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

West Fargo Planning and Zoning Commission
November 9, 2015 at 7:00 P.M.
West Fargo City Hall

Members Present: Scott Diamond
 David Gust
 Joe Kolb
 Tom McDougall
 Eddie Sheeley
 David Zupi

Members Absent: Connie Carlsrud, Leroy Johnson

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Matt Welle, Mike Thorstad, Aaron Greterman, Randy Kramer, Dave and Rosemary Olson, Lisa Amann, Chris Gibbons, Tim Cockayne, Gene Zachgo, John Youness, Adam Fischer, Greg Grove

The meeting was called to order by Chair McDougall.

Commissioner Zupi made a motion to approve the October 12, 2015 meeting minutes as written. Commissioner Kolb seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-50 Knutson's 3rd Addition, a replat of Lots 3-5, Block 1 of Knutson's 1st Subdivision, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The property, which is along the north side of Main Avenue W, east of 26th St NW, was previously platted and zoned PUD as part of Knutson's 1st Subdivision in 1997 and intended for commercial and light industrial uses. Proposed Lots 1 and 3 are fronting on the Main Avenue frontage road. Proposed Lot 2 is accessed by a 25' access easement which is on proposed lot 3. The access should be shared between the 3 lots and should include utility.

When this property was platted and rezoned in 1997, guidelines and limitations were approved along with the rezoning that spelled out development standards and allowable uses as well as uses that are not allowed. Tim indicated the guidelines were supposed to have been included with the agenda packets; however, were overlooked. The properties need to follow the CO-I: Interstate Corridor Overlay and CO-R: Redevelopment Corridor Overlay District standards. Proposed Lot 1 would no longer be fronting on Main Avenue and would therefore no longer be in the Redevelopment Corridor Overlay.

City Departments were notified and no comments have been received to date.

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

1. Final drainage plan is received and approved by the City Engineer.
2. Necessary easements are placed on the Final Plat including clear access noted to all lots via a 25' access/utility easement on Lot 3.
3. The development of the property is required to follow the previous development standards placed on the Knutson's 1st Subdivision, as well as the CO-I: Interstate Corridor Overlay and CO-R: Redevelopment Corridor Overlay District standards requirements.

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

Chair McDougall asked for clarification regarding location. Tim indicated east of the Network Center, part of the RHR Construction property.

Commissioner Gust made a motion to approve the replat based on staff recommendations. Commissioner Zupi seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-51 North Pond at the Preserve 8th Addition, a replat of Lot 3, Block 1 of North Pond at the Preserve 4th Addition, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The developer proposes replatting a previous platted lot for Commercial Office Park development. The north portion of the property is vacant and the south portion Evolution I is under construction. The proposed use conforms to the City's plans and ordinances. Lot 1 is proposed to be 116,124 square feet and Lot 2 is 227,143 square feet.

Notices were sent out to City departments. No comments have been received to date.

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

1. A Title Opinion is received.
2. A certificate is received showing that taxes are current.
3. A drainage plan is received and approved by the City Engineer.
4. Any necessary easements are placed on the Final Plat.

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

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

Chair McDougall opened public hearing A15-52 Oak Ridge 9th Addition, a replat of Lot 1, Block 1 of Oak Ridge 1st Addition, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The property was platted November 2008 to allow for a commercial office building. The Developer proposes replatting a portion of a larger tract for commercial development. The City's Land Use Plan depicts the area along 32nd Avenue East from 4th Street East to Veteran's Boulevard and along Veteran's Boulevard developing as General Commercial. Medium Density Residential is shown to the west and south of this proposed plat.

Access to the property is from 32nd Avenue East as well as a 40' private access easement through the middle of the property via 4th and 6th Streets East. The Preliminary Plat consists of six lots, ranging in size from 45,716 to 168,116 square feet.

Right-of-way was dedicated as part of Oak Ridge 1st Addition. The plat of Oak Ridge 1st included access control with a 40' access possibly restricted in future to right in/right out. Staff recommends this now be restricted to right in/right out and noted on the plat as 32nd Ave E has been improved to a divided urban roadway.

