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

West Fargo Planning and Zoning Commission
June 12, 2006 at 7:00 P.M.
West Fargo City Hall

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

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Rob Jordahl, Jim Brownlee, Marius Rygg, Linda & Don Loberg, John Ries, Tom McDougal, Steve Gruden, Al Pritchard, Ron Loberg, Brad Rivers, Steve Carlson, Dick Leith, Brian Freed, Dan Bueide, Don Kukla, Paul Holiday

The meeting was called to order by Chair Lenzmeier.

Commissioner Smedshammer made a motion to approve the May 8, 2006 minutes as printed. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-30 Conditional Use Permit for oversized accessory building at 2918 5th Street NW (Lot 8, Block 1 of Selberg's 3rd Subdivision [Reed Township], Cass County, North Dakota).

Steven Zimmer reviewed the following information from the staff report:

The property is in Selberg's 3rd Subdivision which is within the city's extraterritorial jurisdiction, on the southwest corner of the intersection of 5th St NW and 30th Ave NW, south of township road 32nd Ave NW. The property is zoned R-1E: Rural Estate District and requires a conditional use permit to construct an accessory building larger than 1000 ft². The proposed use is consistent with City Plans and Ordinances.

The applicant has submitted a site plan and is proposing a 40' x 50' (2,000 ft²) detached garage. The wall height would be 10' with a 6:12 roof pitch. According to the site plan, the proposed accessory building meets setback requirements. Accessory structures over 1000 ft² have been conditionally approved in the past for rural subdivisions provided they are in character with the development pattern of the subdivision. The applicant has submitted elevations with his application that do not show the exterior finish, but do note that the siding and shingles will match the existing home.

With reference to the criteria for granting conditional uses, the following is noted:

1. Ingress and egress to the property is from 5th St NW which provides access to 32nd Ave NW.
2. The proposed use is viewed as generally compatible with adjacent properties and other property in the district. The proposed accessory building appears to be larger than any existing detached accessory buildings in the area. In 2003 a 2,400 square foot accessory building was proposed within the development which was opposed, because it was viewed as too large. The application was withdrawn prior to the public hearing.

Property owner will be required to have his property surveyed to find elevations to ensure the proposed structure is built above the 100 year flood plain level. This is a requirement of Building Administration prior to issuing a building permit

outside of the Sheyenne Diversion. Accessory buildings within the R-1E district are limited to 20' in height. Notices were sent to property owners within 350' review and we have received one call from a neighboring property owner requesting more information.

Staff recommends approval with the following condition:

1. The applicant complies with the City's flood plain standards.

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

Commissioner Nelson made a motion for approval. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-31 West River Addition, subdivision in the W½ of Section 29 & NE¼ of Section 30, T139N, R49W & replat of Borderud's 2nd Subdivision, City of West Fargo, North Dakota & Rezoning from Agricultural to R-L1A: Large Lot Single Family Dwellings, R-1A: Single Family Dwellings & R-1: One & Two Family Dwellings, property in the W½ of Section 29 & NE¼ of Section 30, T139N, R49W, City of West Fargo, North Dakota.

Larry Weil indicated this would also include vacating a portion of 36th Avenue East in Borderud's, as well as Kensington Drive in Windsor Green. He then reviewed the following information from the staff report:

The property is located east of the Eagle Run development on Sheyenne Street and between Borderud's and Windsor Green subdivisions. The property is currently farmed and has one rural residential dwelling on a separate lot of record. The area was annexed into the City in December 2005.

The applicant proposes to develop the property with single family dwellings, twin homes, church, and park/retention facilities. The proposed uses are consistent with City Plans and Ordinances. The applicant has recently purchased the property and proposes a residential subdivision with urban infrastructure improvements.

The developer has submitted an Area Plan which shows rural residential lots to the north in Borderud's subdivisions and to the south in Windsor Green Subdivision. The property is bordered by the Sheyenne River on the east side and Sheyenne Street (Cass County #17) on the west side. Eagle Run development is west of Sheyenne Street.

An Area Plan meeting was held with the developer, residents from Borderud's and Windsor Green subdivisions, Park District and City departments. A number of issues were discussed and answers given to a number of questions which are noted in the attached letters. Though some questions related to the proposed uses and size of lots, as well as street design, the bulk of the questions and discussion focused on the proposed and future municipal utilities which would result in assessments to the Borderud's and Windsor Green subdivisions. Additional improvement cost information was requested of the City Engineer, so another meeting was scheduled. There was some concern that the size of some of the proposed lots is somewhat smaller than the rural residential lots in the existing developments. With the subdivision being of urban character, it can be expected that the lot sizes will be smaller. The lots along the Sheyenne River are comparable in size to the rural residential lots. The residents of Windsor Green have submitted a petition to vacate Kensington Drive so it would become a private cul-de-sac drive for the development and not connect to the area now proposed for development. The City agreed to vacate the street during the mediation and annexation process which will turn maintenance responsibilities over to the residents, except for snow plowing. A private access and utility easement will be maintained in place of the public street. It is desired to include the vacated street with the proposed subdivision and plat the property as a lot.

The Land Use Plan depicts the area developing with Low Density Residential. The proposed mix of land uses including single family dwellings, twin homes, church, and park/retention is consistent with the plan. The Preliminary Plat shows 14 residential lots to be zoned R-L1A, 15 residential lots to be zoned R-1A, and 31 residential lots to be zoned R-1. Eight of the R-1 lots would accommodate four twin home structures. A total of 60 residential units could be constructed within the development. The lots for the church and park/retention facilities are also zoned R-1. All lots well exceed the lot and yard requirements for the proposed zoning districts. The plat also includes two lots from Borderud's Second Subdivision as these lots are affected by the proposed cul-de-sac street on 36th Avenue East.

