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

West Fargo Planning and Zoning Commission
Tuesday, October 9, 2018 at 5:30pm
West Fargo City Hall

Members Present:

April Walker
Shane LeBahn
Eric Dodds
Jana Reinke
Dave Gust

Members Absent:

Tom McDougall
Joe Kolb

Others Present: Larry Weil, Tim Solberg, Lisa Sankey, John Shockley

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

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

Commissioner LeBahn made a motion to approve the September 11, 2018 meeting minutes as printed and mailed. Commissioner Gust seconded the motion. No opposition. Motion carried.

Acting Chair Walker opened Public Hearing – A18-40 Conditional Use Permit for home occupation (hair salon) at 1618 8th Street East (Lot 6, Block 2 of Charleswood 4th Addition), City of West Fargo, North Dakota.

Lisa discussed the following:

The purpose of this application is for allowing for a home-occupation hair salon, which will have customers coming to the residence.

- The applicant is seeking to operate an existing hair salon business out of her home with appointment only service to customers.
- The applicant has provided a site plan of her house showing that the use would be operated in a 200 square foot addition on back of the house. A copy of the plan is attached for reference.

- Section 4-448 of the City Ordinances under supplementary district regulations lists provisions for home occupations for which the home based business would be subject to.
- Section 4-448.10 states that as a conditional use, the City may consider a home occupation use which has customers coming to the site. It further states that the City may place any conditions on the home occupation as deemed necessary to insure that it will not be a detriment to the character and livability of the surrounding neighborhood.
- Home based businesses are required to provide off-street parking for customers in addition to the two required spaces for all single family residential units.
- Currently it appears that the property can accommodate 4 on-site/off-street parking spaces including space in the garage for the residential use.
- The applicant has been provided and has no concern meeting the full list of requirements to follow under the provisions for home occupations.
- A conditional use permit agreement for the use will be required to be signed by the applicant and may include conditions deemed appropriate by the Commission.

Property owners within 350' and applicable agencies and departments were notified. A call was received from a resident regarding concerns with a commercial property being approved in a residential setting. Emails indicate the property owner is against a hair salon in an existing residential neighborhood on what he views as being a high traffic street. The email is attached hereto for reference.

The application may be considered consistent with the Comprehensive Plan if it is determined not be a detriment to the character and livability of the surrounding neighborhood.

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. Applicant meet all requirements set forth in the provisions for home occupations found in Section 4-448 of the City Ordinances.
2. Adequate parking for both the home occupation and the residence be maintained.
3. A Signed Conditional Use Permit Agreement is received.

The Public Hearing was opened.

Applicant Cassandra Jackson appeared before the Planning & Zoning Commission and stated that she understood the concerns about the traffic at the intersection and shares the safety concerns, and would tell clients to take 15th instead of 17th to get to her salon. Ms. Jackson stated that there would be no more than one or two cars in the driveway at one time, with three to six clients total in one day. Ms. Jackson stated that her salon will be a single chair, by appointment only salon; she also stated that the salon smell would not affect any neighbors. Finally, Ms. Jackson stated that she had done the research and having an in-home salon would be much more cost effective than renting a booth somewhere, and that there is already another hair salon in the Charleswood residential area.

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

Commissioner Gust stated that the application was very straightforward and that he would move for approval to stay consistent with other approved home occupation hair salons.

Commissioner Gust moved and Commission LeBahn seconded to approve the application with the three conditions listed. No opposition. Motion carried.

Acting Chair Walker opened Public Hearing – A18-41 Schatz Ranch 1st Addition, Subdivision and Conditional Use Permit at 4812 Sheyenne Street (Parcel in the SE¼ Section 31, T139N, R49W), City of West Fargo, North Dakota.

Tim discussed the following:

The purpose of this application is for a Conditional Use Permit and subsequent platting to accommodate the construction of a new non-farm single family dwelling on land which is zoned A: Agricultural.

