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West Fargo Planning and Zoning Commission
July 10, 2006 at 7:00 P.M.
West Fargo City Hall

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

Members Absent: Ross Holzmer, Jason Gustofson

Others Present: Lisa Sankey, Steven Zimmer, Brock Storrusten, Jim Bradshaw, Stacey Nice, Doug and Kathy Kesler, Alexis Paxton, Barb Erbstoesser

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the June 12, 2006 minutes as printed. Commissioner Nelson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A06-38 Conditional Use Permit for an oversized accessory building (garage) at 4200 Carmell Place (Lot 7, Block 1 of Carmell Place Subdivision), City of West Fargo, North Dakota.

Steven Zimmer reviewed the following information from the staff report:

The property, which is east of Cass County Highway #17 and south of 40th Avenue East, was annexed into the City of West Fargo in June of 2005 and rezoned to R-1E: Rural Estate District. The Carmell Place 1st Addition was developed as a rural residential subdivision. The applicant is proposing a detached garage that is larger than 1,000 ft², which requires a conditional use permit.

The applicant has submitted a site plan and is proposing a 2,400 ft² detached garage. The reason for the request is to allow for additional vehicle parking, specifically to store a bus-style motor coach and other personal recreational vehicles. According to the site plan, the proposed accessory building meets setback requirements. The property is protected from the 100-year flood plain because of the Sheyenne Diversion. An accessory structure over 1,000 ft² has been conditionally approved in the past provided it is in character with the development pattern of the subdivision.

The proposed use is viewed as generally compatible with adjacent properties and other property in the district. We have not received elevation plans showing how the building would be finished, but the exterior finish should be similar to the residential structure. Notices were sent to property owners within 350' review and no comments have been received. Staff recommends approval with the following conditions:

1. The applicant submits elevation plans for staff review showing the exterior finish to ensure compatibility with proposed residential structure and other buildings within the same development.
2. The applicant is made aware that there is the potential for riverbank settlement in the area in the future. The applicant should take measures to protect the proposed accessory structure on the property so it is not likely to be affected from riverbank settlement.

Mr. and Mrs. Kesler indicated they were available to answer any questions.

There were no public comments. The hearing was closed.

Commissioner Keller asked if there were any restrictive covenants regarding accessory buildings. Mr. Kesler stated that this was addressed by the developer, who approved the project.

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

Chair Lenzmeier opened public hearing A06-39 Conditional Use Permit for aboveground fuel tanks for expansion of a fuel depot at a commercial ready-mix plant, located at 210 12th Avenue NW (SW ¼ of Section 32, T140N, R49W, 1, Block 1 of proposed Strata 2nd Addition), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property, which is north of 12th Avenue NW and between Center Street and Cass County Highway #17, was developed as a ready-mix concrete plant in 1994. The property is zoned Heavy Industrial as are the properties to the north and east. This property currently has aboveground fuel tanks located to the northeast of proposed tanks.

With regards to planning issues dealing with aboveground storage tanks, staff does not see any problems; however, the applicant must comply with all requirements set forth in the International Fire Code, which will be enforced by the West Fargo Fire Department.

Notices and maps were sent to adjacent property owners within 350' and City departments for review and comment. The Fire Department has submitted a copy of a letter to the applicant's contractor addressing fire code issues. No comments from the public have been received.

Staff recommends approval with the following condition:

1. The West Fargo Fire Department inspects and approves finished project prior to filling and operating fuel tanks.

There were no public comments. The hearing was closed.

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

Chair Lenzmeier opened public hearing A06-40 Conditional Use Permit for an oversized accessory building (pole barn) at 602 42nd Avenue West (Lot 1, Block 2 of Nelson Acres 3rd Subdivision), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The applicant is proposing to construct a detached accessory building larger than 1,600 ft², which requires a conditional use permit. The City's Land Use Plan depicts the Nelson Acres development area as Rural Residential. The applicant's single family dwelling and proposed accessory building are consistent with City plans and Ordinances.

The property is in the Nelson Acres development which was platted into 4-5 acre lots and intended for rural residential use. The applicant submitted an application and site plan for a 40' x 80' building (3,200 ft²). No elevation plans were provided, although the applicant indicated the total height would be 22.5', with 16-foot sidewalls. In 2004 the City received an application for a 9,600 square foot building which was scrutinized as not being in character with the development. The applicant revised the request to a 4,800 square foot structure which was approved. The area around the development is transitioning to urban forms of development. The applicant indicated the proposed building will be about 148' from the front property line, 244' from the east side lot line, about 42' from the west side lot line and approximately 273' from the rear property lot line. All setbacks well-exceed the Rural Residential zoning district yard setback requirements.