The City's subdivision ordinance provides for easements, berms, and screening along arterial streets to mitigate noise

problems created by future traffic. Ideally the lots should be designed to have rear yards to the major street so that structures can be set back as far as possible from the street. The subdivision is designed so that three residential lots will have side yards along Sheyenne Street. A 30-foot easement is shown along Sheyenne Street which is intended for buffering the residential units from the arterial street. The easement should accommodate a berm of 4-6' in height along the residential lots and screening with solid fencing, coniferous trees or both. Fencing is preferred as it would provide for immediate screening. Additional trees would be beneficial. The developer should submit a detailed plan showing the berm and screening for consideration prior to City Commission approval. Also, the developer should provide for a continued maintenance scheme for the berm and screening.

The amount of right-of-way for Sheyenne Street is not reflected on the Preliminary Plat. The total amount of required r-o-w is 150'. Eagle Run Second Addition, which is immediately to the west, provided for 75' of r-o-w and showed only 60' of right-of-way in place on the east side. The amount of r-o-w should be verified and the east 75' of required r-o-w for Sheyenne Street should be platted with this subdivision. Adequate street right-of-way is shown for all the local streets within the subdivision.

Access to Sheyenne Street from 36th Avenue East is proposed to be eliminated and a cul-de-sac installed. Access to Sheyenne Street would be provided farther to the south at 37th Avenue East as recommended in the Cass County Highway 17 Corridor Study. The cul-de-sac will necessitate purchasing some property from two properties in Borderud's Second Subdivision. That portion of the 36th Avenue East r-o-w adjacent to Lots 21 and 24 of Borderud's Subdivision is proposed to be vacated as the street is not needed. In place of the street any necessary easements should be shown on the plat.

West River Drive should connect to 38th Avenue East which will access Sheyenne Street. Some improvements will be necessary at the intersection of Sheyenne Street and 38th Avenue East as there is a conflict with a frontage road which extends to the south. The frontage road should access 38th Avenue East as far to the east of the Sheyenne Street intersection as possible. Several trees will be affected when 38th Avenue East and related utilities are installed. It is suggested that the trees be replaced with boulevard trees as part of the street project. Kensington Drive should be vacated and in its place a private access and utility easement platted as a separate lot. The private access will terminate in a cul-de-sac without connecting to West River Drive or 38th Avenue East. The lot should be numbered and named so it can be found on maps. It is recommended that the lot be named Kensington Way as "ways" are reserved for private streets. The house addresses would remain the same. West River Circle should be renamed West River Place or West River Terrace as "circles" are intended for north/south orientation streets.

The City requires a building control line established on the plat when subdivisions are along the Sheyenne River. The building control line is to be established 100' from the riverbank. The plat reflects the intended building control line, though the City Engineer has not established the location of the riverbank yet.

The Park District is reviewing the proposed park dedication for the subdivision. The developer has suggested that a portion of the dedication would be in the form of land with the balance in the form of cash-in-lieu of land dedication. The developer suggested that the Park District utilize the cash-in-lieu funds to install park equipment. Once the City receives communication from the Park District, we will develop a park dedication agreement.

Notices and maps were sent out to residents of Borderud's and Windsor Green subdivisions, Park District, Post Office, Cass County Planning and City departments. Residents attended the Area Plan meeting and a special City municipal utility improvement meeting. Many questions that the residents had were answered at the meetings. It is anticipated that there will be additional questions and comments at the public hearing. The County questioned whether the developer has addressed river bank slumping potential with the river front lots. The City Engineer indicated that regional water/sewer needs to be addressed. Also, all easements for utilities, water, storm and sanitary need to be identified and placed on the Final Plat. Finally the riverbank control line needs to be labeled. The Police Department would like to see a river crossing at 36th Avenue East to provide for better traffic circulation for emergency vehicles across the river. Also, the 30-foot street r-o-w on 36th Avenue East is not adequate. Concern with line of sight at 37th Avenue East was raised. The name change from Hidden Circle to West River Drive to Kensington Drive creates a confusing addressing condition for emergency response and public. It was suggested to change West River Drive to Kensington. The cost of providing a street crossing at 36th Avenue East is substantial, and most departments would prefer not providing the crossing. With the design of the subdivision a portion of 36th Avenue East is proposed to be vacated. The location of 37th Avenue East was recommended in the Cass County Highway 17 Corridor Study as it improves the site distance from the current 36th Avenue East access location. With the proposed vacation of Kensington Drive, it would be appropriate to maintain the West River Drive street name. The Post

Office indicated that the type/mode of delivery needs to be determined by the USPS. The developer needs to meet with the Post Office to establish a plan. We have not received comments yet from the Fire Department or Public Works.

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. Any necessary easements are placed on the Final Plat.
4. A certificate is received showing taxes are current.
5. A detailed plan is submitted showing a berm and screening as well as a plan for continued maintenance.
6. The east 75' of required r-o-w along Sheyenne Street is shown on the Final Plat.
7. The City negotiates purchases of property for the cul-de-sac street on 36th Street East.
8. The necessary frontage road improvements at 38th Avenue East and Sheyenne Street are made.
9. The vacation of Kensington Drive is approved with the street platted as a lot with proper access and utility easements maintained and the lot named as Kensington Way.
10. West River Circle is renamed West River Place.
11. A building control line is placed on the Final Plat and established at 100' from the riverbank.
12. A park dedication agreement is received.
13. Restrictive covenants for the development are received for filing with the plat if proposed.
14. A subdivision improvement agreement is received.

John Ries, 3801 Kensington Drive, asked if there were any other options regarding removal of the existing tree line. Larry stated that he hadn't seen an actual street design yet. The tree line is located in the middle of the r-o-w and will be impacted.

