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Sharon Schacher, Deputy Auditor  
Larry M. Weil, Planning Director  
Wanda J. Wilcox, City Assessor  
Dorinda Anderson, Business Development Director  
Jim Brownlee, CPA, City Auditor

West Fargo Planning and Zoning Commission  
January 9, 2006 at 7:00 P.M.  
West Fargo City Hall

Members Present:        Frank Lenzmeier  
                              Ross Holzmer  
                              Kim Keller  
                              Wayne Nelson  
                              Jason Gustofson  
                              Terry Potter  
                              Harriet Smedshammer

Others Present:    Larry Weil, Lisa Sankey, Steven Zimmer, Forrest Adams, Brock Storrusten, Paul Woitzel, Judy German, Garfield Hoglund, Steve Larson, Mary Schlangen, Derek Kraft, Ron Kieger

The meeting was called to order by Chair Lenzmeier.

Commissioner Smedshammer made a motion to approve the December 12, 2005 minutes as printed and mailed. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-1 Amendment to the Official Extraterritorial Boundary Map.

Larry Weil stated that based on recent annexations, particularly north of Main and 12<sup>th</sup> Avenues, the City of West Fargo is considering extending extraterritorial boundaries pursuant to the North Dakota Century Code. The City of West Fargo, by law, can extend its extraterritorial jurisdiction two (2) miles outside of its corporate city limits, in all directions.

He stated that the purpose of this meeting is informational and to receive public comments. He stated that before taking over zoning and subdivision authority from the affected jurisdictions there will be public meetings held to coordinate zoning classifications and allowed uses to assure that the transfer impacts are minimal.

We have contacted the townships and are waiting to hear back from them regarding zoning information. When we are contacted by all the townships, we will set up a public hearing for the appropriate rezoning at that time.

Paul Woitzel, 3581 166<sup>th</sup> Avenue SE (Mapleton, ND), stated that he lives in Section 34 of Raymond Township. He is

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concerned about regulations without representation, as none of the Planning and Zoning Commissioners or City Commissioners can live in his area. He also stated that building permit fees are the same as taxes, again without representation. The Sheyenne Diversion doesn't do him any good as he's not protected by it. He also asked how flood control issues and building permits under flood controls would be handled, as he lives in an area prone to flooding.

Judy German, 16605 36<sup>th</sup> Street SE (Mapleton, ND), stated that she was concerned about increased taxes, if their mail address would change and who would handle building permits. She also stated that they're within the floodplain for the Maple River and asked how flooding issues would be handled.

Garfield Hoglund, 7414 40<sup>th</sup> Avenue N (Fargo, ND), stated that he lives in Section 19 of Reed Township and his family has farmed in that area for a very long time. He asked if livestock would be grandfathered in and what would happen if they sold their land.

Steven Larson, 1001 Martin Drive, stated that he also lives in Section 19 and asked about the zoning for his area. Would it be agricultural, rural development? How would this impact their ability to build? If the area is zoned agricultural and they have covenants regarding livestock, will the new zoning ordinances override their covenants?

There were no other public comments. The hearing was closed

Chair Lenzmeier asked Larry to address the residents' questions.

Larry stated that there are two rural representatives on the Planning and Zoning Commission, who are appointed by the Cass County Commission. Harriet Smedshammer lives in Reed Township and Ross Holzmer lives in Barnes Township.

Larry stated that the extraterritorial extension does not affect taxes; the township is still the taxing authority.

Larry stated that the Sheyenne Diversion is not a West Fargo project. Southeast Cass Water Resource District is responsible for watershed issues and their engineer, Jeff Volk from Moore Engineering reviews any flood protection questions. As far as building permits and flood control, Building Administrator Mark Housh reviews those and his office is also located at Moore Engineering. Flood Plain requirements are based on National Flood Control regulations. Building additions would also be handled through the Building Administrator's office.

Larry stated that as far as changes to mailing addresses, the existing addresses were previously assigned by the county based on West Fargo addressing.

He stated that as far as remodeling, permits now handled by the township, would be handled by the City; however, the township would be contacted in terms of zoning and conditional use permit issues.

In terms of livestock, that would fall under the zoning regulations, coordinating with the township and if the area is rezoned to anything other than agricultural, then the City will coordinate as closely as possible to the township regulations. Larry stated that he is interested in finding out what zoning is in place. West Fargo has a couple of different zoning classifications, including Rural Residential, Rural Estate and Agricultural. As far as selling property, the property would remain agricultural unless a rural subdivision fits better. Covenants are private in nature and the City cannot enforce or override covenants, unless City regulations are more restrictive.