The proposed use is viewed as generally compatible with adjacent properties and other property in the district. The proposed

accessory building is in character with the purpose of the subdivision. Larger accessory buildings are allowed for rural residential equipment storage, barns for farm animals, etc., though a previous application was limited to 4,800 ft². The height is limited to 35'.

The large lot rural residential use for the Nelson Acres development is intended for a number of years until there is a need to provide municipal services. Notices were sent to adjacent property owners within 350' for review and comment. No comments have been received. Staff recommends approval.

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

Commissioner Nelson asked if elevations should be a requirement. Steven stated that there are no ordinance requirements in terms of building materials. Discussion was held regarding building standards.

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

Chair Lenzmeier opened public hearing A06-41 Variance to increase sign height from 8' to 15' at 1201 7th Avenue East, (Lot 2, Block 1 of High School 3rd Addition), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located south of 7th Avenue East and east of 9th Street East and contains the Veteran's Memorial Arena complex. The applicant submitted site plans showing the size and location of the proposed sign, as well as a letter addressing the variance criteria. The proposed variance would be to allow the applicant to exceed allowable height for proposed signage. The sign is proposed to be 15' in height. The maximum height allowed in Public Facilities District is 8'.

The property was replatted last May to allow for transfer of property to the school district for a High School athletic complex. The property was rezoned to public facilities earlier this year. The Park District property is adjacent to the Sommerset development which is a single family residential area.

Variations are only to be granted when the following can be demonstrated:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

It does not appear the variance can be justified as none of the criteria listed above are met. There are no special conditions and circumstances that exist with the property or buildings that are not applicable to other lands or buildings in the same zoning district. The property owner is not being deprived of rights being enjoyed by others because of the ordinance provisions. The conditions and circumstances do result from the actions of the applicant. If the variance would be granted, the applicant would benefit from a special privilege that would not be provided to other lands, structures, or buildings in the same district.

This building is a destination place and does not attract patrons on an impulse or spur-of-the-moment basis, which makes signage less important for attracting patrons than advertising events to passers-by. Allowable sign area and height are less in Public Facility Districts because many times they are located in or adjacent to residentially zoned neighborhoods and smaller shorter signs have less of an impact on these neighborhoods. It appears the west property line of the Park District property is approximately 60-65' from the west entrance to the high school. The sign is proposed to be placed on Park District property.

Notices were sent out to adjacent property owners for review. We have received comments from two property owners on the north side of 7th Ave E who stated they were against approving a variance to allow this 15 foot sign.

Staff recommends denial on the basis that the proposed freestanding sign improvements do not meet the criteria to justify the variance.

Stacey Nice from Indigo Signs indicated the Park District feels this would be a more effective sign to inform the public. Especially with increased traffic along 7th Avenue from the east. In terms of a complaint received regarding the amount of lighting. The light from the adjacent football field is about 105,000 lumens vs. about 6,000 from the proposed sign. She indicated that the sign will let people know what is going on and the location of the arena. Ms. Nice also stated that the School has a sign on the corner that is 23' high and puts out more light.

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

Commissioner Keller stated that she received a call from a resident across the street who was very much against the sign, but could not attend tonight's meeting.

Chair Lenzmeier asked about the size of the sign at the school vs. the proposed sign. Ms. Nice stated that this sign is about half the size of the one at the school. Steven indicated that the school sign is nonconforming. He stated that the park district just rezoned 6 properties to public facilities and this may set a precedent.

Steven also stated that a 96 ft² sign, 8-feet high is more than adequate.

Discussion was held regarding an allowable sign height.

Park Superintendent Barb Erbstoesser stated that the Veteran's Memorial Arena is an 85,000 ft² facility, which holds several major events each year, sporting events and is also an election polling place. They market events through the use of portable signs. With the increased traffic, they would like to discontinue using portable signs. They'd have more flexibility to change the signage. Barb stated that they also feel the 8' sign would hardly be viewable to the traffic – the sign wouldn't stand out because of the number of trees or piles of snow in the winter. The shorter sign would be too small for their facility and they're also concerned with vandalism and messing with the letters. Barb stated that unlike the school sign, which displays sponsorship for off-site businesses, this sign will only be for park events.

