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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  
March 14, 2016 at 7:00 P.M.  
West Fargo City Hall

Members Present: Jim Brownlee  
Connie Carlsrud  
Scott Diamond  
Shane LeBahn  
Tom McDougall

Members Absent: David Gust, Leroy Johnson, Joe Kolb

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Carrie Scarr, Dan Ness, Eddie Buell, Frank Clemens, Mike Thorstad, Dustin Scott, Nick Gludt, Matt Welle, Dan Bueide, Lee Dobrinz, Austin Morris, Jeremy Boots, Paul Rice

The meeting was called to order by Chair McDougall.

Commissioner Diamond made a motion to approve the February 8, 2016 meeting minutes as written. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall introduced Commissioner Jim Brownlee, who replaced Commissioner Sheeley.

Chair McDougall opened public hearing A16-11 Conditional Use Permit for accessory building in an agriculturally zoned district at 3806 County Rd 17N (property in the NE¼ of Section 19, T140N, R49W, Cass County, North Dakota)

Tim reviewed the following information from the staff report:

The request is to construct a 1,200 square foot accessory building for personal storage. The property is in the City's extraterritorial (ET) area about two miles north of West Fargo. The existing use (single family) is considered a conditional use within the Agricultural District and was in place at the time of adoption into the City's ET jurisdictional boundary. Any addition to the existing conditional use requires an amended conditional use permit.

Property owners within 350', Reed Township officials, Cass County Planning and the Cass County Sanitarian were notified. Cass County Public Health responded that if a bathroom is needed in the building, the applicant would need to install a new septic system or holding tank. Applicant has responded that they will not have a bathroom in the building.

The application is providing an accessory to an existing use within the area outside the Sheyenne Diversion and is not increasing development in a flood prone area, therefore the application may be considered consistent with the Comprehensive Plan.

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. The applicant is to meet all Federal, State and local requirements for improvements to the site and structures.

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

Commissioner Diamond asked about the possibility of a bathroom in the future. Tim stated it would necessitate a holding tank or septic system, which would require a permit. Applicant Dan Ness indicated they would not have a bathroom.

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

Chair McDougall opened public hearing A16-12 Planned Unit Development Amendment for beer and soda brewery and taproom/brewpub with ability to add distribution and further, to add an outdoor seating area at 3140 Bluestem Drive (Lot 2, Block 1, South Pond at the Preserve 6<sup>th</sup> Addition), City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

Applicant proposes to develop a brewery, taproom/brewpub with future distribution, as well as outdoor seating area. The development will be a fit up within the Boulevard Square II, a previously approved development within a Planned Unit Development. The applicant intends to build an outdoor patio which was not in the previously approved detailed development plans. The applicant has provided a site plan showing the new patio which can be amended into the detailed development plans as part of this application.

The land use classification of General Commercial provides areas for commercial uses that provide a wide range of goods and services to the community. The C: Light Commercial zoning district allows for such uses as a eating and drinking establishments, but does not expressly provide for wholesale distribution or light manufacturing. The intent of the C: Light Commercial district is to provide areas of commercial establishment to which the public requires direct and frequent access, but which are not characterized either by constant heavy trucking other than stocking and deliver of light retail goods, or by any other nuisance factor other than the incidental noise of the congregation of people and passenger vehicles.

The scale of this proposed use is such that staff feels it may meet the intent of the C: Light Commercial district, however the nature of distribution and potential of nuisance factors should be conditionally permitted and/or handled with conditions in a Planned Unit Development. In researching the proposed use of a brewery with taproom and limited distribution we find them in a wide range of areas in nearby jurisdictions. In the City of Fargo, breweries exist in similar light commercial settings as proposed here; they exist in tertiary heavier commercial, and light industrial areas. In the Cities of Minot and Grand Forks they exist in downtown locations with light commercial uses. The applicant has indicated that the distribution of beer out of the site will be similar in nature to what a bar may have for incoming deliveries. The applicant also believes negative impacts of waste material will be limited by their inability to store waste on the site.

Notices were sent to property owners within 150' and applicable agencies and departments and no comments were received.

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. Waste from production not be stored on site in a manner which causes a nuisance to adjacent properties.
2. Truck traffic related to distribution of product not to exceed 5 truckloads in any given day.
3. Signed PUD Agreement is received.
4. Outdoor patio meet all applicable regulations of West Fargo Ordinance 10-01 and associated policies.