- The applicant has submitted an application, site plan, and preliminary plat.
- Development of a non-farm single family residential dwelling may be permitted as a conditional use on legal lots of record provided that the property is platted in accordance with the City subdivision regulations and that each lot developed contain no more than one single family home (among other requirements).
- A preliminary site plan shows a proposed single family dwelling to the south and existing accessory building to the north. The existing single family structure will be demolished.
- There is one existing approach onto Sheyenne Street for the development which aligns with the existing 48th Ave E on the east side.
- The applicant is providing 75' of right of way dedication on the preliminary plat which would accommodate the City's requirement of up to 150' on arterial roadways. The Sheyenne Street Corridor Study does not propose improvements that would require additional right of way beyond 150'.
- Public and/or park dedication is not required for the development because there is no increase in intensity from one lot residential to one lot residential. Staff would suggest as part of the platting procedure that if the Park District provides any comments related to park needs that they be considered. If future re-subdivision is to occur to increase the density, land dedication may be required at that time.
- A sewer hook-up fee for all development south of Interstate 94 is required for the subdivision and will need to be addressed within a subdivision improvement agreement.
- In the case of "Tevye Addition" which was a one-lot residential subdivision on similarly situated and sized property, the City asked the applicant to sign an acknowledgement that the property would likely incur large special assessments as growth around the area occurs. A similar acknowledgement should be provided for this development as it is very likely to be the same situation for this property.
- An Attorney Title Opinion is required and will need to be received prior to Final Plat consideration.

Property owners within 150' and applicable agencies and departments were notified. No comments have been received to date.

The proposed application is neither opposed or supported by the City's Comprehensive Plan and is consistent with the Sheyenne Street Corridor Study and City Ordinances. Increased development would necessitate additional requirements, however the proposed plat does not change the intensity of the existing property.

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. The owner sign an acknowledgement prepared by the City Attorney recognizing the expense that the large lot may incur in regional improvements through special assessments in the future.
2. The property utilize local sewer and water connections and pay required hook-up fees.
3. Access location be included on the final plat and approved by the City Commission with a recommendation for approval by Planning and Zoning Commission.
4. A Signed Subdivision agreement is received and sewer hook-up fee is provided within the agreement.
5. Signed Conditional Use Permit Agreement is received.
6. A drainage plan is received and approved by the City Engineer.
7. An Attorney Title Opinion to the City of West Fargo is received.
8. Final Plat is received with any necessary easements.

A certificate is received showing taxes are current.

Tim stated that the applicant is aware of possible improvements and special assessments and that City Attorney John Shockley can put together an acknowledgement of potential assessments to be signed by the applicant.

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

Commissioner Reinke asked what the process would be if the applicants wanted to add lots or make any changes, to which Tim answered they would have to rezone and replat, and changes would have to come back to the Commission.

Commissioner Reinke asked if density was a concern, to which Tim stated no, but improvement costs will be large which is why some sort of signed acknowledgement of potential assessment costs would be beneficial.

Commissioner Dodds asked what would happen if the owners defaulted on payments if specials costs are too much, to which Tim stated the City would take ownership.

Commissioner Walker asked if there was an intent to develop in the area of the home to which Tim stated that development is not in the current plan, but it could be on the 10 year plan.

Commissioner Walker asked if the applicant had been informed of the potential costs and if they had signed any kind of waiver of protest from the applicant, to which Tim stated that waiver

language could be added into the approval, especially because the property could potentially have millions of dollars in assessments.

Commissioner Walker asked if the wording on page 3 regarding a prohibition of outside storage was a mistake, to which Tim stated yes, and it would be changed.

Commissioner Gust asked if the property could potentially have a pig farm due to the Agricultural zoning, to which Tim stated that it is not commercially zoned. City Attorney John Shockley stated that if the owners wanted to have a pig farm or anything to that extent, they would have to file for a Conditional Use Permit and it would be recorded against the property for future buyers.

Commissioner Dodds asked what the purpose and benefits of maintaining an AG Zoning, to which Tim stated that there was no underlying use classification to push it into any other zoning district, but the applicants could potentially rezone at a later date.