Commissioner Nelson stated that the Planning and Zoning Commission spent a lot of time on the sign ordinance and he struggles with giving a City agency permission for a variance. No leeway has been given to commercial businesses with similar requests, so he has difficulty justifying this application. He also stated that the residential side has a say and they are opposed to the sign. Commissioners Keller and Potter agreed.

Commissioner Keller made a motion to deny the request. Commissioner Nelson seconded the motion. Commissioners Smedshammer, Keller, Nelson and Potter voted aye. Commissioner Lenzmeier voted nay. Motion carried 4-1.

The next item on the agenda was Detailed Development Plans - 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 applicant had previously submitted a concept plan that showed preliminary lot measurements, setbacks and layout, and has since provided a detailed development plan showing proposed final dimensions for this property. The concept development plans showed 28 lots with 176 units. The Detailed Development Plans show 30 lots with 176 units, with the two additional lots being added due to two 8-unit buildings being separated into four 4-unit buildings.

The roadway width remains at 20'. Rear setbacks on the east side (lots 11 & 12), along 11th St W, range between 40 and 25', which meet our setback requirements. Lots 7, 8, 9, & 10 are located in the Corridor Overlay District which requires them to have a minimum of a 45 ft setback from 40th Ave W, and all buildings meet this requirement. On the west perimeter (lots 3, 4, 5, & 6) have a rear setback of 20', which is 5' less than required, but seems to be adequate being that the rear yards for the buildings abut the diversion. Lots 1 & 2 have a 30 foot rear yard setback, which exceeds our requirements.

Elevation and floor plans have been submitted for all of the different buildings that have been proposed for this development.

The building plans submitted show two story buildings with units that range in size from 629 ft² to 1,065 ft² on the main floor. All units have an attached garage in the front of the unit to accommodate off street parking for the unit. Some units have single stall garages while others have two-stall garages. There are 63 additional off-street parking spaces shown on the site plan.

The Detailed Development Plans were sent to City departments for review. There is some concern on how the addresses are established for the buildings and units and that adequate signage is established identifying the location of the addressed buildings. All units should be addressed in the same progressive order. There is also some concern regarding the width of the drives in the development.

It is recommended to approve the Detailed Development Plans as submitted with the same conditions approved with the Concept Development Plans.

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

The next item on the agenda was Annual Bench Sign Review.

Steven reviewed the following information from the staff report:

An annual fee is required by the franchise ordinance, annual review and permit issued by the Planning and Zoning Commission, specific procedures to follow for changing or adding sign locations, liability insurance and other requirements. Please refer to the attached Bench Sign Franchise Ordinance.

Upon reviewing the list of sign locations, it was determined that there are no changes from the locations approved last year. Eighteen locations for signs have been approved, though only 15 bench signs are currently in place. It has been brought to our attention that there is a clear zone of two feet from pedestrian/bikeway facilities which needs to remain unobstructed. As such benches need to be placed a minimum of two feet off any pedestrian/bikeway facility into the boulevard. It should be noted that vehicles are not allowed to drive over the street curb across the boulevard or onto the pedestrian/bikeway facility when bench signs are placed or removed or when advertising is updated. Access to the sign locations needs to be from the private property or from the street following proper traffic controls.

Chair Lenzmeier asked if there were plans for any additional signs. Applicant Alexis Paxton stated that they will have one for MAT bus service at some point.

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

The next item on the agenda was the annual NDPA Conference in Grand Forks, August 23-25. Chair Lenzmeier indicated that he will be attending and to let the Planning Office know in the next few weeks if anyone is interested in attending.

Commissioner Smedshammer asked about the Hazer property on 12th Avenue NE. Steven stated that staff is working with him and as soon as the plat is finalized they will work on it. Commissioner Smedshammer indicated the property is looking worse with all the old buses sitting in front of the fence. Steven indicated Mr. Hazer thought he was in compliance because he placed sand on the property for parking.

Commissioner Keller asked about letters of violation received by a couple of her clients regarding driveway width and requiring removal of a portion of the driveway. Assistant City Engineer Brock Storrusten explained the ordinance regarding driveway widths. He indicated that as the City began to enforce the ordinance, a number of property owners referred them to other nonconforming properties.

Commissioner Keller made a motion to adjourn. Meeting adjourned.