Tom McDougall, 3513 Hidden Circle, stated that he's concerned the new development might force the change of street names in their existing development, indicated they were not interested in CBU's for mail delivery and he has concerns regarding city services and special assessments. He mentioned that ballots being distributed around their neighborhood by the engineering department.

Larry stated that with the existing subdivision, the post office would need to get approval on the way they deliver mail. The new development would be required to have CBUs. In terms of street names, the intent would not be to rename existing driveways. They will work out an addressing plan with emergency services for the new development. Utilities will be addressed at the City Commission meeting.

Steve Gruden, 3505 Hidden Circle, asked about Lots 23 & 24 in Borderuds and the vacation of the street to the south. How will it effect them and if it's replatted, will there be special assessments.

There were no more public comments. The hearing was closed.

Larry indicated that the property owners at the end of 36th Avenue would be affected by the configuration of the proposed cul-de-sac. They would like to leave the road as is, until it is time to be reconstructed, as the right-of-way will cut into their yards. Design configurations would be available for their review prior to the City Commission meeting.

Commission Holzmer asked as a property owner if they are going to be affected by the lots attached to West River, created by the vacation of 36th Avenue. He heard there were going to be two storm drains placed on these lots and currently they don't have any drainage problems. He's concerned this could cause problems with existing drainage and that they'll be assessed for the improvements.

Commissioner Gustofson made a motion for approval subject to staff recommendations. Commissioner Smedshammer seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-33 Bogey 4th Addition, replat of Lot 2, Block 1 of Bogey 2nd Addition and part of a parcel in the NE¼ of Section 5, T139N, R49W, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The proposed subdivision is located south of 12th Avenue NE and west of Cass County Drain #45. The property is a parcel of record which was recently subdivided by sale of property without submitting a proper subdivision plat. Prior to issuing a building permit for the property sold the City is requiring the property owners to submit a subdivision plat. The property was zoned Heavy Industrial by the City in May of 1985.

The owners are platting the property to allow for City recognition of a sale of property and for development of the property. The unplatted property began being utilized as a salvage storage yard in December of 1985, which was allowable as a permitted use under the M: Heavy Industrial District at that time. In 1993 the City amended the Zoning Ordinance which provided for wrecking and salvage yards only as a conditional use under the M: Heavy Industrial District. The City also adopted the General Plan for Urban Renewal and Urban Development and identified the area east of Armour Street to the east city limits and north of the Burlington Northern Railroad tracks to 12th Avenue North as an Urban Development Area. In 1996 the City approved an Urban Development Plan and Tax Increment Financing District for the area east of Hazer's property to 9th Street East and from the Burlington Northern Santa Fe Railroad tracks to 12th Avenue North. This provided for substantial public investment into the area by providing for municipal services including water, sewer, storm sewer and street improvements. In 1999 the Bogey Additions were platted to allow for a trucking company and industrial uses. A metal fabricating plant purchased and developed a property.

Recently the business owner purchased some property north of their plant from Hazer to expand their business. Prior to placing any permanent improvements on the property, the applicant is required to submit a subdivision plat for the property being subdivided. The metal fabrication business is incorporating their existing property with the property they recently purchased.

The property included within the proposed subdivision is depicted as General Industrial on the City's Future Land Use Plan. An Area Plan has been approved for this area previously. The subdivision is consistent with the approved Area Plan. The Preliminary Plat consists of three lots and half of a street between 9th Avenue NE and 11th Avenue NE which is consistent with the approved area plan. The remaining half street will be platted when the property to the east is platted. Lots 1 and 2 will continue to be used for storage of salvage vehicles. Lot 3 accommodates the existing metal fabrication business and the proposed expansion area.

Currently the only public street access to Lots 1 and 2 is from an access point off of 12th Avenue NE, which is viewed as less than desirable because 12th Avenue is considered a limited access street given its minor arterial classification. Also, the access is very close to a railroad crossing, which presents additional safety concerns. Once 5th Street NE and 11th Avenue NE are installed it would be appropriate to eliminate the access point to 12th Avenue NE. Until such time a temporary access would be maintained, and lots 1 and 2 should be maintained under the same ownership. Lot 3 currently has one access from 5th St NE, though a second access to the street is proposed once the street is extended. A portion of Drain 45 is being included in the subdivision plat so the relationship of the Drain to the property is known. There is an 80 foot sewer, water, and storm sewer easement that runs east from Drain 45 through proposed Lot 1. The property owner proposes dedicating the necessary r-o-w for 5th Street NE, which would extend along the property owner's property from 9th Avenue NE to 11th Avenue NE. The balance of the right-of-way will be required to be platted when the property to the east is platted.

Park dedication is required for the subdivision, though it is proposed that only dedication for Lot 3 would be due immediately, because it is currently being developed. Park dedication requirements for Lots 1 & 2 would be met when the lots are developed. The park dedication agreement would outline this proposal. The amount of park dedication would be 5% of the land area or its equivalent value as cash-in-lieu of land dedication. The City has not received the recommendation from the Park District yet.

Plat information was sent to City Departments, Park District and Post Office for review. The Police Department indicated concern over the half street right-of-way dedication for 5th Street if it is proposed to install the street at this time. Currently the intent is not to install the street. The Post Office indicated that there will be curb side delivery and that multiple deliveries for a building would be via a cluster box curbside. The Developer is responsible for all costs of mail box type and must contact the Post Office for type, mode and placement location.

Staff recommends approval with the following conditions:

1. A Final Plat is received with necessary easements shown.
2. A Drainage Plan is received.

3. A Park Dedication Agreement is received.
4. A Certificate is received showing taxes are current.
5. A Subdivision Improvement Agreement is received.