A revised drainage plan is required for the subdivision. Storm water retention requirements for the subdivision area are included within the regional storm retention for Section 29. There is also currently a private retention pond to the south of the lots that will likely take some drainage as this property develops. If drainage to the pond is restricted in the future the properties would need to improve the storm water needs of the development. Agreements will need to address the potential for this need in the future to avoid conflicts regarding drainage of any of the properties.

The City provided the preliminary plat and area plan to City departments, Park District, Post Office, SE Cass Water Resource District, and utility companies.

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

1. Final plat includes notation of restricted access onto 32nd Avenue East.
2. A subdivision improvement agreement is received which includes addressing potential storm water needs in the future.
3. An Attorney Title Opinion is received.
4. A certificate is received showing taxes are current.
5. A drainage plan is received and approved by the City Engineer.

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

Commissioner Kolb asked for clarification regarding the drainage pond. Tim stated that the pond is a privately owned amenity and if it was filled in, they would need to revise the drainage plan. Engineer Matt Welle stated that there is a 40' easement which includes storm water storage which water could be diverted to. Water from the pond goes north. Commissioner Gust asked what if it were developed or paved. Matt stated that the street has its own separate drainage. Just the back half of the lots would drain into the pond.

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

Chair McDougall opened public hearing A15-54 Brooks Harbor 6th Addition and Rezoning from Agricultural (proposed R-1SM: Mixed One & Two Family Dwellings) to R-1A: Single Family Dwellings and R-1: One & Two Family Dwellings, property in the N½ of Section 19, T139N, R49W (part of proposed Lot 1, Block 4 of Brooks Harbor 5th Addition), City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is south of I-94 and west of Sheyenne Street, is currently zoned Agricultural; however, was included in the proposed plat of Brooks Harbor 5th, which was reviewed at the last meeting, with zoning to be R-1SM: Mixed One & Two Family Dwelling with very large lots, which are now being divided into smaller, low density residential lots. The area was annexed into the City in December 2005. The proposed subdivision is adjacent to Brooks Harbor 2nd Addition which is immediately to the south and Brooks Harbor 4th to the west, which is under construction. The applicant proposes to develop the property as single family residential. The proposed use is consistent with City Plans and Ordinances.

The Land Use Plan depicts the area developing with Low Density Residential. The zoning requested for the development is R-1SM: Mixed One & Two Family Dwelling, R-1: One & Two Family Dwelling & R-1A: Single Family Dwelling Districts. All lots meet the minimum lot requirements for the zoning district. Lot 14, Block 1 is a retention pond and should be zoned P: Public.

Adequate street right-of-way is shown for all the local streets within the subdivision. 22nd Avenue West is proposed with a wider right of way of 70' to accommodate 6' paths on both sides or a 10' on one side and standard 4' on the opposite. Right of way on 21st Avenue West and 9th Street West were previously provided with Brooks Harbor 5th Addition. This plat includes additional right of way to accommodate a curved roadway section at the corner of 9th Street West and 21st Avenue West. Park dedication is being addressed along with Brooks Harbor 5th Addition.

Notices were sent to property owners within 150', City officials, as well as utility companies and SE Cass Water Resource District. The police department had comments regarding proposed street names of Legion Lane and Commander Drive. Street names should be reviewed and revised prior to City Commission review.

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

1. Lot 14, Block 1 is zoned P: Public.
2. A drainage and utility plan is approved by the City Engineer.
3. Any necessary easements are placed on the Final Plat.
4. A subdivision improvement agreement is received.
5. An Attorney Title Opinion is received.
6. Certificate of Taxes is received showing taxes are current.
7. A mailbox plan is received and approved by the Post Office.

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

Chair McDougall asked why after all the discussions and concerns brought up at last meeting, the very large lot was left open. Larry stated that the owner, Nancy Loberg was retaining it for future development. Developer Randy Cramer concurred, indicating they don't own that lot.