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

Commissioner Brownlee asked about shared parking and if they met parking requirements. Tim indicated yes. He reviewed the current Pub West and Spicy Pie sites, indicating people want to park as close as possible; however, there's more than adequate parking along the north side of the building.

Commissioner LeBahn asked about production waste. Applicant Frank Clemens stated that it's mostly malted grain, which they'll store inside in sealed containers until it's removed for a local farmer within about 24 hours.

Chair McDougall asked about trucking. Mr. Clemens stated that each batch involves 100 pounds of dry grain. The waste container would fit in the back of a pickup. Commissioner Brownlee asked about capacity. Mr. Clemens indicated 93 gallons. Tim indicated trucking was included as a condition as this application sets precedence for any future similar businesses.

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

Chair McDougall opened public hearing A16-13 West Fargo 4<sup>th</sup> Addition, subdivision and rezoning from Agricultural to M: Heavy Industrial property in part of Section 1, T139N, R50W, City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

The applicant is proposing to develop the property into two lots. The area was recently annexed into the City. Lot 1 is being proposed as a retention pond and sold to the City to provide water retention for development in the area; Lot 2 is being proposed for future industrial development.

The adjacent 8<sup>th</sup> St NW has been determined to be a minor collector on the City's functional classification map. Infrastructure and paving are programmed for improvement in 2016. If possible, access to 8<sup>th</sup> Ave NW could be determined at time of platting to avoid returning to the Commissions to make a request in the future.

Property owners within 150' and City Departments were notified. No comments were received.

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. Park Dedication is provided.
2. Signed Subdivision Agreement is received.
3. A drainage plan is received and approved by the City Engineer.
4. An Attorney Title Opinion to the City of West Fargo is received.
5. Signed Final Plat is received with any necessary easements.
6. A certificate is received showing taxes are current.

There were no public comments. The hearing was closed.

Commissioner Brownlee asked how much area the retention pond encompasses. City Engineer Dustin Scott stated about 18 acres. He also referred to an area to the north with existing soil contamination. They're working with the department of health. Chair McDougall asked about depth of contamination. Dustin stated about 5', which could impact the improvement project.

Commissioner Diamond made a motion for approval based on the six conditions listed in the staff report. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-14 Planned Unit Development Amendment for development of Light Commercial uses and buildings with shared parking within a retail center at 851 & 815 23<sup>rd</sup> Avenue East (Lots 4-5, Block 1 of North Pond at the Preserve 3rd Addition), City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

The PUD was initially created to provide off-premise signage for a development sign located next to Taco Bell for retail development in the Preserve area within a PUD. The original zoning district for the property was C: Light Commercial which is consistent with the underlying land use of General Commercial. Taco Bell was approved conceptually to be part of a PUD in order to share parking and remove requirements for parking setbacks along internal side yards where shared parking would be constructed. Within the CO: Corridor Overlay district setbacks are required between parking lots and property lines. The PUD was utilized to present a plan for shared parking between the complimentary uses and remove the otherwise required setbacks.

The proposed PUD would finalize this shared parking between the existing Taco Bell and the proposed developments and therefore remove the setback requirement between Lot 4 and Lot 5 on the internal side yards. The applicant has provided a preliminary site plan which provides for the required setbacks and open space requirements for the entire development.

Detailed site plans and building elevations have not yet been submitted. It is the applicants wish to provide the ability for the property to be developed under the provisions of the C: Light Commercial district and CO: Corridor Overlay district standards. The preliminary site plan shows setbacks and yard requirements to be met with the exception of a patio which appears to encroach upon the required open space landscaping requirements of 20' from the front yard within the CO: Corridor Overlay District.

The property will need to provide a multi-tenant sign plan which should be developed prior to seeking their first sign permit. Off premise signage may be allowed for properties within the PUD. All provisions of 4-460 will be required to be met along with proportionate share within the off-premise development sign within the original sign PUD. The PUD which governs the off-premise sign on Lot 4 would remain intact and considered separate of the provisions of this PUD.

Property owners within 150' and City Departments were notified. No comments were received.