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

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

Chair Lenzmeier opened public hearing A06-34 Doll's 3rd Addition, Subdivision, Rezoning from A: Agricultural to C: Light Commercial & Conditional Use Permit for a golf cart sales & service business on property in the NE¼ of Section 19, T139N, R49W, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The proposed subdivision is located south of Interstate 94 and east of Sheyenne Street, directly south of RJ's Conoco. The applicant has submitted an application for a subdivision plat and a request for rezoning of the property to C: Light Commercial. The applicant proposes to start a business selling golf carts and accessories, as well as providing service. If rezoned to Light Commercial the use would require a Conditional Use Permit to sell recreational vehicles. The proposed development is consistent with the City's Land Use Plan which depicts the area as Commercial.

The applicant has submitted an Area Plan, Preliminary Plat and a preliminary site plan. When Doll's 1st and 2nd Subdivisions were platted an area plan was developed which provided for an additional street to access the lots a block off of Sheyenne Street. This plan showed a possible future street being installed through the north portion of this proposed subdivision which would decrease the usable area of it significantly. Another possibility shown was a frontage road continuing south along Sheyenne Street to a street which would be in alignment with 23rd Avenue East. Sheyenne Street alignment will stay as it is currently and it would seem appropriate to reevaluate separate access alternatives that would minimize the negative affects on this property and still serve the development directly east of this property. City staff will need to review the alternative roadway alignments prior to Final Plat approval to establish the best alternative that will have minimal affect on future development in this area.

The Preliminary plat is for only one lot which is about 32,234 square feet. Engineering has stated that there will be an on-site storm water retention area required for this subdivision and that a 10 foot utility easement must be placed around the perimeter of the property. The applicant will also need to meet with engineering to discuss sewer needs.

The preliminary site plan shows a 4,800 ft² building on the lot with landscaping along Sheyenne Street and along the south and east sides. The access to the property would be in the northwest corner, off of the existing Sheyenne Street access servicing RJ's Conoco. A cross access easement would be required between the two properties because they would be sharing the same access point.

This parcel is located within the CO: Corridor Overlay District and will be required to follow the increased construction and landscaping standards. Buildings within the CO District must be faced with no less than 70% non-metal materials such as stone, brick, wood, precast concrete, etc. The minimum setback for any building within the CO District is 45' from the property line. The preliminary site plan looks to have the building closer than 45'; this will need to be addressed before submitting the final site plan. All other setback and landscape requirements must also be met. All subdivisions within the CO District are required to submit a landscape plan that shows it meets the open space landscaping standards set forth in this district. A drainage plan is required for this development.

All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hook up fee. Arrangements for payment need to be made prior to the subdivision plat being recorded.

With regards to the criteria for granting a conditional use, the following is noted:

1. Utilities will need to be supplied to this site. Engineering will work with applicant to plan water and sewer service.
2. The proposed use would appear to be generally compatible with adjacent property and other property in the district.

Notices were sent to City Departments, Park District, and Post Office. Engineering comments are included as part of the staff report. The Post Office indicated that mail delivery would be curbside. The applicant needs to contact the Post Office for the type and mode of delivery before construction is complete.

Staff recommends approval with the following conditions:

1. The site is designed according to the Corridor Overlay District regulations.
2. A Title Opinion is received.
3. Arrangement for payment of sewer hook-up fees is received.
4. A Final Plat is received with necessary easements.
5. A Drainage Plan is received.
6. A Landscape Plan is received.
7. An access cross easement is developed between the property to the north and the applicant and submitted to the City.
8. A final site plan is received.
9. A Park Dedication Agreement is received.
10. A Certificate is received showing taxes are current.
11. A Subdivision Improvement Agreement is received.
12. An alternative alignment for future streets is created.

Applicant Al Pritchard, stated concern with the proposed future street and increased traffic.

There were no public comments. The hearing was closed.

Commissioner Potter asked about Brock's comments regarding fire hydrants. Steven stated that there are no City water lines and this will need to be addressed. Discussion was held regarding water service. Rural water supplies water to Doll's Subdivisions using 3" pipe.

Discussion was held regarding the future street. Steven indicated that the future street was part of an area plan submitted with a previous subdivision plat and the engineering department is reviewing possible alternatives, this is covered under condition #12 in the staff report. Chair Lenzmeier asked about the remaining property to the south and stated concern with platting such a small parcel. Ron Loberg, who owns the property to the south, indicated he has no plans for development at this time.

Real Estate agent Brad Rivers asked where the current sewer & water connection comes through? Setbacks required from the south and why the Conoco building is so close to the property lines.

Steven stated that there is no sewer. Water is provided by rural water and the County would have information on that. There is a building control line to the south of 100' from the riverbank. He has no idea what type of development would be here in the future.

Discussion was held regarding the subdivision improvement agreement regarding installation of utilities.

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

Chair Lenzmeier opened public hearing A06-35 KASS 3rd Addition, Subdivision, Rezoning from Agricultural to R-2: Limited Multiple Dwellings & C: Light Commercial and Land Use Plan Amendment from Medium Density/Office to Retail Commercial for property in the NE¼ of Section 17, T139N R49W, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located on the east side of 6th Street East and along the South Side of 13th Avenue East. The applicant proposes to construct twin homes and provide for office/retail uses on 13th Avenue East with R-2: Limited Multiple Dwelling and C: Light Commercial zoning designations. A land use plan amendment is also being requested to allow for light commercial uses. The proposed development is not consistent with the City's Land Use Plan with regards to the retail

commercial use as the Plan depicts the area as Medium Density Residential or mix of Medium Density Residential and Office.