Commissioner Sheeley asked about the R-1SM zoning and in reading that section of the ordinance if it allows for 3 or more units. Larry stated not as a permitted use. It's intended to be a mixture of lots and lot sizes with only single family or twin homes as permitted uses.

Commissioner Zupi made a motion for approval based on staff recommendations 1-7, with an additional condition that there be a review and revision of proposed street names prior to City Commission review. Commission Diamond seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-55 Sandhills 3rd Addition in the SE¼ Section 2, T139N, R50W and replat of Lots 1-2, 4-11 and Lots 21-22 of Block 5; Lots 11-20 and Lot 22 of Block 6 and all of Block 7, Meadow Brook Park Subdivision; All of Blocks 1, 2 and 3 of Sandhills 2nd Subdivision; all of Park Boulevard, Archers Boulevard and Sandhills Avenue NW and name change plat of Charyl Avenue, City of West Fargo, North Dakota and Rezoning from Agricultural to LI: Light Industrial for proposed Sandhills 3rd Addition.

Larry reviewed the following information from the staff report:

At the last meeting, the applicant applied for the preliminary plat of Sandhills 3rd but the application was denied. The applicant is reapplying and has included 4th Avenue NW (Charyl Avenue) in the new proposed application. The applicant owns a significant portion of property in the Sandhills and Meadow Brook Park area and is proposing a phased development starting with property to the north near the BNSF Railroad. The entire area was designated as Light Industrial in both 2000 and 2008 Comprehensive Plans.

A subdivision replat has now been submitted to vacate Sandhills Avenue NW and subdivide the larger tracts of Sandhills 2nd Subdivision into lots for sale and development. The applicant also submitted an Area Plan and Future Phase development plan showing the proposed lay out of streets and lots. The subdivision includes Sandhills 2nd Addition and the northern part of Meadow Brook Park Subdivision. To the north of the proposed subdivision is the Burlington Northern Santa Fe Railroad and landfill north of the railroad. To the east is the Butler industrial park. West of the proposed subdivision is the Sandhills Archers Club archery range. South of the plat area is the balance of Meadow Brook Park Subdivision which consists of a number of residential properties interspersed among vacant applicant properties and other resident and nonresident properties.

The proposed Preliminary Plat is made up of 21 lots in 4 blocks utilizing 4th Avenue NW as the primary street and creating a new street named Park Lane. Lot sizes are varied and will need to be verified prior to final platting as it appears some inaccuracies exist. The Preliminary Plat abuts Lots 1-10, Block 6 of Meadow Brook Park Subdivision in the southeast corner of the plat which are residential lots with a residential structure. The plat culls out Lot 21, Block 6 which is in separate ownership, and essentially surrounds this lot with Lot 2 of the Preliminary Plat. Lot 21 is a 40' wide vacant lot. The residential property, which is 400' wide and 130' in depth, would continue to front on Charyl Avenue and may have redevelopment limitations when redeveloped as industrial, because of its depth. The 40' lot would not be a developable lot and could become a continual maintenance problem property and eventually come back to the County for back taxes becoming a public burden. There is no assurance that either of these two properties would eventually be incorporated within the new subdivision lots.

The street being platted as Park Lane has adequate right-of-way per City ordinance. Charyl Avenue currently has a 50' right-of-way with an additional 30' being dedicated with this plat, which is adequate as 80' of minimal right-of-way is the standard for commercial and industrial development. Fourth Avenue NW is intended to be the principal loop street for the entire redevelopment area of Sandhills and Meadow Brook Park subdivisions. The Collector Street which is 26th Street NW needs to have a total right-of-way of 100'. There was 50' of dedication on the east side with the Butler and Knutson subdivisions, so 50' is required for subdivisions in the Sandhills and Meadow Brook Park area (west side). The Preliminary Plat shows 50' of dedication; however, the right-of-way through the Meadow Brook Park area is only 33'. An additional 17' of right-of-way will be required, and may need to be obtained through condemnation utilizing eminent domain.