Commissioner Gust asked if the Planning & Zoning Commission is supposed to pass judgement on this type of application, to which Tim stated that this is the public forum to make recommendations and address concerns, so a recommendation can be passed to the City Commission for final approval.

Applicant Deanne Schatz appeared before the Planning & Zoning Commission and stated that she understands the possible assessment cost to the property. Ms. Schatz stated that the house is uninhabitable and has been torn down with plans to begin construction in spring.

Commissioner Reinke asked if there were plans to rezone the land after construction, to which Tim stated they could push for a rezoning but the Planning Department doesn't pre-zone land and they try not to promote Agricultural Zoning west of the diversion. Tim also stated they could recommend to the City Commission for a rezoning. Ms. Schatz stated there is no intention to have livestock and stated that they would not be opposed to a rezone. Ms. Schatz also stated again that they are aware of potential specials, and that the new house will be moved from the north end of the lot to the south end, with the sewer being attached on the north end coming down the center of the property so that if the north end is ever developed, the sewer is already there. Tim stated there is less of an issue if the land is zoned Agricultural due to legal nonconformity standards.

Commissioner Walker asked if there is any potential issue for access to Sheyenne Street if the property is split in the future, to which Tim stated that there is a public sewer and water easement underneath the property, but the driveway could become a public access point in the future. Commissioner Dodds asked if the north end could become commercial property, to which Tim stated that there is a want to have land available for commercial use, and that the applicant would be responsible for the driveway. Tim also stated that there is adequate right of way. Ms. Schatz stated that they plan to leave the north end vacant for now and see what happens in the future. She also stated that trees are being delivered next week to surround the property.

Commissioner Gust moved and Commissioner Reinke seconded to approve the applications with the nine conditions listed in the staff report, with a 10th addition added that the applicants must sign a waiver of protest acknowledgement. No opposition. Motion carried.

Tim stated that Planning Department staff will get an estimate on specials to include with the staff report when it goes before the Commission. Commissioner Dodds stated that the estimate should be calculated based on today's projections in 2017-2018 dollars.

Acting Chair Walker opened discussion for A18-42 Eagle Run Plaza 7th Addition, a Retracement (Combined) Plat of Lots 2 & 3, Block 1 of Eagle Run Plaza 1st Addition, City of West Fargo, North Dakota.

Tim discussed the following:

The purpose of this application is for a combination of two existing platted lots into one.

- The applicant is proposing to combine two previously subdivided lots into one to construct a commercial property.
- Property owners wishing to combine properties which have been previously platted for the purpose of building across lot lines and/or increasing lot area to address district requirements may submit a retracement plat provided the following conditions are met:
 1. No additional right-of-way is required or being established.
 2. There is no proposed or perceived need of public improvements as a result of the combining of platted lots.
 3. Lots to be combined are contiguous and under common ownership.
- The proposed retracement plat will not affect the property or use. The retracement plat will be given a subdivision name with a lot and block number, which will be of benefit to the City and Cass County for administration purposes.
- With retracement plats there are no street right-of-way dedication or park dedication requirements.
- A public hearing is not required, though the applicant must plat the property according to platting standards and the plat must be reviewed by the Planning and Zoning and City Commissions.

Notices have been 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 that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

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

Acting Chair Walker stated that even though it was not a Public Hearing, the commission would entertain Public Comment. There was no Public Comment.

Commissioner Reinke asked if the building expectations would be the same, to which Tim replied the same expectations apply no matter what.

Commissioner Dodds moved and Commissioner Gust seconded to approve the application. No opposition. Motion carried.

Acting Chair Walker 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.

Tim discussed the following Non-Agenda items:

- Planning & Zoning staff attended the Planning Conference in Grand Forks on October 13, participated in several interesting sessions
- Applicant Megan Huffman will be recommended to the City Commission to fill the vacant Planning Commissioner seat.
- The new Planner position has been posted on the city website. The position closes October 31.
- Bound versions of the Comprehensive Plan have been given to all Planning & Zoning Commissioners

Commissioner Gust moved and Commissioner Dodds seconded to adjourn. No opposition. Meeting adjourned.