Mrs. German stated that she's puzzled with their Mapleton address as, they're just west of the Diversion along 12<sup>th</sup> Avenue North. Larry stated that staff would need to take a look at that issue.

Mr. Woitzel stated that there are about 13 houses, along 12<sup>th</sup> Avenue which Raymond Township has as agricultural. He asked if outbuildings would be regulated. Would they still be able to have outbuildings? Larry stated that if the area is zoned agricultural it can remain as such. Mr. Woitzel stated that the area they live in is referred to as "Sheldon Addition" and made up of about 2-4 acre parcels. Larry stated that in the past sometimes leaving the property agricultural is best from a residential standpoint. There is a new Rural Residential District which allows for subdivisions with larger lots and horses. Residents can review the guidelines and see what they feel more comfortable with.

Commissioner Gustofson asked about Nelson Acres. Larry stated that area was zoned Rural Residential and comprised of about 4-6 acre lots.

Commissioner Gustofson asked about the current building permit process in the township. Mr. Woitzel stated that he calls the township and the cost of the fee is based on value.

Larry stated that currently there are no plans for the City to annex the area. A lot of the land is located in the floodplain and will most likely remain agricultural. The primary reason for extending the extraterritorial limits is to coordinate development in terms of protection of City's growth, identifying road networks -- primarily it's transportation and land use.

Mr. Woitzel asked if this will go to a vote. Larry stated no, it will be determined by the City Commission. This is not annexation. He reviewed the State statute regarding extraterritorial areas.

Mr. Larson asked about time frames for the process. Larry stated that if information regarding zoning is received from the townships, hearings could be scheduled for the February 13<sup>th</sup> Planning and Zoning Commission, but it will more likely be sometime in March.

Mary Schlangen, 7318 40<sup>th</sup> Avenue N (Fargo, ND), asked if any of the extraterritorial areas overlap with Fargo's. Larry stated that there is an agreement in place that Cass County Highway #17 would define the area to the north.

Commissioner Nelson asked about taxes. Larry stated that taxes would still go to the township assessor, who sets the value on properties.

Derek Kraft, stated that he lives in Section 19 and asked if he purchases a permit from Reed Township and then West Fargo takes over permitting, would he need to pay for another building permit. Larry stated that if the permit is in place and you act within a certain period of time, the township permit would prevail.

Mr. Woitzel asked if zoning and subdivision information was available on the internet. Larry stated that West Fargo's website is westfargo.org and the information is located under Section 4 of the Ordinances.

Chair Lenzmeier opened public hearing A06-2 Meyer's 6<sup>th</sup> Addition, Replat of Lots 1 and 2, Block 3 of Meyer's 4<sup>th</sup> Addition, City of West Fargo, North Dakota.

Larry Weil read the following information from the staff report:

The property is located north of 13th Avenue East and west of 9th Street East. The existing corner lot is developed with a convenience store with gasoline service. The lot to the west is a vacant lot. The applicant proposes to utilize a portion of the vacant lot for street right-of-way for a connecting street between 13th Avenue East and Meyer Drive.

The applicant proposes purchasing vacant property to the west and providing for a connecting street from 13th Avenue East to Meyer Drive. This would provide additional traffic circulation capability in the area. Some property east of the new street is being incorporated with the convenience store property which would allow for future store expansion. Some left over property west of the new street is being platted as a small lot. The City established the 13th Avenue corridor with a 600-foot spacing requirement between street connections. No private connections were allowed.

With all the commercial development and related traffic at the intersection of 9th Street and 13th Avenue, the City needed to install a center median on 9th Street East about a year ago for traffic safety. This restricts access to the convenience store and bank property to the north to a right-in right-out maneuver off 9th Street East. The convenience store would like to see the access to businesses in the area improved, so they are leading the effort to provide an additional access alternative. Last year the City amended the Subdivision Ordinance to provide for spacing of connections to designated arterial streets and roadways in developing areas to 660 feet with a minimum spacing of 330 feet. Spacing of connections to designated arterial or collector streets and roadways in less developed areas is 1,320 with a minimum spacing of 660 feet. The distance between 9th Street East and the proposed Meyer Drive connection to 13th Avenue East is 300 feet from centerline to centerline which is 30 feet short of meeting the 330 spacing requirement. The 300-foot spacing would be half the distance of the original 600-foot minimum spacing design for 13th Avenue.