Larry reviewed the following historical information about the area:

The Meadow Brook Park Subdivision was platted in 1953 as a small lot residential subdivision outside the cities of West Fargo and Riverside. Lots were given away as part of a lottery at a state or county fair sometime in the early 1960's. Soon

after development in the subdivision began occurring in the form of manufactured style housing. Historically Meadow Brook Park has had a seasonally high water table and poor drainage conditions due in part to the soils. Prior to the creation of the Sheyenne Diversion, the area was also extremely flood prone. The lots are too small to support septic systems under the State and Cass County codes, which has resulted in septic system failures and contamination of adjacent properties. As a result development has been minimal over the years.

The area was severely flooded in 1975 which forced several residents to seek alternative housing for a period of time. Cass County Public Health Department submitted a request to the Department of Housing and Urban Development (HUD) for flood/disaster relief under the Minimal Repair Program for a community sewerage collection system; however, was not funded. A request was then made to Farmers Home Administration (known today as Rural Development) which was viewed by the agency as an unwise investment, so was not funded. In the mid-1980s the area came into West Fargo's extraterritorial area for the purpose of planning and zoning. The area was zoned agricultural at that time and remains the same today.

Following some requests to add onto structures and construct new structures, and Cass County Health concerns due to inadequate area and soil type to accommodate septic systems, as well as a request to extend sanitary sewer services to the area, the City conducted a study in 1998 to review existing conditions and land uses, as well as any development plans for Meadow Brook Park. Following the study and property owner involvement, it was found that the costs of extending services would be too burdensome for the majority of property owners and would likely result in even more properties coming back to the County for unpaid taxes. It was recommended to wait for more ownership stability and for the City to grow out to the area to reduce costs for extending municipal services. The City sought Community Development Block Grant funds through Lake Agassiz Regional Council; however, federal funds for the region were committed to flood mitigation projects for the year and there was uncertainty of funding availability for the next year.

In 2000 the City adopted a Comprehensive Plan following about 18 months of study. The Plan designated the areas in and around Meadow Brook Park as Light Industrial and recommended that the areas be rezoned for industrial uses. The Plan also recommended that CDBG funding be pursued to buy out existing properties and prepare the area for redevelopment for industrial uses. The City pursued CDBG funding; however, property buyouts for redevelopment purposes was not a priority for the regional program and would not be funded, so an application was not submitted.

In 2002 the Fargo Moorhead Metropolitan Council of Governments undertook a study of the Meadow Brook Park area at the request of the City Commission. As a result of the City's adoption of the 2000 Comprehensive Plan and designating the Meadow Brook Park area for future industrial purposes, the intent was to better understand the background issues, work with the residents, and identify possible alternative strategies to consider. At the time of the study, of the 218 lots in Meadow Brook Park, 107 had come back to Cass County for back taxes. Of the remaining 111 lots, 59 were undeveloped and owned by individuals who lived outside the subdivision. The remaining 48 lots were owned by the residents of the subdivision and were the site of 17 residential structures. In 2005 the area was annexed into the City. In 2008 the City received an application for Sandhills Third Addition which replatted the three larger lots (blocks) of Sandhills Second Subdivision into smaller lots. A Final Plat was approved with conditions of the infrastructure servicing plan being approved by the City Engineer, necessary lift station needs being provided for, appropriate timing for municipal services, and limiting buildings until services would be provided. The Final Plat was not signed and recorded.

The requested zoning for the plat area is LI: Light Industrial.

Notices were sent to property owners within 150' and information was provided to City Departments, SE Cass Water Resource District, Park District, Cass County Health Department, Post Office, and utility companies for review and comment. The City has received considerable concerns and questions from the Sandhills Archery Club regarding the financial impact of these improvements to their land and organization. The group also spoke at the public hearing for the previous application of Sandhills 3rd. Staff is working to get this group a meeting with City Leaders and the Park District to discuss any possible alternatives. A letter was received from a property owner and from the Archery Club, which were provided to commissioners tonight

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

1. A sewer, water, storm sewer plan be developed for the entire redevelopment area.
2. Adequate right of way be secured for 4th Avenue NW and 26th Street NW to accommodate the required road widths of the development and collector roadways.
3. A drainage and utility plan is approved by the City Engineer.