The applicant has submitted an Area Plan and Preliminary Plat for 50 twin home units and 3 lots for office/retail space along 13th Avenue East. There have been several different proposals submitted for this area over the past three years – assisted living center, twin homes, apartment buildings. More recently in March a request was made to construct twin homes, a three-unit townhouse and provide for future office space along private drives. The concept development plans for the proposed PUD were not approved by the City Commission due to concerns on the long private drives.

The Land Use Plan of the City's Comprehensive Plan shows the proposed development area as Medium Density Residential, which would provide for single family attached homes (townhouses), condominiums and apartments with up to eight units per structure and directly related complementary uses such as educational, religious and recreational facilities. The Comprehensive Plan indicates that based on the adjacent land uses a townhome, condominium or apartment development with up to eight units per structure would be the best use for this area. The City may consider 12-unit structures where creative and exemplary design considerations are given. The density is up to 10 units per acre. The proposed development area is also identified within the Comprehensive Plan as an area which would allow an alternative land use. The alternative land use would be a mix of office and medium density residential uses as the property directly to the east is office park and the property to the west is high density residential.

The City's Comprehensive Plan recommends a diversity of residential neighborhoods with a balance of housing alternatives. The Plan encourages high-end single family homes to balance the existing housing stock in the community, and multiple family which includes townhouses, condominiums, and lower and higher density rental properties. Few lower density rental properties have been developed in recent years. The area plan shows the area surrounding the proposed subdivision as being developed on three sides. A twin home development is located directly to the south, high density multiple family to the west, and medium density residential (apartments, twin homes and condominiums) to the north. The adjacent property to the east is currently vacant and is designated for office.

The Preliminary Plat shows the twin home lots ranging from about 36-50' in width at the building line and between 100-128' in depth. All residential lots meet or exceed the minimum requirements of the R-2 Zoning District. Also shown are three lots intended for office and retail commercial along 13th Avenue East. The City's Land Use Classification System lists office uses under the categories of Professional Services and Offices. Under Professional Services the uses listed include Medical and Health Services (Clinics, Chiropractic, Counseling, Dental); Finance, Insurance and Real Estate; Travel Agency; Engineering and Architect Firms; Attorneys; Veterinary Hospitals; Photo Studios; and Mortuary/Funeral Home. Under Offices the uses listed include Firm Office (not located in conjunction with activity); Professional Associations, Labor Unions, etc.; Office Building; and Research Center.

The proposed twin homes along 14th Avenue East are similar in lot width as those across the street. The balance of the twin home lots and the office/retail commercial lots are located on proposed new streets which include 13 ½ Avenue East and 7 ½ Street East.

Access to 13th Avenue East is limited access which would require special review and approval by the Planning and Zoning Commission and City Commission. At this point no plans for access have been submitted to the City, so the only access allowed for the commercial lots would be from 13 ½ Avenue East; however, a traffic study has been requested to study the possibility of access onto 13th Avenue East which is being completed by Public Works. The street connection of 13 ½ Avenue East to 6th Street East is shown at about 240' south of 13th Avenue East (measured center line to center line), which meets the minimum spacing of 150'. The street r-o-w for 13th Avenue East is currently 50' for the south half which is not adequate under the City ordinance, so 10 additional feet of right of way is being provided. Eighty feet of r-o-w is already provided on 14th Avenue East which is adequate. The r-o-w on 6th Street East is only 70' which is not adequate for the street based on the adjoining and proposed uses. An additional 10' should be provided to better accommodate turn lanes while leaving adequate boulevard space. A total of 70' of right of way is shown for 7 ½ Street East which would be adequate per ordinance for the proposed residential use, but may be inadequate for the proposed commercial use to the north. The r-o-w proposed for 13 ½ Avenue East is 60' which does not meet ordinance standards for streets bordering commercial development. A minimum of 80' is required. The developer would need to provide the additional r-o-w for the street unless the City grants a variance, so a variance is being requested.

Variances to subdivision standards may be provided where the subdivider proves that extraordinary hardship would result from the strict interpretation of this ordinance. The subdivider must show that the following conditions apply:

1. The conditions upon which the variance is based are unique to the property and are not applicable generally to other property in the same district.
2. Because of the particular physical surrounding of the property, a particular hardship to the owner would result, as opposed to mere inconvenience, if the strict letter of these regulations were carried out.
3. The granting of the variance would not harm the surrounding neighborhood in any way and would be beneficial to public health, safety, and welfare.
4. The variance is consistent with the proper development of the area.

It would appear that there are some unique conditions to the property as several development applications have not been approved, though not all applications were brought to the City Commission. The last application was not approved on the basis of the private street. The applicant has now proposed a public street with similar general uses. The residential lot depths were reduced to accommodate the public street. The proposed commercial lot depths are about the same. The development is an in-fill development which remains zoned Agricultural, so the property conditions are not the same as other properties in the district. It does not appear that the proposed street would harm the surrounding neighborhood as the street limitations would affect only the proposed development. The proper development of the area would not be detrimentally affected by the proposed street.

The City will need to determine if the proposed street will provide adequate r-o-w to allow for the utilities and other functions of City streets including driving lanes, parking, sewer, water, storm sewer, boulevards for snow storage and trees, etc. It may be appropriate to provide a specific street r-o-w design section for consideration.

The Park District was sent development plans, as park dedication is required for the subdivision. Based on the area being platted and proposed uses, approximately 41,198 ft² of area would be required for park land or the value of this area for cash-in-lieu of park dedication. The Park District has not submitted a recommendation yet. Property owners within 150' were notified. We have received some concern on the proposed development with property owners indicating that they would be attending the Planning and Zoning Commission hearing. Subdivision plats were sent to various City departments for review. City Engineering indicated that the 60-foot street r-o-w does not meet the City ordinance. Also, sanitary sewer and storm sewer, as well as retention, needs to be addressed for the development. Additionally, additional r-o-w is required along 6th Street East. The Police Department indicated that adequate off-street parking is required to make up for the lack of on-street parking due to the small lot sizes of the twin home lots. The Post Office indicated that the area is designated for cluster box delivery mode and type. The developer is required to contact the Post Office to establish locations for placement of the cluster box units which will be a developer cost.

