nothing to do from a zoning aspect, he'd prefer this keep moving forward. In terms of setbacks, they can get that info within the next couple of weeks. As far as the DOT, Dustin may have a better idea in terms of time frames.

Tim reviewed a revised plat, which was submitted earlier today. Lot 1 to the north, which was previously Lots 1-4, is a proposed lift station. Mr. Graham stated it's to service the new overpass on Sheyenne Street.

Economic Development Director Matt Marshall stated that his has been a challenging piece of property to develop for a long time. There's a prospect interested in developing the property, as well as the lift station site.

Chair McDougall asked if this was all contingent on engineering. Dustin stated that there is a discrepancy with the geotechnical report showing 125' setback vs. the plat showing 80' and they've asked for a new drawing, which was received on Friday. He reviewed possible building setbacks of 116' at the shortest up to 140'. Revisions show the shortest distance for paving is 60'. So in terms of setbacks, they should be good to go.

Dustin stated that in terms of Beaton Drive, the DOT was very reluctant to make a determination until it was known what improvements were to be made to Sheyenne Street. With the final design selected, Beaton Drive will need to be specifically addressed, and put in an agreement or a Memorandum of Understanding (MOU) formally with the City. It's uncertain if it will be deeded over by right-of-way, which historically it's been impossible to give up. The City has been given full use of the road. Until it's in writing, it's hard to guarantee when it will take place, though the DOT has given intent verbally.

Chair McDougall stated concern with safety in terms of the current narrow road width and ability for future improvements. Dustin stated that there is no intent to improve Beaton Drive at this time. The MOU can include the right to improve it to an urban road, who would pay for it, administer it. Originally Beaton Drive was put in as a gravel road to service the farmsteads during the original Sheyenne Overpass project.

Discussion was held regarding securing more right-of-way and potential building setbacks. Currently the roadway width is about 23'-24' wide, and typically right-of-way for commercial roads is 80; however, this site is unique in terms of development only occurring on the one side due to I-94 and Sheyenne Street frontage.

Mr. Graham stated that he has two sales going on, Lot 1 for the lift station and Lot 7. He has concerns with tabling this until the Sheyenne Street project is complete which is in two years. He would love to see the City buy the property from him and straighten out Beaton Drive, but he doesn't see that happening.

Chair McDougall stated concern with the plat in terms of proximity of buildings and visibility around the curve. Mr. Graham stated that there are site plans available with buildings laid out. Discussion was held regarding the interchange design and location of the exit ramp as it pertains to Beaton Drive.

Larry stated that they recognize concerns in dealing with the DOT. If they allow the use the full scale of the right-of-way vs. issues if right-of-way decreases. If the property becomes economically unviable to develop, who is responsible? Typically with an MOA, the DOT has the right to determine access. Dustin stated that depending on how it's written, they can retain control, with the right to approve, view and approve accesses. Commissioner LeBahn asked if the entirety of Beaton Road is owned by the DOT. Larry stated he believed up to the east of the river, by Bobcat's driveway.

Commissioner Walker asked about minimum building elevations. Dustin stated 898-899, which is 4' higher than the high river level. Commissioner Walker stated concern with increased fill affecting riverbank stability.

Commissioner Gust made a motion to continue the public hearing until the next meeting. Commissioner LeBahn seconded the motion. Commissioners Walker, McDougall, LeBahn, Gust, Diamond voted in favor of the motion. Commissioner Kolb voted against. Motion carried 5-1.

Discussion was held regarding the 7 items listed in the staff report as conditions for approval. Commissioner Kolb stated that the request is to rezone from Ag to C-OP and asked why not approve the zoning change. Commissioner Walker stated she's not convinced the parcel will support a building. Tim stated that he didn't think the boundary would change; however, there would be implications if approved and it's not buildable. The developer would like to move forward to use the land vs. economics. He stated concern with moving too fast and not doing their due diligence. The decision will need to be made next month. He then reviewed the 7 conditions listed in the staff report again. Tim reiterated that they don't want to approve a plat with lots that are not buildable.

Dustin stated that the consultant on the Sheyenne Street project is working with the DOT. Hopefully a draft outline, framework for the long term use of Beaton Drive and maintenance will be available.

Larry indicated that the next item on the agenda A17-36 The Wilds 10th Addition, was continued. Commissioner Gust made a motion to continue the public hearing at the developer's request. Commissioner Kolb seconded the motion. No opposition. Motion carried.

The next item on the agenda was the Comprehensive Plan Update. Tim stated that the first 35 pages were provided to commissioners and hopefully an open house to review it will be held in February.

The next item on the agenda was election of Chair and Vice Chair. Commissioner Kolb made a motion to nominate Tom as Chair. Commissioner Gust seconded the motion.

Commissioner Kolb made a motion to nominate Commissioner Walker as Vice Chair. Commissioner Gust seconded the motion.

Tim stated that Commissioners McDougall and Walker are both extraterritorial representatives, so it might be more appropriate to elect someone within the City limits. Commissioner Walker's nomination was withdrawn.

Commissioner Diamond made a motion to elect Commissioner Kolb as Vice Chair. Commissioner LeBahn seconded the motion.

Commissioner Gust made a motion that nominations cease and a unanimous ballot be cast for Chair and Vice Chair. Commissioner Walker seconded the motion. No opposition. Motion carried.

Commissioner Diamond made a motion to adjourn. Commissioner Gust seconded the motion. Meeting adjourned.