4. Final Plat with any necessary easements including identifying if easements are necessary for storm water retention.
5. A park dedication agreement is received.
6. A subdivision improvement agreement is received.
7. An Attorney Title Opinion is received.
8. Certificate of Taxes is received showing taxes are current.
9. A mailbox plan is received and approved by the Post Office.

Rosemary Olson, Wyndmere, stated that the developer owns most of the property along Charyl Avenue. David Olson asked why there was such a huge jog in the street. Larry reviewed the right of way and ownership along 4th Avenue NW. Currently there's only 50' of right of way and an additional 30' is required, which the applicant is proposing dedicate along both the north and south sides of the street. Further to the west there would be a slight jog in the street to accommodate the right of way dedication.

Mrs. Olson asked why they were in such a big hurry. There are already perfectly good streets there. Larry stated that they're looking at vacating the existing street to develop the lot. He also stated that as development occurs, costs will spread from 26th Street.

Lisa Amann, Hawley, stated that if the land is always flooding, who'd want to develop it. Chair McDougall asked if anyone who lived in the development would like to speak. Ms. Amann asked why there isn't a reasonable buyout program.

Larry stated that twice the City tried to obtain federal funds to buyout, but was told it was not a priority. So there wasn't any funding. Currently the developer has asked for TIF (Tax Increment Financing) district and the City indicated an eligible cost was to help purchase properties. The City will need to review and balance what property is worth. It has to be tied to true value. Mrs. Olson asked when this will happen. Larry indicated it hasn't been determined. Mr. Olson stated that they're going to put in a street and tax them to death, so they'll need to get fair value.

Chris Gibbons stated they'll rezone everything into industrial and then they'll all leave. Mr. Olson stated that it'll be full of industrial and they'll make lots of money. Someone on the south side of Charyl Avenue says he can run water to the property, wants to buy their property and would be able to develop an acre. Larry stated that currently the property is zoned agricultural, so he couldn't put up a commercial building. Mrs. Olson argued that's what they were told, that they could get water and put up a building.

Gene Zachgo, 2700 Gress Avenue NW, stated that he has property and has been offered a good price; however, when he tell them to talk to the City, they're told it can't be developed. He'd like things to be fair as there are quite a few people who live here.

Chris Gibbons stated that if they want to make it industrial, why not make it all industrial. Why not buy them out like they do in flooded areas along the Red River.

Chair McDougall stated that the City of Fargo uses federal funds, not City. The developer is requesting this, not the City. They're looking at the best use of the land, which according to the City is industrial.

Mr. Gibbons stated that industrial is almost in their backyard, so maybe they can try one more time for funding. Larry stated that the City doesn't have a development fund to buy out properties. The City has had requests in the past from developers asking to buyout blighted properties. It most cases the money for redevelopment goes to communities needing to replace sewage treatment facilities. Larry stated that the City is reaching at straws to help residents who are living there.

Mr. Olson stated that the people who live out there already have sewer and water and now they're putting in streets where they already have streets. There is no reason for this.

Commissioner Gust asked the Olsons what the assessed value of their property is. Mrs. Olson stated \$47,000, but they've only been offered \$20,000 and they want the lot cleaned up and taxes paid for this year and next year. Her father was charged for garbage service he didn't want and it was put on his taxes.

Chair McDougall stated that they're talking about value, buyout and taxes to the wrong group of people. The Planning and Zoning Commission has nothing to do with this. Larry stated that in order to develop the area, they need to bring in major streets and assessments would be spread to all who benefit. Discussion was held on real estate and fair market value. Mrs. Olson stated that buyers only offer 20-30 cents on the dollar. Larry stated that as part of the TIF, buyouts could be added as

an eligible cost. Mr. Olson stated that the investor picked up these lots for little or nothing. They're stealing property.