Staff recommends that following the public hearing, the Planning and Zoning Commission consider the following alternatives:

- A. Approve the proposed twin home development with the R-2: Limited Multiple Dwelling zoning and deny the proposed office/retail development with the C: Light Commercial zoning. Only office would be allowed under a PUD: Planned Unit Development zoning for which Detailed Development Plans would be submitted later. If medium density residential is desired for the property along 13th Avenue, the property should be zoned to R-2: Limited Multiple Dwelling. The following conditions would apply to the subdivision:
 1. An Attorney Title Opinion is received.
 2. A certificate is received showing taxes are current.
 3. A Final Plat is received with any necessary easements.
 4. An additional 10' of r-o-w is dedicated along 13th Avenue East and 6th Street East.
 5. A variance is granted to allow for a 60-foot street for 13 ½ Avenue East based on meeting the justification criteria, provided the City can approve a design that can accommodate the City's needs for street function, or additional r-o-w is provided.
 6. A drainage plan is received and approved which addresses drainage and retention issues.
 7. A park dedication agreement is received.
 8. A mailbox plan is received following postal review.
 9. A subdivision improvement agreement is received.
 10. Any proposed future access to 13th Avenue would need to be reviewed by the Planning and Zoning Commission and City Commission and meet City spacing standards and any required design considerations.

- B. Approve the proposed twin home development with the R-2: Limited Multiple Dwelling zoning and approve the proposed office/retail development with a PUD: Planned Unit Development zoning. This would be a more restrictive zoning than requested, and provide opportunity for additional review and design considerations to provide for a development more sensitive to the neighborhood. The same subdivision conditions as listed above would apply.
- C. Approve the proposed twin home development with the R-2: Limited Multiple Dwelling zoning and approve the proposed office/retail development with a C: Light Commercial zoning as requested. The same subdivision conditions as listed above would apply.

Steve Carlson, President of the Woodlinn West Condo Association, stated that they are in support of development; however, light commercial zoning concerns them, as do access and traffic issues. They feel office or condos would be more suitable.

Dick Leith, 731 14th Avenue East, stated that there is no parking on the south side of the street. If this goes through, there wouldn't be any on-street parking. He asked if they could submit another petition asking that this request be denied.

Brian Freed, 733 14th Avenue East, stated that nothing has changed. This was denied in the past because of parking issues. Parking is their primary concern.

Dan Bueide, Vogel Law Firm and representing the applicants, submitted a proposed site plan. He indicated that applicants Rob Jordahl and Brent Olson have worked closely with Moore Engineering to insure consistency with adjacent uses. The Comprehensive Plan designates this whole area as Medium Density and they feel mixed use is a much better fit. The twin homes match the lot lines to those to the south. There is a need in the area for twin homes and these are similar to ones in Eagle Run and Elmwood Court Additions. They are proposing a 4 building shopping/strip center for the commercial area. The final product would be comparable to South Creek Center in south Fargo.

Don Kukla, 715 14th Avenue East, stated he was sorry the last request was denied.

A property owner asked about requesting cluster style mailboxes on the south side of the street to allow for parking in front of their homes.

Mr. Leith asked why the last request was denied. Larry stated that the City Commission was concerned with the long, narrow private drive.

Steven indicated that Elmwood Court has twin homes with parking on both sides of the street.

Paul Holiday, Woodlinn West, stated that he didn't believe commercial fits in this area. It doesn't belong. Either housing or condos should be continued.

Commissioner Gustofson stated that the people who own the land paid for half the street. Parking is going to be an issue.

Commissioner Keller asked if mailboxes could be removed so as to allow parking on that side of the street. Larry stated that if the residents would agree to CBUs.

Commissioner Smedshammer asked if the driveway parking is adequate, wide enough for two cars. Mr. Leith asked why 14th Avenue couldn't just be widened.

Commissioner Nelson indicated that eventually the property is going to be developed. There have been a lot of different proposals for this site.

Larry stated that every use is required to provide its own off street parking. The zoning ordinance requires two off-street parking spaces. There are two spaces in the garage and two on the driveway for a total of 4. This is not different than a number of twin home developments in the area – Westport Beach, Elmwood Court, Suntime Village... The applicants meet all the ordinance requirements in terms of parking.

Commissioner Holzmer asked about requesting cluster mailboxes to allow parking on the south side of the street.

Discussion was held regarding right-of-way and access onto 6th Street East. Mr. Bueide stated that the curb cut onto 6th Street is driven by the driveway on the west side of the street. He stated that maybe the right-of-way on 7 ½ Street could be decreased so the 6th Street r-o-w could be increased.

Discussion was held regarding potential access onto 13th Avenue. Mr. Bueide stated that a traffic study is being undertaken to review this. They would like to have access onto 13th Avenue. Steven indicated that staff is looking at a right in/right out access. They'll still need to look at traffic volumes, etc. Larry suggested that they do not have a formal access plan. Once submitted, it would be appropriate for Planning & Zoning and City Commission to review it.

Mr. Bueide stated that the reason for their request is to provide a buffer to protect the existing residential from the proposed commercial. Their intent is for very very light commercial.

Chair Lenzmeier asked if they had a problem with alternative B (PUD zoning) rather than alternative C – Light Commercial. Mr. Bueide stated that they have concerns regarding timeframes, potential unknowns – that the PUD may delay the project.

Commissioner Gustofson asked if both the C and CO Districts still have design standards, setbacks, specific building materials... He asked what would be the difference regarding C vs. PUD zoning. Larry stated that under the PUD, lighting and signage issues could be softened.