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. Signage remains subject to original PUD for off-premise signage on Lot 4.
2. Development will be subject, but not limited to CO: Corridor Overlay, 4-400 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations. This includes removing the encroachment into the 20' Open Space Requirements along Veteran's Blvd which were presented on the preliminary site plan.
3. A construction schedule is submitted for timing of building construction and site improvements.
4. Signed PUD agreement is received.

Dan Bueide, representing Rusty Goose, stated that the original PUD regarding the signage on the Taco Bell lot is to advertise for places other than those located on Lots 4 & 5. Larry stated that any off premise signage needs to be within the PUD. The intent was for projects further to the west along 23<sup>rd</sup> Avenue East, who might need extra signage, provided they were zoned PUD. Tim stated there are two separate PUDs --- the one this evening regarding shared parking and the previous one regarding signage. A business would have to rezone --- PUD if they wanted to be on the sign.

Commissioner Brownlee asked about Timothy Drive. Tim stated that Timothy and Grama Drives were being vacated with North Pond at the Preserve 9<sup>th</sup> Addition to become Bluestem Drive.

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

Commissioner Brownlee made a motion for approval based on the four conditions listed in the staff report. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-15 West Fargo 5<sup>th</sup> Addition, subdivision and rezoning from Agricultural to M: Heavy Industrial property in the W½ of Section 6, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant is proposing to develop property into one lot for future industrial development. The lot is proposed to be served down the center with a private cul-de-sac that exceeds 1000'. As a private road, the requirements are less than if it were a public road; however, consideration should be given to the design of the road. Additional comment has been sought from Police, Fire, and Public Works related to this specific question.

The applicant has provided a preliminary site plan to illustrate their intent for development of the lot to assist City staff in determining how best to service the development. This site plan has provided staff guidance in recommending the proposed easements on the plat.

Access will be provided from 9<sup>th</sup> St NW (County Hwy 19). The existing access for Universal Repair (the existing business) has a large access (approximately 150' wide). Standard maximum width of commercial and industrial driveways is 36' wide, with exception that the City Engineer may approve increased widths not to exceed greater than one-half the width of a lot. Access to Collector roadways needs to be approved by Planning & Zoning and City Commissions. It would be appropriate to designate on the plat where access shall be located and the allowable width to prevent the applicant from having to return at a later date for approval. Additional comment has been sought from the Cass County Engineer as the road is on the County Highway System.

Property owners within 150' and applicable agencies and departments were notified. The Fire Department requests the cul-de-sac bulb be at least 96' in diameter.

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. Private cul-de-sac have at minimum a 96' diameter bulb for public access.
2. Access be approved and provided on the final plat.
3. Park Dedication is provided.
4. Signed Subdivision Agreement is received.
5. A drainage plan is received and approved by the City Engineer.
6. Attorney Title Opinion be revised to be addressed to the City of West Fargo.
7. Signed Final Plat is received with any necessary easements.
8. A certificate is received showing taxes are current.

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

Commissioner Diamond asked if there had been any additional comments from Police or Public Works. Tim stated no, other than making sure fire trucks can get through. Commissioner Brownlee asked if this was a private drive. Tim stated yes. Any cul-de-sacs longer than 500' staff needs to seek out comments from the Fire Department.

Larry also stated that the current access is very wide and the County is concerned, especially with proximity to the railroad underpass. Dustin stated that standard industrial driveway widths are 36' with a maximum allowable of 50'. Tim indicated staff would prefer the access be bumped up and shared with the property to the north. Chair McDougall asked if it would be appropriate to have that as a condition. Tim indicated the property to the north is already platted. The applicant will need to work it out with condition #2 by getting access location approved and placed on the final plat.

Commissioner Diamond made a motion for approval based on the eight conditions listed in the staff report. Commissioner Carlsrud seconded the motion. No opposition. Motion carried.

Commissioner Brownlee indicated he would be abstaining from commenting or voting on the next item due to a conflict.

The next item on the agenda was Minor PUD Modification for Office Building at 1201 10<sup>th</sup> Avenue East (Lot 3, Block 1 of Dakota Territory 10<sup>th</sup> Addition), City of West Fargo, North Dakota.

Larry stated that Detailed Development Plans were reviewed and approved by the Planning and City Commission last summer. The applicant has requested a minor revision to the Detailed Development Plans as previously approved for the property and submitted revised detailed development plans. The square footage increase is negligible and the applicant has worked with adjacent neighbors regarding the buffer requirements along the eastern boundary adjacent to residential. The applicant continues to have both a fence and landscaping along this eastern boundary with a now 18' side yard buffer which is increased from the previous 15' required in the previously approved plans.