Larry stated that the purpose of this meeting is to get input and forward it on to the City Commission. Mrs. Olson stated that they should wait until a decent plan is developed. Chair McDougall stated that all comments submitted tonight go on to the City Commission. No matter what the Planning and Zoning Commission decides, deny or approve, the developer can appeal and it goes on to the City Commission. They can make decisions regarding taxes, etc. The Planning and Zoning Commission can only make a recommendation. Tim stated that the commission tonight looks at whether the roads are adequate, is the use compatible and is the use sustainable. Larry stated that the Land Use Plan indicates Light Industrial.

Mr. Olson stated why not buy people out so the streets can be straight.

Developer John Youness stated with the TIF district, there's a catch 22. In order for it to work, it needs a taxable base. A business is looking at one of the larger lots and needs roads. Then there are the people who live out there vs. those who live in Canada and aren't available. He stated that he's available to answer any questions.

Mr. Gibbons stated that they should rezone it all. The plan looks nice for the developer, but they don't need sewer and water. They have a well and septic systems. Mr. Youness stated they can only control rezoning property they own. Anything they own they're asking for rezoning. Larry asked how rezoning to industrial would help them. Mr. Gibbons stated it would be worth more money. Larry stated the homes would be nonconforming and if there was a fire, they couldn't rebuild.

Commissioner Kolb stated that several people have said they've been offered very low prices for their property. Developer Adam Fischer stated that he bought from a previous developer, who gave up. Nobody was offered 20 cents on the dollar. Mr. Youness stated that they can't make the TIF district work until the property develops. Larry reviewed how the TIF district works. Property values are frozen, when development happens, everything in terms of taxes goes into a fund toward the property. The district boundary pretty much follows the proposed plat.

Tim Cockayne, 204 Park Boulevard, stated he has a 1,600 square foot home and he'd need replacement value to buy anything similar if he'd sell. He's been trying to sell his home for the last 10 years. Larry stated that any time there's acquisition; it's based on assessed value.

Mr. Youness stated that the previous developer gave up and at some point they need to take the next step and get the property developed.

A property owner asked what was going to happen to them. Nobody is helping them.

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

Commissioner Gust stated that personally he doesn't like this. The real issue with residents will be the special assessments. He stated he's inclined to deny this and let the City Commission deal with it. If there would be a way to assure the assessment district would only affect the commercial property. Otherwise Sandhills is going to be forced out. Commissioner Kolb stated that from a planning perspective, he feels this is chopped up. He'd like to see some compromise and is not in favor of the plan at this time. Commissioner Gust made a motion to deny the request. Commissioner Kolb seconded the motion.

Commissioner Zupi stated that as an advisory committee isn't there something they could forward on to the City Commission, the discussion from residents. If denying on the basis that it doesn't feel right... is there anything they can do to help both ends --- the developer and residents?

Commissioner Gust asked if the assessment district could cut out residents and Sandhills Archery, it might be something he could live with, but would need assurances from the City. Chair McDougall stated that the City Commission will get the comments. Commissioner Zupi stated that if they put a recommendation forward, he would hope they could offer constructive conditions. Commissioner Kolb stated deny, approve or continue are the choices and continuing creates the same argument in 30 days. Denial sends a message and forces more discussion.

Commissioner Sheeley stated that the City has taken the right step with the TIF District. Chair McDougall stated that there are steps in place with a TIF District, but there has to be a development to approve. Larry stated that a TIF occurs in phases. Taxes generated help pay for improvements as development occurs.

Discussion was held regarding a way for a fair buyout. Larry stated the City doesn't have the funds. Mr. Youness stated that there are property owners all over the country, even northern Canada. Adam has been working with people for over 3 years.

Commissioners then voted on the motion on the floor to deny. No opposition. Motion carried.

Mrs. Olson asked if they'd be notified about future meetings. Larry stated that if she requests it, she can be notified.

The next item on the agenda was Minor Planned Unit Development Modification at 550 13th Avenue East (Lot 1 less S 40' of E 35', Block 2 of Meyer 2nd Addition), City of West Fargo, North Dakota.