Commissioner Holzmer asked if the parking issue could be resolved. Larry stated that they can't request more than what is provided for, which is in excess of ordinance requirements.

Commissioner Gustofson stated that he can't see anything in the "C" District which wouldn't be good – the PUD would just control lighting and signage. He didn't recall ever denying a PUD or addressing lighting. Larry reviewed to the Menards site and the back side of the building. Larry then reviewed allowable uses in the Light Commercial zoning district. Commissioner expressed concern with convenience stores being an allowable use.

Commissioner Keller expressed concern with changing what was approved as part of the comp plan.

Commissioner Holzmer made a motion to approve the request subject to Alternative B - PUD Zoning. Commissioner Smedshammer seconded the motion. Commissioners Smedshammer, Keller, Lenzmeier, Nelson, Potter and Holzmer voted aye. Commissioner Gustofson voted nay. Motion carried 6-1.

Chair Lenzmeier opened public hearing A06-36 Westport Beach 2nd Addition, Replat & Rezoning from R-3: Multiple Dwellings to PUD: Planned Unit Development, Lots 68, 69 & 70, Block 9 of Westport Beach 1st Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The proposed subdivision, which was platted and zoned for multiple dwellings in May of 2004, is located south of 40th Avenue West and west of 9th Street West. The applicant has submitted an application for a subdivision plat and a request for rezoning of the property from R-3: Multiple Dwellings to PUD: Planned Unit Development. The applicant proposes to construct condominium style apartments along private drives. The proposed development is consistent with the City's Land Use Plan which depicts the area as High Density Residential.

The applicant has submitted an Area Plan, Preliminary Plat and Concept Development Site Plan. The Area Plan shows twin home lots to the east and south, single family lots to the south, Sheyenne/Horace Diversion to the west, and single family to the north across 40th Avenue West. The Preliminary Plat shows 28 lots connected along private roadways. The lots range in size to accommodate 4, 6, and 8 unit structures. The conceptual plans show an area in the middle of the development that would be kept as green space, or possibly used for water retention if deemed necessary. Concept plans show 176 condominium units on the 28 lots. That would be 11.8 units per acre, which would be significantly less than if this area was developed into apartment buildings as originally planned.

Access to the property would be off of 42nd Avenue West and 43rd Avenue West and would be served by private roadways throughout the development. The widths of the private roadways are not shown on the concept plans, but in the past the minimum width recommended by City departments has been 22' with no on-street parking. When the original plat for

Westport Beach was approved the developer agreed to place a 6-foot fence easement on the plat along 40th Avenue West and 9th Street West and agreed to construct a 6-foot concrete fence along the property on both streets.

The distribution of residential housing shows approximately 54.7% single family and 45.3% multiple family for the quarter section only. The distribution of residential housing for the section of land will likely meet the City target ratios as much of the south half of the Section is intended for low density residential. The City would continue to monitor the development patterns and target ratios as subdivision plats are submitted in this area.

The structures along 40th Avenue will be located in the CO: Corridor Overlay District and will be required to maintain a 45 foot setback from the north property line and/or from the projected regular street r-o-w line which is 75' south of the roadway centerline. All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hookup fee. The hookup fees for the Westport Beach development have already been paid.

Notices were sent to City Departments and the Post Office. Engineering indicated that a 40-foot utility easement is needed for City services, as well as easements for other utilities. The site may need to provide for storm water retention. The City Assessor questioned whether the private drives would be named and structures addressed to the private drives, or whether the lots and structures would be addressed to the existing public streets. The Police Department had concerns with 20-foot private drives, because of emergency response issues. Addressing concerns were also brought up. The Post Office indicated that mail delivery would be centralized. Cluster box units or apartment type mail boxes are the responsibility of the developer. The type and mode of delivery must be approved by the Post Office prior to purchase or installation.

Staff recommends approval, subject to the following:

1. The Concept Development Plans are approved with the understanding that the elements of the plans, along with recommended changes above, are carried forward in the Detailed Development Plans.
2. An Attorney Title Opinion is received.
3. A certificate is received showing taxes are current.
4. A Final Plat is received showing the necessary easements.
5. Access control provisions are placed on the Final Plat.
6. A 6-foot fencing easement is added to Final Plat.
7. A drainage plan is received and approved by the City Engineer and Public Works Director.
8. Condominium documents are received.
9. A coordinated "no parking" sign, hydrant and mail box plan is developed.
10. An outline is received for the anticipated schedule and sequence of construction for all improvements within the PUD.
11. A Subdivision Improvement Agreement is received including a provision for the developer to comply with all provisions of the Detailed Development Plans. The agreement should further provide that should the installation of all necessary improvements not take place within 18 months after initiation of construction, the City will be authorized to provide for the installation of said improvements. As part of the agreement, the developer waives any rights to protest any special assessments associated with the improvements.

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

Steven indicated that there will be adjustments to the north property line.

Commissioner Smedshammer asked if 20' private drives hadn't been a concern in the past. Applicant Rob Jordahl stated that it is similar to Beaver Creek, which are also 20'. Larry stated that 20' is the lowest ever approved. Chair Lenzmeier asked if 22' would be more appropriate. Mr. Jordahl stated that would mean decreasing greenspace and concrete is costly. He has provided extra parking and unlike Beaver Creek, this development has several accesses into the development.

Commissioner Potter made a motion for approval subject to the conditions listed above, as well as an additional condition that a lighting plan be submitted to provide adequate lighting within the development. Commissioner Nelson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-37 Conditional Use Permit for a storage building in an Agricultural District in the SE ¼ of Section 34, T140N, R50W (16681 36th Street SE, West Fargo), Cass County, North Dakota.