Minor changes may be considered by the Planning and Zoning Commission if 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 were sent to neighboring properties. Staff has reviewed these changes and recommends approval as a Minor PUD Modification with the condition 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. The only comment received to date was from a property owner who indicated concern with the potential for the fence to collect debris.

Commissioner Diamond made a motion for approval based on staff recommendations. Commissioner LeBahn seconded the motion. Commissioners LeBahn, McDougall, Diamond and Carlsrud voted in favor of the minor modification. Commissioner Brownlee abstained. Motion carried.

The next item on the agenda was Detailed Development Plans for A16-6 Highland Meadows Addition.

Tim reviewed the following from the staff report:

The applicant has provided a preliminary plat, area plan, site, and landscape plan for review. The preliminary plat shows 3 blocks, with the apartments placed on Lot 2 and Lot 3, and the remainder left as Lot 1 to be platted at a later date into single family residential lots. The site plan shows access for the apartments to line up with the streets to the south within the Brooks Harbor development.

The applicant has provided a landscaping plan for the property which includes large deciduous trees spaced behind the garage units that line the western boundary of the property which is proposed to be developed for single-family residential development. This proposal would present the rear of the garages along with the spacing of trees within a 25' buffer yard as the buffer to meet the requirements of the City's Landscaping Provisions (4-449-A) which would require either a 10' buffer yard with 4' screen and small evergreen or deciduous trees or a 20' buffer yard with small evergreen or deciduous trees and a row of shrubs.

Plans show 6 26-unit apartment buildings and 14 garage buildings. The applicant has provided a breakdown of apartment units to determine that the requirements of 4-450 of the City Ordinances would require 288 parking spaces. The applicant is providing a total of 368 off-street spaces provided in garages and off-street parking spaces. It is common for apartment buildings to provide more than is required in case garages are used for household storage rather than vehicles. Landscaping in the parking lot appears to be met for parking requirements, although details on the entire site have not been provided to a level which can be determined. The site will be required to submit a detailed landscape plan prior to building permitting.

The applicant has not yet completed detailed floor plans or elevations on the apartment buildings, but has provided photos of the buildings as they have been previously built. The applicant should either provide a description of the exterior materials or provide elevation plans prior to City Commission consideration. If there are additional changes after approval, the applicant would need to come back for review as an amendment or minor modification.

The alternative proposal is as provided in the narrative considered at conceptual phase which is to provide for the ability to develop the units according to the lot and yard requirements of the R-2: Limited Multiple Dwelling District, though the district standards spelled out are not complete; however, the application proposes to allow up to 26 units per building, limit the buildings to two stories, and limit the total number of units to 156.

The detailed plans were provided to the adjacent property owners. No comments have been received to date.

Staff would uphold its recommendation to approve the proposed application on the basis that with an approved land use plan amendment it will be consistent with City plans and ordinances with recommended conditions as follows:

1. That a Land Use Plan Amendment from low density residential to high density residential be considered and approved based on the goals and policies of the Comprehensive Plan at final approval of the Planned Unit Development.
2. Development will be subject, but not limited to the PUD standards submitted by the developer, following the lot and yard requirements of the R-2 District, as well as number of units per building, number of specified stories, and total units for the development; 4-400 Supplementary District Regulations; 4-450 Off-Street Parking and Loading Requirements; and 4-460 Sign Regulations.
3. The applicant must provide a description of the exterior materials to accompany the photos, or provide elevation plans prior to the City Commission consideration. Subsequent changes would be reviewed as a PUD Amendment or PUD Minor Modification.
4. A construction schedule is submitted for timing of building construction and site improvements.
5. Park Dedication is provided.
6. Signed PUD/Subdivision Improvement agreement is received.
7. Final Plat with any necessary easements is received.
8. A drainage and utility plan is approved by the City Engineer.
9. A mailbox plan is received and approved by the Post Office.
10. An Attorney Title Opinion is received.
11. Certificate of Taxes is received showing taxes are current.