Tim reviewed the following information:

The applicant has submitted plans showing a childcare center within an existing office building. The property is within the CO: Corridor Overlay district. The improvements will be done within the existing building, with the addition of a fenced area along the west side of the building which is set back from the front of the building and not within the required front yard of the CO district. The applicant is proposing 4' high chain link fence. In the CO fences are required to be decorative and/or provide landscape treatments to meet the intent of the district to promote orderly development and safe, attractive and desirable spatial patterns and locations for urban and suburban land uses adjacent to the designated streets with full regard given for the importance of these corridors as major growth areas for West Fargo and as landscaped gateways to the City. The applicant should either provide adequate landscaping to improve the look of the chain link fence which fronts 13th Avenue East, or provide more decorative fencing along the portion which fronts 13th Avenue East.

Minor changes may be considered by the Planning and Zoning Commission if the density or intensity of the development has not been increased. Minor changes may be approved by the Planning and Zoning Commission, whereas PUD amendments require a public hearing and approval by both the Planning and Zoning Commission and City Commission.

Modification of the PUD is required to maintain the original record for the PUD to remain compliant within the created PUD district.

Notices have been sent out to neighboring properties. No comments have been received to date.

Staff has reviewed these changes and recommends approval as a Minor PUD Modification with the condition noted above that the fencing along 13th Avenue East either include appropriate landscaping as approved by the Planning & Zoning Commission or the fencing be changed to a decorative material for the portion fronting 13th Avenue East, and that if comments are received by neighboring property owners they will either be resolved or brought back to the Planning Commission at the next scheduled meeting.

Tim stated that the YMCA has a fence along 13th Avenue with white vinyl fencing. Commissioner Sheeley asked if the applicant was told about the fencing requirement. Tim stated yes, she wanted to move forward. Staff has no issue with the use. Discussion was held regarding fencing and providing something other than chain link.

Commissioner Gust made a motion for approval pending review of fencing design by staff. Commissioner Sheeley seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A15-53 Conditional Use Permit for home occupation with customers coming to the residence at 650 14th Avenue West (Lot 14, Block 1 of Sheyenne Park 3rd Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant would like to establish a firearms repair business out of his home and would like to allow for customers to come to his residence. City Ordinances under supplementary district regulations lists provisions for home occupations for which the home based business would be subject to. The City may consider a home occupation use which has customers coming to the site as a conditional use. It further states the City may place any conditions on the home occupation as deemed necessary to insure it will not be a detriment to the character and livability of the surrounding neighborhood.

The applicant submitted an application for a conditional use permit to provide the ability to have his customers come to his site to pick up and drop off firearms for repair. The property has a triple-stall garage and three-stall driveway which accesses 14th Avenue West. Currently it appears the property can accommodate 3 on-site/off-street parking spaces in addition to the

three spaces in the garage for the residential use. All spaces are constructed of a durable material.

Notices were sent to property owners within 350'. Comments have been received regarding the use, hours, and amount of customers. The applicant indicated he will operate by appointment only. Customers would be limited to the appointments. Federal Agencies regulate the sale and repair of firearms. Staff has provided the information to the Police Department for further information on local regulations pertaining to firearms.

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

1. Applicant meet all requirements set forth in the provisions for home occupations found in Section 4-448 of the City Ordinances.
2. Applicant meet all federal and local requirements as they pertain to the sale, repair, and handling of firearms.

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

Discussion was held regarding the handling of firearms outside the home. Mr. Grove stated that no fire arms would come into his home without being in a case or box. Same rules as at the rifle range or Scheels. Tim indicated he still has to get licenses from the proper agencies. Mr. Grove stated that mainly he'd handle transfers and repair.

Tim indicated that the conditional use permit is tied to the property and not the owner.

Commissioner Zupi made a motion for approval based on staff recommendations, with an additional condition that it be specific to the property. Commissioner Diamond seconded the motion. No opposition. Motion carried.

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