Steven reviewed the following information from the staff report:

The property is located in the northwest corner of County Road 10 and 38th St NW, which is within the city's extraterritorial jurisdiction. The property is currently zoned A: Agricultural District which requires a Conditional Use Permit for any residential dwelling or accessory building, not related to an agricultural use. The primary use for this parcel is residential in nature, thus requiring a CUP. The proposed building is 3,375 (45' X 75'). The proposed use is consistent with City Plans and Ordinances.

The city's Comprehensive Plan shows this area as Ag Preservation because it is in the city's extraterritorial jurisdiction and is located within the 100 year flood plain. With reference to the criteria for granting conditional uses, the following is noted:

1. Ingress and egress to the property is from County Road 10.
2. The proposed use is viewed as generally compatible with adjacent properties and other property in the district.

Property owner will be required to have his property surveyed to find elevations to ensure the proposed structure is built above the 100 year flood plain level. This is a requirement of Building Administration prior to issuing a building permit outside of the Sheyenne Diversion. Notices were sent to property owners within 350' review and we have received no calls.

Staff recommends approval with the following condition:

1. Applicant complies with the City's flood plain standards

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

Commissioner Nelson made a motion for approval. Commissioner Keller seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-32 Zoning Ordinance Amendment regarding Child Care Facilities.

Larry reviewed the following information from the staff report:

It has been requested that the Planning Department and Planning and Zoning Commission review the current Zoning Ordinance provisions for child care facilities to determine if a more appropriate review process can be established. Currently home child care facilities serving up to a maximum of seven (7) children are regarded as permitted uses in residential districts which appears to be fine. Child care facilities in single family homes with eight (8) to eighteen (18) children are considered conditional uses. The City reviews a number of applications for child care facilities each year. The majority of child care facility applications are for twelve (12) or less children, and generally do not receive opposition from neighboring property owners, because there is little impact. It is proposed that the City make a distinction between the child care facilities with twelve (12) or less children and those facilities with thirteen (13) to eighteen (18) children. The smaller facilities would be reviewed under newly developed provisions (provisional uses) which could be done more quickly and would be less costly to the applicant and to the City. The larger facilities would continue to be reviewed as conditional uses.

It is proposed that provisional uses would have specific requirements listed in the district regulations which would need to be met by the applicant and would be reviewed by the staff for approval. Only the adjoining property owners and those directly across a public street would be notified rather than property owners within 350' as is required for a conditional use. If twenty-five (25) percent or more of the property owners are opposed to the child care facility, it would be brought to the Planning and Zoning Commission for consideration. Also, if the staff does not approve a child care facility, the applicant could bring the request to the Planning and Zoning Commission. Appeals would be heard by the Board of Adjustment as in any other zoning appeal. A provisional use permit would be issued to the property owner rather than to the property and would terminate upon sale or transfer of property.

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

Commissioner Holzmer asked about limiting the times of operation. Discussion was held regarding appropriate times. Commissioner Holzmer made a motion for approval with a change to the proposed ordinance amendments limiting hours of operation from 6 a.m. to 10 p.m. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

The next item on the agenda was A06-7 Final Approval of Detailed Development Plans on Lot 3, Block 1 of Geller's 2nd, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

Applicant has previously submitted a concept plan that showed preliminary lot measurements, setbacks and layout, and has since provided us with the detailed development plan that shows final dimensions for this property.

In comparing the concept plan and the detailed development plans there are no changes in building size, building setbacks, placement of storage tanks, and location of loading docks. Additional information was provided on parking areas, drainage, existing easements located on the property, areas that will be improved to concrete, and building elevation drawings.

The building is located within the CO-R: Redevelopment Corridor Overlay District, and requires new commercial structures meet a higher construction standard, with 70% of the side fronting a public street designated within the CO-R District, be constructed of non-metal material. The north face of the proposed building is shown to be 66% brick, 12.5% glass, and 21.5% metal, which would meet our requirement for non-metal construction materials within the CO-R District. The building will be 7,200 ft² as originally shown in the concept plan and will be 18' in height.

Both the east and west side-yard setbacks will remain at 5'. The front yard setback is 12'. The rear yard setback (to the private drive) from the entrance area is ±125' and ±110' from the loading dock area. There will be a 15 foot metal overhang above the loading dock area.

The property will be accessed from a 40 foot wide private drive that runs through the south side of this property 60' from the south property line. Parking for this business will be located between the south side of the building and the private drive, along with 4 spaces south of the private drive. Required parking for this business will be based on 2,000 ft² of office/showroom space, 5,200 ft² of warehouse space, 4 employees, and 2 company vehicles. Office space requires 1 space/250 ft² designated as office, which would require 4 spaces. Warehouse space requires 1 space/employee at largest shift and 1 space/company vehicle, which would require 6 spaces. The required parking for this business is 10 spaces. There are 16 spaces shown on the plans, which is more than adequate. This will allow for additional employees in the future. All parking spaces are 9' wide and 19' in depth, which meet our requirements. Detailed Development Plans were sent out to City Departments for review and comment. We received comments from the Police Department indicating that the storage vessel area be fenced to prevent tampering with control devices. The applicant has indicated that they intend fencing the area behind the building up to the private drive. Access to the area would be from a gate which would be closed after work hours.

It is recommended to approve the Detailed Development Plans as submitted with the understanding that the area behind the building will be fenced.

Commissioner Smedshammer made a motion for approval. Commissioner Nelson seconded the motion. No opposition. Motion carried.

The next item on the agenda was Workforce Housing Information. Larry stated that he received information from the consultant regarding the regional study. They are planning to hold meetings the first part of July to see if there is any community support regarding this issue.

Commissioner Keller made a motion to adjourn. Meeting adjourned.