Chair McDougall asked for clarification on the name of the subdivision and which lots the Detailed Development Plans included. Tim indicated it would be Highland Meadows instead of Brooks Harbor 8<sup>th</sup> Addition. The Detailed Development Plans are for the apartments on Lots 2 and 3. Lot one is conceptual and will have to come back to the commission for review of the detailed development plans. The concept plans were approved in January.

Discussion was held regarding access.

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

The next item on the agenda was Review Provisional Use Permit at 748 14<sup>th</sup> Avenue West.

Tim stated that the daycare property is enclosed with a 6' solid fence and has three parking spaces available in the driveway. It appears to meet all the requirements to issue a provisional use permit; however, review by the Planning & Zoning Commission is required when written opposition is received from 25% or more of the neighboring property owners. A letter was received from an adjacent property owner and from one across the street meeting the 25% requirement.

In review of the comments received, staff would recommend approving the Provisional Use Permit with a condition that if the applicant does not meet the conditions provided, the permit would be revoked.

Tim stated that when we revised the ordinances, we eliminated conditional use permits for in home group child care facilities for 13-18 children. The complaint received was regarding an existing daycare and shouldn't have any bearing on this request. Staff spoke with her regarding complaints, indicating her conditional use permit could be revoked should violations occur. There are no complaints on record regarding Ms. Anderson's provisional use permit at her previous location.

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

The next item on the agenda was A16-1 Conditional Use Permit for wireless telecommunications tower in a residential district at 1222 6<sup>th</sup> Street East (Lot 8-15, Block 2 of Meyer's 2<sup>nd</sup> Addition), City of West Fargo, North Dakota.

Larry reviewed the following from the staff report:

Following the January Planning and Zoning Commission meeting, it was determined by City Officials that co-location of proposed antennas on the water tower, due to the design, could have detrimental effects on the water tower structure. The antennas cannot be accommodated on top of the water tower, because there is not enough space as another carrier has antennas there. As a result the proposed church location is being advanced.

The applicant has addressed the issue of the limited capacity for additional co-location opportunity by revising the tower design drawings so that an additional carrier can be accommodated. The applicant has requested that these drawings be included with the original application. Excerpts from the revised tower drawings were included in the agenda packets.

The proposed tower cannot be reasonably accommodated on the south side of the church given the proximity of residential dwellings, so the west side of the church as shown appears to be the most suitable location for the tower.

The proposed tower has multiple signs for the church facility which would not be allowed as a permitted use. Only one sign is allowed for each street frontage which is limited to 32 square feet and a maximum height of 8', unless otherwise approved as a conditional use. A separate conditional use permit application would need to be submitted by the church.

A neighboring resident had a follow up e-mail with comments following response from the applicant. Copies of the e-mails were provided to commissioners. The email was regarding frequencies and possibility of it impacting other types of communications. Applicant Eddie Buell indicated federal guidelines were in place regarding that issue.

It is recommended to conditionally approve the application on the basis that in following the application design considerations, the application is consistent with City plans and ordinances. The conditions of approval are as follows:

1. The tower is constructed as a stealth bell tower for the church.
2. The tower is designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user.
3. The applicant agrees to sign a Conditional Use Permit agreement with the terms above, as well as intent committing the tower owner and his or her successor to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
4. No signage be placed on the tower unless the church submits a conditional use permit application to the City and receives approval.

Chair McDougall asked about the cross being considered a sign. Larry stated that if it was just a cross without the logo, it wouldn't be an issue. The logo makes it a sign. They could apply for a conditional use permit for a sign.

Discussion was held regarding the height of the church and steeple. Mr. Buell stated the church is 40' or 45' with the cross and the steeple is 75'. He also indicated they would probably bring forward a conditional use permit application with the

logo (sign) for the church.

Commissioner Brownlee asked if the equipment would be closed in the fenced area shown on the drawings. Mr. Buell stated yes. He also reviewed the photo simulation showing room for an additional provider on the tower. The panel would remain blank with no logo or cross proposed.

Commissioner Brownlee made a motion for approval based on the four conditions listed in the staff report. Commissioner Diamond seconded the motion. No opposition. Motion carried.

Tim indicated item #12 Gateway West Addition was to be continued. No word on the I-94/Sheyenne Corridor Study.

Item #13, Eagle Run Plaza 5<sup>th</sup> is also being continued.

Commissioner Diamond made a motion to adjourn. Commissioner LeBahn seconded the motion. Meeting adjourned.