13th Avenue East in this area does have a center median which would not allow full access, but rather only right-in right-out access to and from 13th Avenue East onto Meyer Drive. Full access should not be considered because traffic is projected to increase on 13th Avenue. The City has had some discussion about the proposed street connection for a number of years anticipating traffic safety issues on 9th Street East and potential business access concerns once the median would be installed; however, there was no interest on the part of businesses until recently.

The proposed street connection will require a turn lane on 13th Avenue East. To accommodate the turn lane, additional right-of-way should be secured with the plat so that boulevard areas for desired landscaping are not eliminated. The amount of right-of-way should be based on the turn lane design which has not been completed yet. The lot to the west of the proposed street connection on the Preliminary Plat is too small to develop according to the zoning regulations. The property should remain with the ownership of the lot to the west. It would be appropriate to include Lot 3, Block 3 of Meyer's Fourth Addition in the replat so the two lots can be properly joined together.

We are still waiting for departmental comments. The Police Department indicated they didn't have any concerns. The City Engineer indicated there may be a need for additional right-of-way on 13<sup>th</sup> Avenue to accommodate turn lanes. Rezoning is not being considered so adjacent property owners were not notified of the replat; however, property owners within a proposed assessment district were notified of estimated assessment costs.

Staff recommends approval with the following conditions:

1. An Attorney Title Opinion is received.
2. A certificate is received showing taxes being current.
3. A drainage plan is received.
4. Additional right-of-way is secured on 13th Avenue East to accommodate turn lanes while maintaining a boulevard area for tree plantings. Property owners should plant and maintain trees according to the 13th Avenue Tree Planting Plan adopted by the City.
5. The lot to the west of the Preliminary Plat is incorporated into the plat and the small lot west of the proposed street connection is joined with the lot to the west.
6. A Final Plat is received with necessary easements.
7. A subdivision improvement agreement is signed by the applicant.

Ron Kieger from Kum-N-Go in Omaha stated that when the median was installed on 9<sup>th</sup> Street East, they lost about \$20,000 in business. They just want to put in a street to increase access to their business.

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

Discussion took place regarding the assessment district. Brock Storrusten stated that they have received a few responses from property owners who were concerned with the assessments. He indicated they will probably have another area plan meeting to discuss costs.

Commissioner Gustofson asked how much the project will cost. Brock indicated it would be about \$300,000, which includes street lighting.

Mr. Kieger indicated that their ultimate goal is to demolish the existing building and build a new store.

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

The next item on the agenda was A05-72 Simple Lot Split Lot 15, Block 5 of Elmwood Court Addition, City of West Fargo, North Dakota.

Larry stated that staff hasn't heard from the builder and will contact Moore Engineering to see where they are with building. The City shouldn't issue a certificate of occupancy if there's an error. The builder had been trying to negotiate the purchase of adjacent property because the structure was constructed over the property line.

Commissioner Nelson made a motion to continue this item until the next meeting. Commissioner Smedshammer seconded the motion. No opposition. Motion carried.

The next item on the agenda was A05-42 Eagle Run Plaza 1<sup>st</sup> Addition, Replat and Rezoning from C: Light Commercial to PUD: Planned Unit Development, Lot 1, Block 2 of Eagle Run 8<sup>th</sup> Addition, City of West Fargo, North Dakota.

Larry stated that this item has been on the agenda for the past 6-7 months. The developer was notified that this item will be taken off the agenda and they will need to start over if they don't respond. No comments have been received from the developer.

Commissioner Holzmer made a motion to remove this item from the agenda. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was Annual Election of Officers.

Commissioner Gustofson made a motion to elect Frank Lenzmeier as Chair. Commissioner Holzmer seconded the motion. Commissioner Lenzmeier made a motion to elect Wayne Nelson as Vice Chair. Commissioner Holzmer seconded the motion. No opposition. Motions carried.

Chair Lenzmeier asked for clarification on a portion of the 40<sup>th</sup> Avenue Corridor Study. Larry explained that both Fargo and West Fargo are considering three quarter access at a couple of intersections, similar to what is currently in front of Lowes along 13<sup>th</sup> Avenue in Fargo. Right in, Right out and left turn in.

Commissioner Gustofson made a motion to adjourn. Commissioner Nelson seconded the motion. No opposition. Meeting adjourned.